
INDENTURE OF TRUST

by and among

CITY OF SAN JOSE, CALIFORNIA,

WILMINGTON TRUST, NATIONAL ASSOCIATION, as Trustee

and

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

dated as of October 1, 2017

relating to:

\$ _____

**City of San Jose
Multifamily Housing Revenue Bond
(Catalonia Apartments), 2017 Series C**

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DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

INDENTURE OF TRUST

THIS INDENTURE OF TRUST, dated as of October 1, 2017 (this “Indenture”), is by and among the **CITY OF SAN JOSE, CALIFORNIA**, a charter city and municipal corporation, duly organized and existing under its charter and the laws of the State of California (herein called the “City”), **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as Trustee hereunder (herein called the “Trustee”), and **JPMORGAN CHASE BANK, N.A.**, a national banking association organized and existing under the laws of the United States of America, as initial purchaser of the Bond hereunder (herein called the “Bondowner Representative”).

RECITALS:

WHEREAS, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the “Act”), the City is empowered to issue bonds to finance the acquisition, rehabilitation and development of multifamily rental housing for persons of low and moderate income; and

WHEREAS, Catalonia Two, L.P., a California limited partnership (the “Borrower”), has applied to the City for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition and rehabilitation of a 50-unit (including one manager unit) multifamily rental housing project located at 2036 Evans Lane in the City known as Catalonia Apartments (the “Project”); and

WHEREAS, the City proposes to issue its City of San Jose Multifamily Housing Revenue Bond (Catalonia Apartments), 2017 Series C (the “Bond”) pursuant to the Act in order to provide financing for the Project; and

WHEREAS, pursuant to a Loan Agreement dated as of even date herewith (the “Loan Agreement”) among the City, the Bondowner Representative and the Borrower, the City has agreed to lend the proceeds of the Bond to the Borrower in the amount of \$_____ (the “Loan”) and the Borrower has agreed to (a) apply the proceeds of the Loan to pay a portion of the costs of acquisition and rehabilitation of the Project and if necessary, costs of issuance of the Bond, (b) make Loan payments sufficient to pay the principal of and interest on the Bond when due (whether at maturity, by redemption, acceleration or otherwise), and (c) observe the other covenants and agreements and make the other payments set forth therein; and

WHEREAS, the Act authorizes the City to make the Loan, the Loan will accomplish a valid public purpose of the City, and the City has determined that it is in the public interest to issue the Bond in the maximum principal amount of \$_____ for the purpose of providing funding necessary to make the Loan to finance costs of the acquisition and rehabilitation of the Project; and

WHEREAS, in order to provide for the authentication and delivery of the Bond, to establish and declare the terms and conditions upon which the Bond is to be issued and secured

and to secure the payment of the principal thereof and of the interest and premium, if any, thereon, the City has authorized the execution and delivery of this Indenture; and

WHEREAS, the City has determined that all conditions, things and acts required by the Act, and by all other laws of the State of California, to exist, have happened and have been performed in satisfaction of conditions precedent to and in connection with the issuance of the Bond exist, have happened, and have been performed in due time, form and manner as required by law, and the City is duly authorized and empowered to issue the Bond pursuant to each and every requirement of law for the purpose, in the manner and upon the terms herein provided; and

WHEREAS, the City has determined that all acts and proceedings required by law necessary to make the Bond, when executed by the City, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal limited obligation of the City, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized.

A G R E E M E N T:

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of, and the interest and premium, if any, on, the Bond at any time issued and Outstanding under this Indenture, according to its tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bond is to be issued and received, and for and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bond by the owner thereof, and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the City covenants and agrees with the Trustee, for the benefit of the registered owner from time to time of the Bond, as follows:

ARTICLE I{tc "ARTICLE I" \1 1 \n}

DEFINITIONS AND GENERAL PROVISIONS{tc "DEFINITIONS AND GENERAL PROVISIONS" \1 1 \n}

Section 1.01. Definitions{tc "Section 1.01. Definitions" \1 2}. Unless the context otherwise requires, the terms defined in this Section 1.01 shall, for all purposes of this Indenture and of the Loan Agreement and of any indenture supplemental hereto or agreement supplemental thereto, have the meanings herein specified, as follows:

The term “**Act**” shall mean Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California as in effect on the Closing Date.

The term “**Adjusted One Month LIBO Rate**” means an interest rate per annum equal to the sum of (i) 2.5% per annum plus (ii) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day);

provided, that, for the avoidance of doubt, the Adjusted LIBO Rate for any day shall be based on the rate appearing on Reuters Screen LIBOR01 Page (or any successor or substitute page) at approximately 11:00 a.m. London time on such day (without any rounding).

The term “**Affiliate**” shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

The term “**Agreement**” or “**Loan Agreement**” shall mean the Loan Agreement, dated as of October 1, 2017, among the City, the Borrower and the Bondowner Representative, pursuant to which the City agrees to lend the proceeds of the Bond to the Borrower, as originally executed or as it may from time to time be supplemented or amended in accordance with its terms.

The term “**Annual Fee**,” when used with reference to the City, means the Ongoing Issuer Fee as defined and set forth in Section 7(a) of the Regulatory Agreement.

The term “**Authorized Amount**” shall mean \$_____, the authorized maximum principal amount of the Bond.

The term “**Authorized City Representative**” shall mean the City Manager, the Director of Housing, the Director of Finance, the Assistant Director of Finance, the Treasury Division Manager and the Debt Administrator of the City and any other officer or employee of the City designated to perform a specified act, to sign a specified document or to act generally, on behalf of the City by a written certificate furnished to the Trustee, which certificate is signed by an already-designated Authorized City Representative and contains the specimen signature of such other officer or employee of the City.

The term “**Authorized Borrower Representative**” shall mean any person who at the time and from time to time may be designated as such, by written certificate furnished to the City, the Bondowner Representative and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by the _____ of the sole member/manager of the general partner of the Borrower, which certificate may designate an alternate or alternates and such persons as designated in the Loan Agreement.

The term “**Bond**” shall mean the City of San Jose Multifamily Housing Revenue Bond (Catalonia Apartments), 2017 Series C, issued and Outstanding hereunder.

The term “**Bond Counsel**” shall mean (i) Quint & Thimmig LLP, or (ii) any attorney at law or other firm of attorneys selected by the City, of nationally recognized standing in matters pertaining to the federal tax status of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America, but shall not include counsel for the Borrower.

The term “**Bond Fund**” shall mean the fund by that name established pursuant to Section 5.02 hereof.

The term “**Bond Purchase Agreement**” means the Bond Purchase Agreement, dated as of October 1, 2017, among the Borrower, the Bondowner Representative and CCRC, pursuant to which and subject to the terms and conditions of which, CCRC has agreed to purchase up to \$_____ in principal amount of the Bond on the Conversion Date.

The term “**Bond Year**” shall mean the one-year period beginning on January 1 in each year and ending December 31 in the following year, except that the first Bond Year shall begin on the Closing Date and end on December 31, 2017.

The term “**Bondowner Representative**” shall mean (i) JPMorgan Chase Bank, N.A., a national banking association organized under the laws of the United States of America, prior to the Conversion Date, and, on and after the Conversion Date, CCRC, and (ii) any successor entity that is the owner of the Bond or any entity selected by the owner of the Bond and identified in writing by the owner of the Bond to the City, the Trustee and the Borrower.

The term “**Borrower**” or “**Partnership**” shall mean Catalonia Two, L.P., a California limited partnership, and its respective successors and assigns under the applicable provisions of the Loan Agreement and the Regulatory Agreement.

The term “**Business Day**” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a “Eurodollar Borrowing” as defined in the Note, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

The term “**CB Floating Rate**” means a per annum rate equal to the Prime Rate; provided, that the CB Floating Rate shall never be less than the Adjusted One Month LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day). Any change in the CB Floating Rate due to a change in the Prime Rate or the Adjusted One Month LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate or the Adjusted One Month LIBO Rate, respectively.

The term “**CCRC**” means California Community Reinvestment Corporation, a California nonprofit public benefit corporation, or any assignee of an assignment by the California Community Reinvestment Corporation (notice of which assignment has been given to the City and the Trustee) to (a) Fannie Mae or Freddie Mac, (b) a member bank in the California Community Reinvestment Corporation, or (c) a fund established and managed by California Community Reinvestment Corporation or by a single member limited liability company in which California Community Reinvestment Corporation is the sole member and in which all investors/funders are banks, insurance companies or other financial institutions or affiliates of such entities, each of which is a Sophisticated Investor and has net assets of not less than \$1,000,000,000.00.

The term “**Certificate of the City**” shall mean a certificate of the City signed by an Authorized City Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other

instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

The term “**Certified Resolution**” shall mean a copy of a resolution adopted by the City Council of the City, and certified by the Clerk of the City or any deputy thereof to have been duly adopted by the City Council and to be in full force and effect on the date of such certification.

The term “**City**” shall mean the City of San Jose, California, a municipal corporation and charter city of the State of California, duly organized and existing under its charter and the laws of the State of California, as the issuer of the Bond hereunder, and its successors and assigns.

The term “**Closing Date**” shall mean October __, 2017, the date of initial delivery of the Bond and funding of the Initial Disbursement of the proceeds thereof.

The term “**Code**” or “**Internal Revenue Code**” means the Internal Revenue Code of 1986, as amended, and with respect to a specific section thereof, such reference shall be deemed to include (i) the Regulations promulgated by the United States Department of the Treasury under such section, (ii) any successor provision of similar import hereafter enacted, (iii) any corresponding provision of any subsequent Internal Revenue Code, and (iv) the Regulations promulgated by the United States Department of the Treasury under the provisions described in (ii) and (iii).

The term “**Construction Fund**” shall mean the fund by that name established pursuant to Section 3.03 hereof which includes: (i) a Bond Proceeds Account, and (ii) an Equity Account.

The term “**Control**” shall mean, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise. For purposes of this definition the term “beneficial equity interest” shall mean (i) in the case of a partnership, the partnership interests, (ii) in the case of a limited liability company, the voting membership interests, (iii) in the case of a corporation which issues voting shares, the issued and outstanding voting shares, and (iv) in the case of tax exempt corporation, the board of director members.

The term “**Conversion Date**” shall mean the date on which the registered owner of the Bond becomes CCRC by reason of its purchase the Bond on such date pursuant to the Bond Purchase Agreement.

The term “**Debt Service**” shall mean the scheduled amount of interest and amortization of principal payable on the Bond during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

The term “**Deed of Trust**” shall mean the Construction and Permanent Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing, executed by the

Borrower in favor of the City (and assigned by the City to the Trustee) for the purpose of securing the obligations of the Borrower under the Loan Agreement, as such deed of trust may from time to time be further supplemented or amended.

The term “**Default Rate**” shall mean a rate per annum (calculated for the actual number of days elapsed on the basis of a 360-day year) equal to: (i) prior to the Conversion Date, 4% plus the then applicable CB Floating Rate; and (ii) on and after the Conversion Date, 5% plus the then applicable Note rate. In no case shall the Default Rate exceed the Maximum Rate.

The term “**Disbursed Amount**” means the portion of the Loan and the Bond funded and Outstanding from time to time, as indicated on the Bond and in the records of the Trustee.

The term “**Event of Default**” as used herein other than with respect to defaults under the Loan Agreement shall have the meaning specified in Section 7.01 hereof, and as used in the Loan Agreement shall have the meaning specified in Section 6.01 thereof.

The term “**Fair Market Value**” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Obligation-State and Local Government Series that is acquired in accordance with applicable regulations of the United States Department of the Treasury, Bureau of Public Debt, or (iv) the investment is the Local Agency Investment Fund of the State of California, but only if at all times during which the investment is held its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States.

The term “**Holder,**” “**holder,**” “**Bondholder,**” “**Owner**” or “**Bondowner**” shall mean the person in whose name the Bond is registered.

The term “**Indenture**” shall mean this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any supplemental indenture entered into pursuant to the provisions hereof.

The term “**Initial Disbursement**” means the initial advance of the purchase price of the Bond on the Closing Date, in the amount of \$_____.

The term “**Interest Payment Date**” shall mean, prior to the Conversion Date, the tenth day of each month or if such day is not a Business Day, the next succeeding Business Day, commencing November 10, 2017 and from and after the Conversion Date, the first day of each calendar month.

The term “**Investment Securities**” shall mean any of the following (including any funds comprised of the following, which may be funds maintained or managed by the Trustee and its affiliates), but only to the extent that the same are acquired at Fair Market Value:

(i) United States Treasury notes, bonds, bills, or those for which the full faith and credit of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress, are pledged for the payment of principal and interest (including State and Local Government Series);

(ii) shares of an investment company (a) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, (b) whose only investments are in (1) securities described in the preceding clause (i), (2) general obligation tax-exempt securities rated “A” or better by the Rating Agency, or (3) repurchase agreements or reverse repurchase agreements fully collateralized by those securities if the repurchase agreements or reverse repurchase agreements are entered into only with those primary reporting dealers to report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks, and (c) which are rated “Am” or “Am-g” or better by the Rating Agency, including money market funds for which the Trustee and its affiliates provide investment advisory or other management services;

(iii) any security which is a general obligation of any state or any local government with taxing powers which is rated “A” or better by the Rating Agency;

(iv) commercial paper issued by United States corporations or their Canadian subsidiaries that is rated “A-1” by the Rating Agency and matures in 270 days or less; or

(v) any other investment which is a lawful investment for funds of the City hereunder approved in writing by the Bondowner Representative.

The term “**Investor’s Letter**” shall mean a letter executed and delivered by a purchaser of the Bond in the form of Exhibit B hereto.

