
FUNDING LOAN AGREEMENT

by and among

CITY OF SAN JOSE,

UMB BANK, NATIONAL ASSOCIATION

and

DEUTSCHE BANK SECURITIES INC.

Dated as of [May] 1, 2029

Relating to:

§[APRINAMT]

CITY OF SAN JOSÉ

**MULTIFAMILY HOUSING REVENUE NOTE, SERIES 2029A
(BERRYESSA TOD)**

and

§[BPRINAMT]

CITY OF SAN JOSÉ

**MULTIFAMILY HOUSING REVENUE NOTE, SERIES 2029B
(BERRYESSA TOD)**

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FUNDING LOAN AGREEMENT

This **FUNDING LOAN AGREEMENT** (as amended, modified or supplemented from time to time, this “Funding Loan Agreement”), dated as of [May] 1, 2029, is made and entered into by and among the **CITY OF SAN JOSÉ**, a municipal corporation and charter city, organized and existing under the laws of the State of California (together with its successors and assigns, the “Governmental Lender”), **UMB BANK, NATIONAL ASSOCIATION**, a national banking association, as Fiscal Agent (together with its successors and assigns, the “Fiscal Agent”) and **DEUTSCHE BANK SECURITIES INC.**, a Delaware corporation (together with any successor hereunder and their respective successors and assigns, the “Funding Lender”),

WITNESSETH:

WHEREAS, the Governmental Lender is authorized under Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as the same may be amended (the “Act”), to provide financing with respect to one or more projects authorized under the Act for such payments and upon such terms and conditions as the Governmental Lender may deem advisable in accordance with the provisions of the Act; and

WHEREAS, on April [], 2026, the Governmental Lender issued those certain City of San José Multifamily Housing Revenue Bonds, Series 2026A (Berryessa TOD) (the “Bonds”), in the principal amount of [], pursuant to the Act and that certain Trust Indenture dated as April 1, 2026 (the “Indenture”), between the Governmental Lender, as issuer of the Bonds, and UMB Bank, National Association, in its capacity as trustee for the Bonds; and

WHEREAS, the proceeds of the Bonds were loaned to Berryessa Affordable Housing, L.P., a California limited partnership (the “Borrower”), pursuant to that certain Loan Agreement dated as of April 1, 2026, for the purpose of financing the construction, improvement and equipping of a multifamily apartment housing facility consisting of a total of 195 units and related personal property and equipment, located in San José, Santa Clara County, California, and known as “Berryessa TOD” (the “Project Facilities”); and

WHEREAS, Deutsche Bank AG, New York Branch (the “Taxable Construction Lender”) made a taxable construction loan to the Borrower in the principal amount of \$[TAXLOANAMT] to finance a portion of the costs of the construction, improvement and equipping of the Project Facilities pursuant to the terms of the Construction Loan Agreement dated as of April 1, 2026 (the “Taxable Loan Agreement”), between the Taxable Construction Lender and the Borrower, and the other documents delivered in connection therewith (the proceeds of which loan were used, in part, to cash-collateralize the Bonds); and

WHEREAS, in connection with Conversion (as defined in the Indenture), the Funding Lender previously agreed, pursuant to the terms of the Forward Commitment (as defined below) and subject to the satisfaction of the Conditions to Forward Delivery (or Conditions to Interim Forward Delivery, as applicable) described therein, to facilitate the financing of the Project Facilities in the permanent phase or the Interim Phase (as may be applicable), and in connection therewith, the Borrower has requested the Governmental Lender to enter into this Funding Loan Agreement with the Funding Lender and the Fiscal Agent, under which the Funding Lender will make a loan or loans (collectively, the “Funding Loan”) to the Governmental Lender, the proceeds of which will be loaned by the Governmental Lender to the Borrower (the “Borrower Loan”), pursuant to a Borrower Loan Agreement dated of even date herewith (as it may be supplemented or amended, the “Borrower Loan Agreement”); and

WHEREAS; the proceeds of the Borrower Loan will be used to repay the Bonds in full on the Conversion Date (as defined below); and

WHEREAS, pursuant to the Borrower Loan Agreement, the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender (i) its Promissory Note (Series 2029A) dated the Conversion Date (the “Series 2029A Borrower Note”), and (ii) its Promissory Note (Series 2029B) dated the Conversion Date (the “Series 2029B Borrower Note,” and together with the Series 2029A Borrower Note, the “Borrower Notes”) and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the Project Facilities pursuant to that certain [Amended and Restated] Leasehold Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (With Power of Sale) dated as of the date thereof (the “Mortgage”), made by the Borrower in favor of a deed of trust trustee for the benefit of the Taxable Construction Lender and covering the Project Facilities, as subsequently [assigned by the Taxable Construction Lender to the Fiscal Agent pursuant to an assignment of even date herewith]; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender (i) its Multifamily Housing Revenue Note (Series 2029A) dated as of the Conversion Date (the “Series 2029A Governmental Note”) and (ii) its Multifamily Housing Revenue Note (Series 2029B) dated as of the Conversion Date (the “Series 2029B Governmental Note,” and together with the Series 2029A Governmental Note, the “Governmental Notes”), evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make this Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Notes, subject to the terms hereof, have in all respects been duly authorized; and

WHEREAS, the obligations of the Governmental Lender under this Funding Loan Agreement and the Governmental Notes will be secured by the “Security” established hereunder; and

WHEREAS, all acts, conditions and things required to happen, exist, and be performed precedent to, the delivery of the Governmental Notes and the execution and delivery of this Funding Loan Agreement have happened, exist and have been performed in order to make the Governmental Notes, when delivered, a valid obligation of the Governmental Lender in accordance with the terms thereof and hereof; and

WHEREAS, the Fiscal Agent has accepted the trusts created hereby and has accepted its obligations hereunder, and in evidence thereof, this Funding Loan Agreement has been executed and delivered by the Fiscal Agent.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE COVENANTS AND UNDERTAKINGS HEREIN EXPRESSED, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE ADEQUACY AND RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

Section 1.1 Defined Terms. In addition to terms defined elsewhere in this Funding Loan Agreement, the following words and terms as used in this Funding Loan Agreement and the preambles hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

“**Acceleration Premium**” means the greater of (i) Yield Maintenance or (ii) one percent (1.00%) of the principal amount of the Borrower Note being prepaid.

“**Accountant**” means [ACCOUNTING FIRM’S NAME], or such other accounting firm approved in writing by the Funding Lender.

“**Accounts**” means all funds, accounts and subaccounts established under this Funding Loan Agreement, including the Funding Loan Fund, the Operating Reserve Fund, the Rebate Fund, the Project Fund, the Tax and Insurance Escrow Fund, the Replacement Reserve Fund and the Prepayment Fund.

“**Act**” shall have the meaning given to such term in the first paragraph of this Funding Loan Agreement.

“**Administrative General Partner**” means AHG Berryessa, LLC, a California limited liability company authorized to conduct its business in the State, the administrative general partner of the Borrower, together with its successors and assigns, as permitted by the Funding Lender and the restrictions described in the definition of “Permitted Transfer” herein.

“**Affiliate**” means, with respect to any designated Person, each Person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another designated Person, pursuant to the organizational document(s) of an entity or by other express, written agreement.

“**Annual Budget**” means, for any Fiscal Year, the capital and operating budget adopted by the Borrower and approved by the Funding Lender, or deemed approved, pursuant to Section 6.24 of the Borrower Loan Agreement.

“**Anti-Terrorism Regulations**” shall have the meaning ascribed to such term in Section 6.23 of the Borrower Loan Agreement.

“**Approved Transferee**” means (i) a “qualified institutional buyer” as defined in Rule 144A promulgated under the Securities Act, as in effect on the date hereof, (ii) an “accredited investor” as defined in Regulation D promulgated under the Securities Act, (iii) an Affiliate of the Funding Lender, (iv) a trust or custodial arrangement established by the Funding Lender or one of its affiliates or any state or local government or any agency or entity which is a political subdivision of a federal, state or local government (a “Governmental Entity”), in each case (A) the beneficial interests in which will be owned only by qualified institutional buyers or accredited investors or (B) the beneficial interests in which will be rated in the “BBB” category or higher without regard to modifier (or the equivalent investment grade category) by at least one nationally recognized rating agency, or (v) a Governmental Entity.

“**Approving Opinion of Tax Counsel**” means any opinion of Tax Counsel delivered pursuant to this Funding Loan Agreement with respect to the excludability of interest on the Governmental Notes from gross income of the Noteowners thereof for federal income tax purposes or other matters specified in this

Funding Loan Agreement. Each such opinion shall be addressed to the Funding Lender, the Servicer and the Governmental Lender.

“Assignment of Capital Contributions” means the Assignment of Capital Contributions dated as of April 1, 2026, by the Borrower in favor of the Taxable Construction Lender and the Funding Lender.

“Assignment of HAP Contract” means the Assignment of Housing Assistance Payments Contract dated as of the date hereof, made by the Borrower to the Funding Lender for the HAP Contract in effect for the Project Facilities, and consented to by the PHA.

“Assignment of Management Agreement and Consent” means the Assignment of Management Agreement dated as of April 1, 2026, by the Borrower in favor of the Taxable Construction Lender and the Funding Lender, and consented to by the Manager.

“Authorized Amount” means, \$[_____], the maximum principal amount of the Funding Loan permitted under this Funding Loan Agreement.

“Authorized Officer” means, with respect to the Governmental Lender, any “Authorized Officer” as such term is defined in the Governmental Lender Resolution.

“Authorized Person” means one or more individuals duly authorized to bind the Borrower in connection with the administration of the Project Facilities. The initial Authorized Persons of the Borrower are _____ and _____.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

“Bond Closing Date” means April [___], 2026, the issue date of the Series 2026 Bonds.

“Bond Year” has the meaning set forth in the Tax Certificate].

“Borrower” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Borrower Loan” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Borrower Loan Agreement” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Borrower Note(s)” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Business Day” means any day other than a Saturday, a Sunday, a day on which the offices of the Fiscal Agent or on which banking institutions or trust companies in New York, New York, Kansas City, Missouri or in the city in which the Fiscal Agent is located, are authorized or obligated by law, regulation or executive order to close or remain closed, are open for business and on which The Federal Reserve Bank of New York or The New York Stock Exchange is not closed.

“Capital Expenditures” means the capital expenditures relating to any construction, renovation, rehabilitation, repair and replacement of the Improvements or made pursuant to the recommendations of the Engineering Consultant.

“Capitalized Interest Account” means the account of that name within the Project Fund created pursuant to Section 4.2 hereof.]

“Closing Memorandum” means the Closing Memorandum dated on or about the Conversion Date and signed by the Funding Lender and the Borrower with respect to the disbursement of Funding Loan proceeds and other amounts specified therein.

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

“Collateral” means all property of the Borrower in which the Fiscal Agent or Funding Lender is granted a security interest to secure payment of the Borrower Notes or Governmental Notes, as applicable.

“Computation Date” has the meaning set forth in Section 1.148-1(b) of the Regulations. Unless otherwise directed in writing by the Borrower, the Computation Date shall be each fifth anniversary of the Bond Closing Date, and upon final payment of the Governmental Notes.

“Condemnation Award” means the total condemnation proceeds actually paid by the condemnor as a result of the condemnation of all or any part of the property subject to the Mortgage less the actual costs incurred, including attorneys’ fees, in obtaining such award.

“Contamination” means the uncontained release, discharge or disposal of any Hazardous Substances at, on, upon or beneath the Project Facilities, whether or not originating at the Project Facilities, or arising from the Project Facilities into or upon any land or water or air, or otherwise into the environment, which may require remediation under any applicable Legal Requirements.

“Contractor” means HA Builder Group LLC, a California limited liability company.

“Control” (including, with the correlative meanings, the terms “controlling”, “controlled by” and “under common control with”) means, as used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such other Person, or of the Person, whether through contract, stock ownership, partnership interests, membership, voting rights, governing boards, committees, divisions or other bodies with one or more common members, directors, trustees or other managers, or otherwise.

“Conversion Date” means [May] 1, 2029.

“Counsel” means an attorney, or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia, including any Tax Counsel.

“Debt Service Schedule” means the schedule of debt service payments with respect to the Borrower Notes, together with any replacement thereof, each as delivered by the Funding Lender pursuant to Section 8.3 of the Borrower Loan Agreement.

“Default” means an event or condition which is, or which after giving notice or lapse of time or both would be, an Event of Default.

“Default Interest” means interest payable at the Default Rate.

“Default Rate” means a rate per annum equal to ten percent (10%) per annum; provided that such rate shall in no event exceed the maximum rate allowed by law.

“Determination of Taxability” means a determination that the interest accrued or paid on the Governmental Notes is included in gross income of the Noteowners or former Noteowners for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(i) the day on which the Borrower, the Governmental Lender, the Funding Lender or any Noteowner is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that the interest on the Governmental Notes is included in the gross income of any Noteowner or former Noteowner thereof for federal income tax purposes;

(ii) the day on which the Borrower receives notice from the Funding Lender in writing that the Funding Lender has received (1) a notice in writing by any Noteowner or former Noteowner that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to such Noteowner or former Noteowner that asserts in effect that the interest on the Governmental Notes received by such Noteowner or former Noteowner is included in the gross income of such Noteowner or former Noteowner for federal income tax purposes, or (2) an Approving Opinion of Tax Counsel that concludes in effect that the interest on the Governmental Notes is included in the gross income of any Noteowner or former Noteowner thereof for federal income tax purposes;

(iii) the day on which the Borrower, the Governmental Lender, the Funding Lender or any Noteowner is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service or a technical advice memorandum issued by the national office of the Internal Revenue Service that the interest on the Governmental Notes is included in the gross income of any Noteowner or former Noteowner thereof for federal income tax purposes; or

(iv) the day on which the Borrower, the Governmental Lender, the Funding Lender or any Noteowner is advised in writing by Counsel that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America in a proceeding with respect to which the Borrower has been given written notice and an opportunity to participate and defend that the interest on the Governmental Notes is included in the gross income of any Noteowner or former Noteowner thereof for federal income tax purposes;

provided, however, no Determination of Taxability shall occur to the extent that the interest on the Governmental Notes is included in the gross income of any Noteowner or former Noteowner for federal income tax purposes solely because a Governmental Note was held by a Person who is a Substantial User or a Related Person.

“Developer” means Affirmed Housing Group, Inc., a Delaware corporation.

“Developer Fee Pledge” means the Developer Pledge and Security Agreement dated as of April 1, 2026, from the Developer in favor of the Taxable Construction Lender and the Funding Lender.

“Development Agreement” means that certain [Development Services Agreement] dated [as of the Bond Closing Date], between the Borrower and the Developer.

“Development Budget” means the budget for the implementation and completion of the construction, improvement and equipping of the Project Facilities, as attached to the Borrower Loan Agreement as Schedule 4, together with any modifications or amendments thereto made in accordance with the Borrower Loan Agreement and with the prior written consent of the Funding Lender, if required.

“Electronic Means” means an email or facsimile transmission, or any other electronic means of communication approved in writing by an authorized representative of the Governmental Lender Representative and an Authorized Person of the Borrower (and if to the Fiscal Agent as approved by the Fiscal Agent); provided, that if a sender receives notice that the email or facsimile transmission is undeliverable, notice must be sent as otherwise required by Section 9.4 hereof.

“Effective Gross Revenues” of the Borrower means, for the three (3) month period prior to the determination of Stabilized NOI, the annualized aggregate revenues during such period generated from all tenants and others occupying or having a right to occupy or use the Project Facilities or any portion thereof pursuant to leases, including (at the Servicer’s reasonable discretion, taking into account whether such income is recurring and is appropriate for a stabilized property), vending machine income, cable TV revenues, laundry service and parking income, as adjusted in the Servicer’s judgment for factors including but not limited to: (i) seasonal fluctuation in the rental rate in the market in which the Project Facilities are located; (ii) evidence of rent deterioration; (iii) concessions, reductions, inducements or forbearances (such as any cash reduction in monthly rent during the term of a lease, any free rent before, during or after the term of a lease, any rent coupons, gift certificates and tangible goods or any other form of rent reduction or forbearance); (iv) economic vacancy at the higher of: (1) five percent (5.00%), or (2) actual economic vacancy based on the annualized vacancies of the Project Facilities; (v) 30-day or more delinquencies; (vi) low-income restrictions required by any applicable federal, state or local subsidy program, or any restrictive covenant or regulatory agreement; and (vii) other applicable adjustments as reasonably determined by the Servicer; Effective Gross Revenues shall exclude revenues from Section 8 vouchers to the extent such revenues cause the rent on any unit to exceed the maximum allowable tax credit rent designated for such unit. For the avoidance of doubt, in calculating the Effective Gross Revenues, the Funding Lender will (i) underwrite concessions based on the annualized concessions given over the prior 12-month period, or will consider a longer period if the applicable leases signed are longer than twelve (12) months, and (ii) will consider bad debt write offs over multiple periods of time.

“Engineering Consultant” means [_____].

“Environmental Audit” means the written Phase I Environmental Site Assessment for the Project Facilities prepared by [ENGINEERING CONSULTANT’S/ ENGINEERING FIRM’S NAME], dated [DATE], 2026.

“Environmental Indemnity” means the Environmental Indemnity Agreement dated as of April 1, 2026, by the Borrower and the Guarantor in favor of the Funding Lender and the Taxable Construction Lender.