The term “**Issuance Costs**” shall mean all costs and expenses of issuance of the Bond, including, but not limited to: (i) Bond purchaser’s discount and fees; (ii) counsel fees, including Bond Counsel and Borrower’s counsel, as well as any other specialized counsel fees incurred in connection with the issuance of the Bond or the origination of the Loan; (iii) the City’s issuance fee (being an amount equal to one-half of one percent (0.5%) of the first \$10,000,000 of aggregate principal amount of the Bond and one-quarter of one percent (0.25%) of the portion of the principal of the Bond in excess of \$10,000,000) plus expenses incurred by the City in connection with the issuance of the Bond, including fees of any counsel or advisor to the City; (iv) Bondowner Representative’s fees and Bondowner Representative’s counsel fees; (v) Trustee’s fees and Trustee’s counsel fees; (vi) any paying agent’s and any certifying and authenticating agent’s fees related to issuance of the Bond; (vii) any accountant’s fees related to issuance of the Bond; (viii) fees and expenses of Lender’s counsel; (ix) publication costs associated with the

financing proceedings, if any; and (x) any costs of engineering and feasibility studies necessary to the issuance of the Bond.

The term “**Lender**” shall mean initially JPMorgan Chase Bank, N.A. and its successors and assigns as the initial owner of the Bond.

The term “**Loan**” shall mean the loan of the proceeds of the Bond made by the City to the Borrower pursuant to the Loan Agreement for the purpose of financing the acquisition and rehabilitation by the Borrower of the Project.

The term “**Loan Agreement**” shall mean (i) the Loan Agreement, dated as of October 1, 2017, among the City, the Bondowner Representative and the Borrower, as it may be supplemented, amended or modified from time to time, together with (ii) the Supplemental Loan Agreement.

The term “**Loan Documents**” shall have the meaning given such term in the Loan Agreement.

The term “**Maturity Date**” shall mean _____ 1, ____.

The term “**Maximum Rate**” shall mean the lesser of (i) 12% per annum, or (ii) the maximum interest rate permitted by applicable law.

The term “**Note**” shall mean the promissory note evidencing the obligation of the Borrower to repay the Loan, as amended or supplemented from time to time.

The term “**Opinion of Counsel**” shall mean a written opinion of counsel, who may be counsel for the City, Bond Counsel, counsel for the Trustee or counsel for the Bondowner Representative.

The term “**Outstanding**,” when used as of any particular time with reference to the Bond, shall mean a principal amount of the Bond equal to the purchase price paid by the Bondowner Representative to the Trustee under this Indenture except:

(i) Any portion of the Bond theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

(ii) Any portion of the Bond for the payment or redemption of which moneys or securities in the necessary amount (as provided in Section 10.01) shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or the redemption date of such Bond); and

(iii) A Bond in lieu of or in substitution for which another Bond shall have been authenticated and delivered by the Trustee pursuant to the terms of Section 2.05.

The term “**Person**” shall mean an individual, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, a trust, an unincorporated organization or a government or any agency or political subdivision thereof.

The term “**Prime Rate**” means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective. The Prime Rate is a reference rate and is not necessarily the lowest rate.

The term “**Principal Office**” shall mean the corporate trust office of the Trustee located at the address set forth in Section 11.06 hereof, or at such other place as the Trustee shall designate by notice given under said Section 11.06.

The term “**Principal Payment Date**” shall mean any date on which principal of the Loan is due and payable under the Note.

The term “**Project**” means the 50 unit multifamily rental housing facility to be acquired and rehabilitated by the Borrower with the proceeds of the Loan located at 2036 Evans Lane in the City, including structures, buildings, fixtures or equipment, as it may at any time exist, and any structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of such facilities, and a fee interest in the land on which such housing is situated.

The term “**Project Costs**” has the meaning given such term in the Regulatory Agreement.

The term “**Qualified Project Costs**” shall have the meaning ascribed thereto in the Regulatory Agreement.

The term “**Rating Agency**” shall mean S&P Global Ratings, or its successors and assigns or, if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized rating agency designated by the Bondowner Representative.

The term “**Rebate Analyst**” shall mean any certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected by and at the expense of the Borrower, with the prior written consent of the City, to make the computations required under this Indenture and the Loan Agreement.

The term “**Redemption Date**” shall mean any date designated as a date upon which the Bond is to be redeemed pursuant to this Indenture.

The term “**Regulations**” shall mean the Income Tax Regulations promulgated by the Department of the Treasury pursuant to the Code from time to time or pursuant to any predecessor statute to the Code.

The term “**Regulatory Agreement**” shall mean that Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith, by and between the City and the Borrower related to the Project, as amended, supplemented or restated from time to time.

The term “**Reserved Rights**” means those certain rights of the City, its officers, Council members, other elected officials, attorneys, accountants, employees, agents and consultants under the Loan Documents to indemnification and to payment or reimbursement of fees and expenses of the City, including the Issuer’s Closing Fee and the Ongoing Issuer Fee (as such terms are used in Section 7(a) of the Regulatory Agreement), as well as the fees and expenses of counsel and indemnity payments, its right to give and receive notices and to enforce notice and reporting requirements and restrictions on transfer of ownership, its right to inspect and audit the books, records and premises of the Borrower and of the Project, its right to collect attorney’s fees and related expenses, its right to specifically enforce the Borrower’s covenants to comply with applicable federal tax law and California law (including the Act, and the covenants in the Regulatory Agreement and Sections 5.01, 5.02 and 5.03 of the Loan Agreement), its rights to give or withhold consent to amendments, changes, modifications and alterations to the Loan Documents as specifically set forth herein and therein, and to the extent not included above, the rights specifically reserved by the City under this Indenture and the Regulatory Agreement.

The term “**Responsible Officer**” of the Trustee or the Bondowner Representative shall mean any officer of the Trustee or the Bondowner Representative, as the case may be, assigned to administer its respective duties hereunder.

The term “**Revenues**” means all amounts pledged hereunder to the payment of principal of and premium, if any, and interest on the Bond, consisting of any repayments of the Loan required or permitted to be made by the Borrower pursuant to the Loan Agreement and the Note; but such term shall not include payments to the United States, the City, the Trustee or the Bondowner Representative pursuant to Sections 2.05, 2.06, 4.01 and 5.03 of the Loan Agreement, Sections 3.05, 6.07 or 8.06 hereof or pursuant to the Regulatory Agreement.

The term “**Sophisticated Investor**” means (i) a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, (ii) an institutional “accredited investor” as defined in Rule 501 promulgated under the Securities Act of 1933, as amended, or (iii) CCRC.

The term “**supplemental indenture**” or “**indenture supplemental hereto**” shall mean any indenture hereafter duly authorized and entered into by and among the Bondowner Representative, the City and the Trustee in accordance with the provisions of this Indenture.

The term “**Supplemental Loan Agreement**” means that certain Construction and Permanent Loan Agreement dated as of October 1, 2017 between Borrower and Bondowner Representative.

The term “**Tax Certificate**” means the Certificate as to Arbitrage (and Tax Compliance Procedures), dated the Closing Date and executed by the City and the Borrower.

The terms “Written Consent,” “Written Demand,” “Written Direction,” “Written Election,” “Written Notice,” “Written Order,” “Written Request” and “Written Requisition” of the City or the Borrower shall mean, respectively, a written consent, demand, direction, election, notice, order, request or requisition signed on behalf of the City by an Authorized City Representative, or on behalf of the Borrower by an Authorized Borrower Representative.

Section 1.02. Rules of Construction{tc "Section 1.02. Rules of Construction" \l 2}. (a) The singular form of any word used herein, including the terms defined in Section 1.01, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include correlative words of the other genders.

(b) All references herein to “Articles,” “Sections” and other subdivisions hereof are to the corresponding Articles, Sections or subdivisions of this Indenture as originally executed; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

(c) The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Indenture.

ARTICLE II

THE BOND

Section 2.01. Authorization{tc "Section 2.01. Authorization" \l 2}. There is hereby authorized to be issued a bond of the City designated as the “City of San Jose Multifamily Housing Revenue Bond (Catalonia Apartments), 2017 Series C” (the “Bond”), in a maximum principal amount not to exceed the Authorized Amount, subject to funding over time, as provided herein. The Bond may not be issued hereunder except in accordance with this Article.

Section 2.02. Terms of Bond{tc "Section 2.02. Terms of Bond" \l 2}. The Bond shall be substantially in the form set forth in Exhibit A hereto with necessary or appropriate variations, omissions and insertions as permitted or required by this Indenture, including any supplemental indenture.

The Bond shall be issuable only as a single fully registered Bond, without coupons in the principal amount equal to the aggregate of the purchase price of the Bond advanced from time to time by the owner of the Bond (which principal amount shall be, on the Closing Date, equal to the amount of the Initial Disbursement). Notwithstanding the foregoing, no purchase price of the Bond shall be funded after the earlier of October 1, 2020 or the Conversion Date. The Bond shall be dated the Closing Date, shall mature on the Maturity Date and shall be subject to redemption prior to maturity as provided in Article IV.

The Bond shall bear interest and be payable at the same rate and at the same times as payments on the Loan pursuant to the terms of the Note.

The Bond shall bear interest from the date to which interest has been paid on the Bond next preceding the date of its authentication, unless it is authenticated as of an Interest Payment Date for which interest has been paid, in which event it shall bear interest from such Interest Payment Date, or unless it is authenticated on or before the first Interest Payment Date, in which event it shall bear interest from the Closing Date.

The Bond shall be issued as a certificated instrument and shall not be held in book-entry form.

Section 2.03. Payment of Bond{tc "Section 2.03. Payment of Bond" \1 2}. Payment of the principal of and interest on the Bond shall be made in lawful money of the United States to the person appearing on the Bond registration books of the Trustee as the registered owner thereof on the applicable Interest Payment Date, such principal and interest to be paid by check mailed on the Interest Payment Date by first class mail, postage prepaid, to the registered owner at its address as it appears on such registration books, except that the Trustee may, at the request of any registered owner of Bond, make payments of principal and interest on the Bond by wire transfer to the account within the United States designated by such owner to the Trustee in writing, any such designation to remain in effect until withdrawn in writing.

Section 2.04. Execution of Bond{tc "Section 2.04. Execution of Bond" \1 2}. The Bond shall be executed on behalf of the City by the manual or facsimile signature of an Authorized City Representative, and attested by the manual or facsimile signature of the City Clerk or any deputy thereof. Any facsimile signatures shall have the same force and effect as if said persons had manually signed said Bond. In case any officer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also any Bond may bear the facsimile signatures of, or may be signed by, such Persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

Only such Bond as shall bear thereon a certificate of authentication in the form set forth in Exhibit A, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture and such certificate of the Trustee shall be conclusive evidence that the Bond so authenticated have been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture.

Section 2.05. Transfer of Bond{tc "Section 2.05. Transfer of Bond" \1 2}. (a) The Bond may, in accordance with the terms of this Indenture but in any event subject to the provisions of Section 2.05(b) hereof, be transferred upon the books of the Trustee required to be kept pursuant to the provisions of Section 2.06, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation at the Principal Office of the Trustee, accompanied by a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever the Bond shall be surrendered for transfer, the City shall execute and the Trustee shall authenticate and deliver a new, fully registered Bond.

(b) The following shall apply to all transfers of the Bond after the initial delivery of the Bond:

(i) the Bond, in the form attached hereto as Exhibit A, shall be a physical certificated instrument, and shall not be held in a book-entry only system;

(ii) the Bond shall be transferred only in whole and (A) only to an entity that qualifies as a Sophisticated Investor, (B) to CCRC, or (C) to an entity that Controls, is under common Control with or is Controlled by the then current Holder, or (D) to an Affiliate of the then current Holder; and

(iii) each transferee of the Bond shall deliver to the Trustee and the City an Investor's Letter, wherein the transferee agrees, among other matters, not to sell participating interests in the Bond without the prior written consent of the City except that CCRC, so long as it is the sole owner of the Bond, may sell participating interests in the Bond to its member banks upon a representation by CCRC in an Investor's Letter delivered to the Trustee and the City that such member is a Sophisticated Investor and that its members may only transfer their interests to an affiliate or to another member of CCRC.

The Trustee shall require the payment by the Bondholder requesting any such transfer of any tax, fee or other governmental charge required to be paid with respect to such transfer, but any such transfer shall otherwise be made without charge to the Bondholder requesting the same. The cost of printing any Bond and any services rendered or any expenses incurred by the Trustee in connection therewith shall be paid by the Borrower.

The Trustee shall not authenticate or register a Bond unless the conditions of this Section 2.05(b) have been satisfied.

Section 2.06. Bond Register{tc "Section 2.06. Bond Register" \1 2}. The City hereby appoints the Trustee as registrar and authenticating agent for the Bond. The Trustee will keep or cause to be kept at its Principal Office sufficient books for the registration, notation of principal and transfer of the Bond, which shall at all reasonable times upon reasonable notice be open to inspection by the City, the Bondowner Representative and the Borrower; and, upon presentation for such purpose, the Trustee as registrar shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, the Bond as hereinbefore provided.

The ownership of the registered Bond shall be proved by the bond registration books maintained by the Trustee. The Trustee and the City may conclusively assume that such ownership continues until written notice to the contrary is served upon the Trustee. The fact and the date of execution of any request, consent or other instrument and the amount and distinguishing numbers of the Bond held by the person so executing such request, consent or other instrument may also be proved in any other manner which the Trustee may deem sufficient. The Trustee may nevertheless, in its discretion, require further proof in cases where it may deem further proof desirable.

Any request, consent, or other instrument or writing of the Holder of any Bond shall bind every future Holder of the Bond and the Holder of every Bond issued in exchange thereof or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the City in accordance therewith or reliance thereon.