“Environmental Laws” means all Legal Requirements governing or relating to the protection of the environment, natural resources or human health concerning (i) Contamination, (ii) activities at any of the Project Facilities, (iii) repairs or renovation of any Improvements, (iv) handling of any materials at any of the Project Facilities, (v) releases into or upon the air, soil, surface water or ground water from any of the Project Facilities, and (vi) storage, distribution, use, treatment, transport or disposal of any waste at or connected with any activity at any of the Project Facilities, including, without limitation, the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 42 U.S.C. §§ 9601 et seq., as amended from time to time; the Hazardous Materials Transportation Act 49 U.S.C. §§ 5101 et seq., as amended from time to time; the Resource Conservation and Recovery Act 42 U.S.C. §§ 6901 et seq., as amended from time to time; the Federal Water Pollution Control Act 33 U.S.C. §§ 1251 et seq., as amended from time to time; and comparable State statutes.

“Environmentally Sensitive Area” means (i) a wetland or other “water of the United States” for purposes of Section 404 of the federal Clean Water Act or any similar area regulated under any State or local Legal Requirements, (ii) any other natural resources, (iii) a floodplain or other flood hazard area as defined pursuant to any applicable state Legal Requirements, (iv) a portion of the coastal zone for purposes of the federal Coastal Zone Management Act, or (v) any other area development of which is specifically restricted under applicable Legal Requirements by reason of its physical characteristics or prior use.

“EPA” shall have the meaning ascribed to such term in Section 6.14(c) of the Borrower Loan Agreement.

“Equity Account” means the account of that name within the Project Fund created pursuant to Section 4.2 hereof.

“ERISA” shall have the meaning ascribed to such term in Section 5.11 of the Borrower Loan Agreement.

“ERISA Affiliate” shall have the meaning ascribed to such term in Section 5.11 of the Borrower Loan Agreement.

“Event of Default” means, with respect to this Funding Loan Agreement, any of the events specified in Section 5.1 hereof, or with respect to the Borrower Loan Agreement, any of the events specified in Section 7.1 thereof.

“Expenses” means the aggregate annualized operating expenses (including replacement reserves) of the Project Facilities as reasonably determined by the Funding Lender. In determining Expenses, the Funding Lender will utilize the greater of: (i) for purposes of Stabilization, the actual amount of aggregate annualized Expenses for the three (3) month period prior to the determination of Stabilized NOI, provided that such actual expenses reflect normalized/stabilized operations as reasonably determined by the Funding Lender; and (ii) the annual Expenses that the Funding Lender used in the original underwriting of the Project Facilities as set forth on Schedule 5 of the Borrower Loan Agreement. Any expense adjustment as reasonably determined by the Funding Lender may result in a line item which may be more or less than the actual annual expense for that line item for the period covered by the financial statements submitted by the Borrower to the Funding Lender or the Servicer.

“Favorable Opinion of Tax Counsel” means an opinion of Tax Counsel, addressed to the Governmental Lender, the Funding Lender and the Fiscal Agent, with a copy to the Servicer, to the effect that a proposed action, event or circumstance (i) does not affect the exclusion from gross income of interest on the Governmental Notes for federal income tax purposes, and (ii) does not affect the treatment of interest on the Governmental Notes as not being an item of tax preference for purposes of the federal alternative minimum tax, which opinion may be subject to customary assumptions and exclusions.

“Financing Statements” means any and all financing statements (including amendments and continuation statements) or other instruments filed or recorded to perfect the Security Interest created in this Funding Loan Agreement.

“First Interest Payment Date” shall have the meaning set forth in the Borrower Notes.

“First Principal Payment Date” shall have the meaning set forth in the Series 2029A Borrower Note.

“Fiscal Agent” shall have the meaning given to such term in the first paragraph of this Funding Loan Agreement.

“Fiscal Agent Fee” means (i) \$[_____] payable on the Conversion Date, and (ii) an annual fee of \$_____ payable annually in arrears on each anniversary of the Conversion Date.

“Fiscal Year” means the annual accounting year of the Borrower, which currently begins on January 1 of each calendar year.

“Fitch” means Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Funding Lender, by notice to the Servicer, the Borrower and the Governmental Lender.

“Fixed Rate” has the meaning set forth in the Series 2029A Borrower Note.

“Forward Commitment” means the Forward Commitment Agreement dated April [___], 2026, among the Funding Lender, the Taxable Construction Lender and the Borrower.

“Funding Lender” shall have the meaning given to such term in the first paragraph of this Funding Loan Agreement.

“Funding Loan” shall have the meaning given to such term in the first paragraph of this Funding Loan Agreement.

“Funding Loan Agreement” shall have the meaning given to such term in the first paragraph hereof.

“Funding Loan Documents” means, collectively, the Governmental Notes, this Funding Loan Agreement, the Borrower Loan Agreement, the Borrower Notes, the Land Use Restriction Agreement, the Tax Certificate, the Mortgage, the Environmental Indemnity, the Assignment of Management Agreement and Consent, the Ground Lease, the General Partner Pledge, the Developer Fee Pledge, the Assignment of Capital Contributions, the Replacement Reserve Agreement, the Subordination Agreement, the Guaranty of Recourse Obligations, the Guaranty of Debt Service and Stabilization, [the Guaranty of Completion], the Assignment of HAP Contract and all other agreements or instruments relating to, or executed in connection with the execution and delivery of the Governmental Notes and the Borrower Notes, including all modifications, amendments or supplements thereto. The General Partner Pledge, the Developer Fee Pledge, the Assignment of Capital Contributions, the Guaranty of Debt Service and Stabilization and [the Guaranty of Completion] shall only be effective during the Interim Phase, as may be applicable.

“Funding Loan Fund” means the fund of that name created pursuant to Section 4.2 hereof.

“GAAP” means generally accepted accounting principles in effect in the United States from time to time, consistently applied.

“General Partner” means, collectively and jointly and severally, the Administrative General Partner and the Managing General Partner.

“General Partner Pledge” means the Pledge of Partnership Interests and Security Agreement dated as of April 1, 2026, by each General Partner in favor of the Taxable Construction Lender and the Funding Lender.

“Governmental Action” means all permits, authorizations, registrations, consents, certifications, approvals, waivers, exceptions, variances, claims, orders, judgments and decrees, licenses, exemptions, publications, filings, and notices to and declarations of or with any Governmental Authority and shall include all permits and licenses required to construct, use, operate and maintain any of the Project Facilities.

“Governmental Authority” means any federal, state, or local governmental or quasi - governmental subdivision, authority, or other instrumentality thereof and any entity asserting or exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Borrower and/or the Project Facilities.

“Governmental Lender” shall have the meaning set forth in the first paragraph of this Funding Loan Agreement.

“Governmental Lender Fee” means an annual fee of the Governmental Lender as described in Sections 7(a) and 7(b) of the Land Use Restriction Agreement.

“Governmental Lender Resolution” means the resolution adopted by the Governmental Lender on [April 14], 2026, authorizing, among other things, the issuance and delivery of the Governmental Notes, and related matters.

“Governmental Note(s)” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Government Obligations” means (i) noncallable, nonredeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

“Ground Lease” means that certain Ground Lease dated the Bond Closing Date, between the Borrower and the Santa Clara Valley Transportation Authority, pursuant to which the Borrower holds a leasehold interest in the real property upon which the Project Facilities are situated, as the same may be amended, modified or supplemented from time to time.

“Gross Proceeds” means any proceeds, as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds, as defined in Section 1.148-1(c) of the Regulations, of the Governmental Notes.

“Guarantor” means Affirmed Housing Group, Inc., a Delaware corporation, together with its permitted successors and assigns.

[**“Guaranty of Completion”** means the Guaranty of Completion dated as of April 1, 2026, made by the Guarantor in favor of the Taxable Construction Lender and the Funding Lender.]

“Guaranty of Debt Service and Stabilization” means the Guaranty of Debt Service and Stabilization dated as of April 1, 2026, made by the Guarantor in favor of the Taxable Construction Lender and the Funding Lender.

“Guaranty of Recourse Obligations” means the Guaranty of Recourse Obligations dated as of the date hereof, made by the Guarantor in favor of the Funding Lender.

“HAP Contract” means the Housing Assistance Payments Contract #[_____], between the PHA and the Borrower, providing for housing assistance payments to be made to the Borrower.

“Hazardous Substances” means any petroleum or petroleum products and their by-products, flammable explosives, radioactive materials, toxic chemicals and substances, radon, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and polychlorinated biphenyls (PCB), asbestos-containing materials (ACMs), lead-containing or lead-based paint (LBP), Mold, medical waste and other bio-hazardous materials and any chemicals, pollutants, materials or substances defined as or included in the definition of “hazardous substances” as defined pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, “regulated substances” within the meaning of subtitle I of the federal Resource Conservation and Recovery Act and words of similar import under applicable Environmental Laws. Hazardous Substances shall not include items which are products that are commonly used consumer household items.

“Impositions” means, with respect to the Project Facilities, all taxes including, without limitation, all real and personal property taxes, water charges and sewer rents, any special assessments, charges or claims and any other item which at any time may be or become a lien upon the Project Facilities.

“Improvements” means all buildings and other improvements included in the Project Facilities.

“Indebtedness” means, collectively, and includes all present and future indebtedness, liabilities and obligations of any kind or nature whatsoever of the Borrower to the Governmental Lender, the Servicer, the Funding Lender, the Fiscal Agent or to the Noteowners from time to time, now existing and hereafter arising, under or in connection with this Funding Loan Agreement or any of the other Funding Loan Documents or any of the Subordinate Debt Documents, including future advances, principal, interest, indemnities, other fees, late charges, enforcement costs and other costs and expenses whether direct or contingent, matured or unmatured and all other obligations of the Borrower to the Servicer, the Funding Lender, the Governmental Lender, the Fiscal Agent or the Noteowners from time to time of the Governmental Notes.

“Indemnified Parties” shall have the meaning given to such term in Section 2.5 of the Borrower Loan Agreement.

“Interim Phase” means the period of time between the Conversion Date and the Stabilization Date (if Stabilization does not occur on the Conversion Date). Should all requirements for Stabilization be met on the Conversion Date, all references herein and in the Borrower Loan Agreement and the other Funding Loan Documents to the Interim Phase, the Series 2029B Governmental Note, the Series 2029B Borrower Note and all related provisions thereto shall be null and void, and the Series 2029B Governmental Note and the Series 2029B Borrower Note shall not be delivered on the Conversion Date.

“Insurance and Condemnation Proceeds Account” means the account within the Project Fund created pursuant to Section 4.2 hereof.

“Insurance Proceeds” means the total proceeds of insurance actually paid or payable by an insurance company in respect of the required insurance on the Project Facilities, less the actual costs incurred, including attorneys’ fees, in the collection of such proceeds.

“Investor Letter” means that certain Investor Letter, substantially in the form attached hereto as **Exhibit B**.

“Land Use Restriction Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of April 1, 2026, between the Governmental Lender and the Borrower, as the same may be amended, modified or supplemented from time to time.

“Lease” shall have the meaning assigned to such term in the Mortgage.

“Legal Requirements” means all statutes, codes, laws, ordinances, regulations, rules, policies, or other federal, state, local and municipal requirements of any Governmental Authority whether now or hereafter enacted or adopted, and all judgments, decrees, injunctions, writs, orders or like action of an arbitrator or a court or other Governmental Authority of competent jurisdiction (including those pertaining to health, safety or the environment).

“Lien” means any lien, mortgage, security interest, tax lien, pledge, encumbrance, title exception, conditional sale or title retention arrangement, or any other interest in property designed to secure the repayment of indebtedness, whether arising by agreement or under any statute or law, or otherwise.

“Loan Payment Date” shall have the meaning set forth in each Borrower Note.

“Management Agreement” shall have the meaning ascribed to such term in Section 6.19 of the Borrower Loan Agreement.

“Manager” means Solari Enterprises, Inc., a California corporation, together with any successor manager of the Project Facilities approved by the Funding Lender and their respective successors and assigns.

“Managing General Partner” means CFAH Housing LLC, a California limited liability company authorized to conduct its business in the State, the managing general partner of the Borrower, together with its successors and assigns, as permitted by the Funding Lender and the restrictions described in the definition of “Permitted Transfer” herein.

“Material Contract” means each indenture, mortgage, agreement or other written instrument or contract to which the Borrower is a party or by which any of its assets are bound (including, without limitation, any employment or executive compensation agreement, collective bargaining agreement, agreement relating to an Obligation, agreement for the construction, repair or disposition of real or personal property, agreement for the purchasing or furnishing of services, operating lease, joint venture agreement, agreement relating to the acquisition or disposition of an Affiliate or agreement of merger or consolidation) which (i) evidences, secures or governs any outstanding obligation of the Borrower of \$100,000 or more per annum, or (ii) if canceled, breached or not renewed by any party thereto, would have a material adverse effect on the business operations, assets, condition (financial or otherwise) or prospects of the Borrower.

“Maturity Date” means the Series 2029A Maturity Date or the Series 2029B Maturity Date, as applicable.

“Minimum Beneficial Ownership Amount” means an amount of no less than ten percent (10%) of the outstanding principal amount of the Funding Loan.

“Mold” shall have the meaning ascribed to such term in Section 6.14(e) of the Borrower Loan Agreement.

“Monthly Tax and Insurance Amount” means, after the Stabilization Date, an amount equal to the sum of (i) one-twelfth (1/12th) of the annual Impositions, if any, plus (ii) one-twelfth (1/12th) of the annual insurance premiums for the insurance coverages for the Project Facilities required by Section 6.4 of the Borrower Loan Agreement, as any such amounts may be increased if the Funding Lender determines that funds in the Tax and Insurance Escrow Fund will be insufficient to pay Impositions and insurance premiums when due.

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Funding Lender, by notice to the Servicer, the Borrower and the Governmental Lender.

“Mortgage” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934.

“Nonpurpose Investment” means any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Governmental Notes and which is not acquired to carry out the governmental purpose of the Governmental Notes.

“Noteowner” or **“owner of the Governmental Notes”** means the owner, or as applicable, collectively the owners, of the Governmental Notes as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.6(e) of this Funding Loan Agreement.

“Obligations” means any and all obligations of the Borrower for the payment of money including without limitation any and all (i) obligations for money borrowed, (ii) the Indebtedness and all other obligations evidenced by bonds, debentures, notes, guaranties or other similar instruments, (iii) construction contracts, installment sale agreements and other purchase money obligations in connection with the performance of work, sale of property or rendering of services, (iv) leases evidencing the acquisition of capital assets, (v) obligations under the Ground Lease, (vi) reimbursement obligations in connection with letters of credit and other credit enhancement facilities, (vii) obligations for unfunded pension liabilities, (viii) guaranties of any such obligation of a third party, and (ix) any such obligations of third parties secured by assets of the Borrower; but excluding obligations under contracts for supplies, services and pensions allocable to current Expenses during the current or future Fiscal Years in which the supplies are to be delivered, the services rendered or the pension paid.

“OFAC Violation” shall have the meanings ascribed to such term in Section 6.23 of the Borrower Loan Agreement.

“Operating Reserve Fund” means the fund of that name created pursuant to Section 4.2 hereof.

“Operating Reserve Fund Requirement” means \$[_____].

“Par Call Date” shall have the meaning set forth in the Series 2029A Borrower Note.

“Partnership Agreement” means the Second Amended and Restated Agreement of Limited Partnership of the Borrower dated April [___], 2026, as the same may be amended, modified or supplemented from time to time.

“PBGC” shall have the meaning ascribed to such term in Section 5.11 of the Borrower Loan Agreement.

“Permitted Encumbrances” means only:

- (i) the Land Use Restriction Agreement;
- (ii) the Mortgage;
- (iii) the Ground Lease;
- (iv) documents evidencing liens securing the Subordinate Debt, including, without limitation, the Subordinate Debt Documents and the Subordination Agreement;
- (v) Impositions not yet due and payable or being contested in good faith and by appropriate proceedings promptly initiated and diligently conducted if such proceedings do not in the opinion of the Funding Lender involve the risk of the sale, forfeiture or loss of the property subject to such lien or interfere with the operation of the Project Facilities, and provided that the Borrower shall have established a reserve or made other appropriate provision, if any, as shall be required by the Funding Lender, and any foreclosure, distraint, sale or other similar proceedings shall have been effectively stayed;
- (vi) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or being contested by appropriate proceedings promptly initiated and diligently conducted if (1) such proceedings do not in the opinion of the Funding Lender involve the risk of the sale, forfeiture or loss of the property subject to such lien or interfere with the operation of the Project Facilities, and provided (2) such liens have been bonded or the Borrower shall have established a reserve or made other appropriate provision, if any, as shall be required by the Funding Lender; and
- (vii) the exceptions listed in the Title Policy and any other matters affecting title which are approved in writing by the Funding Lender.

“Permitted Investments” means any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested therein:

- (i) Government Obligations;
- (ii) Bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States;

(iii) Direct obligations issued by the United States or obligations guaranteed in full as to principal and interest by the United States or repurchase agreements with a qualified depository bank or securities dealers fully collateralized by such obligations, maturing on or before the date when such funds will be required for disbursement;

(iv) Obligations of state and local government and municipal bond issuers, which are rated investment-grade by either S&P or Moody's or other non-rated obligations of such issuers guaranteed or credit enhanced by a Person whose long-term debt or long-term deposits or other obligations are rated investment-grade by either S&P or Moody's;

(v) Prime commercial paper rated either "A-1" by S&P or "P-1" by Moody's and, if rated by both, not less than "A-1" by S&P and "P-1" by Moody's;

(vi) Bankers' acceptances drawn on and accepted by commercial banks (including the Fiscal Agent or any of its Affiliates);

(vii) Money market funds registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, and having a rating by S&P of AAAm-G; AAA-m; or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2;

(viii) Repurchase agreements or collateralized investment agreements with respect to and secured by obligations listed below, which agreements may be entered into, with the prior written consent of the Funding Lender, with a bank, trust company, insurance company, financial services firm or broker dealer which is a member of the Securities Investors Protection Corporation; repurchase securities or collateral shall consist of any Government Obligation or bond, debenture, note, participation certificate or other obligations issued by a government sponsored agency (such as the Federal National Mortgage Association, the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation or the Federal Farm Credit Bank); and

(ix) Such other investments selected by the Borrower as may be authorized by applicable law and consented to by the Funding Lender, provided that the Fiscal Agent may require as a condition to the investment of funds under this clause (ix) there having first been delivered to the Fiscal Agent an opinion from Tax Counsel to the effect that investment is permitted under any applicable laws of the State.

The Fiscal Agent is not obligated to verify whether an investment is a legal investment under the applicable laws of the State.

"Permitted Transfer" means (i) a transfer by devise or descent or by operation of law upon the death of a direct or indirect owner in the Borrower, so long as such transfer does not result in a change of management or control of the affected entity, (ii) the transfer of a direct or indirect ownership interest in the Administrative General Partner for estate planning purposes, so long as such transfer does not result in a change of management or control of the Administrative General Partner, (iii) a transfer of partnership interests in the Borrower to the Tax Credit Investor and/or the Special Limited Partner, (iv) a transfer of the limited partner interests of the Tax Credit Investor and/or the Special Limited Partner in the Borrower to an Affiliate of such Tax Credit Investor and/or Special Limited Partner, (v) [reserved], (vi) a transfer of the limited partner interests of the Tax Credit Investor and/or the Special Limited Partner in the Borrower to non-affiliates of such Tax Credit Investor and/or the Special Limited Partner (including the Borrower or any Affiliates of the Borrower) with the prior written consent of the Funding Lender, not to be unreasonably withheld, conditioned, or delayed, (vii) a transfer of any shares or ownership interests in the Tax Credit Investor and/or the Special Limited Partner (a) after the contributions by the owners of the Tax Credit

Investor of all installments of capital contributions required to be made by the Partnership Agreement have been made to Borrower, with the prior written consent of the Funding Lender, which shall not be unreasonably withheld or delayed or (b) provided that after such transfer, the Tax Credit Investor and the Special Limited Partner, as applicable, are controlled (directly or indirectly) by Boston Financial Investment Management, LP (which transfer shall not require the prior written consent of the Funding Lender so long as written notice of such transfer is delivered to the Funding Lender and the Servicer), (viii) transfers of any interests in the Managing General Partner or the Administrative General Partner so long as the Guarantor, or one or more members of the Guarantor, controls the Borrower after such transfer occurs, (ix) the removal or replacement of the Managing General Partner and/or the Administrative General Partner pursuant to the Partnership Agreement, (x) after the payment in full of all capital contributions under the Partnership Agreement, any other transfer, assignment, pledge, hypothecation or conveyance of limited partner interests in, or change in the limited partners of, the Borrower (and the owners of such limited partners) not described above, in accordance with the terms of the Partnership Agreement, or (xi) the extension, amendment or replacement of commercial leases approved by the Funding Lender.

“Person” means any individual, for-profit or not-for-profit corporation, partnership, joint venture, association, limited liability company, limited liability partnership, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“PHA” means the Santa Clara County Housing Authority.

“Pledged Revenues” shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Notes, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Reserved Rights) derived from or in connection with the Funding Loan Documents, including all Borrower payments due under the Borrower Loan Agreement and the Borrower Notes and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon.

“Prepayment Fund” means the fund of that name created pursuant to Section 4.2 hereof.

“Principal Payment Date” means any date on which principal is payable in respect of either Governmental Notes, including (i) the first (1st) Business Day of each month commencing on [_____] 1, 2030] (with regard to the Series 2029A Governmental Note only), (ii) any other prepayment date for a Borrower Note, and (iii) the Maturity Date.

“Project Facilities” means the [#] acres of land and the residential rental development consisting of a total of 195 units and related personal property and equipment, located in the City of San José, Santa Clara County, California.

“Project Fund” means the fund of that name created pursuant to Section 4.2 hereof.

“Project Revenue Account” means the account of that name in the Project Fund created pursuant to Section 4.2 hereof.

“Property” shall have the meaning set forth in the Mortgage.

“Qualified Project Period” shall have the meaning ascribed to such term in the Land Use Restriction Agreement.

“Rebate Amount” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Rebate Analyst” shall mean an independent accounting firm, law firm or financial advisory firm that is experienced in making rebate calculations and that is selected by the Borrower and is acceptable to the Governmental Lender and the Funding Lender.

“Rebate Fund” means the fund of that name created pursuant to Section 4.2 hereof.

“Rebate Report” shall have the meaning given to such term in Section 6.10(e) of the Borrower Loan Agreement.

“Regulations” means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“Regulatory Agreement Default” shall have the meaning given to such term in Section 7.9(b) of the Borrower Loan Agreement.

“Related Person” with reference to any Substantial User, means a “related person” within the meaning of Section 147(a)(2) of the Code.

“Rents” shall have the meaning assigned to such term in the Mortgage.

“Replacement Reserve Agreement” means the Replacement Reserve and Security Agreement dated as of the date hereof, made by the Borrower in favor of the Funding Lender.

“Replacement Reserve Fund” means the fund of that name created pursuant to Section 4.2 hereof, into which funds will be deposited following the Stabilization Date.

“Required Equity Funds” means \$[TBD], comprised of [TBD] equity installments to be made in accordance with the terms and conditions of the Partnership Agreement.

“Reserved Rights” means the rights of the Governmental Lender under the Funding Loan Documents, consisting of its rights to the enforcement of certain tax covenants, including those under section 6.10 of the Borrower Loan Agreement, its rights of inspection, including under Section 6.7 of the Borrower Loan Agreement, its rights to indemnification, including those under Section 2.5 and 10.12 of the Borrower Loan Agreement, its rights to attorneys’ fees and other fees under, including those under Sections 2.5, 7.2 and 10.12 of the Borrower Loan Agreement, its rights to reimbursement and payment of fees, costs and expenses, including those under Sections 2.2 and 10.5 of the Borrower Loan Agreement, its rights to enforce jurisdiction and venue, including those under Section 10.9 and 10.10 of the Borrower Loan Agreement, its rights to limited liability and recourse, including those under Section 4.2, 4.3, 4.4 and 10.13 of the Borrower Loan Agreement, and its rights to receive notices, reports and other statements and its rights to consent or waiver to certain matters, all as provided in the Funding Loan Documents and the Governmental Lender’s rights under the Land Use Restriction Agreement.

“Responsible Officer” means any officer of the Fiscal Agent employed within or otherwise having regular responsibility in connection with the corporate trust department of the Fiscal Agent and the trusts created hereunder and having direct responsibility for the administration of this Funding Loan Agreement.

“Sale” means the direct or indirect sale, agreement to sell, assignment, transfer, conveyance, hypothecation, lien, mortgage, grant of a security interest in or a deed to secure debt or deed of trust with respect to, encumbrance, lease, sublease or other disposition of the Project Facilities, or any part thereof or interest therein whether voluntary, involuntary, by operation of law or otherwise, other than (i) the leasing of individual residential units to tenants, (ii) the extension, amendment, renewal or replacement of commercial leases currently in effect, and (iii) the grant of easements for utilities and similar purposes in the ordinary course provided, such easements do not impair the use of the Project Facilities or diminish the value of the Project Facilities. “Sale” shall also include the direct or indirect sale, transfer, assignment, pledge, hypothecation or conveyance of legal or beneficial ownership of (a) equity ownership interests in the Borrower, (b) a controlling interest in the aggregate, at any time or times, of the equity ownership interests in the Administrative General Partner or the Managing General Partner, respectively, or (c) the substitution of a new Administrative General Partner or Managing General Partner in the Borrower without the Funding Lender’s prior written consent, which it may withhold in its sole discretion; provided, however, that “Sale” shall not include a Permitted Transfer.

“S&P” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns and, if such company shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Funding Lender, by notice to the Servicer, the Borrower and the Governmental Lender.

“Secondary Market Transaction” shall have the meaning given to such term in Section 10.12(a) of the Borrower Loan Agreement.

“Securities” shall have the meaning given to such term in Section 10.12(a) of the Borrower Loan Agreement.

“Security” shall have the meaning given to such term in Section 2.1 of this Funding Loan Agreement.

“Security Interest” or **“Security Interests”** means the security interests created herein and shall have the meanings set forth in the U.C.C.

“Series 2026 Bonds” shall have the meaning given to such term in the recitals to this Funding Loan Agreement.

“Series 2029A Maturity Date” shall have the meaning set forth in the Series 2029A Borrower Note.

“Series 2029B Maturity Date” shall have the meaning set forth in the Series 2029B Borrower Note.

“Servicer” means any entity designated in writing by the Funding Lender to act as a Servicer hereunder, in accordance with Article VII hereof. If at any time a Servicer has not been designated by the Funding Lender, all references herein and in other Funding Loan Documents to “Servicer” shall refer to the Funding Lender. The initial Servicer is Lument Real Estate Capital, LLC.

“Special Limited Partner” means BFIM Special Limited Partner, Inc., a Florida corporation, and its successors and assigns in such capacity pursuant to the Partnership Agreement.

“Stabilization” means the point at which (i) the Improvements have been at least ninety percent (90%) occupied by qualified tenants meeting the requirements of the Funding Loan Documents in each of the prior three (3) consecutive months; (ii) the ratio of Stabilized NOI of the prior three (3) consecutive months in the aggregate to maximum principal and interest payable in any three (3) consecutive months (other than the month in which the Series 2029A Maturity Date occurs) on the amount of the Series 2029A Borrower Note outstanding equals or exceeds 1.15 to 1.0; (iii) no Event of Default or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default shall have occurred and be then continuing under the Funding Loan Documents; (iv) the final complete use of proceeds and completion certificates in regard to completion of the Project Facilities shall have been provided to the Funding Lender and the Servicer; (v) the Borrower shall have deposited an amount equal to the Operating Reserve Fund Requirement, or such other amount as approved by the Funding Lender, in the Operating Reserve Fund; (vi) there shall have been deposited in the Tax and Insurance Escrow Fund the amount required by Section 8.2(a) of the Borrower Loan Agreement; (vii) the Borrower shall have deposited with the Fiscal Agent such amount as is necessary to prepay the Series 2029B Borrower Note in full pursuant to Section 7(b)(vii) thereof, and (viii) the Borrower shall have deposited with the Fiscal Agent such amount as is necessary to prepay the Series 2029A Borrower Note pursuant to Section 7(b)(iii) thereof, to the extent required by the Funding Lender, all of the foregoing (i) through (viii) as determined or approved by the Funding Lender in its sole discretion.

“Stabilization Date” means [May] 1, 2029, which date may be extended for six (6) months as described below, and as the same may be further extended with the prior written consent of the Funding Lender, to be granted or withheld in its sole discretion. The Borrower may, upon 30 days prior written notice to the Funding Lender (and with the written consent of the Funding Lender), extend the deadline for the Project Facilities to achieve Stabilization so long as: (i) no uncured Default or Event of Default then exists and the Borrower is in compliance with its obligations under the Funding Loan Documents; (ii) the extended deadline for the achievement of Stabilization is no later than six (6) months after the initial Stabilization Date; (iii) [an extension fee equal to [0.25]% times the principal amount of the Borrower Notes Outstanding at the date of extension is paid to the Funding Lender with respect to such extension]; (iv) the Borrower certifies in writing to the Funding Lender that cash flows generated from property operations and/or funds on deposit with the Fiscal Agent (or other sources approved by the Funding Lender) will be sufficient to pay debt service on the Borrower Notes during the term of the extension, and (v) the Borrower provides such other information as the Funding Lender or the Servicer may request.

“Stabilized NOI” means for any period, as determined or approved by the Funding Lender, (x) Effective Gross Revenues for such period less (y) Expenses for such period.

“State” means the State of California.

“Subordinate Debt” means, collectively, (i) that certain construction to permanent loan in the amount of \$[9,898,877] from the City of San Jose, California (in such capacity, the “City”) to the Borrower, (ii) that certain construction to permanent loan in the amount of \$[11,115,000] from the County of Santa Clara, California (the “County”) to the Borrower, (iii) that certain construction to permanent loan in the amount of \$[15,500,000] from Bay Area Housing Innovation Fund, LLC (“HAF”) to the Borrower, and (iv) that certain permanent loan in the amount of \$[29,000,000] from the California Department of Housing and Community Development (“HCD”) to the Borrower, all of which shall be evidenced and secured by the Subordinate Debt Documents.

“Subordinate Debt Documents” means all documents evidencing or securing the Subordinate Debt or otherwise executed and delivered by the Borrower in connection therewith or as a condition of the advance of the proceeds thereof, together with a subordination agreement executed by the lender of such Subordinate Debt, all in form and substance acceptable to the Funding Lender.

“Subordination Agreement” means, collectively, (i) that certain [Amended and Restated] Subordination Agreement (City Loan) dated [on or about the date hereof], among the Funding Lender, the Borrower and the City, as subordinate lender, as may be amended, modified or supplemented from time to time, (ii) that certain [Amended and Restated] Subordination Agreement (County Loan) dated [on or about the date hereof], among the Funding Lender, the Borrower and the County, as subordinate lender, as may be amended, modified or supplemented from time to time, (iii) that certain [Amended and Restated] Subordination Agreement (HAF Loan) dated [on or about the date hereof], among the Funding Lender, the Borrower and HAF, as subordinate lender, as may be amended, modified or supplemented from time to time, and (iv) that certain Subordination Agreement (HCD Loan) dated on or about the date hereof, among the Funding Lender, the Borrower and the HCD, as subordinate lender, as may be amended, modified or supplemented from time to time.

“Substantial User” means, with respect to any “facilities” (as the term “facilities” is used in Section 144(a) of the Code), a “substantial user” of such “facilities” within the meaning of Section 147(a) of the Code.

“Tax Counsel” means an attorney, or firm of attorneys, nationally recognized and experienced in legal work relating to the financing of facilities through the delivery of tax-exempt governmental notes, reasonably acceptable to the Funding Lender.

“Tax and Insurance Escrow Fund” means the fund of that name created pursuant to Section 4.2 hereof.

“Tax Certificate” means the Tax Certificate and Agreement dated the Bond Closing Date, between the Governmental Lender and the Borrower, as the same may be amended, modified or supplemented from time to time.

“Tax Credit Investor” means BF FRE 2023, Limited Partnership, a Delaware limited partnership, and its successors and assigns in such capacity pursuant to the Partnership Agreement of Borrower.

“Third Party Costs” means the ongoing fees of the Governmental Lender, the Fiscal Agent, the Rebate Analysts or any other third party in connection with the Governmental Notes.

“Title Company” means Corinthian Title Company, as agent for Old Republic National Title Insurance Company, the title insurance company insuring the lien of the Mortgage on the Bond Closing Date.

“Title Policy” means the mortgagee’s title insurance policy relating to the Project Facilities issued by the Title Company to the Funding Lender and/or the Taxable Construction Lender, effective on the date of recording of the Mortgage, as the same may be subsequently down-dated or endorsed from time to time, with the approval of the Funding Lender.

“U.C.C.” means the Uniform Commercial Code of the State as now in effect or hereafter amended.

“Underwritten Management Fee” means [___]% of gross income received from the Project Facilities on account of rents, service fees, late charges, penalties and other charges under Leases.

“Yield” of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations, and (2) the Governmental Notes has the meaning set forth in Section 1.148-4 of the Regulations.

“Yield Maintenance” shall be equal to the product obtained by multiplying:

(A) the principal amount of the Borrower Note being prepaid,

by

(B) the difference obtained by subtracting the Yield Rate (as defined below) from the Fixed Rate on the twenty-fifth (25th) Business Day preceding (i) the intended optional prepayment date, (ii) the date of any mandatory prepayment prior to the Maturity Date, or (iii) the date Funding Lender accelerates the applicable Borrower Note,

by

(C) the present value factor calculated using the following formula:

$$\frac{1 - (1 + r)^{-n/12}}{r}$$

r = Yield Rate

n = the number of months remaining between (i) either of the following: (x) in the case of a voluntary prepayment, the last day of the month in which the prepayment is made, or (y) in any other case, the date on which the Funding Lender accelerates the unpaid principal balance of the applicable Borrower Note and (ii) the Par Call Date.

For purposes of this definition, the “Yield Rate” means the yield calculated by interpolating the yields for the immediately shorter and longer term U.S. “Treasury constant maturities” (as reported in the Federal Reserve Statistical Release H.15 Selected Interest Rates (the “Fed Release”) under the heading “U.S. government securities”) closest to the remaining term until the Par Call Date, as follows (rounded to three (3) decimal places):

$$\left(\frac{(a - b)}{(x - y)} \times (z - y) \right) + b$$

a = the yield for the longer U.S. Treasury constant maturity

b = the yield for the shorter U.S. Treasury constant maturity

x = the term of the longer U.S. Treasury constant maturity

y = the term of the shorter U.S. Treasury constant maturity

$z =$ “n” (as defined in the present value factor calculation above) divided by twelve (12).

Notwithstanding any provision to the contrary, if “z” equals a term reported under the U.S. “Treasury constant maturities” subheading in the Fed Release, the yield for such term shall be used, and interpolation shall not be necessary. If publication of the Fed Release is discontinued by the Federal Reserve Board, the Funding Lender shall determine the Yield Rate from another source selected by the Funding Lender. Any determination of the Yield Rate by the Funding Lender will be binding absent manifest error.

Section 1.2 Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Funding Loan Agreement:

(a) All terms defined in the Borrower Loan Agreement and not defined herein shall have the meaning given to such terms in the Borrower Loan Agreement.

(b) Words importing the singular number shall include the plural number and vice versa.

(c) The table of contents, captions, and headings herein are for convenience of reference only and shall not constitute a part of this Funding Loan Agreement nor shall they affect its meaning, construction or effect.

(d) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

(e) All references in this Funding Loan Agreement to particular Articles or Sections are references to Articles or Sections of this Funding Loan Agreement, unless otherwise indicated.