ARTICLE III{tc "ARTICLE III" \1 1 \n}

ISSUANCE OF BOND; APPLICATION OF PROCEEDS{tc "ISSUANCE OF BOND;
APPLICATION OF PROCEEDS" \1 1 \n}

Section 3.01. Authentication and Delivery of the Bond{tc "Section 3.01. Authentication and Delivery of the Bond" \1 2}. Upon the execution and delivery of this Indenture, the City shall execute the Bond and deliver it to the Trustee. Upon satisfaction of the conditions set forth in this Section, and without any further action on the part of the City, the Trustee shall authenticate the Bond in a principal amount not exceeding the Authorized Amount, and shall deliver the Bond pursuant to a Written Order of the City. Prior to the authentication and delivery of the Bond by the Trustee, the initial owner of the Bond shall have executed and delivered to the Trustee the form of Investor's Letter attached hereto as Exhibit B and there shall have been delivered to the Trustee each of the following:

(i) a Certified Resolution authorizing issuance and sale of the Bond and execution and delivery by the City of this Indenture, the Loan Agreement and the Regulatory Agreement;

(ii) original executed counterparts of this Indenture, the Loan Agreement, the Deed of Trust, the Regulatory Agreement and all of the other Loan Documents (as defined in the Loan Agreement), all in form and content satisfactory to the Bondowner Representative (as evidenced by the authentication and delivery of the Bond to the Bondowner Representative and its acceptance thereof), and the original executed Note;

(iii) a Written Order of the City to the Trustee to authenticate and deliver the Bond as directed in such Written Order, upon payment of the Initial Disbursement by the Bondowner Representative to the Trustee, for the account of the City, for deposit in the Bond Proceeds Account of the Construction Fund and immediate disbursement into escrow with North American Title Company as directed by the City;

(iv) evidence satisfactory to the City of arrangements to pay all Issuance Costs; and

(v) an opinion of Bond Counsel, or a reliance letter with respect thereto, with respect to the due execution and delivery by the City of the Indenture, the Loan Agreement and the Bond and the exclusion from gross income of the Bondholder of interest on the Bond for federal income tax purposes.

Section 3.02. Application of Proceeds of Bond/Draw Down Provisions{tc "Section 3.02. Application of Proceeds of Bond/Draw Down Provisions" \1 2}. The Initial Disbursement and subsequent disbursements of the proceeds received from the sale of the Bond shall be made in

accordance with Section 3.03 of this Indenture. The Bondowner Representative shall fund the purchase price of the Bond from time to time which shall be deemed to be advances of the Loan pursuant to the Loan Agreement. Amounts funded in such manner shall be deposited by the Bondowner Representative with the Trustee and shall be deposited into the Bond Proceeds Account of the Construction Fund in accordance with Section 3.03(a) of this Indenture. The Trustee shall note such amount in its records, and the Trustee's records, absent manifest error, shall be dispositive of the principal amount of the Bond that is Outstanding. Such amounts shall constitute the Disbursed Amount, and shall begin to accrue interest only upon disbursement by the Bondowner Representative to the Trustee for deposit in the Construction Fund. Notwithstanding anything herein to the contrary, the purchase price of the Bond funded by the Bondowner Representative may not exceed the Authorized Amount (and the Trustee shall not record any advances which would cause the principal amount of the Bond to exceed the Authorized Amount). In no event may additional amounts of the purchase price of the Bond be funded after the earlier of October 1, 2020 or the Conversion Date.

Section 3.03. Disbursement of Bond Proceeds; Establishment of Construction Fund{tc "Section 3.03. Disbursement of Bond Proceeds; Establishment of Construction Fund" \1 2}. There is hereby created and established with the Trustee a separate fund which shall be designated the "Construction Fund," which fund shall be applied only as provided in this Section. Within the Construction Fund there shall be created a Bond Proceeds Account and an Equity Account to be held by the Trustee. The Initial Disbursement on the Closing Date shall be remitted by the Bondowner Representative to the Trustee and deposited by the Trustee to the Bond Proceeds Account of the Construction Fund for payment to or upon the order of the Borrower to pay Project Costs.

(a) The Bondowner Representative shall fund the Loan from time to time in accordance with the Loan Agreement and the Supplemental Loan Agreement. Each advance of a portion of the purchase price of the Bond shall be treated as a concurrent funding of the Loan. The Bondowner Representative shall remit the proceeds of each advance of the purchase price of the Bond to the Trustee for deposit by the Trustee into the Bond Proceeds Account of the Construction Fund. The Trustee shall deposit moneys received from or on behalf of the Borrower to the Equity Account of the Construction Fund. Funds on deposit in the Construction Fund, and any interest earnings thereon, shall be transferred by the Trustee to the Borrower (or, at the direction of the Bondowner Representative, to such contractors or subcontractors as specified in writing to the Trustee by the Bondowner Representative): (i) for the payment of Project Costs (as defined in the Regulatory Agreement); (ii) as provided in first sentence of the next subsection, interest on the Bond when due; and (iii) in the case of funds held in the Equity Account, for such other purposes requested by the Borrower.

(b) The Trustee shall disburse from the Bond Proceeds Account of the Construction Fund to the registered owner of the Bond, the accrued interest on the Bond when due, upon the receipt of a written request from the Bondowner Representative stating the amount of such interest, without the need for the consent of, but with delivery of a copy of such written request to, the Borrower and the City. The City hereby authorizes and directs the disbursement by the Trustee of the amounts deposited in the Construction Fund in accordance with this Indenture to or upon the order of the

Borrower (or, at the direction of the Bondowner Representative, to such contractors or subcontractors as specified in writing to the Trustee by the Bondowner Representative) from time to time (but no more frequently than each 30 days) upon receipt by the Trustee of a written request of the Borrower, accompanied by a disbursement request in the form attached hereto as Exhibit C, and a determination of the Bondowner Representative that the conditions to disbursement contained in the Loan Agreement and the Supplemental Loan Agreement have been satisfied or waived.

(c) The Trustee shall maintain, or cause to be maintained, complete and accurate records regarding the advances by the owner of the Bond of the purchase price of the Bond, and regarding the disbursement of amounts in the accounts within the Construction Fund in accordance with Section 3.02 and this Section 3.03 hereof, and shall provide copies thereof to the City and the Borrower upon their written request. Additionally, the Trustee shall provide the City with a monthly statement regarding activity in each of the funds and accounts created under this Indenture, including the Construction Fund and the Bond Fund in the immediately preceding month.

(d) The Trustee, the Bondowner Representative and the City shall not be responsible for the application by the Borrower of monies disbursed to the Borrower in accordance with this Section 3.03.

If an Event of Default under and as defined in the Loan Agreement occurs and the Bond becomes subject to mandatory redemption in accordance with Section 4.01(b) hereof, the Trustee will, to the extent necessary, use moneys in the Construction Fund and Bond Fund to make payments on the Bond.

Section 3.04. Costs of Issuance Fund{tc "Section 3.04. Costs of Issuance Fund" \1 2}. There is hereby created and established with the Trustee a separate fund which shall be designated the "Costs of Issuance Fund," which fund shall be applied only as provided in this Section. On the Closing Date, the Borrower shall, from its own funds, deposit with the Trustee the amount of \$_____, which amount the Trustee shall deposit in the Costs of Issuance Fund. Amounts in the Costs of Issuance Fund shall be paid by the Trustee on or after the Closing Date: (i) to the Trustee in the amount of \$_____ as the Trustee's acceptance fee and to pay Trustee's counsel; (ii) to pay CDLAC (as defined in the Regulatory Agreement) in an amount not exceeding \$_____ upon receipt by the Trustee of an invoice therefor; and (iii) to pay the California Debt and Investment Advisory Commission in an amount not exceeding \$_____ following receipt by the Trustee of an invoice therefor. Amounts remaining in the Costs of Issuance Fund 90 days after the Closing Date shall be returned to the Borrower and the Trustee shall close the Costs of Issuance Fund.

Section 3.05. City Annual Fee{tc "Section 3.05. City Annual Fee" \1 2}. The Trustee shall collect the Annual Fee of the City from the Borrower when due from the Borrower and remit it to the City at the times specified in the Regulatory Agreement. The Trustee may establish a fund or account in its records to deposit and remit the Annual Fee to the City.

Section 3.06. Creation of Accounts at Conversion{tc "Section 3.06. Creation of Accounts at Conversion" \1 2}. Upon Conversion, the Bondowner Representative shall create

the following accounts to be administered in accordance with the Loan Agreement: (a) the Operating Reserve Account and (b) the Replacement Reserve Account. The Bondowner Representative shall make deposits to such accounts with funds advanced by the Borrower to the Bondowner Representative and designated by the Borrower to be deposited to the respective account, and the Bondowner Representative shall make disbursements from such accounts at the written direction of the Bondowner Representative or as otherwise provided in the Loan Agreement.

ARTICLE IV{tc "ARTICLE IV" \11 \n}

REDEMPTION OF BOND{tc "REDEMPTION OF BOND" \11 \n}

Section 4.01. Circumstances of Redemption{tc "Section 4.01. Circumstances of Redemption" \12}. The Bond is subject to redemption upon the circumstances, on the dates and at the prices set forth as follows:

(a) The Bond shall be subject to redemption in whole or in part on any date, at a price equal to the principal amount of Bond to be redeemed plus interest accrued thereon to the date fixed for redemption, plus any applicable prepayment premium, equal to any such premium provided for in the Note, the Supplemental Loan Agreement or the Loan Agreement; provided, however, that any other charges then due and payable by the Borrower pursuant to the Note, the Supplemental Loan Agreement or the Loan Agreement shall be paid in full on the redemption date.

(b) The Bond shall be subject to mandatory redemption in whole upon the occurrence of an event of default under the Loan Agreement, the Note or any other of the Loan Documents (subject to all applicable notice and cure provisions contained therein), at the written direction of the Bondowner Representative delivered to the Trustee (with a copy to the City), at a redemption price equal to the principal amount of the Bond then Outstanding, plus accrued interest thereon to the date of redemption, plus a prepayment premium equal to any prepayment premium due upon the related prepayment of the Note, as provided for in the Note and in accordance with the Loan Agreement.

(c) Effective as of the Conversion Date, the Bond shall be subject to monthly mandatory sinking fund redemption in part, prior to maturity, from sinking fund installments on the dates and in the amounts corresponding to the monthly payments of principal due and payable on the Note.

(d) The Bond shall be subject to mandatory redemption in whole on the date of the payment in full of the Note.

(e) The Bond shall be subject to mandatory redemption, at the direction of the Bondowner Representative given to the Trustee (with a copy to the City) in accordance with the Loan Agreement or the Deed of Trust, in whole or in part on any date, from insurance proceeds received in connection with a partial or total casualty loss of the

Project or a condemnation award in connection with a partial or complete taking of the Project, but only to the extent such proceeds or award are not used to repair, replace or restore the Project, at a price equal to the principal amount of Bond to be redeemed plus interest accrued thereon to the date fixed for redemption and any additional amount payable in connection therewith pursuant to the Note or the Loan Agreement.

The Bondowner Representative is hereby authorized and directed, and hereby agrees, to fix the date for any redemption and to provide written notice thereof to the Trustee (with a copy to the City), and, if Revenues are available, to cause the Trustee to redeem the Bond so called on the date so fixed by the Bondowner Representative. The Bondowner need not surrender its Bond in connection with any redemption of the Bond unless the Bond is redeemed in whole.

Section 4.02. No Notice of Redemption[tc "Section 4.02. No Notice of Redemption" \1 2]. The Trustee shall provide the City with notice of any redemption of the Bond indicating the redemption date and the redemption price of the Bond; however, no notice of redemption of the Bond need be given to the Bondowner by the Trustee.

Section 4.03. Effect of Redemption[tc "Section 4.03. Effect of Redemption" \1 2]. If moneys for payment of the redemption price of the Bond are being held by the Trustee, the Bond shall, on the redemption date selected by the Bondowner Representative, become due and payable at the redemption price specified herein, interest on the principal amount of the Bond so called for redemption shall cease to accrue, said principal amount of Bond shall cease to be entitled to any lien, benefit or security under this Indenture, and the Holder of the Bond shall have no rights in respect thereof except to receive payment of the redemption price thereof.

Section 4.04. Tender of Bond[tc "Section 4.04. Tender of Bond" \1 2].

(a) The Outstanding Bond is subject to optional tender, in whole and not in part, by the Owner on the Conversion Date.

(b) Upon CCRC's exercise of the Loan Purchase Option as set forth in the Bond Purchase Agreement, the Owner shall tender to the Trustee the Outstanding Bond for purchase on the Conversion Date by the Owner providing, in the manner specified in Section 11.06 of this Indenture, written notice to the City, the Trustee and the Borrower at least 30 days prior to the specified tender date.

(c) Upon tender of the Outstanding Bond, the Bond (but not the Note, the Deed of Trust or the other Loan Documents) shall be deemed paid in full and retired and shall be deemed cancelled on the books of the Trustee, whether or not the Owner has physically delivered the Bond certificate to the Trustee. On the Conversion Date, the Owner shall direct and cause the Trustee to transfer and assign all of its right, title and interest in, to and under the Note, the Deed of Trust and other Loan Documents to CCRC in connection with CCRC's purchase of the Loan. Upon such purchase and transfer, the City, the Trustee and the Bondowner Representative shall have no further interest in the Loan or the Loan Documents, and this Indenture shall be terminated in accordance with Section 10.01 (subject to any indemnification or other rights expressly intended to survive termination as set forth in this Indenture). The City, the Trustee and the Bondowner Representative shall execute and deliver any additional

documents or take such other actions as may be reasonably required in order to effect the cancellation of the Bond and transfer of the Loan to CCRC as contemplated hereunder on the Conversion Date, all of the expense of the Owner of the Bonds.