ARTICLE II SOURCE OF PAYMENTS, GENERAL TERMS AND PROVISIONS OF THE GOVERNMENTAL NOTES

Section 2.1 Security. To secure the payment of the Funding Loan and the Governmental Notes, to declare the terms and conditions on which the Funding Loan and the Governmental Notes are secured, and in consideration of the terms and provisions of this Funding Loan Agreement and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender does hereby grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting, however, in each case, the Reserved Rights) (said property, rights and privileges, excepting the Reserve Rights, being herein collectively called, the “Security”):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Notes, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project Facilities and including, without limitation, all Pledged Revenues and all other Borrower payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held by Fiscal Agent under this Funding Loan Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Fiscal Agent or the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Fiscal Agent or the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Notes and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 2.1 for the payment of the principal of, premium, if any, and interest on the Governmental Notes, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Notes by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 2.2 Delivery of Security. To provide security for the payment of the Funding Loan and the Governmental Notes, the Governmental Lender has pledged and assigned its right, title and interest in the Security (which excludes the Reserved Rights) to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Funding Lender or the Fiscal Agent, as applicable, the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

(a) The Borrower Notes endorsed without recourse to the Fiscal Agent by the Governmental Lender;

(b) The originally executed Borrower Loan Agreement and Land Use Restriction Agreement;

(c) The originally executed Mortgage and all other Funding Loan Documents existing at the time of delivery of the Borrower Notes including an assignment for security of the Mortgage in favor of the Fiscal Agent, in recordable form;

(d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and

(e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

The Governmental Lender shall, at the expense of the Borrower, deliver and deposit with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security, at the request of the Funding Lender.

Section 2.3 Source of Payment of Funding Loan and Other Obligations. The Funding Loan is a limited obligation of the Governmental Lender, payable solely from the Pledged Revenues, other funds and moneys and the Security pledged and assigned hereunder. None of the Governmental Lender, any of its members, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan or the Governmental Notes or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan, the Governmental Notes or hereunder, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. None of the faith, revenues, credit or taxing power of the Governmental Lender, any of its members, the State or any other political corporation or subdivision or agency thereof shall be pledged to the payment of the principal of, premium (if any), or interest on the on the Governmental Notes and the Funding Loan or otherwise to secure the obligations of the Governmental Lender under the Funding Loan Documents.

Section 2.4 Form of Governmental Notes. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Notes in favor of the Funding Lender. Each Governmental Note shall be substantially in the form set forth in **Exhibit A** attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement.

Section 2.5 Delivery of Governmental Notes, Conditions to Closing.

(a) The manual or facsimile signatures of an Authorized Officer at the time of execution shall bind the Governmental Lender, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the execution and delivery of the Governmental Notes or shall not have held such offices at the date of the Governmental Notes. Following execution by the Governmental Lender, the Governmental Notes shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Funding Loan Agreement unless and until a certificate of authentication on such Governmental Note substantially in the form contained on **Exhibit A** attached hereto shall have been duly executed by the Fiscal Agent. The certificate of authentication appearing on the Governmental Notes shall be deemed to have been duly executed by the Fiscal Agent if manually signed by an authorized officer or employee of the Fiscal Agent. Such authentication certificate of the Fiscal Agent shall be conclusive evidence that the Governmental Notes so registered or authenticated has been duly executed, registered, or authenticated and delivered.

(b) Prior to the delivery by the Governmental Lender of the Governmental Notes and as a condition to closing of the Funding Loan, there shall be filed with and/or delivered to the Funding Lender:

(i) All items required to be delivered under Section 2.2 above; and

(ii) A certified copy of the Governmental Lender Resolution authorizing execution of this Funding Loan Agreement, the Borrower Loan Agreement and the other Funding Loan Documents to which the Governmental Lender is a party and the execution and delivery of the Governmental Notes; and

(iii) An original executed counterpart of the Funding Loan Documents (and with respect to the Borrower Notes, endorsed without recourse by the Governmental Lender to the Fiscal Agent); and

(iv) Copies of any Financing Statements required to be filed to perfect the security interests in the Security or under Section 3.2 of the Borrower Loan Agreement; and

(v) A copy of completed IRS Form 8038 filed (or to be filed) by or on behalf of the Governmental Lender pursuant to Section 149(e) of the Code; and

(vi) An original executed counterpart of the Tax Certificate; and

(vii) An opinion of Tax Counsel or Counsel to the Governmental Lender to the effect that this Funding Loan Agreement, the Borrower Loan Agreement and any other documents executed by the Governmental Lender have been duly authorized, executed and delivered by the Governmental Lender and are legal, valid and binding agreements of the Governmental Lender; and

(viii) An opinion of Tax Counsel (or reliance letter thereon) that the Governmental Notes constitute a valid and binding special, limited obligation of the Governmental Lender, payable solely from the Pledged Revenues and other assets and Security pledged thereto under this Funding Loan Agreement, that interest on the Governmental Notes will be excludable from gross income of the Noteowners thereof for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax, that the Governmental Notes are not required to be registered under the Securities Act of 1933, as amended, and that this Funding Loan Agreement need not be qualified under the Trust Indenture Act of 1939, as amended; and

(ix) An opinion of Counsel for the Borrower to the effect that the Funding Loan Documents to which it is a party have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower and such other opinions as are reasonably requested by the Funding Lender; and

(x) The Title Policy; and

(xi) Such other documents as may be required by the Governmental Lender, the Funding Lender, Tax Counsel, or the Servicer; and

(xii) [Add any other Transaction Specific Requirements, if any.]

Section 2.6 Required Transferee Representations; Participations; Sale and Assignment.

(a) The Funding Lender shall deliver to the Governmental Lender an Investor Letter in substantially the form attached hereto as **Exhibit B** on the Conversion Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Notes and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Notes and the Funding Loan, to

the extent permitted by Section 2.6(c) below, provided that such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender and the Fiscal Agent, an Investor Letter in substantially the form attached hereto as **Exhibit B**; provided, however, that no Investor Letter shall be required to be delivered by transferees or beneficial interest holders described in clauses (iv) or (v) of the definition of “Approved Transferee.”

(c) Notwithstanding the other provisions of this Section 2.6, no beneficial ownership interest in the Governmental Notes and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount; provided, however, that beneficial ownership interests in the Governmental Notes and Funding Loan described in clause (iii) of the definition of “Approved Transferee” may be sold in any amount without regard to the Minimum Beneficial Ownership Amount.

(d) No service charge shall be made for any sale or assignment of any portion of the Governmental Notes, but the Governmental Lender may require payment of a sum sufficient to cover any legal fees, tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the Funding Lender or assignee of the Funding Loan or portion thereof.

(e) The Governmental Notes, or any interest therein, shall be in fully-registered form transferable to subsequent holders only on the registration books which shall be maintained by the Fiscal Agent for such purpose and which shall be open to inspection by the Governmental Lender and Funding Lender. The Governmental Notes shall not be transferred through the services of the Depository Trust Company or any other third party registrar.

(f) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Notes.

Section 2.7 Authority. The Governmental Lender represents and warrants that, as of the date of delivery of the Governmental Notes to the Funding Lender, (i) it is duly authorized under the laws of the State to issue the Governmental Notes, and to execute, deliver and perform the terms of the Borrower Loan Agreement and this Funding Loan Agreement; (ii) all action on its part for the execution and delivery of the Governmental Notes and execution and delivery of the Funding Loan Documents to which it is a party has been duly taken; (iii) the Governmental Notes, upon execution and delivery, and the Funding Loan Documents to which it is a party upon delivery, assuming that they are the respective legal, valid, binding and enforceable obligations of the other parties thereto, shall be valid and enforceable limited obligations of the Governmental Lender in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors’ rights generally and general equitable principles; (iv) it has not heretofore conveyed, assigned, pledged, granted a security interest in or otherwise disposed of the Security (other than to the Fiscal Agent as described herein); and (v) to the knowledge of the Governmental Lender, the execution, delivery and performance of the Funding Loan Documents to which it is a party and the execution and delivery of the Governmental Notes are not in contravention of law or any agreement, instrument, indenture or other undertaking to which it is a party or by which it is bound.

Section 2.8 No Litigation. The Governmental Lender represents and warrants that, as of the date of the delivery of the Governmental Notes to the Funding Lender, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the knowledge of the Governmental Lender, threatened against or affecting the Governmental Lender wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Governmental Notes, this Funding Loan Agreement or the other

Funding Loan Documents to which the Governmental Lender is a party, or (ii) the exclusion from gross income of interest on the Governmental Notes.

Section 2.9 Further Assurances. The Governmental Lender covenants that it will cooperate to the extent necessary with the Borrower, the Fiscal Agent and the Funding Lender, as may be applicable, in their defenses of the Security against the claims and demands of all Persons and, upon payment or provision for payment of the fees and expenses to be incurred by the Governmental Lender in connection therewith, will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such amendments hereto and such further acts, instruments and transfers as the Funding Lender or the Fiscal Agent, as applicable, may reasonably require for the better pledging of the Security. Except for any amendment, modification, supplement, waiver or consent related to the Reserved Rights, the Governmental Lender shall not cause or permit to exist any amendment, modification, supplement, waiver or consent with respect to the Borrower Loan Agreement without the prior written consent of the Funding Lender, which consent shall be governed by Article VI hereof.

Section 2.10 No Other Encumbrances; No Dissolution. The Governmental Lender covenants that, (i) except as otherwise provided herein and in the Borrower Loan Agreement, it will not sell, convey, mortgage, encumber or otherwise dispose of any portion of the Security, and (ii) to the fullest extent permitted by applicable law, for so long as the Governmental Notes are outstanding, it will not dissolve, terminate or permit itself to be dissolved or terminated without a successor to its obligations hereunder and under the Governmental Notes having assumed its obligations hereunder and under the Governmental Notes.

Section 2.11 No Personal Liability. No covenant, stipulation, obligation or agreement of the Governmental Lender contained in the Funding Loan Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future Councilmember, officer, agent or employee of the Governmental Lender in other than that person's official capacity. No Councilmember, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of the principal, prepayment premium, if any, redemption price, if any or interest on the Governmental Notes and the Funding Loan or be subject to any personal liability or accountability by reason of the issuance of the Governmental Notes and the Funding Loan. No covenant, condition or agreement contained herein or in any of the other Funding Loan Documents shall be deemed to be a covenant, agreement or obligation of any present or future officer, Councilmember, employee or agent of the Governmental Lender in his individual capacity, and neither the officers, Councilmembers, employees or agents of the Governmental Lender executing the Governmental Notes or the Funding Loan or any of the Funding Loan Documents shall be liable personally on the Governmental Notes or the Funding Loan or under any of the Funding Loan Documents or be subject to any personal liability or accountability by reason of the issuance of the Governmental Notes or the execution of any of the Funding Loan Documents.

Section 2.12 DISCLAIMER OF WARRANTY. THE GOVERNMENTAL LENDER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO (I) THE PROJECT FACILITIES OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, THE HABITABILITY THEREOF, THE MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSES; THE DESIGN OR CONDITION THEREOF; THE WORKMANSHIP, QUALITY OR CAPACITY THEREOF; THE COMPLIANCE THEREOF WITH ANY LEGAL REQUIREMENTS; OR (II) THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE BORROWER NOTES OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

ARTICLE III
INTEREST RATE, PAYMENT AND PREPAYMENT OF GOVERNMENTAL NOTES

Section 3.1 **Maturity Date and Authorized Amount of Governmental Notes.** The Funding Loan shall mature on the Series 2029A Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable. The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

Section 3.2 **Principal and Interest Payments.**

(a) Interest shall be paid on the outstanding principal amount of the Governmental Notes at the rate or rates set forth in the applicable Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(b) The outstanding principal amount of the Governmental Notes and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to Fiscal Agent for the account of the Governmental Lender to fund corresponding advances under the Borrower Loan Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Notes previously received upon payment of corresponding principal amounts under the Borrower Notes, including regularly scheduled principal payments and voluntary and mandatory prepayments. The Fiscal Agent shall keep a record of all principal advances and principal repayments made under the Governmental Notes and shall upon written request provide the Governmental Lender with a statement of the outstanding principal balance of the Governmental Notes and the Funding Loan.

(c) The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and the Governmental Notes shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Notes. Any payment or prepayment made by the Borrower of principal, interest, premium, if any, due on the Borrower Notes shall be deemed to be like payments or prepayments of principal, interest and premium, if any, due on the Funding Loan and the Governmental Notes.

(d) All payments on the Governmental Notes shall be payable in lawful currency of the United States.

Section 3.3 **[Reserved].**

Section 3.4 **Prepayment of Governmental Notes.** The Governmental Notes are subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Notes shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds of the Governmental Lender received by the Governmental Lender or the Fiscal Agent to the extent and in the manner and on any date that the Borrower Notes are subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Acceleration Premium or other amounts payable under the Borrower Notes or the Borrower Loan Agreement through the date of prepayment. The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Notes, thereby causing the Governmental Notes to be prepaid, except as specifically permitted in the Borrower Notes, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Notes shall be subject to mandatory prepayment in whole or in part upon prepayment of the applicable Borrower Note at the direction of the Funding Lender in accordance with the terms of the applicable Borrower Note at a prepayment price equal to the outstanding principal balance of the applicable Borrower Note prepaid, plus accrued interest plus Acceleration Premium or any other amounts payable under the applicable Borrower Note or the Borrower Loan Agreement.

Section 3.5 Notice of Prepayment. Notice of prepayment of the Governmental Notes shall be deemed given to the extent that notice of prepayment of the Borrower Notes is timely and properly given to Funding Lender and Fiscal Agent in accordance with the terms of the Borrower Notes and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Notes is required to be given.

ARTICLE IV FUNDS AND ACCOUNTS

Section 4.1 Authorization to Create Funds and Accounts. Except as provided herein, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create, or direct the Fiscal Agent to establish and create, from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents.

Section 4.2 Establishment of Funds and Accounts; Applications of Proceeds of the Funding Loan and Other Amounts.

- (a) The following funds and accounts are hereby created and established as special trust funds:
 - (i) the Project Fund, consisting of:
 - (A) the Equity Account;
 - (B) the Capitalized Interest Account;
 - (C) the Insurance and Condemnation Proceeds Account; and
 - (D) the Project Revenue Account;
 - (ii) the Funding Loan Fund;
 - (iii) the Replacement Reserve Fund;
 - (iv) the Tax and Insurance Escrow Fund containing:
 - (v) the Rebate Fund;
 - (vi) the Prepayment Fund; and
 - (vii) the Operating Reserve Fund.

(b) All the funds and accounts created by subsection (a) of this Section shall be held by the Fiscal Agent in trust for application only in accordance with the provisions of this Funding Loan Agreement.

(c) The proceeds of the Funding Loan will be applied in accordance with the Closing Memorandum. Following the disbursements set forth in the Closing Memorandum, the Fiscal Agent shall receive and deposit into the respective funds, accounts and subaccounts specified therein the amounts, if any, provided in the Closing Memorandum.

Section 4.3 Funding Loan Fund.

(a) There is hereby separately created and established with the Fiscal Agent the Funding Loan Fund. There shall be deposited in the Funding Loan Fund, respectively (i) all payments by the Borrower pursuant to the Borrower Notes or the Borrower Loan Agreement to be deposited in the Funding Loan Fund, as applicable, including all proceeds resulting from the enforcement of the Security or its realization as collateral, and (ii) all other moneys received by the Fiscal Agent under the Borrower Loan Agreement for deposit by it in the Funding Loan Fund, as applicable.

(b) Moneys in the Funding Loan Fund shall be held in trust for the Noteowners and, except as otherwise expressly provided herein, shall be used solely for the payment of the interest on the Governmental Notes, for the payment of principal of the Governmental Notes upon maturity, whether stated or accelerated, or upon mandatory or optional prepayment prior to the Maturity Date, and for the payment of the Acceleration Premium set forth in the Borrower Loan Agreement.

(c) After payment in full of the Governmental Notes and upon payment of any amounts payable to the United States pursuant to any rebate requirement and any other amounts owing hereunder and under the Borrower Loan Agreement (as certified to the Fiscal Agent by the Borrower in writing), any amounts remaining in the Funding Loan Fund shall be paid to the Borrower.

Section 4.4 Project Fund.

(a) The Fiscal Agent shall deposit all amounts specified in Closing Memorandum into the specified accounts and subaccounts of the Project Fund, as may be applicable. The Fiscal Agent will receive and deposit into the Equity Account amounts received as future installments of Required Equity Funds from the Tax Credit Investor, in accordance with the provisions of the Partnership Agreement and the Assignment of Capital Contributions. The Fiscal Agent shall deposit into the Project Revenue Account of the Project Fund, net revenues from the Project Facilities received from the Borrower in accordance with Section 8.5 of the Borrower Loan Agreement. The Fiscal Agent shall deposit any other amounts received, to the extent not otherwise directed herein, in such Accounts as directed by the Funding Lender.

(b) [A deposit to the Capitalized Interest Account shall be made in accordance with the Closing Memorandum. The Fiscal Agent shall and is hereby authorized to transfer funds from the Capitalized Interest Account to the Funding Loan Fund to pay interest on the Governmental Notes accruing up to and including the Stabilization Date without submission of any requisition. The Fiscal Agent shall and is hereby further authorized to transfer any surplus Funding Loan proceeds remaining in the Capitalized Interest Account on the Stabilization Date to the Funding Loan Fund to pay interest on the Governmental Notes accruing up to the achievement of Stabilization at the written direction (including via Electronic Means) of the Funding Lender].