ARTICLE V

REVENUES

Section 5.01. Pledge of Revenues. All of the Revenues are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bond. The City also hereby transfers in trust, grants a security interest in and assigns to the Trustee, for the benefit of the holder from time to time of the Bond, all of its right, title and interest in (a) the Revenues, but excluding any amounts calculated as excess investment earnings under Section 6.07 hereof, (b) all amounts on deposit in any fund or account created hereunder and held by the Trustee, but excluding any amounts calculated as excess investment earnings under Section 6.07 hereof, (c) the Loan Agreement (except for the Reserved Rights under Sections 2.05, 2.06, 4.01, 5.03 and 8.08 of the Loan Agreement and amounts payable to the United States of America pursuant to the Regulatory Agreement and Tax Certificate), (d) the Note, and (e) any other amounts or agreements referenced in the Loan Agreement as security for the repayment of the Bond (collectively, the "Trust Estate"). The Note has been endorsed without recourse by the City to the Trustee, and the Deed of Trust is delivered in favor of the City and assigned without recourse to the Trustee.

All Revenues received by the Trustee and all amounts on deposit in the funds and accounts created hereunder and held by the Trustee (other than amounts held pursuant to Section 3.05 for the benefit of the City and amounts held in the Rebate Fund pursuant to Section 6.07 hereof) shall be held in trust for the benefit of the holders from time to time of the Bond, but shall nevertheless be disbursed, allocated and applied solely for the uses and purposes hereinafter set forth in this Article V.

THE BOND IS NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DOES NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE CITY, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, BUT IS PAYABLE SOLELY FROM THE REVENUES, FUNDS AND ASSETS PLEDGED UNDER THIS INDENTURE, AND NOT FROM ANY OTHER REVENUES, FUNDS OR OTHER ASSETS OF THE CITY. NONE OF THE CITY, THE STATE OF CALIFORNIA OR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON (EXCEPT THE CITY TO THE LIMITED EXTENT PROVIDED HEREIN). THE BOND HAS BEEN ISSUED PURSUANT TO THE ACT.

NO COUNCILMEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE CITY, INCLUDING ANY PERSON EXECUTING THIS INDENTURE OR THE BOND, SHALL BE LIABLE PERSONALLY ON THE BOND OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BOND. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BOND, OR FOR ANY CLAIM BASED ON THE BOND, OR OTHERWISE IN RESPECT OF THE BOND, OR BASED ON OR IN RESPECT OF THIS INDENTURE OR ANY SUPPLEMENTAL INDENTURE,

AGAINST ANY COUNCILMEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE CITY OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE BOND, EXPRESSLY WAIVED AND RELEASED.

THE BOND, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, IS A SPECIAL, LIMITED OBLIGATION OF THE CITY SECURED SOLELY BY THE TRUST ESTATE, IS AND SHALL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE AND IS AND SHALL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME SHALL BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BOND, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THIS INDENTURE AND IN THE LOAN AGREEMENT.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on the Bond or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained, against, the City, any past, present or future Councilmember or officers, attorneys, accountants, financial advisors, agents or staff or the officers, attorneys, accountants, financial advisors, agents or staff of the City or of any successor public entity, as such, either directly or through the City or any successor public entity, under any rule of law or penalty of otherwise, and all such liability of the City, any Councilmember and its officers, attorneys, accountants, financial advisors, agents and staff is hereby, and by the acceptance of the Bond, expressly waived and released as a condition of, and in consideration for, the execution of this Indenture and the issuance of the Bond.

The City shall not be liable for payment of the principal of or interest on the Bond or any other costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Indenture, the Bond or any other documents, except only to the extent amounts are received for the payment thereof from the Borrower under the Loan Agreement.

Section 5.02. Bond Fund{tc "Section 5.02. Bond Fund" \1 2}. There is hereby created and established with the Trustee a separate fund which shall be designated the "Bond Fund," which fund shall be applied only as provided in this Section.

The Trustee shall credit to the Bond Fund from time to time, upon receipt thereof, all Revenues, including (i) income received from the investment of moneys on deposit in the Bond Fund, and (ii) any other Revenues, including insurance proceeds, condemnation awards and other Loan payments or prepayments received from or for the account of the Borrower.

Except as provided in Section 10.02, moneys in the Bond Fund shall be used solely for the payment of the principal of and premium, if any, and interest on the Bond as the same shall become due, whether at maturity or upon redemption or acceleration or otherwise.

On each date on which principal of or interest on the Bond is due and payable, the Trustee shall pay such amount to the Bondowner from the Bond Fund.

Section 5.03. Investment of Moneys{tc "Section 5.03. Investment of Moneys" \1 2}. Except as otherwise provided in this Section, any moneys in any of the funds and accounts to be established by the Trustee pursuant to this Indenture shall be invested by the Trustee in Investment Securities selected and directed in writing by the Borrower, with respect to which payments of principal thereof and interest thereon are scheduled or otherwise payable not later than one day prior to the date on which it is estimated that such moneys will be required by the Trustee. In the absence of such directions, the Trustee shall invest such monies in Investment Securities described in clause (ii) of the definition thereof. The Trustee shall have no liability or responsibility for any loss resulting from any investment made in accordance with this Section 5.03, except those arising from willful misconduct or fraud on the part of the Trustee.

Except as otherwise provided in the next sentence, all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bond (within the meaning of Section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (within the meaning of Section 148 of the Code). The Trustee shall have no duty to determine Fair Market Value or present value hereunder.

For the purpose of determining the amount in any fund or account, all Investment Securities credited to such fund or account shall be valued at the lower of cost or par (which shall be measured exclusive of accrued interest) after the first payment of interest following purchase.

Any interest, profit or loss on such investment of moneys in any fund or account shall be credited or charged to the respective funds or accounts from which such investments are made. The Trustee may sell or present for redemption any obligations so purchased whenever it shall be necessary in order to provide moneys to meet any payment, and the Trustee shall not be liable or responsible for any loss resulting from such sale or redemption.

The Trustee may make any and all investments permitted under this Section 5.03 through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Trustee and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Investment Securities under this Section 5.03.

The City (and the Borrower by its execution of the Loan Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grants the City or the Borrower the right to receive brokerage confirmations of security transactions as they occur, the City and the Borrower will not receive such confirmations to the extent permitted by law. The Trustee will furnish the Borrower and the City (to the extent

requested by it) periodic cash transaction statements which shall include detail for all investment transactions, if any, made by the Trustee hereunder.

Section 5.04. Enforcement of Obligations{tc "Section 5.04. Enforcement of Obligations" \1 2}. Upon the occurrence of an Event of Default actually known to a Responsible Officer of the Bondowner Representative, the Bondowner Representative shall, pursuant to Section 7.08 hereof, be entitled in its sole discretion to take all steps, actions and proceedings, or to direct the Trustee to take all steps and proceedings: (a) to enforce the terms, covenants and conditions of, and preserve and protect the priority of its interest in and under, the Loan Agreement, Regulatory Agreement and the Deed of Trust, and (b) to request compliance with all covenants, agreements and conditions on the part of the City contained in this Indenture with respect to the Revenues.

ARTICLE VI

{tc "ARTICLE VI" \1 1 \n}

COVENANTS OF THE CITY

{tc "COVENANTS OF THE CITY" \1 1 \n}

Section 6.01. Payment of Principal and Interest{tc "Section 6.01. Payment of Principal and Interest" \1 2}. The City shall punctually pay, but only out of Revenues as herein provided, the principal and the interest (and premium, if any) due on the Bond at the times and places and in the manner provided herein and in the Bond, according to the true intent and meaning thereof. When and as paid in full, the Bond shall be delivered to the Trustee and shall forthwith be destroyed by the Trustee.

Section 6.02. Preservation of Revenues; Amendment of Documents{tc "Section 6.02. Preservation of Revenues; Amendment of Documents" \1 2}. The City shall not take any action to interfere with or impair the pledge and assignment hereunder of Revenues and the assignment to the Trustee, of rights of the City under the Loan Agreement and the Deed of Trust and other collateral documents (other than the Reserved Rights), or the Trustee's or the Bondowner Representative's enforcement of any rights hereunder or thereunder, shall not take any action to impair the validity or enforceability of the Loan Agreement or the Deed of Trust and other collateral documents, and shall not waive any of its rights under or any other provision of or permit any amendment of the Loan Agreement or the Deed of Trust, without the prior written consent of the Bondowner Representative.

Section 6.03. Compliance with Indenture{tc "Section 6.03. Compliance with Indenture" \1 2}. The City shall not issue, or permit to be issued, the Bond secured or payable in any manner out of Revenues other than in accordance with the provisions of this Indenture; it being understood that the City reserves the right to issue obligations payable from and secured by sources other than the Revenues and the assets assigned herein. The City shall faithfully observe and perform all the covenants of the City hereunder. So long as the Bond is Outstanding, the City shall not create any pledge, lien or charge of any type whatsoever upon all or any part of the Revenues, other than the lien of this Indenture.

Section 6.04. Further Assurances{tc "Section 6.04. Further Assurances" \1 2}. Whenever and so often as requested so to do by the Bondowner Representative, the City, at the expense of the Borrower, shall promptly execute and deliver or cause to be executed and delivered all such

other and further instruments, documents or assurances, and promptly do or cause to be done all such other and further things, as may be necessary or reasonably required in order to further and more fully vest in the Bondowner Representative and the Bondholders all of the rights, interests, powers, benefits, privileges and advantages conferred upon them by this Indenture and to perfect and maintain as perfected such rights, interests, powers, benefits, privileges and advantages.

Section 6.05. No Arbitrage{tc "Section 6.05. No Arbitrage" \1 2}. The City shall not take, nor knowingly permit nor suffer to be taken by the Trustee or otherwise, any action with respect to the gross proceeds of the Bond which would cause the Bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code and Regulations promulgated thereunder.

Section 6.06. Limitation of Expenditure of Proceeds{tc "Section 6.06. Limitation of Expenditure of Proceeds" \1 2}. The City, solely by requiring the execution and delivery by the Borrower of the Loan Agreement and the Regulatory Agreement, shall require that not less than ninety-seven percent (97%) of the amount of the principal of the Bond will be used for Qualified Project Costs and less than 25 percent of such amount will be used for land or an interest in land.

Section 6.07. Rebate of Excess Investment Earnings to United States{tc "Section 6.07. Rebate of Excess Investment Earnings to United States" \1 2}. The Rebate Fund shall be established by the Trustee and held and applied as provided in this Section. On any date on which any amounts are required by applicable federal tax law to be rebated to the federal government, amounts shall be deposited into the Rebate Fund by the Borrower for such purpose. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate) and as calculated by the Rebate Analyst, for payment to the United States Government, and none the City, the Borrower, the Bondowner Representative or the Bondholder shall have any rights in or claim to such moneys. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and by the Tax Certificate. The Trustee shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the City, Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate, and shall not be required to take any actions under the Tax Certificate in the absence of written instructions from the City, Bond Counsel or the Rebate Analyst.

Within 55 days of the end of each fifth Bond Year and within 55 days of payment in full of the Bond, the Trustee shall request and the Borrower shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Rebate Regulations (taking into account any exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(B) and (C) of the Code)), for this purpose treating the last day of the applicable Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Rebate Regulations (the "Rebatable Arbitrage").

Within 55 days of the end of each fifth Bond Year and within 55 days of payment in full of the Bond, upon the written direction of the City, Bond Counsel or the Rebate Analyst, an amount shall be deposited to the Rebate Fund by the Trustee from amounts provided by the Borrower, if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with the preceding paragraph.

The Trustee shall pay, as directed by the City, Bond Counsel or the Rebate Analyst, to the United States Treasury, out of amounts in the Rebate Fund:

(i) Not later than 60 days after the end of (A) the fifth Bond Year, and (B) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(ii) Not later than 60 days after the payment of the Bond in full, an amount equal to 100% of the Rebatable Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatable Arbitrage, computed in accordance with Section 148(f) of the Code.

Each payment required to be made under this Section shall be made to the Internal Revenue Service Center at the address provided in such direction on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be prepared by the Rebate Analyst and provided to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the obligation to remit payment of the Rebatable Arbitrage to the United States and to comply with all other requirements of this Section 6.07, Section 2.06 of the Loan Agreement, the requirements of the Regulatory Agreement and the requirements of the Tax Certificate shall survive the defeasance or payment in full of the Bond.

Any funds remaining in the Rebate Fund after redemption and payment of all of the Bond and payment and satisfaction of any Rebate Requirement, or provision made therefor in accordance with the written direction of the City, the Rebate Analyst or Bond Counsel, shall be withdrawn and remitted to the Borrower.

The Trustee shall keep such records of the computations made pursuant to this Section 6.07 as are required under Section 148(f) of the Code to the extent furnished to the Trustee. The Borrower shall or shall cause the Rebate Analyst to provide to the City copies of all rebate computations made pursuant to this Section 6.07. The Trustee shall keep and make available to the Borrower such records concerning the investments of the gross proceeds of the Bond and the investments of earnings from those investments made by the Trustee as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

Notwithstanding the foregoing, the computations and payments of Rebatable Arbitrage need not be made to the extent that neither the City nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an Opinion of Bond Counsel, to the effect that such failure will not adversely affect the exclusion from gross income for federal

income tax purposes of interest on the Bond, a copy of which shall be provided to the Trustee, at the expense of the Borrower.

Section 6.08. Limitation on Issuance Costs{tc "Section 6.08. Limitation on Issuance Costs" \1 2}. The City, solely by requiring the execution and delivery by the Borrower of the Loan Agreement and the Regulatory Agreement, shall assure that, from the proceeds of the Bond received from the original purchaser thereof and investment earnings thereon, an amount not in excess of two percent (2%) of the principal amount of the Bond will be used to pay for, or provide for the payment of, Issuance Costs.

Section 6.09. Federal Guarantee Prohibition{tc "Section 6.09. Federal Guarantee Prohibition" \1 2}. The City, solely by requiring the execution and delivery by the Borrower of the Loan Agreement and the Regulatory Agreement, shall assure that no action is taken if the result of the same would be to cause the Bond to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 6.10. Prohibited Facilities{tc "Section 6.10. Prohibited Facilities" \1 2}. The City, solely by requiring the execution and delivery by the Borrower of the Loan Agreement and the Regulatory Agreement, shall assure that no portion of the proceeds of the Bond will be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. The City, solely by requiring the execution and delivery by the Borrower of the Loan Agreement and the Regulatory Agreement, shall assure that no portion of the proceeds of the Bond will be used for an office unless the office is located on the premises of the facilities constituting the Project and unless not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

Section 6.11. Use Covenant{tc "Section 6.11. Use Covenant" \1 2}. The City, solely by requiring the execution and delivery by the Borrower of the Loan Agreement and the Regulatory Agreement, shall assure that proceeds of the Bond will not be used, directly or indirectly, in any manner which would result in the Bond being treated as an obligation not described in Section 142(d) of the Code by reason of the Bond not meeting the requirements of Section 142(d) of the Code.

Section 6.12. Immunities and Limitations of Responsibility of City{tc "Section 6.12. Immunities and Limitations of Responsibility of City" \1 2}. The City shall be entitled to the advice of counsel (who, except as otherwise provided, may be counsel for the Bondholder), and the City shall be wholly protected as to action taken or omitted in good faith in reliance on such advice. The City may rely conclusively on any communication or other document furnished to it hereunder and reasonably believed by it to be genuine. The City shall not be liable for any action (a) taken by it in good faith and reasonably believed by it to be within its discretion or powers hereunder, or (b) in good faith omitted to be taken by it because such action was reasonably believed to be beyond its discretion or powers hereunder, or (c) taken by it pursuant to any direction or instruction by which it is governed hereunder, or (d) omitted to be taken by it by reason of the lack of any direction or instruction required hereby for such action; nor shall it be responsible for the consequences of any error of judgment reasonably made by it. The City

shall in no event be liable for the application or misapplication of funds or for other acts or defaults by any person, except its own officers and employees. When any payment or consent or other action by it is called for hereby, it may defer such action pending receipt of such evidence (if any) as it may require in support thereof. The City shall not be required to take any remedial action (other than the giving of notice) unless indemnity in a form acceptable to the City is furnished for any expense or liability to be incurred in connection with such remedial action, other than liability for failure to meet the standards set forth in this Section. The City shall be entitled to reimbursement from the Borrower for its expenses reasonably incurred or advances reasonably made, with interest at the highest rate at which interest accrues from time to time on the Bond, in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity. No permissive right or power to act which the City may have shall be construed as a requirement to act; and no delay in the exercise of a right or power shall affect its subsequent exercise of the right or power. The Borrower has indemnified the City against certain acts and events as set forth in Section 4.01 of the Loan Agreement and Section 9 of the Regulatory Agreement. Such indemnities shall survive payment of the Bond and discharge of this Indenture.

Anything in this Indenture to the contrary notwithstanding, it is expressly understood by the parties to this Indenture that (a) the City and the Trustee may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the City or the Trustee or the Bondowner Representative as to the existence of any fact or state of affairs, (b) the City shall not be under any obligation under this Indenture to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Trustee or by the Bondowner Representatives, and (c) none of the provisions of this Indenture shall require the City or the Trustee to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Indenture, unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action.

ARTICLE VII{tc "ARTICLE VII" \1 1 \n}

DEFAULT{tc "DEFAULT" \1 1 \n}

Section 7.01. Events of Default; Acceleration; Waiver of Default{tc "Section 7.01. Events of Default; Acceleration; Waiver of Default" \1 2}. Each of the following events shall constitute an "Event of Default" hereunder (subject to the final paragraph of this Article VII):

- (a) failure to pay interest on the Bond when due;
- (b) failure to pay the principal of the Bond on the date fixed for payment thereof, whether upon the maturity thereof or pursuant to Section 4.01 hereof; and
- (c) failure by the City to perform or observe any other of the covenants, agreements or conditions on its part in this Indenture or in the Bond contained, and the continuation of such failure for a period of thirty (30) days after written notice thereof,

specifying such default and requiring the same to be remedied, shall have been given to the City, the Borrower and the Trustee by the Bondowner Representative.

No default specified in (c) above shall constitute an Event of Default unless the City or the Borrower shall have failed to correct such default within the applicable period; provided, however, that if the default shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the City or the Borrower within the applicable period and diligently pursued until the default is corrected; and provided, further, that the time elapsed until completion of corrective action shall not exceed sixty (60) days without the consent of the Bondowner Representative, which consent shall not be unreasonably withheld or conditioned. With regard to any alleged default concerning which notice is given to the Borrower under the provisions of (c) above, the City hereby grants the Borrower full authority for the account of the City to perform any covenant or obligation the non-performance of which is alleged in said notice to constitute a default in the name and stead of the City with full power to do any and all things and acts to the same extent that the City could do and perform any such things and acts and with power of substitution.

Following the occurrence of an Event of Default, the Bondowner Representative may, by notice in writing to the Trustee, the City and the Borrower, declare the principal of the Bond then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Bond contained to the contrary notwithstanding, and/or pursue such other remedies as are permitted under applicable law. Upon any such declaration of acceleration, the Trustee, at the direction of the Bondowner Representative, shall fix a date for payment of the Bond.

The preceding paragraph, however, is subject to the condition that if, at any time after the principal of the Bond shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, there shall have been deposited with the Trustee a sum sufficient to pay all the principal of the Bond matured or required to be redeemed prior to such declaration and all matured installments of interest (if any) upon the Bond, with interest on such overdue installments of principal and prepayment premium, to the extent applicable, and the reasonable fees and expenses of the Trustee, its agents and counsel, and any and all other defaults actually known to a Responsible Officer of the Trustee (other than in the payment of principal of and interest on the Bond due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Bondowner Representative or provision deemed by the Bondowner Representative to be adequate shall have been made therefor, then the Bondowner Representative, by written notice to the City and the Trustee, may, on behalf of the holder of the Bond, rescind and annul such declaration and its consequences and waive such default; but no such rescission, annulment or waiver shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Notwithstanding the foregoing, or anything else to the contrary herein, no default by the Borrower under the Loan Agreement shall constitute an event of default with respect to the Bond (including, without limitation, a failure to make any payment due with respect to the Bond as a consequence of the Borrower's failure to make any payment due under the Loan

Agreement). The City's, Trustee's, Owner's and Bondowner Representative's remedies with respect to a default under the Loan Documents shall be as set forth under the Loan Documents. Notwithstanding the foregoing, the Bondowner Representative may, upon the acceleration of the Borrower's obligations under the Loan Documents, direct the Trustee (with a copy to the City) to accelerate the maturity of the Bond and apply any funds available hereunder for such purpose as provided herein (after paying the fees and expenses of the Trustee and the City). Any Bond remaining outstanding shall be deemed paid upon transfer, to or at the direction of the Bondowner Representative, of the Loan Documents and all security therefor free and clear of the lien of this Indenture.

Section 7.02. Institution of Legal Proceedings by Bondowner Representative{tc "Section 7.02. Institution of Legal Proceedings by Bondowner Representative" \1 2}. If one or more of the Events of Default shall occur, the Bondowner Representative in its discretion may proceed to protect or enforce its rights or the rights of the holder of the Bond under the Act or under this Indenture, the Note and/or the Loan Agreement, by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein or therein, or in aid of the execution of any power herein or therein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Bondowner Representative shall deem most effectual in support of any of its rights or duties hereunder.

Section 7.03. Application of Moneys Collected by Bondowner Representative{tc "Section 7.03. Application of Moneys Collected by Bondowner Representative" \1 2}. Any moneys collected by the Bondowner Representative and the Trustee pursuant to Section 7.02 shall be deposited with the Trustee and applied in the order following, at the date or dates fixed by the Bondowner Representative with written notice to the Trustee and, in the case of distribution of such moneys on account of principal (or premium, if any) or interest, upon presentation of the Bond and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First: For payment of all amounts due to the Bondowner Representative and to the Trustee under Section 8.06.

Second: For deposit in the Bond Fund to be applied to payment of the principal of the Bond then due and unpaid and interest thereon with application as between principal and interest as the Bondowner Representative shall determine in its sole discretion; and if there is more than one Bondowner, ratably to such Bondowner entitled thereto without discrimination or preference.

Third: For payment of all other amounts due from the Borrower to any person hereunder or under the Loan Agreement, the Note or the other Loan Documents.

Fourth: To the Borrower.

Section 7.04. Effect of Delay or Omission to Pursue Remedy{tc "Section 7.04. Effect of Delay or Omission to Pursue Remedy" \1 2}. No delay or omission of the Trustee, Bondowner Representative or of any holder of the Bond to exercise any right or power arising from any

default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every power and remedy given by this Article VII to the Trustee, Bondowner Representative or to the holder of the Bond may be exercised from time to time and as often as shall be deemed by the Bondowner Representative expedient. In case the Bondowner Representative shall have proceeded to enforce any right under this Indenture, and such proceedings shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been determined adversely to the Bondowner Representative, then and in every such case the City, the Trustee, the Bondowner Representative and the holder of the Bond, severally and respectively, shall be restored to their former positions and rights hereunder in respect to the Trust Estate; and all remedies, rights and powers of the City, the Trustee, the Bondowner Representative and the holder of the Bond shall continue as though no such proceedings had been taken.

Section 7.05. Remedies Cumulative{tc "Section 7.05. Remedies Cumulative" \1 2}. No remedy herein conferred upon or reserved to the Trustee, Bondowner Representative or to the holder of the Bond hereunder is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.06. Covenant to Pay Bond in Event of Default{tc "Section 7.06. Covenant to Pay Bond in Event of Default" \1 2}. The City covenants that, upon the happening of any Event of Default, the City will pay to the Trustee upon demand, but only out of Revenues and subject to all the limitations on liability of the City set forth herein, for the benefit of the holder of the Bond, the whole amount then due and payable thereon (by declaration or otherwise) for interest or for principal, or both, as the case may be, and all other sums which may be due hereunder or secured hereby, including reasonable compensation to the Trustee, the Bondowner Representative, their agents and counsel, and any expenses or liabilities incurred by the Trustee or Bondowner Representative hereunder. In case the City shall fail to pay the same forthwith upon such demand, the Trustee, at the direction of the Bondowner Representative, as trustee of an express trust, and upon being indemnified by the Bondholder to its satisfaction, shall be entitled to institute proceedings at law or in equity in any court of competent jurisdiction to recover judgment for the whole amount due and unpaid, together with costs and reasonable attorneys' fees, subject, however, to the condition that such judgment, if any, shall be limited to, and payable solely out of Revenues and any other assets pledged, transferred or assigned to the Trustee under Section 5.01 as herein provided and not otherwise. The Bondowner Representative shall be entitled to recover such judgment as aforesaid, either before or after or during the pendency of any proceedings for the enforcement of this Indenture, and the right of the Bondowner Representative to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of the provisions of this Indenture.

Section 7.07. Bondowner Representative Appointed Agent for Bondholder{tc "Section 7.07. Bondowner Representative Appointed Agent for Bondholder" \1 2}. The Bondowner Representative is hereby appointed the agent of the holder of the Bond Outstanding hereunder for the purpose of filing any claims relating to the Bond.

Section 7.08. Power of Bondowner Representative to Control Proceedings{tc "Section 7.08. Power of Bondowner Representative to Control Proceedings" \1 2}. Notwithstanding any

other provision of this Indenture, the Bondowner Representative shall have exclusive control of the remedies set forth herein upon an Event of Default. In the event that the Bondowner Representative, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, it shall have full power, in the exercise of its sole discretion for the best interests of the holder of the Bond, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action.

Section 7.09. Limitation on Bondholders' Right to Sue{tc "Section 7.09. Limitation on Bondholders' Right to Sue" \1 2}. The holder of the Bond issued hereunder shall have no right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, except through the actions of the Bondowner Representative. However, the right of the holder of the Bond to receive payment of the principal of (and premium, if any) and interest on such Bond out of Revenues, as herein and therein provided, on and after the respective due dates expressed in such Bond shall not be impaired or affected without the consent of such holder, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

Section 7.10. Limitation of Liability to Revenues{tc "Section 7.10. Limitation of Liability to Revenues" \1 2}. Notwithstanding anything in this Indenture contained, the City shall not be required to advance any moneys derived from the proceeds of taxes collected by the City, by the State of California or by any political subdivision thereof or from any source of income of any of the foregoing other than the Revenues for any of the purposes mentioned in this Indenture, whether for the payment of the principal of or interest on the Bond or for any other purpose of this Indenture. The Bond is a limited obligation of the City, and is payable from and secured by the Revenues and any other revenues, funds or assets pledged under this Indenture and not from any other revenues, funds or assets of the City.

ARTICLE VIII{tc "ARTICLE VIII" \1 1 \n}

THE TRUSTEE AND AGENTS{tc "THE TRUSTEE AND AGENTS" \1 1 \n}

Section 8.01. Duties, Immunities and Liabilities of Trustee{tc "Section 8.01. Duties, Immunities and Liabilities of Trustee" \1 2}. In consideration of the recitals hereinabove set forth and for other valuable consideration, the City hereby agrees to employ the Trustee (at the expense of the Borrower) to receive, hold, invest and disburse the moneys received pursuant to the Loan Agreement for credit to the various funds and accounts established by this Indenture; to authenticate, deliver and transfer the Bond; and to apply and disburse the payments received from the Borrower pursuant to the Loan Agreement to the owner of the Bond; and to perform certain other functions; all as herein provided and subject to the terms and conditions of this Indenture. The Trustee shall perform such duties and only such duties as are specifically set forth in this Indenture and no additional covenants or duties of the Trustee shall be implied in this Indenture.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action or its own negligent failure to act, except that:

(a) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee conforming to the requirements of this Indenture;

(b) At all times (1) the Trustee shall not be liable for any act or omission unless the Trustee or its agent was negligent or engaged in willful misconduct; and (2) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the City, accompanied by an opinion of Bond Counsel as provided herein, or in accordance with the directions of the Bondowner Representative or in accordance with the directions of the holder of the Bond relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture;

(c) The Trustee shall not be required to take notice or be deemed to have notice of (i) any default hereunder or under the Loan Agreement, except defaults under Section 7.01(a) or (b) hereof, unless a Responsible Officer of the Trustee shall be specifically notified in writing of such default by the City, the Bondowner Representative or the owner of the Bond, or (ii) any default under the Regulatory Agreement unless a Responsible Officer of the Trustee shall be specifically notified in writing of such default by the City;

(d) Before taking any action under the Loan Agreement, the Regulatory Agreement, Article VII hereof or this Section at the request or direction of the Bondholders or the Bondowner Representative, the Trustee may require that a satisfactory indemnity bond be furnished by the Bondholder, for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken;

(e) Upon any application or request by the City or the Bondowner Representative to the Trustee to take any action under any provision of this Indenture, the Loan Agreement or the Regulatory Agreement, the City or Bondowner Representative, as applicable, shall furnish to the Trustee a certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with, and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished;

(f) The Trustee may execute any of the powers hereunder or perform any duties hereunder either directly or through agents or attorneys;

(g) Neither the City nor the Borrower shall be deemed to be agents of the Trustee for any purpose, and the Trustee shall not be liable for any noncompliance of any of them in connection with their respective duties hereunder or in connection with the transactions contemplated hereby;

(h) The Trustee shall be entitled to rely upon telephonic notice for all purposes whatsoever so long as the Trustee reasonably believes such telephonic notice has been given by a person authorized to give such notice;

(i) The immunities extended to the Trustee also extend to its directors, officers and employees;

(j) Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bond, it being the sole obligation of the Trustee to administer, for the benefit of the Bondholder, the various funds and accounts established hereunder;

(k) No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy;

(l) The Trustee shall not be liable for any action taken or not taken by it in accordance with the direction of the holder of the Bond or the Bondowner Representative related to the exercise of any right, power or remedy available to the Trustee;

(m) The Trustee shall have no duty to review any financial statements or budgets filed with it by the Borrower under the Loan Agreement;

(n) The Trustee acknowledges that Borrower has an obligation to pay certain fees to the City pursuant to Section 7 of the Regulatory Agreement. The Trustee further acknowledges that in order to preserve the tax-exempt status of interest on the Bond, the Borrower must comply with requirements for rebate of excess investment earnings to the federal government to the extent applicable. The Trustee agrees to use commercially reasonable efforts to send the Borrower a notification or reminder of: (1) its payment obligations under said Section 7(a) of the Regulatory Agreement 30 days preceding each annual payment date therefor; and (2) the Borrower's obligation to make payments to the Rebate Fund as provided herein; and

(o) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes,

earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties as Trustee or in the exercise of any of its rights or powers as Trustee. Whether or not therein expressly so provided, every provision of this Indenture, the Loan Agreement, the Regulatory Agreement or any other document relating to the conduct, powers or duties of, or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Article VIII.

Section 8.02. Right of Trustee to Rely Upon Documents, Etctc "Section 8.02. Right of Trustee to Rely Upon Documents, Etc" \1 2]. Except as otherwise provided in Section 8.01:

(a) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, facsimile transmission, electronic mail, demand, direction, election, requisition, bond or other paper or document reasonably believed by it to be genuine and to have been signed and presented by the proper party or parties;

(b) Any consent, demand, direction, election, notice, order or request of the City mentioned herein shall be sufficiently evidenced by a Written Consent, Written Demand, Written Direction, Written Election, Written Notice, Written Order or Written Request of the City, and any resolution of the City may be evidenced to the Trustee by a Certified Resolution;

(c) The Trustee may consult with counsel (who may be counsel for the City, counsel for the Trustee or Bond Counsel) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel;

(d) Whenever in the administration of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the City or a certificate of the Bondowner Representative; and such Certificate of the City or a certificate of the Bondowner Representative shall, in the absence of negligence or bad faith on the part of the Trustee, be full warrant to the Trustee for any action taken or suffered by it under the provisions of this Indenture upon the faith thereof;

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit; and

(f) The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

Section 8.03. Trustee Not Responsible for Recitals{tc "Section 8.03. Trustee Not Responsible for Recitals" \1 2}. The recitals contained herein and in the Bond shall be taken as the statements of the City, and the Trustee assumes no responsibility for the correctness of the same or for the correctness of the recitals in the Loan Agreement or the Regulatory Agreement. The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the Bond. The Trustee makes no representations as to the value or condition of any assets pledged or assigned as security for the Bond, or as to the right, title or interest of the City therein, or as to the security provided thereby or by this Indenture, the Loan Agreement or the Deed of Trust, or as to the compliance of the Project with the Act, or as to the tax-exempt status of the Bond, or as to the technical or financial feasibility of the Project, or as to the validity or sufficiency of this Indenture as an instrument of the City or of the Bond as an obligation of the City. The Trustee shall not be accountable for the use or application of the proceeds of the Loan by the Borrower or its agents.

Section 8.04. Intervention by Trustee{tc "Section 8.04. Intervention by Trustee" \1 2}. The Trustee may intervene on behalf of the owners of the Bond in any judicial proceeding to which the City or Bondowner Representative is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the owner of the Bond and, subject to the provisions of Section 8.01(d), shall do so if requested in writing by the owner of the Bond or the Bondowner Representative.

Section 8.05. Moneys Received by Trustee to be Held in Trust{tc "Section 8.05. Moneys Received by Trustee to be Held in Trust" \1 2}. All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law or as otherwise provided herein. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree with the City to pay thereon.

Section 8.06. Compensation and Indemnification of Trustee, Bondowner Representative and Agents{tc "Section 8.06. Compensation and Indemnification of Trustee, Bondowner Representative and Agents" \1 2}.

(a) The Bondowner Representative and the Trustee shall be entitled to receive compensation from the Borrower for their services as Bondowner Representative and Trustee, respectively, as provided in Section 2.06 of the Loan Agreement, and shall be indemnified by the Borrower as provided in Section 4.01 of the Loan Agreement. The Bondowner Representative and the Trustee each acknowledges and agrees that the City shall not be responsible for the fees and expenses of the Bondowner Representative and the Trustee, and is providing no indemnification to the Bondowner Representative and the Trustee.

(b) If any property, other than cash, shall at any time be held by the Bondowner Representative or the Trustee subject to this Indenture, or any supplemental indenture, as security for the Bond, the Bondowner Representative or the Trustee, if and to the extent authorized by a receivership, bankruptcy or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bond, shall be entitled to but not obligated to make advances for the purpose of preserving such property or of discharging tax liens or other prior liens or encumbrances thereon. The rights of the Bondowner Representative and the Trustee to compensation for services and to payment or reimbursement for expenses, disbursements, liabilities and advances shall have and each of the Bondowner Representative and Trustee is hereby granted a lien and a security interest prior to the Bond in respect of all property and funds held or collected by the Bondowner Representative or the Trustee as such, except funds held in trust by the Bondowner Representative or the Trustee for the benefit of the holders of a particular principal amount of the Bond, which amounts shall be held solely for the benefit of the Bondholder and used only for the payment of principal of and premium, if any, and interest on the Bond. The Bondowner Representative's and the Trustee's rights to immunities, indemnities and protection from liability hereunder and their rights to payment of their fees and expenses shall survive such Bondowner Representative's and the Trustee's resignation or removal and final payment of the Bond.

Section 8.07. Qualifications of Trustee{tc "Section 8.07. Qualifications of Trustee" \1 2}. There shall at all times be a trustee hereunder which is acceptable to the City and the Bondowner Representative, which in any event shall be a corporation, banking association or trust company, in each case having trust powers, doing business and having a corporate trust office in California and shall

(a) either (i) have a combined capital and surplus of at least \$50,000,000 and be subject to supervision or examination by federal or state authority or (ii) be a wholly-owned subsidiary of a bank, trust company or bank holding company meeting on an aggregate basis the tests set out in clause (i) and

(b) be able to comply with the terms and conditions of this Indenture, including, without limitation, Section 8.11 through 8.13 hereof, and to comply with the terms of the Loan Agreement applicable thereto.

If such corporation, banking association, or trust company publishes reports of conditions at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such corporation, banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 8.08(b) below.

Section 8.08. Removal, Resignation and Appointment of Successor Trustee{tc "Section 8.08. Removal, Resignation and Appointment of Successor Trustee" \1 2}.

(a) Removal of Trustee. The City may remove the Trustee at any time unless an Event of Default occurs and is then continuing, and shall remove the Trustee if at any time requested to do so by an instrument or concurrent instruments in writing signed by the holder of the Bond (or its attorney duly authorized in writing) or the Bondowner Representative or if at any time the Trustee shall cease to be eligible in accordance with Section 8.07 hereof, or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or any substantial portion thereof or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee and thereupon the Borrower shall appoint a successor Trustee by an instrument in writing. Any successor Trustee appointed by the Borrower under this Section 8.08 shall be subject to the approval of the Bondowner Representative and the City, which approval shall not unreasonably be withheld or delayed.

(b) Resignation of Trustee. The Trustee may at any time resign by giving written notice of such resignation by first class mail, postage prepaid, to the City, the Borrower, the Bondowner Representative and to the Bondholder. Upon receiving such notice of resignation, the Borrower shall appoint a successor Trustee by an instrument in writing with the written consent of the Bondowner Representative and the City. The Trustee shall not be relieved of its duties until such successor Trustee has accepted appointment.

(c) Appointment of Successor Trustee. Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon the acceptance of appointment of the successor Trustee; provided, however, that under any circumstances the successor Trustee shall be qualified as provided in subsection (a) of this Section. If no qualified successor Trustee shall have been appointed and have accepted appointment within 45 days following giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or the Bondholder may at the expense of the Borrower petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the City, the Borrower, the Bondowner Representative and its predecessor Trustee a written acceptance thereof, and to the predecessor Trustee an instrument indemnifying the predecessor Trustee for any costs or claims arising during the time the successor Trustee serves as Trustee hereunder, and such successor Trustee, without any further act, deed or conveyance, shall

become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the written request of the City or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance, including a quitclaim deed, and further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trust and conditions herein set forth. Upon request of the successor Trustee, the City shall execute and deliver, at the expense of the Borrower, any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the successor Trustee shall mail, by first class mail, postage prepaid, a notice of the succession of such Trustee to the trusts hereunder to the Bondholder at the address shown on the registration books, with copies to the City, the Borrower and the Bondowner Representative.

Section 8.09. Merger or Consolidation of Trustee{tc "Section 8.09. Merger or Consolidation of Trustee" \1 2}. Any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding, provided that such successor Trustee shall be eligible under the provisions of Section 8.07(a).

Section 8.10. [Reserved]{tc "Section 8.10. [Reserved]" \1 2}.

Section 8.11. Compliance with Laws{tc "Section 8.11. Compliance with Laws" \1 2}. Trustee shall keep itself fully informed of all City, state, and federal laws in any manner affecting the performance of this Indenture, and must at all times comply with all applicable laws as they may be amended from time to time.

Section 8.12. Audit and Inspection of Records{tc "Section 8.12. Audit and Inspection of Records" \1 2}. Trustee agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Indenture. Trustee will permit the City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Indenture, whether funded in whole or in part under this Indenture. Trustee shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Indenture or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Indenture shall have the same rights conferred upon the City by this Section.

Section 8.13. Paying Agents{tc "Section 8.13. Paying Agents" \1 2}. The Trustee, with the written approval of the City and the Bondowner Representative, may appoint and at all times

have one or more paying agents in such place or places as the Trustee may designate, for the payment of the principal of, and the interest (and premium, if any) on, the Bond. It shall be the duty of the Trustee to make such arrangements with any such paying agent as may be necessary and feasible to assure, to the extent of the moneys held by the Trustee for such payment, the availability of funds for the prompt payment of the principal of and interest and premium, if any, on the Bond presented at either place of payment. The paying agent initially appointed hereunder is the Trustee.

ARTICLE IX{tc "ARTICLE IX" \1 1 \n}

MODIFICATION OF INDENTURE{tc "MODIFICATION OF INDENTURE" \1 1 \n}

Section 9.01. Modification of Indenture{tc "Section 9.01. Modification of Indenture" \1 2}. The City and the Trustee, with the prior written consent of the Bondowner Representative, may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture. The Bondowner Representative may, if it so elects, direct the Trustee to join with the City in the execution of such supplemental indenture, unless such supplemental indenture affects the rights or obligations of the Borrower or any general partner or limited partner of the Borrower hereunder or under the Loan Agreement or any other document, in which case the City, Trustee and Bondowner Representative may enter into such supplemental indenture only if the Bondowner Representative has received the Borrower's, or such general partner's or limited partner's, as applicable, written consent thereto.

Promptly after the execution by the City, the Trustee and the Bondowner Representative of any supplemental indenture pursuant to the provisions of this Section, if the Bondowner Representative is not the sole owner of the Bond then Outstanding, the Trustee shall give Bondholders, by first class mail, a notice setting forth in general terms the substance of such supplemental indenture. Any failure of the Trustee to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 9.02. Effect of Supplemental Indenture{tc "Section 9.02. Effect of Supplemental Indenture" \1 2}. Upon the execution of any supplemental indenture pursuant to the provisions of this Article IX, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the City, the Trustee, the Bondowner Representative and the holder of the Bond shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.03. Opinion of Counsel as to Supplemental Indenture{tc "Section 9.03. Opinion of Counsel as to Supplemental Indenture" \1 2}. Subject to the provisions of Section 8.01, the Trustee and the Bondowner Representative shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to the provisions of this Article IX is authorized and permitted by this Indenture.

Section 9.04. Notation of Modification on Bond; Preparation of New Bond{tc "Section 9.04. Notation of Modification on Bond; Preparation of New Bond" \1 2}. A Bond authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article IX may bear a notation, in form approved by the Bondowner Representative and the City as to any matter provided for in such supplemental indenture, and if such supplemental indenture shall so provide, a new Bond, so modified as to conform, in the opinion of the Bondowner Representative and the City, to any modification of this Indenture contained in any such supplemental indenture, may be prepared and executed by the City and authenticated by the Trustee and delivered without cost to the holder of the Bond then Outstanding, upon surrender for cancellation of such Bond in equal aggregate principal amounts.

ARTICLE X{tc "ARTICLE X" \1 1 \n}

DEFEASANCE{tc "DEFEASANCE" \1 1 \n}

Section 10.01. Discharge of Indenture{tc "Section 10.01. Discharge of Indenture" \1 2}. If the entire indebtedness on the Bond Outstanding shall be paid and discharged in any one or more of the following ways:

- (a) by the payment of the principal of (including redemption premium, if any) and interest on the Bond; or
- (b) by the delivery of the Bond to the Trustee, for cancellation by the Trustee;

and if all other sums payable hereunder by the City shall be paid and discharged, then and in that case this Indenture shall cease, terminate and become null and void, and the Trustee shall forthwith execute proper instruments acknowledging satisfaction of and discharging this Indenture. The fees, expenses and charges of the Trustee (including reasonable counsel fees) must be paid in order to effect such discharge. The satisfaction and discharge of this Indenture shall be without prejudice to the rights of the Trustee to charge and be reimbursed by the Borrower for any expenditures which it may thereafter incur in connection herewith.

The City or the Borrower may at any time surrender to the Trustee for cancellation by it the Bond which the City or the Borrower lawfully may have acquired in any manner whatsoever, and the Bond upon such surrender and cancellation shall be deemed to be paid and retired.

ARTICLE XI{tc "ARTICLE XI" \1 1 \n}

MISCELLANEOUS{tc "MISCELLANEOUS" \1 1 \n}

Section 11.01. Successors of the City{tc "Section 11.01. Successors of the City" \1 2}. All the covenants, stipulations, promises and agreements contained in this Indenture, by or on behalf of the City, shall bind and inure to the benefit of its successors and assigns, whether so expressed or not. If any of the powers or duties of the City shall hereafter be transferred by any

law of the State of California, and if such transfer shall relate to any matter or thing permitted or required to be done under this Indenture by the City, then the body or official who shall succeed to such powers or duties shall act and be obligated in the place and stead of the City as in this Indenture provided.

Section 11.02. Limitation of Rights to Parties and Bondholders{tc "Section 11.02. Limitation of Rights to Parties and Bondholders" \1 2}. Nothing in this Indenture or in the Bond expressed or implied is intended or shall be construed to give to any person other than the City, the Trustee, the Bondowner Representative, the Borrower and the holder of the Bond issued hereunder any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Trustee, the Bondowner Representative, the Borrower and the holder of the Bond issued hereunder.

Section 11.03. Waiver of Notice{tc "Section 11.03. Waiver of Notice" \1 2}. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 11.04. Destruction of the Bond{tc "Section 11.04. Destruction of the Bond" \1 2}. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the City of the Bond, the Trustee may, in lieu of such cancellation and delivery, destroy the Bond and deliver a certificate of such destruction to the City.

Section 11.05. Separability of Invalid Provisions{tc "Section 11.05. Separability of Invalid Provisions" \1 2}. In case any one or more of the provisions contained in this Indenture or in the Bond shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, but this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 11.06. Notices{tc "Section 11.06. Notices" \1 2}. It shall be sufficient service of any notice, request, demand or other paper on the City, the Trustee, the Bondowner Representative, or the Borrower if the same shall, except as otherwise provided herein, be duly mailed by first class mail, postage prepaid, or given by telephone or telecopier and confirmed by such mail, and to the other parties and addressed as follows:

The City:

City of San Jose, California
Department of Finance
200 East Santa Clara Street, 13th Floor Tower
San Jose, California 95113-1905
Attention: Debt Management
Telephone: 408-535-7000
Facsimile: 408-292-6482

with a copy to: Office of the City Attorney
City of San Jose, California
200 East Santa Clara Street, 16th Floor Tower
San Jose, California 95113-1905
Attention: City Attorney
Telephone: 408-535-1201
Facsimile: 408-998-3131

The Bondowner Representative
prior to the Conversion Date JPMorgan Chase Bank, N.A.
c/o Chase Community Development Banking
300 South Grand Avenue, Suite 300
Los Angeles, CA 90071
Attention: Shani R. Ryan
Facsimile: (213) 621-8125

with a copy to: JP Morgan Chase Bank, N.A. Legal Department
Mail Code: NY1-R066
237 Park Avenue, 12th Floor
New York, NY 10017-3140
Attention: Michael R. Zients, Executive Director
and Assistant General Counsel

with a copy to: Paul Hastings LLP
515 South Flower Street, 25th Floor
Los Angeles, CA 90071
Attention: Ken Krug, Esq.

The Bondowner Representative on
and after the Conversion Date: California Community Reinvestment Corporation
Representative
225 West Broadway, Suite 120
Glendale, CA 91204
Attention: President
Facsimile: (818) 550-9812

The Trustee: Wilmington Trust, National Association
650 Town Center, Suite 600
Costa Mesa, California 92626
Attention: Corporate Trust Department

The Borrower: Catalonia Two, L.P.
c/o Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: _____

with a copy to: Gubb & Barshay
505 14th Street, Suite 1050
Oakland, CA 94612
Attention: Evan Gross, Esq.

with a copy to:

RBC Capital Market LLC
2061 Ashridge Way
Granite Bay, CA 95746
Attention: _____

The City, the Trustee, the Bondowner Representative and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.07. Authorized Representatives{tc "Section 11.07. Authorized Representatives" \1 2}. Whenever under the provisions of this Indenture the approval of the City or the Borrower is required for any action, and whenever the City or the Borrower is required to deliver any notice or other writing, such approval or such notice or other writing shall be given, respectively, on behalf of the City by the Authorized City Representative or on behalf of the Borrower by the Authorized Borrower Representative, and the City, the Trustee, the Bondowner Representative and the Borrower shall be authorized to act on any such approval or notice or other writing and neither party hereto nor the Borrower shall have any complaint against the others as a result of any such action taken.

Section 11.08. Evidence of Rights of Bondholder{tc "Section 11.08. Evidence of Rights of Bondholder" \1 2}. Any request, consent or other instrument required by this Indenture to be signed and executed by the Bondholder may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by the Bondholder in person or by agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the ownership of the Bond, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Bondowner Representative, the Trustee and of the City if made in the manner provided in this Section.

(a) The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

(b) The ownership of the Bond shall be proved by the Bond register maintained pursuant to Section 2.06 hereof. The fact and the date of execution of any request, consent or other instrument and the amount and distinguishing numbers of the Bond held by the person so executing such request, consent or other instrument may also be proved in any other manner which the Trustee may deem sufficient. The Trustee may nevertheless, in its discretion, require further proof in cases where it may deem further proof desirable.

(c) Any request, consent or vote of the holder of the Bond shall bind every future holder of the Bond and the holder of any Bond issued in exchange therefor or in lieu

thereof, in respect of anything done or suffered to be done by the Bondowner Representative, the Trustee or the City in pursuance of such request, consent or vote.

(d) In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting with the Bondholder upon such notice and in accordance with such rules and regulations as the Bondowner Representative considers fair and reasonable for the purpose of obtaining any such action.

Section 11.09. Holidays{tc "Section 11.09. Holidays" \1 2}. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the date provided therefor in this Indenture and, in the case of any payment, no interest shall accrue for the period from and after such date.

Section 11.10. Execution in Several Counterparts{tc "Section 11.10. Execution in Several Counterparts" \1 2}. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same instrument.

Section 11.11. Governing Law, Venue{tc "Section 11.11. Governing Law, Venue" \1 2}. The formation, interpretation and performance of this Indenture shall be governed by the laws of the State of California. Venue for all litigation arising from or in connection with the Bond or this Indenture shall be in San Jose, California.

Section 11.12. Successors{tc "Section 11.12. Successors" \1 2}. Whenever in this Indenture either the City, the Trustee or the Bondowner Representative is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the City, the Trustee or the Bondowner Representative shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 11.13. Non-Waiver of Rights{tc "Section 11.13. Non-Waiver of Rights" \1 2}. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the CITY OF SAN JOSE has caused this Indenture to be signed in its name and Wilmington Trust, National Association, in token of its acceptance of the trust created hereunder, and the Bondowner Representative, have each caused this Indenture to be signed in its respective name, all as of the day and year first above written.

CITY OF SAN JOSE, CALIFORNIA

By: _____
Its: _____

Approved as to form:

By: _____
Its: Senior Deputy City Attorney

WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee

By: _____
Its: _____

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

By: _____
Name: _____
Title: Authorized Officer

19021.18:J14771

[Signature Page to Catalonia Apartments Indenture of Trust]

EXHIBIT A

FORM OF BOND

THIS BOND MAY BE OWNED ONLY BY A SOPHISTICATED INVESTOR (DEFINED AS A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A OR AN INSTITUTIONAL ACCREDITED INVESTOR AS DEFINED IN RULE 501, EACH AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED) OR CCRC (AS DEFINED IN THE INDENTURE REFERRED TO HEREIN), AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS BOND, REPRESENTS THAT IT IS A SOPHISTICATED INVESTOR OR CCRC, AND ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS BOND IN WHOLE TO SOPHISTICATED INVESTORS OR CCRC IN ACCORDANCE WITH THE LIMITATIONS SET FORTH IN SECTION 7.05 OF THE INDENTURE.

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA

CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE BOND
(CATALONIA APARTMENTS) 2017 SERIES C

REGISTERED OWNER: JPMORGAN CHASE BANK, N.A.

PRINCIPAL SUM: UP TO _____ MILLION _____ HUNDRED _____
THOUSAND DOLLARS (\$ _____)

ISSUE DATE: October __, 2017

The City of San Jose, a municipal corporation and chartered city of the State of California, duly organized and existing under its charter and the laws of the State of California (herein called the "City"), for value received, hereby promises to pay (but only out of Revenues as hereinafter provided) to the Registered Owner identified above or registered assigns, on _____ 1, ____ (subject to prior redemption as provided in the Indenture) the sum of up to _____ Million _____ Hundred _____ Thousand Dollars (\$ _____) in lawful money of the United States, with interest thereon from the date of disbursement until paid at the rates described below. The actual unpaid principal hereof shall be equal to the funds disbursed by the Bondowner Representative under the Indenture to pay the purchase price of this Bond, less any portion of the principal hereof redeemed pursuant to the Indenture. Capitalized terms used in this Bond and not defined herein shall have the meanings given such terms in the Indenture referenced below, or in the Note (as defined in the Indenture) made by Catalonia Two, L.P., a California limited partnership (the "Borrower"), to the order of the City.

This Bond shall bear interest at the same rate as interest on the Loan, as set forth in the Note.

This Bond shall bear interest from the date to which interest has been paid on this Bond next preceding the date of authentication hereof, unless this Bond is authenticated as of an Interest Payment Date for which interest has been paid, in which event it shall bear interest from such Interest Payment Date, or unless it is authenticated on or before the first Interest Payment Date, in which event it shall bear interest from the Closing Date.

In the event the City fails to make the timely payment of any monthly payment, the City shall pay interest on the then Outstanding Balance at the Default Rate.

This Bond is a duly authorized bond of the City designated as the City of San Jose Multifamily Housing Revenue Bond (Catalonia Apartments), 2017 Series C (the "Bond") in the initial maximum principal amount of up to \$_____. This Bond is issued pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Act") and a resolution of the City Council of the City (the "Resolution") and issued under and secured by an Indenture of Trust, dated as of October 1, 2017 (the "Indenture"), among the City, Wilmington Trust, National Association, as the Trustee and JPMorgan Chase Bank, N.A., as initial Bondowner Representative. Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owner of the Bond, of the nature and extent of the security, of the rights, duties and immunities the Trustee and the Bondowner Representative, and of the rights and obligations of the City thereunder, to all of the provisions of which Indenture the owner of this Bond, by acceptance hereof, assents and agrees. The proceeds of the Bond will be used to make a loan to the Borrower pursuant to a Loan Agreement, dated as of October 1, 2017 (the "Loan Agreement") among the City, JPMorgan Chase Bank, N.A., as initial Bondowner Representative and the Borrower, to finance the acquisition and rehabilitation of a residential rental project located in the City of San Jose, California.

THIS BOND IS NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DOES NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE CITY OF SAN JOSE, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, BUT IS PAYABLE SOLELY FROM THE REVENUES AND FUNDS AND OTHER ASSETS PLEDGED THEREFOR IN THE INDENTURE, AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE CITY. NEITHER THE CITY OF SAN JOSE, THE STATE OF CALIFORNIA NOR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON.

NO COUNCILMEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE CITY, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THIS BOND, SHALL BE LIABLE PERSONALLY ON THIS BOND OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BOND. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THIS BOND, OR FOR ANY CLAIM BASED ON THE BOND, OR OTHERWISE IN RESPECT OF THIS BOND, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY COUNCILMEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE CITY OR ANY

SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE BOND, EXPRESSLY WAIVED AND RELEASED.

THIS BOND, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, IS A SPECIAL, LIMITED OBLIGATION OF THE CITY SECURED BY THE TRUST ESTATE, IS AND SHALL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE AND IS AND SHALL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME SHALL BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THE INDENTURE AND IN THE LOAN AGREEMENT.

THIS BOND AND THE INTEREST THEREON IS A LIMITED OBLIGATION OF THE CITY PAYABLE EXCLUSIVELY FROM REVENUES AND RECEIPTS UNDER THE INDENTURE. THIS BOND DOES NOT CONSTITUTE A DEBT OF THE CITY, OR OF THE STATE OF CALIFORNIA, OR OF ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE CITY, OR OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF. THIS BOND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF OR A CHARGE AGAINST THE GENERAL CREDIT OF THE CITY, BUT SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE CITY PAYABLE SOLELY FROM THE SOURCES PROVIDED THEREFOR IN THE INDENTURE, BUT NOT OTHERWISE.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE COUNCILMEMBER, OFFICER, EMPLOYEE OR AGENT OF THE CITY, OR OF ANY SUCCESSOR OF ANY THEREOF, EITHER DIRECTLY OR THROUGH THE CITY OR ANY SUCCESSOR TO THE CITY, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH COUNCILMEMBERS, OFFICERS, EMPLOYEES OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND BY THE CITY.

This Bond shall be subject to redemption prior to maturity, at a price and upon such terms as are provided in the Indenture. No notice of redemption of the Bond need be given to the registered owner of this Bond, and the owner of this Bond, by acceptance hereof, expressly waives any requirement for any notice of redemption.

The principal of this Bond may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture.

This Bond is transferable by the registered owner hereof, in person, or by its attorney duly authorized in writing, at the Principal Office of the Trustee, but only in the manner, subject to the limitations (including those contained in Section 2.05(b) of the Indenture) and upon payment of the charges provided in the Indenture, and upon surrender to the Trustee and cancellation of this Bond. Upon such transfer a new fully registered Bond will be issued to the transferee in exchange therefor. The City and the Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, and the City and the Trustee shall not be affected by any notice to the contrary.

The schedule of drawings attached as Exhibit A hereto shall be used by the Trustee to record the payment of the purchase price of the Bond from time to time (such purchase price to be paid from time to time by the Holder of this Bond as provided in the Indenture and the Loan Agreement), which shall evidence the principal amount of this Bond purchased by the Bondowner from time to time. The Trustee shall credit any advanced funds toward the purchase price of this Bond on the schedule of drawings attached hereto as Exhibit A. The total amount outstanding under the Indenture may not exceed \$_____ at any time and no portion of the purchase price therefor shall be funded after the earlier of October 1, 2020 or the Conversion Date.

The Indenture contains provisions permitting the City, the Trustee and the Bondowner Representative to execute supplemental indentures adding provisions to, or changing or eliminating any of the provisions of, the Indenture, subject to the limitations set forth in the Indenture.

The City hereby certifies that all of the conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of California (including the Act).

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

In the event of any conflict between the terms of this Bond and the terms of the Indenture, the terms of the Indenture shall control.

IN WITNESS WHEREOF, the City of San Jose, California has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of its Assistant Director of Finance and countersigned by the manual or facsimile signature of its City Clerk.

CITY OF SAN JOSE, CALIFORNIA

By: _____
Assistant Director of Finance

ATTEST:

By: _____
City Clerk

FORM OF CERTIFICATE OF AUTHENTICATION

This is the Bond described in the within-mentioned Indenture and has been authenticated and registered on _____.

WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee

By: _____

Its: _____

FORM OF ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute and appoint attorney, _____

to transfer the same on the registration books of the Trustee, with full power of substitution in the premises.

Dated: .

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor.

NOTICE: The signature on this assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

SCHEDULE OF DRAWINGS

<u>Purchase Amount</u>	<u>Purchase Date</u>	<u>Outstanding Principal</u>	<u>Signature of Trustee</u>
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EXHIBIT B

FORM OF INVESTOR’S LETTER

[_____, ____]

City of San Jose
San Jose, California

Wilmington Trust, National Association

City of San Jose
Multifamily Housing Revenue Bond
(Catalonia Apartments), 2017 Series C

Ladies and Gentlemen:

The undersigned (the “Investor”) hereby represents and warrants to you as follows:

The Investor proposes to purchase all of the aggregate principal amount of the above-captioned bond (the “Bond”) issued pursuant to that certain Indenture of Trust dated as of October 1, 2017 (the “Indenture”), by and among the City of San Jose, California (the “City”), Wilmington Trust, National Association, as Trustee and JPMorgan Chase Bank, N.A., as initial Bondowner Representative (the “Bondowner Representative”). The Investor understands that the Bond is not rated by any securities rating agency and is secured only by the Catalonia Apartments and the revenues therefrom, and will only be sold to the Investor with the above-addressed parties relying upon the representations and warranties of the Investor set forth herein. The Investor acknowledges that no offering document has been prepared in connection with the issuance and sale of the Bond. The Investor has requested and received all materials which the Investor has deemed relevant in connection with its purchase of the Bond (the “Offering Information”). The Investor has reviewed the documents executed in conjunction with the issuance of the Bond, including, without limitation, the Indenture and the Loan Agreement. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Indenture.

The Investor hereby waives the requirement of any “due diligence investigation or inquiry” by the City, by each official of the City, by each employee of the City, by each member of the City Council of the City, and by counsel to the City, the Trustee, counsel to the Trustee, the Bondowner Representative, counsel to the Bondowner Representative and Bond Counsel in connection with the authorization, execution and delivery of the Bond and Investor’s purchase of the Bond. The Investor recognizes and agrees that the City, by each official of the City, each employee of the City, each member of the City Council, counsel to the City, the Trustee, counsel to the Trustee, the Bondowner Representative, counsel to the Bondowner Representative and Bond Counsel have made no representations or statements (expressed or implied) with respect to the accuracy or completeness of any of the materials reviewed by the Investor in connection with the Investor’s purchase of the Bond. In making an investment decision, the Investor is

relying upon its own examination of the City, the Borrower, the Project and the terms of the offering.

The Investor further agrees and acknowledges as follows:

1. The Investor has been provided an opportunity to ask questions of, and the Investor has received answers from, representatives of the City and the Borrower regarding the terms and conditions of the Bond, and the Investor has obtained all additional information requested by it in connection with the Bond.

2. The Investor has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bond in particular, and is capable of evaluating the merits and risks involved in an investment in the Bond. The Investor is able to bear the economic risk of, and an entire loss of, an investment in the Bond.

3. The Investor is purchasing the Bond solely for its own account for investment purposes and has no present intention to resell or distribute the Bond, provided that the Investor reserves the right to transfer or dispose of the Bond, at any time, and from time to time, in its complete and sole discretion, subject, however, to the restrictions described in Section 2.05 of the Indenture. The Investor hereby agrees that the Bond may only be transferred in whole and in accordance with the Indenture, including Section 2.05 thereof, to a single investor, which must execute and deliver to the parties addressed above a form of this Investor's Letter.

4. The Investor agrees that it will only offer, sell, pledge, transfer or exchange the Bond (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of Section 5 of the Securities Act of 1933, as amended (the "1933 Act"), (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the transfer restrictions set forth in the Indenture. The Investor further agrees that the Bond will not be transferred to or held in a pool, trust or similar arrangement and that it will not sell any participating interest in the Bond without the prior written consent of the City except that CCRC may sell participating interests in the Bond to its member banks upon a representation by CCRC in its Investor's Letter that each such member is a "Sophisticated Investor" as defined in the Indenture and that its members may only transfer their interests to an affiliate or to another member of CCRC.

5. The Investor: is a "qualified institutional buyer" as defined in Rule 144A promulgated under the Securities Act of 1933 ("Rule 144A") or an institutional "accredited investor" as defined in Rule 501 promulgated under the Securities Act of 1933 as amended ("Rule 501"); and understands that the Bond may be offered, resold, pledged or transferred only in whole and only to a person who is a "qualified institutional buyer," as defined in Rule 144A, an institutional "accredited investor" as defined in Rule 501, in compliance with Rule 144A.

6. If the Investor sells the Bond (or any legal or beneficial interest therein), the Investor or its agent will obtain from any subsequent purchaser an Investor Letter in the form of this Letter or such other materials as are required by the Indenture to effect such sale and purchase. The Investor understands and agrees that the Trustee is not authorized to register any transfer of the Bond prior to receipt of such Investor Letter.

7. Neither the Bondowner Representative, the Trustee, Bond Counsel, counsel to the City, the City, the City Council, or any of the City's employees or agents will have any responsibility to the Investor for the accuracy or completeness of information obtained by the Investor from any source regarding the Project, the City, the Borrower or their financial conditions or regarding the Bond, the provisions for payment thereof, or the sufficiency of any security therefor, including, without limitation, any information specifically provided by any of such parties contained in the Offering Information. The Investor acknowledges that, as between Investor and all of such parties: (a) the Investor has assumed responsibility for obtaining such information and making such review as the Investor has deemed necessary or desirable in connection with its decision to purchase the Bond and (b) the Offering Information and any additional information specifically requested from the City or the Borrower and provided to the Investor prior to closing constitute all the information and review, with the investigation made by Investor (including specifically the Investor's investigation of the City, the Project and the Borrower) prior to its purchase of the Bond, that Investor has deemed necessary or desirable in connection with its decision to purchase the Bond.

8. The Investor understands that (a) the Bond has not been registered with any federal or state securities agency or commission, and (b) no credit rating has been sought or obtained with respect to the Bond, and the Investor acknowledges that the Bond is a speculative investment and that there is a high degree of risk in such investment.

9. The Investor acknowledges that the Bond is a limited obligation of the City, payable solely from the Revenues or other amounts provided by or at the direction of the Borrower, and is not an obligation payable from the general revenues or other funds of the City, the State of California or any political subdivision of the State of California. The Investor acknowledges that the City is issuing the Bond on a conduit, nonrecourse basis, and has no continuing obligations with respect thereto except as expressly set forth in the Indenture.

10. The Investor has the authority to purchase the Bond and to execute this letter and other documents and instruments required to be executed by the Investor in connection with its purchase of the Bond. The individual who is executing this letter on behalf of the undersigned is a duly appointed, qualified and acting officer of the Investor and authorized to cause the Investor to make the certifications, representations and warranties contained herein by the execution of this letter on behalf of the Investor.

11. The Investor acknowledges that no offering document has been produced in connection with the issuance or sale of the Bond.

12. The Investor agrees to indemnify and hold harmless the City, the City's officials, officers, directors, employees, agents, attorneys, accountants, advisors, consultants, servants and the members of the City Council past, present and future with respect to any claim asserted against any of them that is based upon the Investor's sale, transfer or other disposition of its interests in the Bond in violation of the provisions hereof or of the Indenture or any inaccuracy in any statement made by the Investor in this letter.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

Very truly yours,

[Signature Page to Catalonia Apartments Investor Letter]

EXHIBIT C

CONSTRUCTION FUND DISBURSEMENT REQUEST

Draw Number _____

To: Wilmington Trust, National Association, as trustee (the "Trustee") under that certain Indenture of Trust, dated as of October 1, 2017 (the "Indenture"), among the Trustee, the City of San Jose, California and JPMorgan Chase Bank, N.A., as the initial Bondowner Representative.

1. You are requested to disburse funds from the Construction Fund pursuant to Section 3.03 of the Indenture as Draw number in the aggregate amount of \$_____ consisting of funds from the following accounts in the following amounts:

Bond Proceeds Account: \$_____

Equity Account: \$_____

for disbursement in the amount(s), to the person(s) and for the purpose(s) set forth on Schedule I attached hereto and incorporated herein by reference. Capitalized terms not defined herein have the meanings assigned thereto in the Indenture.

2. The undersigned certifies that:

(i) there has been received no notice (A) of any lien, right to lien or attachment upon, or claim affecting the right of the payee to receive payment of, any of the moneys payable under such requisition to any of the persons, firms or corporations named therein, and (B) that any materials, supplies or equipment covered by such requisition are subject to any lien or security interest, or if any notice of any such lien, attachment, claim or security interest has been received, such lien, attachment, claim or security interest has been released, discharged, insured or bonded over or will be released, discharged, insured or bonded over upon payment of the requisition;

(ii) such requisition contains no items representing payment on account of any percentage entitled to be retained at the date of the certificate;

(iii) the obligation stated on the requisition has been incurred in or about the acquisition, construction or equipping of the Project, each item is a proper charge against the Construction Fund, and the obligation has not been the basis for a prior requisition that has been paid;

(iv) such requisition contains no items representing any Issuance Costs or any other amount constituting an issuance cost under Section 147(g) of the Code;

(v) based upon the Borrower's current financing budget, the Borrower expects to allocate not less than 95% of the sum of: (A) the amounts requisitioned by this Requisition to be funded with the proceeds of the Bond plus (B) all amounts allocated to the Bond previously disbursed and to be disbursed from the Construction Fund and allocated to the Bond, to pay Qualified Project Costs;

(vi) as of the date hereof no event or condition has happened or is happening or exists that constitutes, or that with notice or lapse of time or both, would constitute, an Event of Default under this Indenture or under the Loan Agreement or, to our knowledge, an Event of Default under the Indenture; and

(vii) this requisition complies with all applicable requirements of the Loan Agreement.

3. The Borrower has obtained written consent of the Bondowner Representative to this disbursement, as evidenced by its execution below.

Dated: _____

CATALONIA TWO, L.P.,
a California limited partnership

By: Catalonia Two LLC,
a California limited liability company,
its general partnership

By: Eden Investments, Inc.
a California nonprofit public benefit
corporation,
its sole member/manager

By: _____

Its: _____

APPROVED:

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

By: _____

Title: _____

[Signature Page to Catalonia Apartments Construction Fund Disbursement Request]

SCHEDULE I