(c) Amounts in the Project Revenue Account shall be transferred to the Funding Loan Fund to pay interest on the Governmental Notes accruing up to and including the Stabilization Date without

submission of any requisition in the event amounts on deposit in the Capitalized Interest Account are insufficient for such purpose on any Loan Payment Date up to and including the Stabilization Date. Following the Stabilization Date, all remaining amounts in the Project Revenue Account shall, upon the written direction of the Funding Lender, be transferred to the Funding Loan Fund and applied to (i) prepayment of the Series 2029A Borrower Note pursuant to Section 7(b)(iii) thereof, as may be required, or (ii) prepayment of the Series 2029B Borrower Note pursuant to Section 7(b)(vii) thereof and, to the extent not needed for such purpose, upon Stabilization shall be paid to the Borrower upon written approval of the Funding Lender.

(d) Moneys representing a Condemnation Award or Insurance Proceeds in excess of \$250,000 shall be deposited into the Insurance and Condemnation Proceeds Account of the Project Fund, and notice of such deposit thereof shall be given by the Fiscal Agent to the Funding Lender and the Servicer. To the extent there has been a determination pursuant to the Funding Loan Documents to restore the Project Facilities, such Condemnation Award or Insurance Proceeds shall be expended for such purposes in accordance with the provisions of the Funding Loan Documents. In the event there is a determination pursuant to the Funding Loan Documents not to restore the Project Facilities, such Condemnation Award or Insurance Proceeds shall be either (i) transferred to the Funding Loan Fund and applied to the prepayment of the Borrower Notes in accordance with Section 7 thereof, or (ii) released to the Borrower if the Borrower obtains an Approving Opinion of Tax Counsel that such release will not affect the excludability of the interest on the Governmental Notes from gross income for federal income tax purposes, all in accordance with written direction of the Funding Lender to the Fiscal Agent and subject to the provisions of the Funding Loan Documents.

(e) The Fiscal Agent shall transfer moneys between the accounts and subaccounts of the Project Fund as directed in writing by the Funding Lender and consented to by the Borrower, provided that no such Borrower consent shall be required following the occurrence and during the continuance of a Default or Event of Default hereunder. Upon the occurrence and continuation of an Event of Default hereunder, all money and investments in the Project Fund may be disbursed at the written direction of the Funding Lender to pay any costs and expenses of the Project Facilities, to pay costs of enforcement of the Funding Loan Documents and to pay any and all amounts owed by the Borrower under the Funding Loan Documents, in whatever amounts and whatever order the Funding Lender may determine.

Section 4.5 Use of Certain Additional Funds and Accounts.

(a) Prepayment Fund.

(i) There shall be deposited in the Prepayment Fund (a) all payments specified in Section 8.3 of the Borrower Loan Agreement to be deposited in the Prepayment Fund (as certified to the Fiscal Agent by the Borrower in writing), and (b) all other moneys received by the Fiscal Agent under the Borrower Loan Agreement (as certified to the Fiscal Agent by the Borrower in writing) or this Funding Loan Agreement for deposit by it in the Prepayment Fund. Moneys in the Prepayment Fund shall be held in trust for the Noteowner and, except as otherwise expressly provided herein, shall be used solely for the prepayment of the Borrower Notes and the Governmental Notes pursuant to the provisions thereof. On each Principal Payment Date or prepayment date and as otherwise required hereunder or at the written direction of the Funding Lender, the Fiscal Agent shall transfer such amounts from the Prepayment Fund to the Funding Loan Fund and used to prepay the Borrower Notes and the Governmental Notes pursuant to the provisions thereof. After payment in full of the Borrower Notes and the payment of any amounts owing to the United States pursuant to any rebate requirement and any other amounts owing hereunder, any amounts remaining in the Prepayment Fund shall be paid to the Borrower.

(ii) Upon the occurrence and continuation of an Event of Default hereunder, all money and investments in the Prepayment Fund may be disbursed at the written direction of the Funding Lender to pay any costs and expenses of the Project Facilities, to pay costs of enforcement of the Funding Loan Documents and to pay any and all amounts owed by the Borrower under any of the Funding Loan Documents, in whatever amounts and in whatever order the Funding Lender may determine.

(b) **Tax and Insurance Escrow Fund.** There shall be deposited in the Tax and Insurance Escrow Fund all moneys received for such purpose by the Fiscal Agent from the Borrower pursuant to Section 8.2 of the Borrower Loan Agreement (as certified to the Fiscal Agent by the Borrower in writing). Moneys in the Tax and Insurance Escrow Fund shall be applied to payment of Impositions and insurance premiums at the written direction of the Funding Lender; provided, however, that upon the occurrence and continuation of an Event of Default hereunder (provided that the Funding Lender shall have no obligation to accept a cure of any Event of Default), all money and investments held in the Tax and Insurance Escrow Fund may be disbursed at the written direction of the Funding Lender to pay costs and expenses of the Project Facilities, to pay costs of enforcement of the Funding Loan Documents and to pay any and all amounts owed by the Borrower under any of the Funding Loan Documents, in whatever amounts and in whatever order the Funding Lender may determine. Upon the payment in full of the Governmental Notes and the fees and expenses of the Governmental Lender and the Fiscal Agent and upon payment of amounts payable to the United States pursuant to any rebate requirement and any other amounts owing hereunder and under the Borrower Loan Agreement (as certified to the Fiscal Agent by the Borrower in writing), any amounts remaining in the Tax and Insurance Escrow Fund shall be paid to the Borrower. If the Funding Lender determines that the Tax and Insurance Escrow is over-funded for any reason, the Funding Lender may direct the Fiscal Agent to return all or a portion of the moneys in the Tax and Insurance Escrow Fund to the Borrower.

(c) **Rebate Fund.**

(i) There is hereby created and established with the Fiscal Agent a separate trust fund which shall be designated the “Rebate Fund” (and is herein called the “Rebate Fund”), which shall be held and applied only as provided in this Subsection. The Fiscal Agent shall maintain the Rebate Fund, for the benefit of all persons who are or have at any time been Noteowners, at all times prior to the final payment to the United States of America of the amounts described in subsection (ii) of this Subsection. The money deposited to the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust separately and apart from the other funds held under this Funding Loan Agreement and applied solely as provided in this Section, unless in the opinion of Tax Counsel failure to make such application will not adversely affect any exclusion from gross income of interest on the Governmental Notes under the Code.

(ii) The Fiscal Agent shall deposit or transfer to the credit of the account of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto. The Fiscal Agent shall credit all earnings and debit all losses from the investment of money held for the account of the Rebate Fund to such fund.

(iii) (A) Within 30 days after each Computation Date, the Fiscal Agent, on behalf of the Governmental Lender, shall withdraw from the Rebate Fund and pay to the United States of America the appropriate portion of the Rebate Amount (determined by the Rebate Analyst on behalf of the Borrower) in the installments, to the place and in the manner required by section 148(f) of the Code, the Regulations, and rulings thereunder as instructed by the Borrower or its legal counsel and as provided in subsection (c) below.

(1) Within five days after receipt by a Responsible Officer of the Fiscal Agent from the Borrower or the Rebate Analyst of written notification of any amount due to the United States of America pursuant to Section 1.148-3(h) of the Regulations accompanied by relevant IRS forms including IRS Form 8038-T, the Fiscal Agent shall withdraw from the Rebate Fund an amount which when added to all prior payments to the United States of America equals the correct appropriate portion of the Rebate Amount, plus any penalties and interest and pay such correction amount to the United States of America.

(2) All payments to the United States of America pursuant to this Subsection shall be made by the Fiscal Agent for the account and in the name of the Governmental Lender and shall be paid by draft posted by certified United States Mail (return receipt requested), addressed to the appropriate Internal Revenue Service Center (and, if appropriate, accompanied by the relevant Internal Revenue Service Form, such as Form 8038-T or such other statements, explanations or forms required pursuant to the Regulations or other Internal Revenue Service promulgations as determined by the Rebate Analyst on behalf of the Borrower).

(iv) The Fiscal Agent shall preserve all statements, forms, and explanations received from the Borrower or the Governmental Lender pursuant to this Section and all records of transactions in the Rebate Fund until six years after the payment in full of the Governmental Notes.

(v) The Fiscal Agent may conclusively rely on the information provided, instructions of and forms prepared by the Borrower or the Rebate Analyst with regard to any actions to be taken by it, including payments to be made, pursuant to this Section and shall have no liability for any consequences of any failure of the Borrower to supply accurate or sufficient instructions or to compute correctly any payment due pursuant to this Section. The Fiscal Agent shall have no responsibility or duty to perform any rebate calculation or to expend its own funds to make any rebate payments.

(vi) If at any time during the term of this Funding Loan Agreement, the Borrower, the Governmental Lender or the Fiscal Agent desires to take any action which would otherwise be prohibited by the terms of this Section, such Person shall be permitted to take such action if it shall first obtain and provide at the expense of the Borrower to the other Persons named herein an Approving Opinion of Tax Counsel to the effect that such action shall not adversely affect the exclusion of interest on the Governmental Notes from gross income of the Noteowner for Federal income tax purposes and shall be in compliance with the laws of the State.

(vii) Notwithstanding any provision of the Funding Loan Documents, the Fiscal Agent shall not be liable or responsible for any method of calculation, or any calculation or determination which may be required in connection with or for the purpose of complying with Section 148 of the Code or any successor statute or any regulation, ruling, or other judicial or administrative interpretation thereof, including, without limitation, the calculation of amounts required to be paid the United States of America or the determination of the maximum amount which may be invested in Nonpurpose Investments having a higher yield than the Yield on the Governmental Notes, in connection with any such investments. The method of calculation, calculation and determination required by section 148 of the Code shall be accomplished by a Rebate Analyst engaged by the Borrower. The Fiscal Agent shall not be liable or responsible for the negligence or misconduct of the Rebate Analyst. The Fiscal Agent shall not be liable or responsible for monitoring the compliance by the Borrower or the Governmental Lender of any of the requirements of Section 148 of the Code or any applicable regulation, ruling, or other judicial or administrative interpretation thereof (except for the administrative functions described in this Section and in this

Funding Loan Agreement), it being acknowledged and agreed that the sole obligation of the Fiscal Agent in this regard shall be (i) to invest the moneys received by the Fiscal Agent pursuant to the written instructions of the Borrower in the specific investments identified by the Borrower or, in the absence of such identification, to make investments as otherwise provided herein and to disburse said moneys in accordance with the terms of this Funding Loan Agreement and (ii) to follow instructions contained in this Section and in this Funding Loan Agreement. The Fiscal Agent shall not be liable for a Governmental Note becoming an “arbitrage bond” within the meaning of the Code, as a result of investments it makes in compliance with the instructions it receives or pursuant to or in compliance with the terms of this Funding Loan Agreement.

Any provisions in this Funding Loan Agreement to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder. The Governmental Lender and the Fiscal Agent will observe the covenants contained in the Tax Certificate applicable to them as if fully set forth herein, and the Fiscal Agent will follow the written directions of the Borrower with respect to any rebate due. The Borrower is solely responsible for the hiring of a Rebate Analyst and payment of any rebate amounts due.

(d) **Replacement Reserve Fund.** There shall be deposited in the Replacement Reserve Fund all moneys received for such purpose by the Fiscal Agent from the Borrower pursuant to the Replacement Reserve Agreement. Moneys in the Replacement Reserve Fund shall be disbursed by the Fiscal Agent upon receipt of a written request therefor executed by the Borrower and approved in writing by the Funding Lender, in accordance with the terms of the Replacement Reserve Agreement; provided that, upon the occurrence and continuation of an Event of Default hereunder, all moneys and investments in the Replacement Reserve Fund (other than moneys held to pay costs required to be paid but not yet payable) may be disbursed at the written direction of the Funding Lender to pay any costs and expenses of the Project Facilities, to pay costs of enforcement of the Funding Loan Documents and to pay any and all amounts owed by the Borrower under the Funding Loan Documents, in whatever amounts and whatever order the Funding Lender may determine. Upon the payment in full of the Governmental Notes upon payment of amounts payable to the United States pursuant to any rebate requirement and any other amounts owing hereunder and under the Borrower Loan Agreement (as certified to the Fiscal Agent by the Borrower in writing), any amounts remaining in the Replacement Reserve Fund shall be paid to the Borrower as soon as practicable.

(e) **Operating Reserve Fund.**

(i) There shall be deposited in the Operating Reserve Fund all moneys received for such purpose pursuant to Section 8.4 of the Borrower Loan Agreement (as certified to the Fiscal Agent by the Borrower in writing). Funds shall be disbursed from the Operating Reserve Fund, at the written request of the Borrower, but only with the prior written consent of the Funding Lender and the Tax Credit Investor, to fund any operating deficits or expenses of the Borrower or for any other operating or capital needs of the Project Facilities. Upon receipt by the Fiscal Agent from the Borrower of a written request together with the written approval of the Funding Lender and the Tax Credit Investor, which approval shall not be unreasonably withheld or delayed, the Fiscal Agent shall disburse funds from the Operating Reserve Fund in accordance with such written request.

(ii) Upon the occurrence and continuation of an Event of Default, all moneys and investments in the Operating Reserve Fund may be disbursed at the written direction of the Funding Lender to pay any costs and expenses of the Project Facilities, to pay any costs of enforcement of the Funding Loan Documents and to pay any and all amounts owed by the Borrower under the Funding Loan Documents, in whatever amounts and whatever order the Funding Lender shall direct

the Fiscal Agent in writing. Interest earnings on amounts held in the Operating Reserve Fund shall be released not more frequently than annually to the Borrower upon its written request and with the prior written consent of the Funding Lender. Upon payment in full of the Governmental Notes and upon payment of amounts payable to the United States of America pursuant to any rebate requirement and any other amounts owing hereunder and under the Borrower Loan Agreement, any amounts remaining in the Operating Reserve Fund shall be paid to the Borrower.

Section 4.6 Records.

(a) The Fiscal Agent shall cause to be kept and maintained records pertaining to all Accounts maintained by the Fiscal Agent hereunder and shall periodically deliver to the Borrower statements of activity and statements indicating the investments made with moneys in all such funds during the applicable period. Upon written request, the Fiscal Agent shall provide the Borrower, the Funding Lender and the Servicer, within a reasonable period of time, with a statement of the principal amount of the Governmental Notes outstanding and a list of the registered Noteowners as of the date specified by the Borrower, the Funding Lender and the Servicer in its request. Such reports shall be delivered pursuant to the Fiscal Agent's portfolio online system.

(b) The Fiscal Agent shall provide the Borrower, the Funding Lender and the Servicer with a written statement, on a monthly basis through the calendar month in which the Governmental Notes are paid in full, identifying the Permitted Investments in which the moneys held as part of the Accounts were invested during the preceding period and the dates of such investments, together with such other information as the Fiscal Agent ordinarily provides to Persons such as the Borrower, the Funding Lender and the Servicer in its regular monthly investment statements. Such statements shall be delivered pursuant to the Fiscal Agent's portfolio online system.

(c) The Governmental Lender will at any and all times, upon the reasonable request of the Servicer, the Borrower or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender relating to the Project Facilities and the Funding Loan, if any, and to make copies thereof.

Section 4.7 Investment of Funds. Subject to the provisions of Section 4.8 hereof, moneys held as part of all Accounts shall be invested and reinvested in Permitted Investments as instructed in writing by the Borrower with the prior written consent of the Funding Lender, subject in all cases to the restrictions set forth in the Tax Certificate; provided, however, that any moneys held by the Fiscal Agent to pay the principal of, premium, if any, or interest that has become payable with respect to the Borrower Note and the Governmental Note shall not be invested. In the absence of such written direction, the Fiscal Agent shall hold all moneys uninvested in cash. The Fiscal Agent shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Funding Loan Agreement. The Fiscal Agent is hereby authorized, in making or disposing of any investment permitted by this Funding Loan Agreement, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or any such affiliate is acting as agent of the Fiscal Agent or for any third person or dealing as principal for its own account. The parties acknowledge that the Fiscal Agent is not providing investment supervision, recommendations, or advice. All Permitted Investments shall be held by or under the control of the Fiscal Agent and shall be deemed at all times to be a part of the Fund and Account which was used to purchase the same. The Fiscal Agent may act as principal or agent in the making or disposing of any investment and may utilize its investment department or that of its affiliate and charge its standard investment handling fees. All interest accruing thereon and any profit realized from Permitted Investments shall be credited to the respective Fund or Account and any loss resulting from Permitted Investments shall be similarly charged. The Fiscal Agent is authorized to cause to be sold and reduced to cash a sufficient amount of Permitted Investments whenever the cash balance in any Fund or Account

hereunder is or will be insufficient to make a requested or required disbursement. The Fiscal Agent shall not be responsible for any depreciation in the value of any Permitted Investment or for any loss resulting from such sale, so long as the Fiscal Agent performs its obligations hereunder in accordance with the terms of this Funding Loan Agreement.

Section 4.8 Governmental Lender Tax Covenants. The Governmental Lender represents, covenants and agrees that it will: comply with all applicable requirements of the Code that are necessary to preserve the exclusion from gross income of the Noteowners thereof for federal income tax purposes of the interest on the Governmental Notes, as further set forth in the Tax Certificate; and not take any action inconsistent with its expectations stated in the Tax Certificate and will comply with the covenants and requirements stated therein and incorporated by reference herein.

ARTICLE V DEFAULT PROVISIONS AND REMEDIES

Section 5.1 Events of Default. Any one of the following shall constitute an Event of Default hereunder:

- (a) Failure to pay interest on the Governmental Notes when and as the same shall have become due;
- (b) Failure to pay the principal of or any premium on the Governmental Notes when and as the same shall become due, whether at the stated maturity or prepayment date thereof or by acceleration;
- (c) Failure to observe or perform any other of the covenants, agreements or conditions on the part of the Governmental Lender included in this Funding Loan Agreement or in the Governmental Notes and the continuance thereof for a period of thirty (30) days after written notice to the Governmental Lender and the Borrower has been given by the Funding Lender or by the Servicer (with a copy to the Funding Lender);
- (d) Failure by the Borrower to provide the Funding Lender and the Servicer with the final, complete stabilization certificate in the form attached as Schedule 5 to the Borrower Loan Agreement and the necessary supporting documentation evidencing the achievement of Stabilization within forty-five (45) days following the Stabilization Date, as may be extended; or
- (e) The occurrence of an Event of Default under the Borrower Loan Agreement or the failure by the Borrower to perform or comply with any of the other terms or conditions contained in any other Funding Loan Documents to which the Borrower is a party and continuation of such failure beyond the expiration of any notice, grace or cure period provided in the Borrower Loan Agreement or the other Funding Loan Documents (as applicable).

Section 5.2 Acceleration. Upon the occurrence of an Event of Default under Section 5.1 above and during the continuation thereof, the Funding Lender may, by notice in writing sent to the Governmental Lender, the Borrower and the Servicer (with a copy to the Fiscal Agent), declare the principal of the Governmental Notes (if not then due and payable) and the interest accrued thereon to be due and payable immediately, and, upon said declaration, such principal and interest shall become and be immediately due and payable. Upon any declaration of acceleration hereunder, the Funding Lender may exercise such rights as it may have under the Borrower Loan Agreement and the Borrower Notes to declare all amounts thereunder to be immediately due and payable. In such event, there shall be due and payable on the Governmental Notes an amount equal to the total principal amount of the Governmental Notes, plus

all interest accrued thereon (including Default Interest, if any) and which will accrue thereon to the date of payment and all unpaid interest on the Governmental Notes on the date of payment, and Acceleration Premium (if applicable).

Section 5.3 Other Remedies; Rights of Noteowners.

(a) Upon the happening and continuance of an Event of Default hereunder (provided that the Funding Lender shall have no obligation to accept a cure of any Event of Default), the Funding Lender may, with or without taking action under Section 5.2 hereof, pursue any available remedy to enforce the performance of or compliance with any Funding Loan Documents.

(b) No remedy by the terms of this Funding Loan Agreement conferred upon or reserved to the Funding Lender, the Servicer, the Fiscal Agent or the Noteowners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender, the Servicer, the Fiscal Agent or to the Noteowners hereunder or now or hereafter existing.

(c) No delay or omission to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Default or Event of Default or acquiescence therein and every such right and power may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Default or Event of Default hereunder, whether by the Funding Lender or by the Noteowners, shall extend to or shall affect any subsequent Default or Event of Default or shall impair any rights or remedies consequent thereon.

(e) The Funding Lender, as the assignee of substantially all right, title and interest of the Governmental Lender in and to the Borrower Loan Agreement and the Borrower Notes, shall be empowered to enforce each and every right granted to the Governmental Lender under the Borrower Loan Agreement and the Borrower Notes other than Reserved Rights.

Section 5.4 Right of Funding Lender to Direct Proceedings. Anything in this Funding Loan Agreement to the contrary notwithstanding, the Funding Lender shall have the right at any time, by an instrument or instruments in writing executed and delivered by the Funding Lender to the Governmental Lender, the Borrower, the Fiscal Agent and the Servicer, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Funding Loan Agreement, or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Funding Loan Agreement.

Section 5.5 Discontinuance of Default Proceedings. In case the Funding Lender shall have proceeded to enforce any right under this Funding Loan Agreement by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Governmental Lender and the Funding Lender shall be restored to their former positions and rights hereunder and all rights, remedies and powers of the Governmental Lender and the Funding Lender shall continue as if no such proceedings had been taken subject to the limits of any adverse determination.

Section 5.6 Waiver. The Funding Lender may waive any Default or Event of Default hereunder and its consequences and rescind any declaration of acceleration of maturity of principal; provided, however, that there shall be no such waiver or rescission unless all principal of, Acceleration Premium, if any, and interest on the Governmental Notes in arrears, together with interest thereon (to the

extent permitted by law) at the applicable rate of interest borne by the Governmental Notes and all fees and expenses of the Funding Lender and the Governmental Lender shall have been paid or provided for.

Section 5.7 Application of Moneys. All moneys received by the Funding Lender or the Fiscal Agent pursuant to any right given or action taken under the provisions of this Article shall be deposited in the Funding Loan Fund and, after payment (out of moneys derived from a source other than moneys held for the payment of Governmental Note) of (i) the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Funding Lender and the Fiscal Agent, including reasonable attorneys' fees, costs and expenses, and all other outstanding fees, costs and expenses of the Funding Lender and the Fiscal Agent, and (ii) any sums due to the Governmental Lender under the Borrower Loan Agreement, such moneys shall be applied in the order set forth below:

(a) Unless the entire principal of the Governmental Notes shall have become or been declared due and payable, all such moneys shall be applied:

First: To the payment of all installments of interest then due on the Governmental Notes in order of priority first to installments past due for the greatest period and, if the amount available shall not be sufficient to pay in full any particular installment, then to the ratable payment of the amounts due on such installment;

Second: To the payment of the unpaid principal of and Acceleration Premium, if any, of the Governmental Notes which shall have become due, with interest on the Governmental Notes from the respective dates upon which they became due (at the rate borne by the Governmental Notes, to the extent permitted by law) and, if the amount available shall not be sufficient to pay in full the Governmental Notes due on any particular date, together with such Acceleration Premium, then to the ratable payment of the amounts due on such date;

Third: To the payment of the amounts required to reimburse the Governmental Lender and the holder of the Governmental Notes for any legal or other out-of-pocket costs incurred by them in connection with exercising their remedies hereunder; and

Fourth: The balance shall be paid to the Borrower (subject to any required deposits to the Rebate Fund).

(b) If the principal of the Governmental Notes shall have become or been declared due and payable, all such moneys shall be applied to the payment of the principal, Acceleration Premium, if any, and interest then due and unpaid upon the Governmental Notes, without preference or priority as between principal, premium, interest or installments of interest, ratably according to the amounts due respectively for principal, premium and interest to the Persons entitled thereto.

(c) If the principal of the Governmental Notes shall have been declared due and payable, and if such declaration shall thereafter have been rescinded under this Article then, subject to subsection (b) of this Section, in the event that the principal of the Governmental Notes shall again become or be declared due and payable, the moneys shall be applied in accordance with subsection (a) of this Section.

(d) Notwithstanding anything contained herein to the contrary, the Funding Lender may direct the application of funds other than in the manner set forth in Section 5.7(a) above,

including, without limitation, the application of funds between the principal or Acceleration Premium of or interest on the Governmental Notes.

**ARTICLE VI
AMENDMENTS TO FUNDING LOAN AGREEMENT AND BORROWER LOAN
AGREEMENT**

Section 6.1 Amendments to Funding Loan Agreement.

(a) Any of the terms of this Funding Loan Agreement and the Governmental Notes may be amended or waived only by an instrument signed by the Funding Lender, the Fiscal Agent and the Governmental Lender. Funding Lender may, at its election, require delivery of a Favorable Opinion of Tax Counsel in connection with any such amendment or waiver.

(b) An amendment or other document described under this Article that in the determination of the Funding Lender and Governmental Lender materially affects any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented in writing to the execution of such amendment or other document (provided that no such consent shall be required if the Borrower is in default under any Funding Loan Document).

Section 6.2 Amendments to the Borrower Loan Agreement, the Borrower Notes or the Mortgage.

(a) The Governmental Lender shall not cause or permit to exist any amendment, modification, supplement, waiver or consent with respect to the Borrower Loan Agreement, the Borrower Notes or the Mortgage without the prior written consent of the Funding Lender and the Borrower.

(b) Notwithstanding anything to the contrary contain herein or therein, the Funding Lender, as assignee of the Governmental Lender, and the Borrower may, without the consent of or prior notice to Governmental Lender, enter into or permit any amendment of the Borrower Loan Agreement, the Borrower Notes or the Borrower Mortgage acceptable to the Funding Lender and the Borrower provided, however, that any change which, in the reasonable judgment of the Funding Lender, materially modifies the Reserved Rights of the Governmental Lender shall require the written consent of the Governmental Lender.

(c) The Funding Lender and the Borrower shall file copies of any such amendments to the Borrower Loan Agreement, the Borrower Notes or the Mortgage with the Governmental Lender, the Fiscal Agent and the Servicer promptly following execution.

(d) An amendment or other document described under this Article that materially affects any rights or obligations of the Borrower shall not become effective unless and until the Borrower shall have consented to the execution of such amendment or other document (provided that no such consent shall be required if the Borrower is in default under any Funding Loan Document).

**ARTICLE VII
THE FISCAL AGENT**

Section 7.1 Appointment of Fiscal Agent. The Fiscal Agent is hereby appointed and does hereby agree to act in such capacity, and to perform the duties of the Fiscal Agent under this Funding Loan Agreement, but only upon and subject to the following express terms and conditions. These duties shall be deemed purely ministerial in nature, and the Fiscal Agent shall not be liable except for the performance of

such duties, and no implied covenants or other obligations shall be read into this Funding Loan Agreement against the Fiscal Agent:

(a) The Fiscal Agent may execute any of its trusts or powers hereunder and perform any of its duties by or through attorneys, agents, receivers or employees, and shall not be responsible for any acts or omissions of such attorneys, agents or receivers appointed with due care. The Fiscal Agent shall be entitled to rely on the advice of Counsel or other professionals retained or consulted by the Fiscal Agent concerning all matters hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees. The Fiscal Agent may act upon the opinion or advice of Counsel and shall not be responsible for any loss or damage resulting from any action or non-action taken in good faith in reliance upon such opinion or advice.

(b) The Fiscal Agent shall not be responsible for any recital herein or in the Governmental Notes, or for the recording, re-recording, filing or re-filing of this Funding Loan Agreement, of any Financing Statements or continuation statements, or for insuring the Security or the Project Facilities or collecting any insurance moneys, or for the validity of this Funding Loan Agreement or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Governmental Notes delivered hereunder or intended to be secured hereby, or for the value of or title to the Project Facilities or otherwise as to the maintenance of the Security. The Fiscal Agent shall not be liable to the Borrower, any Noteowner or any other Person for any loss suffered in connection with any investment of funds made by it in accordance with Section 4.7 hereof as instructed in writing by the Borrower in accordance with the provisions of this Funding Loan Agreement, and with the prior written consent of the Funding Lender, as applicable. The Fiscal Agent shall have no duty or responsibility to examine or review and shall have no liability for the contents of any documents submitted to or delivered to any Noteowner in the nature of a preliminary or final placement memorandum, official statement, offering circular or similar disclosure document. Neither the Fiscal Agent nor any of its directors, officers, employees, agents or affiliates shall be responsible for nor have any duty to monitor the performance or any action of the Borrower, the Governmental Lender, any Noteowner, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party. The Fiscal Agent may assume performance by all such Persons of their respective obligations. The Fiscal Agent shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other Person.

(c) The Fiscal Agent shall not be accountable for the use of the Governmental Notes authenticated and delivered hereunder after the Governmental Notes shall have been delivered in accordance with instructions of the Governmental Lender or for the use by the Borrower of the proceeds of the Funding Loan advanced to the Borrower as provided in the Borrower Loan Agreement. The Fiscal Agent may become the owner of Governmental Notes secured hereby with the same rights as any other Noteowner.

(d) The Fiscal Agent shall be protected in acting upon opinions of Counsel and upon any notice, request, consent, certificate, order, judgment, decree, affidavit, letter, electronic mail, bond, debenture, note, other evidence of indebtedness, or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein. Any notices, directions, consents, approvals or requests provided to the Fiscal Agent pursuant to the terms of this Funding Loan Agreement or any of the other Funding Loan Documents shall not be effective until provided in writing. Any action taken by the Fiscal Agent pursuant to this Funding Loan Agreement upon the request or authority or consent of any Person

who at the time of making such request or giving such authority or consent is the Noteowner of the Governmental Note shall be conclusive and binding upon all future Noteowners thereof.

(e) The permissive right of the Fiscal Agent to do things enumerated in this Funding Loan Agreement, the Borrower Loan Agreement and the other Funding Loan Documents, as applicable, shall not be construed as duties. The Fiscal Agent shall only be responsible for the performance of the duties expressly set forth herein and therein and shall not be answerable for other than its gross negligence or willful misconduct, as finally adjudicated on a non-appealable basis by a court of competent jurisdiction, in the performance of those express duties. No implied covenants shall be read into this Funding Loan Agreement, the Borrower Loan Agreement or the other Funding Loan Documents to which the Fiscal Agent is a party against the Fiscal Agent. The Fiscal Agent shall have no liability for any action taken, or errors in judgment made, in good faith by it or any of its officers, employees or agents, unless it shall have been grossly negligent in ascertaining the pertinent facts as finally adjudicated on a non-appealable basis by a court of competent jurisdiction.

(f) The Fiscal Agent shall not be personally liable for any debts contracted or for damages to Persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts, relating to the Project Facilities.

(g) The Fiscal Agent shall not be required to give any bond or surety in respect of this Funding Loan Agreement or the other Funding Loan Documents.

(h) Before taking any action requested hereunder by the Funding Lender, the Servicer or the Noteowners which may require it to expend its own funds, the Fiscal Agent may require that it be furnished with security or indemnification (satisfactory to the Fiscal Agent in its sole and absolute discretion) for all expenses to which it may be put by reason of any action so taken. The Fiscal Agent shall not be entitled to indemnification as a precondition to giving notices of default or taking other actions at the direction of the Funding Lender which do not require the Fiscal Agent to expend its own funds.

(i) The Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken hereunder or under any other Funding Loan Document by it in accordance with the written direction of the Funding Lender, or the Noteowners relating to the time, method and place of conduction of any proceeding for any remedy available to the Fiscal Agent, or for exercising any trust or power conferred upon the Fiscal Agent, under this Funding Loan Agreement or the other Funding Loan Documents.

(j) All moneys received by the Fiscal Agent, until used or applied or invested as herein provided, shall be held as special trust funds for the purposes specified in this Funding Loan Agreement and for the benefit and security of the Noteowners of the Governmental Notes as herein provided. Such moneys need not be segregated from other funds except to the extent required by law or herein provided, and the Fiscal Agent shall not otherwise be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(k) The Fiscal Agent shall not be bound to ascertain or inquire as to the performance of the obligations of the Borrower or the Governmental Lender under the Borrower Loan Agreement or this Funding Loan Agreement, and shall not be deemed to have, or be required to take, notice of any events or information, or any default or Event of Default under this Funding Loan Agreement (other than under Section 5.1(a) or (b), or Section 5.1(c) hereof if written notice thereof has been received by a Responsible Officer of the Fiscal Agent), or the occurrence of a

Determination of Taxability, except in the event (i) the Borrower fails to pay any payment when due, (ii) of an insufficient amount in the Funding Loan Fund (or any account therein) to make a principal or interest payment on the Governmental Note, (iii) of receipt by a Responsible Officer of the Fiscal Agent of written notification of a Determination of Taxability by the Owner of the Governmental Note, (iv) of receipt by a Responsible Officer of the Fiscal Agent of receipt of written notification of such Default by the Servicer, the Funding Lender or two or more Noteowners with combined holdings of not less than twenty-five percent (25%) of the principal amount of the outstanding Governmental Note, or (v) of receipt by a Responsible Officer of the Fiscal Agent of receipt of an opinion of Tax Counsel concluding that a Determination of Taxability has occurred, and in the absence of such notice the Fiscal Agent may conclusively presume there is no Determination of Taxability and no default except as aforesaid. The Fiscal Agent may nevertheless (and in its sole and absolute discretion) require the Governmental Lender and the Borrower to furnish information regarding performance of their obligations under the Borrower Loan Agreement and this Funding Loan Agreement, but is not obligated to do so.

(l) The Fiscal Agent shall, prior to any Event of Default and after the curing of all Events of Default which may have occurred, perform such duties and only such duties of the Fiscal Agent as are specifically set forth in this Funding Loan Agreement. The Fiscal Agent shall, during the existence of any Event of Default which has not been cured, exercise such of the rights and powers vested in it by this Funding Loan Agreement and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his/her own affairs.

(m) In addition to the Fiscal Agent's other duties hereunder, the Fiscal Agent shall authenticate and cancel the Governmental Notes as provided herein, keep such books and records relating to such duties as shall be consistent with prudent industry practice and make such books and records available for inspection by the Governmental Lender, the Funding Lender, the Servicer and the Borrower at all reasonable times. The Governmental Notes shall be made available for authentication, exchange and registration of transfer at the principal office of the Fiscal Agent.

(n) [Reserved].

(o) The Fiscal Agent shall have no obligation or responsibility whatsoever in connection with (i) any federal or state tax-exempt status of the Governmental Notes or the interest thereon; (ii) the consequences of the investment or non-investment of any Accounts relating to the Governmental Notes under Section 148 of the Code, or (iii) the calculation of any amount required to be rebated to the United States under Section 148 of the Code.

(p) No provision of this Funding Loan Agreement or the Borrower Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(q) The Fiscal Agent may, at the expense of the Borrower, request, rely on and act in accordance with officer's certificates and/or opinions of Counsel provided by the Borrower, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance with such officer's certificates and opinions of Counsel. Whenever in the administration of this Funding Loan Agreement the Fiscal Agent deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent may, except as otherwise expressly set forth herein, conclusively rely upon a written certificate of the Funding Lender.

(r) The Fiscal Agent shall be entitled to request and receive written instructions hereunder and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Fiscal Agent in accordance with any such written direction. In the absence of a written direction from the Funding Lender or the Servicer, if the Fiscal Agent receives inconsistent or conflicting written directions and indemnity from two or more groups of Owners of the Governmental Note, each representing less than a majority in aggregate principal amount of the Funding Loan outstanding, pursuant to the provisions of this Funding Loan Agreement, the written directions given by the group of Noteowners which holds the largest percentage of the principal amount of the Funding Loan shall be controlling and the Fiscal Agent shall (subject to the provisions of this Funding Loan Agreement) follow such directions.

(s) The Fiscal Agent's immunities and protections from liability and its rights to indemnification in connection with the performance of its duties under this Funding Loan Agreement shall likewise extend to the Fiscal Agent's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Fiscal Agent's rights to compensation, shall survive the Fiscal Agent's resignation or removal, the termination of this Funding Loan Agreement and the final payment of the Governmental Notes.

(t) The Fiscal Agent, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold or deal in the Governmental Notes and may join in any action that any Noteowner may be entitled to take with like effect as if it were not the Fiscal Agent. The Fiscal Agent, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the Borrower and may act as depository, fiscal agent or agent for any committee of Noteowners secured hereby or other obligations of the Borrower, as freely as if it were not the Fiscal Agent hereunder. The provisions of this paragraph shall extend to the Affiliates of the Fiscal Agent.

(u) Whether or not expressly so provided, each and every provision of this Funding Loan Agreement relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent is subject to the provisions of this Section.

(v) In no event shall the Fiscal Agent be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Fiscal Agent has been advised of the likelihood of such loss or damage and regardless of the form of action. The Fiscal Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Funding Loan Agreement arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; pandemics; quarantine restrictions; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

Section 7.2 Compensation and Indemnification of Fiscal Agent; Fiscal Agent's Prior Claim.

(a) The Borrower Loan Agreement provides that the Borrower will pay the reasonable fees, costs and expenses of the Fiscal Agent under this Funding Loan Agreement (including counsel fees, costs and expenses) and all other amounts which may be payable to the Fiscal Agent under this Section, such

fees and expenses to be paid when due and payable by the Borrower directly to the Fiscal Agent for its own account. Except as set forth in Section 5.7, the Fiscal Agent shall not have a lien on the Security for the payment of its fees or expenses and shall not be entitled to pay its fees and expenses from amounts held in the Accounts hereunder.

(b) The Borrower shall (i) pay the Fiscal Agent from time to time, and the Fiscal Agent shall be entitled to, reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust), (ii) pay or reimburse the Fiscal Agent upon request for all reasonable expenses, disbursements and advances incurred or made, in accordance with any of the provisions of this Funding Loan Agreement and the Borrower Loan Agreement (including the reasonable compensation and the incurred expenses and disbursements of its Counsel and of all agents and other persons not regularly in its employ), except to the extent that any such expense, disbursement or advance is finally adjudicated on a non-appealable basis by a court of competent jurisdiction to have been the direct result of its own gross negligence or willful misconduct, and (iii) indemnify the Fiscal Agent for, and to hold it harmless against, any loss, liability or expense incurred by it, arising out of or in connection with the acceptance or administration of this Funding Loan Agreement or the trusts hereunder or the performance of its duties hereunder or under the Borrower Loan Agreement, including the reasonable costs and expenses of defending itself against or investigating any claim of liability in the premises, except to the extent that any such loss, liability or expense is finally adjudicated on a non-appealable basis by a court of competent jurisdiction to have been the direct result of its own gross negligence or willful misconduct. "Fiscal Agent," for purposes of this Section shall include any predecessor Fiscal Agent, but the gross negligence or willful misconduct of any Fiscal Agent, as finally adjudicated on a non-appealable basis by a court of competent jurisdiction, shall not affect the indemnification of any other Person. The obligations of the Borrower under this Section shall survive the termination of this Funding Loan Agreement, the resignation or removal of the Fiscal Agent and the payment in full of the Funding Loan.

The provisions of this Section 7.2 shall not be subject to the recourse limitation of Section 10.13 of the Borrower Loan Agreement.

Section 7.3 Intervention in Litigation. In any judicial proceedings to which the Governmental Lender is a party, the Fiscal Agent may in its sole and absolute discretion intervene on behalf of Noteowners, and shall (subject to the provisions of this Funding Loan Agreement) intervene if directed in writing by the Servicer, the Funding Lender or the Noteowners of at least twenty-five percent (25%) in aggregate principal amount of the Governmental Note then outstanding.

Section 7.4 Resignation; Successor Fiscal Agents.

(a) The Fiscal Agent and any successor Fiscal Agent may resign and be discharged from its duties and obligations hereunder at any time upon giving thirty (30) calendar days prior written notice to the Governmental Lender, the Borrower, the Servicer, the Funding Lender and (by electronic notice) to each Noteowner. Such resignation shall take effect only upon the appointment of a successor Fiscal Agent by the Governmental Lender with the consent of the Funding Lender and the acceptance of such appointment by the successor Fiscal Agent. If no successor is appointed within thirty (30) calendar days after the notice of resignation, the Funding Lender may appoint a Fiscal Agent or the resigning Fiscal Agent shall be entitled to appoint a successor or petition any court of competent jurisdiction to appoint a successor, and for other appropriate relief, all at the Borrower's expense. Upon appointment of a successor Fiscal Agent, the resigning Fiscal Agent shall assign all of its right, title and interest in this Funding Loan Agreement and the Security to the successor Fiscal Agent. The successor Fiscal Agent shall be a bank or trust company with trust powers organized under the laws of the United States of America or any state of the United States, or the District of Columbia, having a combined capital stock, surplus and undivided profits aggregating at least \$50,000,000. Any successor Fiscal Agent shall accept in writing its duties and

responsibilities hereunder and such writing shall be filed with the Governmental Lender, the Funding Lender, the Servicer and the Borrower.

(b) Any corporation into which the Fiscal Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, reorganization or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or any material part of the corporate trust business of the Fiscal Agent that includes this Funding Loan Agreement, shall be the successor of the Fiscal Agent hereunder without the execution or filing of any paper or any further act on the part of any Person, anything herein to the contrary notwithstanding, provided that such successor Fiscal Agent shall be eligible to serve as Fiscal Agent under the provisions of this Funding Loan Agreement. If the Fiscal Agent is not the successor corporation in any such merger or consolidation, the Fiscal Agent shall give notice of such event to the Governmental Lender, the Funding Lender, the Servicer and the Borrower and shall take such action as may be required to effect a transfer of the obligations of the Fiscal Agent included in this Funding Loan Agreement to such successor corporation.

Section 7.5 Removal of Fiscal Agent. The Fiscal Agent may be removed at any time, by an instrument or concurrent instruments in writing delivered to the Fiscal Agent, the Governmental Lender, the Servicer and the Borrower and signed by the Funding Lender. During such time that no Event of Default has occurred and is continuing under this Funding Loan Agreement, the Fiscal Agent may also be removed by an instrument or concurrent instruments in writing delivered to the Fiscal Agent and the Governmental Lender and signed by the Funding Lender, with notice to the Borrower and the Servicer. Such removal shall take effect only upon the appointment of a successor Fiscal Agent by the Governmental Lender with the consent of the Funding Lender and the acceptance of such appointment by the successor Fiscal Agent. Upon such removal, the Fiscal Agent shall assign to the successor Fiscal Agent all of its right, title and interest in this Funding Loan Agreement and the Security in the same manner as provided in Section 7.4 hereof.

Section 7.6 Filing of Financing Statements. Pursuant to Section 3.2 of the Borrower Loan Agreement, the Borrower has agreed to file or record or cause to be filed or recorded all Financing Statements that are required in order fully to protect and preserve the Security Interests and the priority thereof and the rights and powers of the Funding Lender or the Fiscal Agent, as applicable, in connection therewith. The Fiscal Agent shall file all continuation statements with respect to Financing Statements in which it is named as the secured party for the purpose of continuing without lapse the effectiveness of those Financing Statements which shall have been filed at or prior to the delivery of the Governmental Notes in connection with the security for the Governmental Notes pursuant to the authority of the U.C.C. The Borrower will pay all costs of preparation and filing the Financing Statements and all financing and continuation statements required under Section 3.2 of the Borrower Loan Agreement.

ARTICLE VIII SERVICER; SERVICING

Section 8.1 Funding Lender to Appoint Servicer. The Funding Lender may engage a Person, collaterally assign some or all of its rights hereunder to a Person, or otherwise provide for a Person, at the Funding Lender's sole cost and expense, to act on behalf of the Funding Lender under the Funding Loan Documents as the "Servicer." The Funding Lender may at any time and from time to time terminate or remove and replace any such Servicer. The Funding Lender shall give written notice to the Governmental Lender, the Fiscal Agent and the Borrower of its appointment, termination, removal or replacement of any Servicer, and the parties may rely on any such notice until any subsequent notice is given. Initially, the Funding Lender has engaged Lument Real Estate Capital, LLC to act as the "Servicer" hereunder and Lument Real Estate Capital, LLC has accepted such engagement. The Funding Lender is under no obligation to appoint a Servicer; if at any time a Servicer has not been designated by the Funding Lender,

all references to the “Servicer” herein and in the other Funding Loan Documents shall refer to the Funding Lender. Any opinion or certificate provided for herein, in the Borrower Loan Agreement or in any other Funding Loan Document that is directed to the Servicer shall also be directed to, and may be relied upon by, the Funding Lender. The Funding Lender will have no liability to the Governmental Lender, the Borrower or any other Person for any act or omission of the Servicer unless the Servicer is the Funding Lender or such act or omission was expressly approved by the Funding Lender in each particular case but not, in any event, with respect to any liabilities, damages, costs or expenses against which such Indemnified Party is indemnified under Section 2.5 of the Borrower Loan Agreement.

Section 8.2 Servicing.

(a) The Funding Lender has appointed the Servicer to be the servicer of the Funding Loan and the Borrower Loan and the Servicer has accepted such appointment. Satisfactory arrangements have previously been made for the payment of servicing fees and expenses in connection with the Servicer’s servicing obligations hereunder, and the Borrower and the Funding Lender have no obligation for such payments. Without limiting the foregoing, the Servicer shall have no right or claim to any transfer or assumption fees, late charges, Acceleration Premium or Default Interest payable under this Funding Loan Agreement or the other Funding Loan Documents; provided, however that, to the extent permitted under the Funding Loan Documents, the Servicer shall be entitled to collect from the Borrower its normal and customary incidental fees and charges for any requested review, approval or other action, including, without limitation, in connection with any proposed transfer, loan assumption, easement, site inspections (including travel costs), subordinate financing, release of collateral, condemnation proceeding, non-disturbance agreement or other similar action, unless such review, approval or other action is performed solely by the Funding Lender.

(b) The Servicer shall be responsible for the performance of the following servicing duties:

(i) The Servicer shall perform the duties expressly given to the Servicer under this Funding Loan Agreement, the other Funding Loan Documents and the Servicing Agreement between the Funding Lender and the Servicer.

(ii) The Servicer shall prepare monthly bills to the Borrower in accordance with the Funding Loan Documents for payments to the Fiscal Agent of principal and interest under the Borrower Loan and for deposits into the Tax and Insurance Escrow Fund and the Replacement Reserve Fund. On the third to last Business Day of each calendar month, the Servicer shall notify the Borrower of the amount payable by the Borrower to the Fiscal Agent on the next Business Day and will provide a copy thereof to the Fiscal Agent and the Funding Lender. Such notification may be delivered by Electronic Means. The Servicer shall diligently attempt to collect all of the following, at the times they are due and payable under this Funding Loan Agreement and the other Funding Loan Documents:

- (1) The principal and interest due and payable on the Borrower Notes;
- (2) The Governmental Lender Fee and Fiscal Agent Fee, as applicable;
- (3) Any monthly Replacement Reserve Fund deposit;
- (4) Any Monthly Tax and Insurance Amounts;
- (5) Any other escrow or reserve deposits required by this Funding Loan Agreement or the other Funding Loan Documents;

(6) Any assumption or transfer fee required by this Funding Loan Agreement or the other Funding Loan Documents; and

(7) Any Acceleration Premium.

(c) All payments received under this Funding Loan Agreement or the other Funding Loan Documents shall be applied in the following order unless otherwise instructed by the Funding Lender or expressly set forth in this Funding Loan Agreement or the other Funding Loan Documents:

(i) To the principal and interest due and payable on the Borrower Notes;

(ii) To the Governmental Lender Fee and Fiscal Agent Fee, as applicable;

(iii) To the Acceleration Premium, if applicable;

(iv) To required deposits to the Replacement Reserve Fund;

(v) To required deposits in the Tax and Insurance Escrow Fund;

(vi) To other escrow or reserve deposits required by this Funding Loan Agreement or the other Funding Loan Documents;

(vii) To Default Interest and any late fees; and

(viii) To other amounts due under the Funding Loan Documents.

(d) Any payment received by the Servicer from or on behalf of the Borrower under this Funding Loan Agreement or the other Funding Loan Documents required to be submitted to the Fiscal Agent shall be remitted by the Servicer to the Fiscal Agent no later than the second (2nd) Business Day after receipt by the Servicer, or sooner if so required under this Funding Loan Agreement or the other Funding Loan Documents. The Servicer shall make any remittance to the Fiscal Agent by wire transfer in accordance with the instructions received from the Fiscal Agent or to any other party entitled to such remittances pursuant this Funding Loan Agreement or the other Funding Loan Documents in accordance with the instructions received from the Funding Lender.

(e) The Servicer shall review the Tax and Insurance Escrow Fund and the Replacement Reserve Fund on an annual basis and process adjustments for required monthly escrow payments in accordance with terms of the Funding Loan Documents. The Servicer shall notify the Funding Lender, the Borrower and the Fiscal Agent of any such adjustment(s).

(f) The Servicer shall prepare monthly reports for the Funding Lender and the Fiscal Agent outlining the status of the Funding Loan and the Borrower Loan, including disbursements from the Replacement Reserve Fund, the Tax and Insurance Escrow Fund, the Operating Reserve Fund or any other Account under this Funding Loan Agreement, loan history schedules, outstanding loan balances and escrow balances, which reports shall be furnished to the Funding Lender and the Fiscal Agent no later than the fifteenth (15th) day of each calendar month (or the next Business Day thereafter if such fifteenth (15th) day is not a Business Day).

(g) The Servicer shall provide immediate written notice to the Funding Lender, the Fiscal Agent and the Borrower of any Event of Default of which it receives notice or has actual knowledge, or

any event which, with the giving of notice or the passage of time, or both, would constitute any Event of Default of which it receives notice or has actual knowledge.

(h) The Servicer shall refer to the Funding Lender all Borrower requests for a quote of a payoff amount for the Borrower Loan and shall request a copy of any such quote from the Funding Lender. The Servicer shall prepare payoff letters and delinquency and default notices when necessary, as required by the Funding Loan Documents or this Funding Loan Agreement or otherwise as directed by the Funding Lender.

(i) The Servicer shall use commercially reasonable efforts to obtain financial statements and other reports from the Borrower or relating to the Project Facilities at the times and to the extent required under the Funding Loan Documents and deliver the same to the Funding Lender.

(j) The Servicer shall obtain, and shall provide to the Funding Lender a copy of the Borrower's certificates of compliance with the Land Use Restriction Agreement or other evidence of such compliance submitted by the Borrower to the Governmental Lender or the Governmental Lender's designee within thirty (30) days after the later of (i) the date it is required to be submitted to the Governmental Lender or the Governmental Lender's designee, or (ii) the date it is actually so submitted.

ARTICLE IX MISCELLANEOUS

Section 9.1 Right of Funding Lender to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon any part of the Project Facilities is not paid as required, the Funding Lender may (but shall not be obligated to), pay such tax, assessment or governmental or other charge, without prejudice, however, to any rights of the Funding Lender hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment until paid at the greater of the rate of interest borne by the Governmental Notes or the per annum rate of interest announced from time to time by the bank serving as Funding Lender as its "prime rate" shall become so much additional indebtedness secured by this Funding Loan Agreement, shall be given a preference in payment over the Governmental Notes, and shall be paid out of the Security.

Section 9.2 Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Funding Loan Agreement or the Governmental Notes is intended or shall be construed to give to any Person other than the parties hereto, the Noteowners, the Servicer and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Funding Loan Agreement or any covenants, conditions and provisions herein contained; this Funding Loan Agreement and all of the covenants, conditions and provisions herein being intended to be and being for the sole and exclusive benefit of the parties hereto, the Noteowners, the Servicer and the Borrower as herein provided.

Section 9.3 Severability. If any provision of this Funding Loan Agreement is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or sections of this Funding Loan Agreement, shall not affect the remaining portions of this Funding Loan Agreement or any part thereof.

Section 9.4 Notices. Except as otherwise provided herein, all notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service or Electronic Means

(with confirmed receipt) to the address or e-mail address set forth below and shall be deemed to have been given on the date deposited in the mail, if mailed, by first-class, registered or certified mail, postage prepaid, addressed as set forth below. Where required herein, notice shall be given by telephone, and promptly confirmed in writing, and shall be deemed given when given by telephone to the telephone numbers set forth below. The Governmental Lender, the Borrower, the Fiscal Agent, the Funding Lender, the Servicer and the Tax Credit Investor may, by written notice given hereunder, designate any different addresses, phone numbers and e-mail addresses to which subsequent notices, certificates, approvals, consents, requests or other communications shall be sent.

To the Governmental Lender:

City of San José
Department of Finance
200 East Santa Clara Street, 13th Floor Tower
San José, California 95113
Attention: Debt Management
Email: debt.management@sanjoseca.gov

With a copy to:

City of San José
Department of Housing
200 East Santa Clara Street, 12th Floor
San José, California 95113-1905
Attention: Director of Housing

and:

City of San José
City Attorney's Office
200 East Santa Clara Street, 16th Floor
San José, California 95113-1905
Attention: Housing Attorney

To the Fiscal Agent:

UMB Bank, National Association
3070 Bristol Street, Suite 300
Costa Mesa, California 92626
Attention: Jeanie Mar, Senior Vice President
Email: jeanie.mar@umb.com

To the Borrower:

Berryessa Affordable Housing, L.P.
c/o Affirmed Housing Group, Inc.
11673 George Cooke Express Drive
San Diego, California 92127
Attention: President

With a copy to:

Katten Muchin Rosenman LLP
2121 Avenue of the Stars, Suite 1100
Los Angeles, California 90067
Attn: David Cohen
Email: david.cohen@katten.com

and:

CFAH Housing LLC
c/o Compass for Affordable Housing
17190 Bernardo Center Dr., Suite 200
San Diego, California 92128
Attention: Executive Director

and:

Hobson Bernardino + Davis LLP
600 Corporate Pointe, Suite 215
Culver City, California 90230
Attn: Jason A. Hobson, Esq.
Email: jhobson@hbdlegal.com

To the Funding Lender:

Deutsche Bank Securities Inc.
Deutsche Bank Center
1 Columbus Circle
New York, New York 10019
Attention: Municipal Capital Markets

With a copy to:

Kutak Rock LLP
Two Logan Square
100 North 18th Street, Suite 1920
Philadelphia, Pennsylvania 19103
Attention: Andrew P. Schmutz, Esquire
E-mail: Andrew.Schmutz@kutakrock.com

To the Servicer:

Lument Real Estate Capital, LLC
3111 Camino Del Rio N, Suite 100
San Diego, California 92108
Attention: [Nick Hamilton
Telephone: (619) 471-0117
Email: nick.hamilton@lument.com]

With a copy to:

[Servicer Counsel]

Attention: _____

E-mail: _____

If to Tax Credit Investor:

BF FRE 2023, Limited Partnership
c/o Boston Financial Investment Management,
L.P.
225 Franklin Street, 28th Floor
Boston, MA 02110
Attention: Asset Management – Berryessa

With a copy to:

Kutak Rock LLP
1650 Farnham Street
The Omaha Building
Omaha, NE 68102-2103
Attention: Gregory Grattan
Telephone: (402) 231-8972
Email: gregory.grattan@kutakrock.com

Section 9.5 Payments Due on Non-Business Days. In any case where the date of maturity of, interest on or premium, if any, or principal of the Governmental Notes or the date fixed for prepayment of the Governmental Notes shall not be a Business Day, then payment of such interest, premium or principal need not be made on such date but shall be made on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for prepayment, and, in the case of such payment, no interest shall accrue for the period from and after such date and until such next succeeding Business Day.

Section 9.6 Binding Effect. This instrument shall inure to the benefit of and shall be binding upon the Governmental Lender and the Funding Lender and their respective successors and assigns, subject, however, to the limitations contained in this Funding Loan Agreement.

Section 9.7 Captions. The captions or headings in this Funding Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Funding Loan Agreement.

Section 9.8 Governing Law. This Funding Loan Agreement shall be governed by and interpreted in accordance with the laws of the State, without regard to conflict of laws principles.

Section 9.9 Limited Liability of Governmental Lender. All obligations and any liability of the Governmental Lender under any of the Funding Loan Documents are limited obligations of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. None of the Governmental Lender, any of its members, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the on the Governmental Notes and the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever of the Governmental Lender under the Funding Loan Documents except as set forth herein, and none of the Funding Loan or the Governmental Notes or any of the Governmental Lender's agreements or obligations under the Funding Loan, the Governmental Notes or hereunder, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. None of the faith, revenues, credit or taxing power of the Governmental Lender, any of its members, the State or any other political corporation or subdivision or agency thereof shall be pledged to the payment of the principal of, premium (if any), or interest on the on the Governmental Notes and the Funding Loan or otherwise to secure the obligations of the Governmental Lender under the Funding Loan Documents.

Anything in this Funding Loan Agreement to the contrary notwithstanding, it is expressly understood by the parties to this Funding Loan Agreement that (a) the Governmental Lender may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Fiscal Agent, the Borrower or the owner of the Governmental Notes or the Funding Lender as to the existence of any fact or state of affairs, (b) the Governmental Lender shall not be under any obligation under this Funding Loan Agreement or any of the other Funding Loan Documents 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 Fiscal Agent and (c) none of the provisions of the Funding Loan Documents shall require the Governmental Lender 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 the Funding Loan Documents, 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. No recourse for the payment of any part of the principal of, premium, if any, or interest on the Governmental Notes or the Funding Loan or for the satisfaction of any liability arising from, founded upon or existing by reason of the issuance, purchase or ownership of the Governmental Notes or the Funding Loan or otherwise under the Funding Loan Documents shall be had against the Governmental Lender or any official, officer, Councilmember, agent or employee of the Governmental Lender, as such, all such liability being expressly released and waived as a condition of and as a part of the consideration for the execution of this Funding Loan Agreement and the issuance of the Governmental Notes and the Funding Loan.

It is recognized that, notwithstanding any other provision of the Funding Loan Documents, none of the Borrower, the Fiscal Agent, the Funding Lender or any owner of the Governmental Notes or the Funding Loan shall look to the Governmental Lender for damages suffered by the Borrower, the Fiscal Agent, the Funding Lender or such owner as a result of the failure of the Governmental Lender to perform any covenant, undertaking or obligation under the Funding Loan Documents or any other documents referred to herein, or as a result of the incorrectness of any representation made by the Governmental Lender in any of such documents, or for any other reason. Although this Funding Loan Agreement recognizes that such documents shall not give rise to any pecuniary liability of the Governmental Lender, nothing contained in this Funding Loan Agreement shall be construed to preclude in any way any action or proceeding (other than that element of any action or proceeding involving a claim for monetary damages against the Governmental Lender) in any court or before any governmental body, agency or instrumentality or otherwise against the Governmental Lender or any of its officers or employees to enforce the provisions of any of such documents which the Governmental Lender is obligated to perform and the performance of which the Governmental Lender has not assigned to the Fiscal Agent or any other person.

THE GOVERNMENTAL NOTES, THE FUNDING LOAN AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE GOVERNMENTAL LENDER, PAYABLE SOLELY FROM THE PLEDGED REVENUES AND OTHER FUNDS AND MONEYS AND SECURITY PLEDGED AND ASSIGNED HEREUNDER, AND NOT FROM ANY OTHER REVENUES, FUNDS OR ASSETS OF THE GOVERNMENTAL LENDER. NEITHER THE GOVERNMENTAL LENDER, ANY OF ITS MEMBERS, THE STATE NOR ANY OTHER POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF THE GOVERNMENTAL NOTES, ANY PREPAYMENT PREMIUM OR THE INTEREST THEREON OR OTHER COSTS INCIDENT THERETO EXCEPT FROM THE MONEY SPECIFICALLY PLEDGED THEREFOR UNDER THIS FUNDING LOAN AGREEMENT. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE NOR ANY POLITICAL CORPORATION OR SUBDIVISION OR AGENCY THEREOF NOR OF THE GOVERNMENTAL LENDER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREPAYMENT PREMIUM, IF ANY, OR INTEREST ON THE GOVERNMENTAL NOTES OR THE FUNDING LOAN OR OTHER COSTS INCIDENT THERETO.

Section 9.10 Incorporation by Reference. The representations, covenants and agreements of the Governmental Lender set forth in the Funding Loan Documents are incorporated by reference herein for the benefit of the Funding Lender.

Section 9.11 Execution in Counterparts; Electronic Signatures. This Funding Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. To the fullest extent permitted by applicable law and except for the certificate of authentication on the Governmental Notes (which must be manually signed by an authorized representative of the Fiscal Agent) and instruments of transfer of the Governmental Notes, facsimile, PDF or electronically transmitted signatures shall constitute original signatures for all purposes under this Funding Loan Agreement to the fullest extent permitted by applicable law.

Section 9.12 Nonrecourse Obligation of the Governmental Lender. No recourse under or upon any obligation, covenant, warranty or agreement contained in the Funding Loan Documents, or under any judgment obtained against the Governmental Lender, or the enforcement of any assessment, or any legal or equitable proceedings by virtue of any constitution or statute or otherwise, or under any circumstances under or independent of the Funding Loan Documents, shall be had against the Governmental Lender or any of the officials, Councilmembers, officers, agents or employees of the Governmental Lender (past, present or future), either directly or through the Governmental Lender or otherwise, for the payment for or to the Governmental Lender or any receiver of the Governmental Lender, or for or to the owner of the Governmental Notes and the Funding Loan, or otherwise, of any sum that may be due and unpaid by the Governmental Lender under any of the Funding Loan Documents. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of the Governmental Lender or of any such Councilmember, officer, agent or employee, as such, by reason of any act of omission on his or her part or otherwise, for the payment for or to the owner of the Governmental Notes or the Funding Loan or otherwise of any sum that may remain due and unpaid under the Funding Loan Documents or any of them is, by the acceptance of the Governmental Notes or the Funding Loan, expressly waived and released as a condition of and in consideration for the execution of this Funding Loan Agreement and the issuance of the Governmental Notes and the Funding Loan.

Section 9.13 Recycling Transactions. Notwithstanding any provision of this Funding Loan Agreement or the Governmental Notes to the contrary, the Governmental Lender shall be permitted to direct those payments representing prepayments or repayments of principal on the Borrower Notes be delivered to a custodian or trustee selected by the Governmental Lender, in lieu of application to repay a like portion of the Governmental Notes, so long as the Governmental Lender simultaneously causes other funds to be applied to repay such portion of the applicable Governmental Note. The preceding provisions shall apply only for purposes of preserving or “recycling” private activity bond volume cap in accordance with Section 146(i)(6) of the Code. For purposes of effectuating the foregoing, the Fiscal Agent is hereby authorized and directed to open and create such funds or accounts, which may be temporary in nature, as may be necessary or desirable, and to close such funds or accounts following the completion of the transfers set forth in such written direction.

[The remainder of this page is left blank intentionally.]

IN WITNESS WHEREOF, each of the Governmental Lender, the Fiscal Agent and the Funding Lender have caused this Funding Loan Agreement to be executed in its name and on its behalf by its authorized official all as of the day and year first above written.

CITY OF SAN JOSÉ

By: _____

Director of Finance

Approved as to form:

By: _____

Senior Deputy City Attorney

**UMB BANK, NATIONAL ASSOCIATION,
as Fiscal Agent**

By: _____
Name:
Title:

**DEUTSCHE BANK SECURITIES INC., as Funding
Lender**

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A

FORM OF GOVERNMENTAL NOTE

THIS NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS GOVERNMENTAL NOTE (A) REPRESENTS THAT IT IS AN APPROVED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL NOTE OR ANY INTEREST HEREIN TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

**CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE NOTE, SERIES 2029[A][B]
(BERRYESSA OTD)**

[\$NOTE AMOUNT]

[DATE], 2029

FOR VALUE RECEIVED, the undersigned City of San José (the “Obligor”) promises to pay to the order of Deutsche Bank Securities Inc. (the “Noteowner”) the maximum principal sum of [NOTE AMOUNT IN WORDS] \$[NOTE AMOUNT], on [May] 1, [2066][2031], or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

The Obligor shall pay to the Noteowner on or before each date on which payment is due under that certain Funding Loan Agreement dated as of [May] 1, 2029 (the “Funding Loan Agreement”), among the Obligor, as the Governmental Lender, the Fiscal Agent and the Noteowner, as the Funding Lender, an amount in immediately available funds sufficient to pay the principal amount of and Acceleration Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid.

The Obligor shall pay to the Noteowner on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement or the applicable Borrower Note (as defined in the Funding Loan Agreement).

The Funding Loan and this Governmental Note are pass-through obligations relating to a construction and permanent loan (the “Borrower Loan”) made by Obligor from proceeds of the Funding Loan to Berryessa Affordable Housing, L.P., a California limited partnership, as borrower (the “Borrower”), under that certain Borrower Loan Agreement dated as of [May] 1, 2029 (as the same may be modified, amended or supplemented from time to time, the “Borrower Loan Agreement”), between the Obligor and the Borrower, evidenced by the applicable Borrower Note. Reference is made to the Borrower Loan Agreement and to the applicable Borrower Note for complete payment and prepayment terms of such Borrower Note, payments on which are passed-through under this Governmental Note.

This Governmental Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan

Agreement. None of the Governmental Lender, any of its members, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein and in the Funding Loan Agreement, and none of the Funding Loan or this Governmental Note or any of the Governmental Lender's agreements or obligations with respect to the Funding Loan or this Governmental Note shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. None of the faith, revenues, credit or taxing power of the Governmental Lender, any of its members, the State or any other political corporation or subdivision or agency thereof shall be pledged to the payment of the principal of, premium (if any), or interest on this Governmental Note and the Funding Loan or otherwise to secure the obligations of the Governmental Lender under the Funding Loan Documents.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Note is subject to the express condition that at no time shall interest be payable on this Governmental Note or the Funding Loan at a rate in excess of the allowed by law; and Obligor shall not be obligated or required to pay, nor shall the Noteowner be permitted to charge or collect, interest at a rate in excess of such maximum rate. If by the terms of this Governmental Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such maximum rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such maximum rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Noteowner may declare the entire unpaid principal balance of this Governmental Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Note.

No delay or omission on the part of the Noteowner in exercising any remedy, right or option under this Governmental Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Noteowner under this Governmental Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Noteowner at law or in equity or under any other agreement.

The Obligor shall pay all costs of collection on demand by the Noteowner, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Noteowner of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Noteowner of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Noteowner to any action of Obligor which is subject to consent or approval of the Noteowner hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

This Governmental Note shall not be entitled to any benefit under the Funding Loan Agreement or be valid or obligatory for any purpose until the Fiscal Agent shall have executed the Certificate of Authentication appearing hereon.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Note or caused this Governmental Note to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

CITY OF SAN JOSE

By: _____
Name: _____
Title: Director of Finance

CERTIFICATE OF AUTHENTICATION

This Governmental Note is the Series 2029[A][B] Governmental Note described in the Funding Loan Agreement referred to herein.

Date of Authentication: _____

UMB BANK, NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
[]

EXHIBIT B
FORM OF INVESTOR LETTER

[Date]

City of San José
Department of Finance
200 East Santa Clara Street, 13th Floor
San José, California 95113-1905
Attention: Debt Management

Re: CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE NOTE, SERIES 2029A
and SERIES 2029B (BERRYESSA OTD)

The undersigned, as holder (the “Noteowner”) of the above-referenced Governmental Notes delivered pursuant to the Funding Loan Agreement dated as of [May] 1, 2029 (the “Funding Loan Agreement”), among the City of San José (the “Governmental Lender”), UMB Bank, National Association, as fiscal agent, and Deutsche Bank Securities Inc., as Funding Lender (the “Funding Lender”), hereby represents that:

The undersigned acknowledges that the Governmental Notes are being delivered for the purpose of making a loan to assist in the financing or refinancing of the construction, improvement and equipping of a certain multifamily rental housing development located in San José, California (the “Project”), as more particularly described in that certain Borrower Loan Agreement dated as of [May] 1, 2029 (the “Borrower Loan Agreement”), between the Governmental Lender and Berryessa Affordable Housing, L.P., a California limited partnership (the “Borrower”).

In connection with the delivery of the Governmental Notes in favor of the Noteowner, the Noteowner hereby makes the following representations upon which you may rely:

1. The Noteowner has authority to execute this letter and any other instruments and documents required to be executed by the Noteowner in connection with the delivery of the Governmental Notes.

2. The Noteowner is an Approved Transferee and therefore has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the Governmental Notes.

3. Any disposition by the Noteowner at this time of all or any part of either Governmental Note shall be only to an institution or entity that is an Approved Transferee or that Noteowner reasonably believes is an Approved Transferee; provided, however, the Noteowner reserves the right to deposit the Governmental Notes into a trust or custodial arrangement in which all of the beneficial ownership interests would be owned by one or more other Approved Transferees; it being understood and agreed that, under such circumstances, each such beneficial owner, in connection with its acquisition of an interest in such arrangement, would be required to represent to the relevant Noteowner or custodian that it was acquiring such interest for its own account and for investment purposes, and not with a present view to or for resale. Furthermore, the Noteowner reserves the right to dispose of all or any part of the Governmental Notes in

the future, if the Noteowner deems it advisable to do so or if required under the trust, securitization or custodial arrangement described above. The Noteowner understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

4. The Noteowner understands that (a) the Governmental Notes are not secured by any pledge of any moneys received or to be received from taxation by the State of California or any political subdivision thereof, (b) the Governmental Notes do not and will not represent or constitute a general obligation or a pledge of the faith and credit of the Governmental Lender, the State of California or any political subdivision thereof; and (c) the liability of the Governmental Lender with respect to the Governmental Notes is limited to the Security as set forth in the Funding Loan Agreement.

5. The Noteowner acknowledges that to its knowledge it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Noteowner has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the General Partner, the Guarantor, the Project Facilities and the Governmental Notes and the security therefor so that, as a reasonable investor, the Noteowner has been able to make its decision to make the applicable Funding Loan to the Governmental Lender.

6. The Noteowner has made its own inquiry and analysis with respect to the Governmental Notes and the security therefor, and other material factors affecting the security and payment of the Governmental Notes. The Noteowner is aware that the business of the Borrower involves certain economic variables and risks that could adversely affect the security for the Governmental Notes.

7. In entering into this transaction the Noteowner has not relied upon any representations or opinions made by the Governmental Lender other than representations and statements of the Governmental Lender set forth in the documents providing for the execution and delivery of the Governmental Notes, nor has it looked to, nor expected, the Governmental Lender to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project Facilities (including the financing or management thereof), or any other matter pertaining to the merits or risks of the transaction, or the adequacy of the funds pledged to secure repayment of the Governmental Notes.

8. Capitalized terms used herein and not otherwise defined have the meaning given such terms in the Funding Loan Agreement.

DEUTSCHE BANK SECURITIES INC.

By: _____
Name:
Title:

By: _____
Name:
Title: