

NEW ISSUE – Book-Entry Only

RATING: Moody’s “[Aa1]”
SEE “RATING” herein.

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Issuer, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), except that no opinion is expressed as to such exclusion of interest on any Bonds for any period during which such Bonds are held by a person who, within the meaning of Section 147(a) of the Code, is a “substantial user” of the facilities financed with the proceeds of the Bonds, or a “related person,” and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code, however, interest on the Bonds is included in the “adjusted financial statement income” of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code. In addition, in the opinion of Bond Counsel to the Issuer, under existing statutes, interest on the Bonds is exempt from personal income taxes imposed by the State of California. See “TAX MATTERS” herein.

\$82,584,000*

City of San José

Multifamily Housing Revenue Bonds, Series 2026A

(Berryessa TOD)

Dated: Date of Delivery
Initial Interest Rate: ____%
Initial Offering Price: 100%

Mandatory Tender in connection with Conversion Date:
no earlier than: May 1, 2029*
Fixed Mandatory Tender Date: November 1, 2029*
Maturity Date: May 1, 2066*
CUSIP † : _____

The City of San José (the “Issuer”) is issuing its Multifamily Housing Revenue Bonds, Series 2026A (Berryessa TOD) (the “Bonds”) pursuant to a Trust Indenture dated as of April 1, 2026 (the “Indenture”), by and between the Issuer and UMB Bank, National Association, as trustee (the “Trustee”). The Bonds shall bear interest on the outstanding principal amount thereof at the Initial Interest Rate set forth above (the “Initial Interest Rate”) from their date of issuance to, but not including, the Fixed Mandatory Tender Date set forth above (the “Fixed Mandatory Tender Date”), payable on each May 1 and November 1, commencing November 1, 2026*. The Bonds are issuable only as fully registered bonds without coupons in the denomination of \$5,000 principal amount or any integral multiple of \$1,000 in excess thereof. See “THE BONDS” herein.

The Bonds are being issued to finance a loan (the “Loan”) to Berryessa Affordable Housing, L.P., a California limited partnership (the “Borrower”), to enable the Borrower to pay a portion of the cost of constructing and developing a 195-unit multifamily rental housing project located in San José, California, and known as Berryessa TOD (the “Project”). The Loan will be made to the Borrower pursuant to a Loan Agreement, dated as of April 1, 2026 (the “Loan Agreement”), between the Issuer and the Borrower, under which the Borrower has agreed to provide, as described herein, payments to the Issuer in amounts sufficient to pay the principal of and interest on the Bonds when due. The Loan will be evidenced by a Promissory Note in the principal amount of \$82,584,000* (the “Note”) from the Borrower to the Issuer and endorsed to the Trustee.

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the earlier of (i) the Conversion Date or (ii) the Fixed Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Fixed Mandatory Tender Date. The Bonds may be remarketed and a new interest rate for the Bonds may be determined on the Fixed Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Fixed Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Fixed Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

The Borrower will, from time to time, cause Eligible Funds (as defined herein) of up to \$82,584,000* to be delivered to the Trustee for deposit into the Collateral Fund established under the Indenture, allowing the Trustee to disburse a like amount of Bond proceeds to the Borrower to pay costs of the Project pursuant to the terms of the Indenture and the Loan Agreement. The Bonds are subject to mandatory tender prior to the Fixed Mandatory Tender Date as set forth herein. The Bonds are subject to mandatory and optional redemption prior to their maturity as set forth herein. See “THE BONDS” herein.

At all times the Bonds will be secured by Eligible Investments or other Eligible Funds sufficient, along with earnings thereon (without the need for reinvestment), to pay all of the interest on the Bonds when due and to pay the principal of the Bonds at the earlier of the Fixed Mandatory Tender Date or any preceding Mandatory Tender Date or redemption date, as further described herein. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE UNDER THE INDENTURE. NONE OF THE ISSUER, ANY OF ITS MEMBERS, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER’S AGREEMENTS OR OBLIGATIONS 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

* Preliminary, subject to change.

† CUSIP® is a registered trademark of the American Bankers Association. The CUSIP number listed above is being provided solely for the convenience of bondholders only, and the Issuer does not make any representation with respect to such number or undertake any responsibility for its accuracy. The CUSIP number is subject to being changed after the issuance of the Bonds.

This Preliminary Official Statement and certain of the information contained herein is in a form deemed final for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (except for the omission of certain information permitted to be omitted under Rule 15c2-12(b)(1)). The information herein is subject to revision, completion or amendment in a final Official Statement. The Bonds may not be sold, nor may an offer to buy, be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

The Bonds are offered for delivery when, as and if issued and received by Lument Securities, LLC (the “Underwriter”) and subject to the approval of legality by Hawkins Delafield & Wood LLP, San Francisco, California, Bond Counsel, of certain other conditions. Certain legal matters will be passed upon for the Underwriter by its counsel, Tiber Hudson LLC, Washington, D.C., and for the Borrower by its counsels, Katten Muchin Rosenman LLP, Los Angeles, California and Hobson Bernardino + Davis LLP, Culver City, California. It is expected that the Bonds will be available in book-entry form through the facilities of DTC in Brooklyn, New York, on or about April __, 2026.

This cover page contains limited information for ease of reference only. It is not a summary of the Bonds or the security therefor. The entire Official Statement, including the Appendices, must be read to obtain information essential to make an informed investment decision.



LUMENT SECURITIES, LLC

Date: April __, 2026

No broker, dealer, salesman or other person has been authorized by the Issuer, to give any information or to make any representations other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale prior to the registration or qualification under the securities laws of any such jurisdiction. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made under the Indenture shall, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein or the affairs of the Issuer or the Borrower since the date hereof. The Issuer has not confirmed, and assumes no responsibility for, the accuracy, completeness, sufficiency or fairness of any statements in this Official Statement or any amendments thereof or supplements thereto, or in any reports, financial information, offering or disclosure documents or other information relating to the Borrower, the Project, or the history, businesses, properties, organization, management, financial condition, market area or any other matter relating to the Borrower or contained otherwise in this Official Statement other than the information concerning the Issuer under the caption “THE ISSUER” and “ABSENCE OF LITIGATION — The Issuer.”

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. This Official Statement is not to be construed as a contract or agreement between the Issuer and the purchasers or owners of any of the Bonds. All statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The cover page hereof, inside front cover, and the appendices attached hereto are part of this Official Statement. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Issuer since the date hereof.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

The Underwriter has reviewed the information in this Official Statement pursuant to its responsibilities to investors under federal securities laws, but the Underwriter does not guarantee the accuracy or completeness of such information.

No registration statement relating to the Bonds has been filed with the Securities and Exchange Commission (the “Commission”) or with any state securities agency. The Bonds have not been approved or disapproved by the Commission or any state securities agency, nor has the Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

The order and placement of information in this Official Statement, including the Appendices, are not an indication of relevance, materiality or relative importance, and this Official Statement, including the Appendices, must be read in its entirety. The captions and headings in this Official Statement are for convenience only and in no way define, limit, or describe the scope and intent, or affect the meaning or construction, of any provision or section of this Official Statement.

CUSIP data herein are provided by CUSIP Global Services, managed by FactSet Research Systems Inc. on behalf of the American Bankers Association. CUSIP numbers have been assigned by an independent company not affiliated with the Issuer or the Trustee and are included solely for the convenience of the holders of the Bonds. Neither the Issuer nor the Trustee is responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as indicated above. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions.

UMB Bank, National Association, as Trustee, has not reviewed, provided or undertaken to determine the accuracy of any of the information contained in this Official Statement and makes no representation or warranty,

express or implied, as to any matters contained in this Official Statement, including, but not limited to, (i) the accuracy or completeness of such information, (ii) the validity of the Bonds, or (iii) the tax-exempt status of the Bonds.

The information set forth herein relating to the Issuer under the headings “THE ISSUER” and “ABSENCE OF LITIGATION — The Issuer” has been obtained from the Issuer, and all other information herein has been obtained by the Underwriter from the Borrower, and other sources deemed by the Underwriter to be reliable, but is not to be construed as a representation by, the Issuer or the Underwriter. The Issuer has not reviewed or approved any information in this Official Statement, except information relating to the Issuer under the headings “THE ISSUER” and “ABSENCE OF LITIGATION — The Issuer.” The Issuer has not and does not assume any responsibility as to the accuracy or completeness of the information in this Official Statement, other than the information concerning the Issuer under the caption “THE ISSUER” and “ABSENCE OF LITIGATION — The Issuer.”

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OFFICIAL STATEMENT

\$82,584,000*
City of San José
Multifamily Housing Revenue Bonds, Series 2026A
(Berryessa TOD)

INTRODUCTION

This Official Statement (this “Official Statement”) has been prepared in connection with the issuance of the above-captioned Bonds (the “Bonds”) by the City of San José (the “Issuer”), a municipal corporation and charter city, organized and existing under the laws of the State of California (the “State”). The Bonds will be issued pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as the same may be amended (the “Act”), and the resolution of the Issuer adopted on April 14, 2026 (the “Bond Resolution”) and secured by a Trust Indenture dated as of April 1, 2026 (the “Indenture”), by and between the Issuer and UMB Bank, National Association, as trustee (the “Trustee”). Certain capitalized terms that are used in this Official Statement and not otherwise defined shall have the definitions ascribed to them in “APPENDIX A — DEFINITIONS OF CERTAIN TERMS” hereto.

The Bonds are to be issued for the purpose of providing funds to make a loan (the “Loan”) to Berryessa Affordable Housing, L.P., a California limited partnership (the “Borrower”), to enable the Borrower to pay a portion of the cost of constructing and developing a 195-unit multifamily residential rental project located in San José, California, and known as Berryessa TOD (the “Project”). See “PRIVATE PARTICIPANTS” and “THE PROJECT” herein.

The Loan will be made to the Borrower under a Loan Agreement dated as of April 1, 2026 (the “Loan Agreement”), by and between the Issuer and the Borrower. Pursuant to the Loan Agreement, the Borrower has agreed to make payments to the Issuer in amounts sufficient to pay the principal of and interest on the Bonds when due (the “Bond Debt Service Charges”) to the extent that amounts otherwise available for such payment are insufficient therefor. The Loan will be evidenced by a promissory note in the principal amount of \$82,584,000* (the “Note”) from the Borrower to the Issuer and endorsed to the Trustee.

The Borrower will, on the Closing Date, close on a construction loan (the “Construction Loan”) with Deutsche Bank AG, New York Branch (the “Construction Lender”) and, from time to time, cause Eligible Funds (as defined herein) of up to \$82,584,000* to be delivered to the Trustee for deposit into the Collateral Fund established under the Indenture, allowing the Trustee to disburse from the Project Fund a like amount of Bond proceeds to or at the direction of the Construction Lender to pay costs of the Project pursuant to the terms of the Indenture and the Loan Agreement. The aggregate funds and Eligible Investments on deposit in the Project Fund and the Collateral Fund will, at all times, equal the principal amount of Bonds Outstanding. Bond Debt Service Charges will be paid from amounts on deposit in the Bond Fund, the Collateral Fund and the Project Fund, and investment earnings thereon. Amounts on deposit in the Collateral Fund, the Bond Fund and the Project Fund will be invested in Eligible Investments. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

The Bonds shall bear interest on the outstanding principal amount thereof at a rate equal to the Initial Interest Rate set forth on the cover page hereof from the date of delivery to, but not including, November 1, 2029* (the “Fixed Mandatory Tender Date”), payable on each May 1 and November 1, commencing November 1, 2026* (each an “Interest Payment Date”).

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the earlier of (i) the Conversion Date or (ii) the Fixed Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on each Mandatory Tender Date, as set forth in the Indenture. A new interest rate for the Bonds may be determined on the Initial Remarketing Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Fixed Mandatory Tender Date, the terms of the Bonds after such

* Preliminary, subject to change.

date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Fixed Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

Subject to the satisfaction of certain conditions set forth in the Forward Commitment Agreement by and among the Construction Lender, the Funding Lender and the Borrower, the Funding Lender has agreed to facilitate the financing of the Project as described in the Indenture.

Brief descriptions of the Issuer, the Borrower, the Construction Lender, the Construction Loan, the Project, the Bonds, the security for the Bonds, the Indenture, the Loan Agreement and the Regulatory Agreement are included in this Official Statement. The summaries herein do not purport to be complete and are qualified in their entireties by reference to such documents, agreements and programs as may be referred to herein, and the summaries herein of the Bonds are further qualified in their entireties by reference to the form of the Bonds included in the Indenture and the provisions with respect thereto included in the aforesaid documents.

THE ISSUER

The following information has been provided by the Issuer for use herein. While the information is believed to be reliable, none of the Trustee, the Underwriter, nor any of their respective counsel, members, officers or employees makes any representations as to the accuracy or sufficiency of such information.

The Issuer is the third largest city in California and one of the largest cities in the United States based on its population of approximately 979,415 as of January 1, 2025 (as reported by the California Department of Finance). The territory of the Issuer encompasses approximately 180 square miles. Located at the southern end of the San Francisco Bay, the Issuer is the county seat of the County of Santa Clara (the “County”).

The Issuer is governed by the City Council, consisting of a Mayor and ten other council members. The Mayor is elected at large for a four-year term. Council members are elected by district for staggered four-year terms. The Mayor and the council members are limited to two consecutive four-year terms. The City Council appoints the City Manager who is responsible for the operation of all municipal functions except the offices of City Attorney, City Clerk, City Auditor and Independent Police Auditor. The officials heading these offices are appointed by the City Council and carry out the policies set forth by the City Council.

The Issuer provides a full range of services contemplated by statute or charter including those functions delegated to cities under state law. These services include public safety, recreational and cultural activities, public improvements, planning, zoning and general administrative services.

The Bonds will be a limited obligation of the Issuer as described under the caption “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS.”

THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE GENERAL CREDIT OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OF INDEBTEDNESS. THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE TRUST ESTATE. NEITHER THE FAITH OR CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OR OF ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PREMIUM, IF ANY, OR THE INTEREST ON THE BONDS.

Except for the information under the headings “THE ISSUER” and “ABSENCE OF LITIGATION — The Issuer,” none of the information in this Official Statement has been provided by the Issuer, nor has the Issuer made any independent investigation regarding such information or verified the accuracy or completeness thereof, and the Issuer assumes no responsibility or liability therefor. Except for the information under the headings “THE ISSUER” and “ABSENCE OF LITIGATION — The Issuer,” no representation is made by the Issuer as to the accuracy or adequacy of the information in this Official Statement or as to the absence of material adverse changes in such information subsequent to the date hereof. The Bonds are limited obligations of the Issuer, payable solely out of the

revenues and receipts provided therefor in the Indenture. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS.”

THE CONSTRUCTION LOAN, DEPOSITS INTO THE COLLATERAL FUND AND DISBURSEMENT OF BOND PROCEEDS

Contemporaneously with the issuance of the Bonds, the Borrower will obtain the Construction Loan from the Construction Lender. As a condition to each disbursement of Bond proceeds from the Project Fund, the Borrower will cause Eligible Funds, including proceeds of the Construction Loan, in an amount equal to each such disbursement to be delivered to the Trustee for deposit into the Collateral Fund. Upon the deposit of Eligible Funds into the Collateral Fund, and subject to the other applicable provisions set forth in the Indenture and the Loan Agreement, the Trustee shall disburse a like amount of Bond proceeds from the Project Fund to or at the direction of the Construction Lender for purposes of paying costs of the Project, all in accordance with the Loan Agreement and the Indenture. The maximum aggregate amount of funds representing proceeds of the Construction Loan to be delivered to the Trustee for deposit into the Collateral Fund will be \$82,584,000*.

Bond Debt Service Charges shall be payable as they become due, (i) in the first instance from money on deposit in the Bond Fund (excluding the Negative Arbitrage Account therein), (ii) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (iv) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund. The Indenture provides that the amount of funds disbursed from the Project Fund on any given date for payment of Qualified Project Costs shall at all times equal the amount of Eligible Funds deposited into the Collateral Fund in connection with such disbursement. Accordingly, the aggregate amount in the Collateral Fund and the Project Fund shall at all times equal 100% of the principal amount of the Bonds outstanding.

Notwithstanding any provision of the Loan Agreement or the Indenture to the contrary, the Trustee will not act upon the delivery of a certified copy of the request for disbursement of funds from the Project Fund, unless and until (i) an amount equal to or greater than the requested disbursement amount has been deposited into the Collateral Fund in accordance with the provisions of the Indenture and (ii) the Trustee has verified that the sum of the amount then held in the Collateral Fund and the amount then on deposit in the Project Fund, less the anticipated amount of the disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds. Upon receipt of Eligible Funds, the Trustee shall be unconditionally and irrevocably obligated to disburse Bond proceeds in the amount of such installment of Eligible Funds to pay for Costs of the Project as set forth in the Indenture.

Amounts on deposit in the Project Fund, the Bond Fund and the Collateral Fund will be invested on the Closing Date in Eligible Investments. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS — Investment of Bond Fund, Project Fund and Collateral Fund; Eligible Investments” herein.

THE BONDS

Terms of Bonds Generally

The Bonds shall be issued in Authorized Denominations and shall mature on May 1, 2066* (the “Maturity Date”). The Bonds are dated as of the Closing Date and shall bear interest at the Initial Interest Rate from the Closing Date to, but not including, the Fixed Mandatory Tender Date, payable on each Interest Payment Date, commencing November 1, 2026* and on each Mandatory Tender Date.

Interest on the Bonds shall be computed on the basis of a 360-day year of 12 months of 30 days each.

The principal of and interest on any of the Bonds shall be payable in lawful money of the United States of America. Except as described below under the subcaption “Book-Entry Only System,” (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office, designated by the Trustee, of any Paying Agent and (b) interest on any Bond shall be paid on

* Preliminary, subject to change.

each Interest Payment Date by check which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more predecessor Bonds) is registered at the close of business of the Record Date applicable to that Interest Payment Date on the register at the address appearing therein.

Mandatory Tender

All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on the Fixed Mandatory Tender Date and any subsequent Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date and shall be paid in full on the applicable Mandatory Tender Date. Notwithstanding the foregoing, if it has been determined that the Conversion will not occur by the Fixed Mandatory Tender Date, the Bonds must be remarketed or redeemed on such Fixed Mandatory Tender Date subject to meeting the requirements set forth below.

The Mandatory Tender Dates shall consist of (i) the Fixed Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower, with the consent of the Issuer, the Investor Limited Partner and the Remarketing Agent in connection with a remarketing of the Bonds pursuant to the Indenture.

While tendered Bonds are in the custody of the Trustee pending purchase pursuant to the Indenture, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid to such tendering Holders as if such Bonds had not been tendered for purchase.

Notwithstanding anything in the Indenture to the contrary, any Bond tendered under this heading will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Eastern time on the funding date in the following priority:

- (i) If the Mandatory Tender Date is the Conversion Date, with respect to principal, amounts on deposit in the Collateral Fund and then the Project Fund; and with respect to interest, amounts on deposit in the Bond Fund and to the extent not sufficient, amounts on deposit in the Negative Arbitrage Account of the Bond Fund; and any other Eligible Funds available or made available for such purpose at the direction of the Borrower, with the consent of the Issuer.
- (ii) If the Mandatory Tender Date is not the Conversion Date, with respect to principal, amounts on deposit in the Remarketing Proceeds Account (representing proceeds of remarketed Bonds) and to the extent not sufficient, from amounts on deposit in the Collateral Fund, and then the Project Fund, and with respect to interest, amounts on deposit in the Bond Fund and to the extent not sufficient, amounts on deposit in the Negative Arbitrage Account.

Bonds shall be deemed to have been tendered for purposes of this heading whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee and, subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof in connection with the remarketing of such Undelivered Bonds.

Mandatory Tender Notice

Notice to Holders. Not less than 30 days preceding a Mandatory Tender Date (or 10 days in connection with the Fixed Mandatory Tender Date), the Trustee shall give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner, the Construction Lender, the Issuer and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 noon Eastern time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) that any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 20th day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in the Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of the Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

Neither failure to give or receive any notice described in this heading, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this heading.

Notice delivered as required under the Indenture with respect to a mandatory tender pursuant to the Indenture may be rescinded and annulled on or before the tender date set forth in such notice.

Mandatory Redemption

The Bonds are subject to mandatory redemption, in whole, on any Mandatory Tender Date other than upon Conversion, upon the occurrence of any of the following events: (i) the Borrower has not previously elected pursuant to the Indenture and the Loan Agreement to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Eastern time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. The Bonds shall be redeemed at a redemption price equal to 100% of the principal amount of such Bonds plus accrued interest to the applicable redemption date from funds on deposit in, or transferred from, the Bond Fund, the Collateral Fund, and the Project Fund.

Optional Redemption; Notice of Redemption

The Bonds are subject to optional redemption prior to their maturity, at direction of the Borrower, either in whole or in part, on any date on the Optional Call Date, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the applicable redemption date. Bonds subject to redemption in accordance with the Indenture shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Bond Fund, other than funds in the Negative Arbitrage Account therein, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

For Bonds subject to optional redemption pursuant to the Indenture, the Trustee shall give at least fifteen (15) calendar days' notice (or, with respect to the Securities Depository, such shorter period in order to comply with the policies or procedures of the Securities Depository), in the name of the Issuer and at the expense of the Borrower, of

the redemption of the Bonds, which notice shall be provided to the Securities Depository and made available on the Electronic Municipal Market Access System (EMMA) of the Municipal Securities Rulemaking Board, specifying (i) the maturity and principal amounts of the Bonds to be redeemed; (ii) the CUSIP number, if any, of the Bonds to be redeemed; (iii) the date of such notice; (iv) the issuance date for such Bonds; (v) the interest rate on the Bonds to be redeemed; (vi) the planned redemption date; (vii) any conditions to the occurrence of the redemption (including whether such notice shall be subject to rescission if the conditions are not satisfied); (viii) the place or places where amounts due upon such redemption will be payable; (ix) the redemption price; (x) the Trustee's name and address with a contact and a phone number, if necessary or convenient as determined by the Trustee; and (xi) that on the redemption date, the redemption price shall be paid and from and after such date, interest on the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under the Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of said redemption price. Neither the giving of such notice by the Trustee nor the receipt of such notice by the Bondholder, nor any defect in such notice shall affect the sufficiency of the proceedings for redemption of any Bonds or constitute a condition precedent to the effectiveness of any such redemption. The Bonds to be redeemed in part pursuant to the Indenture shall be selected in accordance with the operational arrangements of DTC or any successor Securities Depository, and any payments in respect of a redemption in part shall be made in accordance with DTC procedures.

Book-Entry Only System

The following information on the Book-Entry System applicable to all Bonds has been supplied by DTC and none of the Issuer, the Borrower, the Trustee or the Underwriter make any representation, warranties or guarantees with respect to its accuracy or completeness.

The Depository Trust Company ("DTC"), Brooklyn, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each issue of the Bonds, each in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect

Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Trustee, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Trustee, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Bonds purchased or tendered, through its Participant, to the Trustee, and shall effect delivery of such Bonds by causing the Direct Participant to transfer the Participant's interest in the Bonds, on DTC's records, to the Trustee. The requirement for physical delivery of Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Bonds to the Trustee's DTC account.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Issuer or Trustee. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer and the Trustee believe to be reliable, but the Issuer and the Trustee take no responsibility for the accuracy thereof.

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

General

The Bonds will be secured by all right, title and interest of the Issuer in the to the following: (i) all right, title and interest of the Issuer in and to all Revenues, derived or to be derived by the Issuer or the Trustee for the account of the Issuer under the terms of the Indenture and the Loan Agreement (other than the Unassigned Issuer's Rights), together with all other Revenues received by the Trustee for the account of the Issuer arising out of or on account of the Trust Estate, (ii) all right, title and interest of the Issuer in and to the Loan Agreement and the Note (other than the Unassigned Issuer's Rights) including all payments and proceeds with respect thereto or replacement thereof, (iii) all moneys (including the Eligible Funds received by the Trustee for deposit into the Collateral Fund provided that Construction Loan proceeds become part of the Trust Estate concurrently with the Trustee's corresponding disbursement of Bond proceeds to or at the direction of the Construction Lender in accordance with the Indenture) which are at any time or from time to time on deposit in any fund or account created under the Indenture (excluding amounts on deposit in the Costs of Issuance Fund, the Expense Fund, the Construction Loan Prepayment Fund and the Rebate Fund), and (iv) all other funds, moneys and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security under the Indenture for the Bonds by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is authorized by the Indenture to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture (the foregoing collectively referred to as the "Trust Estate").

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE UNDER THE INDENTURE. NONE OF THE ISSUER, ANY OF ITS MEMBERS, THE STATE, NOR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE ISSUER, TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER EXCEPT AS SET FORTH IN THE INDENTURE, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS 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.

Repayment of Loan

The Loan Agreement and the Note obligate the Borrower to cause to be paid to the Trustee amounts which shall be sufficient to pay Bond Debt Service Charges coming due on each Interest Payment Date. At all times the Eligible Funds required to be deposited into the Collateral Fund and amounts on deposit in the Bond Fund and the Project Fund, if any, along with interest earnings thereon (without the need for reinvestment), will be sufficient to pay such Bond Debt Service Charges and such amounts will be a credit against the Borrower's payment obligations under the Loan Agreement and the Note.

Investment of Bond Fund, Project Fund and Collateral Fund; Eligible Investments

On the Closing Date, all amounts on deposit in the Bond Fund and Collateral Fund will be invested in Eligible Investments. It is anticipated that all of the Bond proceeds in the Project Fund will be disbursed to pay Project Costs on and after the Closing Date and that Bond Debt Service Charges will be paid from amounts on deposit in the Bond Fund and Collateral Fund and any investment earnings thereon.

Additional Bonds

No additional Bonds on parity with the Bonds may be issued pursuant to the Indenture.

PRIVATE PARTICIPANTS

The following information concerning the private participants has been provided by representatives of the private participants and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.

The Borrower

The Borrower is Berryessa Affordable Housing, L.P., a California limited partnership, a single-asset entity formed for the specific purpose of developing and owning the Project. The managing general partner of the Borrower is CFAH Housing LLC, a California limited liability company (the “Managing General Partner”), wholly owned by Compass for Affordable Housing, a California nonprofit public benefit corporation, which will own a 0.01% interest in the Borrower. The administrative general partner of the borrower is AHG Berryessa, LLC, a California limited liability company (the “Administrative General Partner”), which will own a 0.99% interest in the Borrower. BF FRE 2023, Limited Partnership, a Delaware Limited Partnership (the “Investor Limited Partner”), will own a 99% interest in the Borrower. BFIM Special Limited Partner, Inc., a Florida corporation, is the special limited partner of Borrower.

The Investor Limited Partner

Contemporaneously with the issuance of the Bonds, the Investor Limited Partner will acquire a 99% ownership interest in the Borrower. In connection with such acquisition, the Investor Limited Partner is expected to fund approximately \$51,867,166* of federal low-income housing tax credit equity (the “Tax Credit Equity”) to the Project, to be paid in stages during and after construction of the Project. These funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the estimates set forth herein and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

The Developer

The developer for the Project is Affirmed Housing Group, Inc., a Delaware corporation doing business in California as Affirmed Housing Partners (the “Developer”), located in San Diego, California. The Developer was founded in 1992 and has 31 years of experience in affordable housing, public housing and multifamily development. The Developer has developed 5,800 units in California.

Limited Assets and Obligation of Borrower, General Partner and Investor Limited Partner

The Borrower has no substantial assets other than the Project and does not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the development and ownership of the Project. However, the members of the General Partner, the Investor Limited Partner, and their affiliates are engaged in and will continue to engage in the acquisition, development, ownership and management of similar types of housing projects. They may be financially interested in, as officers, partners or otherwise, and devote substantial times to, business and activities that may be inconsistent or competitive with the interests of the Project.

The obligations and liabilities of the Borrower under the Loan Agreement and the Note are of a non-recourse nature and are limited to the Project and moneys derived from the operation of the Project. Neither the Borrower nor its partners have any personal liability for payments on the Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower has substantial funds available for the Project.

* Preliminary; subject to change.

Accordingly, neither the Borrower’s financial statements nor those of its partners are included in this Official Statement.

The Property Manager

The Borrower has entered into a management agreement with Solari Enterprises, a California corporation (the “Property Manager”), to manage the day-to-day operations of the Project. The Property Manager is not an affiliate of the Developer. The Property Manager has been involved in the management of affordable housing since 1993. The Property Manager currently manages 11,953 apartment units in California.

The General Contractor

The general contractor for the Project is HA Builder Group, LLC (the “General Contractor”). The General Contractor is an affiliate of the Developer. Based out of El Cajon, California, the General Contractor was formed in 2015 and is a California-licensed contractor. Since inception, the General Contractor has built or rehabilitated over 1,446 units of affordable apartments.

The Architect

The architect for the Project is Dahlin Group, Inc. (the “Architect”). The Architect is not an affiliate of the Developer. The Architect has been licensed for 49 years and has been the principal architect for 25 multifamily affordable developments with a total of 1200 units.

THE PROJECT

The following information concerning the Project has been provided by representatives of the Borrower and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.

The Project, known as Berryessa TOD, is located in San José, California, on an approximately 0.79-acre site. The Project contains 195 apartment units in one building located at 1565 Mabury Road in San José, California. Common area improvements will include: Mailroom, laundry room, community room, resident services and property management offices, and an outdoor area with play space for young children. Unit amenities include: Kitchens with refrigerators and freezers, upper and lower cabinetry, granite countertops, in-unit heating and cooling. There are 7 parking spaces for resident use only. The project will have access to up to 50 parking spaces made available through a separate license agreement outside of the Ground Lease (as defined below) for the Project.

[The Borrower will ground lease the land on which the Project is located from [Ground Lessor] pursuant to the [Ground Lease] (the “Ground Lease”) for a term of ___ years, commencing on the date of the Ground Lease. [Borrower to provide brief description of Ground Lease]]

It is anticipated that construction will commence promptly following the issuance of the Bonds and funding of the initial installment of the Tax Credit Equity and will be completed in approximately 26 months.

The unit type, the unit mix and approximate square footage for the units of the Project will be as follows:

Unit Type	Average Square Feet	Number of Units
Studio	425	45
1 Bed/1 bath	590	43
2 Bed/1 bath	851	54
3 Bed/2 bath	1,034	53
TOTAL		195

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Plan of Financing

The estimated sources and uses of funds for the Project are projected to be approximately as follows:

Sources of Funds*:

Bond Proceeds	\$82,584,000
Bay Area Housing Innovation Fund Loan	15,500,000
Santa Clara County Measure A Loan	11,115,000
City of San José Subordinate Loan	9,898,877
HCD Subordinate Loan	29,000,000
GP Developer Fee Contribution	3,000,000
Deferred Developer Fee	3,575,104
Public Bond Interest	7,234,417
Retained Earnings	1,858,155
Federal Tax Credit Equity	<u>51,867,166</u>
Total Sources	<u>\$215,630,719</u>

Uses of Funds*:

Land/Acquisition Cost	\$11,419,554
Total New Construction Costs	106,250,000
Construction Contingency	5,312,502
Architecture & Engineering	7,050,000
Construction Interest & Fees	12,922,179
Capitalized Reserves	1,180,000
Public Bond Interest	7,234,417
Taxes & Insurance	875,000
Cost of Issuance	1,342,905
Construction Services	140,000
Escrow & Title	300,000
Legal Fees	525,000
Devel Impact Fees & Permits	5,192,008
Tax Credit Fees	250,000
Misc. Soft Costs	2,710,000
Soft Cost Contingency	241,250
Developer Fee	12,073,104
Partial Repayment of Bond Proceeds	<u>40,612,800</u>
Total Uses	<u>\$215,630,719</u>

All costs of issuing the Bonds, including the Underwriter’s fee, will be paid by the Borrower.

The Construction Loan. The Project will utilize a construction loan in the principal amount of up to \$107,492,479* (the “Construction Loan”). The Construction Loan will be secured by a senior leasehold mortgage on the Project and the obligation to repay the Construction Loan will be evidenced by a promissory note (the “Construction Note”) from the Borrower to Deutsche Bank AG, New York Branch (the “Construction Lender”). The Construction Note will have a term of 36 months, with the right to one six-month extension, and will bear interest at a rate equal to the 3 Year SOFR Swap per annum plus 250 basis points (2.50%)*, with no payments of principal during the term, and with all unpaid principal and interest due at maturity. The Construction Loan proceeds will be disbursed from time to time by the Construction Lender to the Trustee for deposit into the Collateral Fund to allow for a corresponding amount of Bond proceeds to be disbursed to the Project. [Swap language to be added?]

* Preliminary, subject to change.

The Low Income Housing Tax Credit Proceeds. Contemporaneously with the issuance of the Bonds, the Investor Limited Partner expects to acquire a 99% ownership interest in the Borrower. In connection with such acquisition, the funding of the Tax Credit Equity will total approximately \$51,867,166*, with approximately \$2,593,358* expected to be funded in connection with the issuance of the Bonds. The project expects to have a total of \$13,485,463* in Tax Credit Equity funded during the construction phase. The funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

The Bay Area Housing Innovation Fund Loan. The Project will also utilize a subordinate loan in the principal amount of \$15,000,000* (the “BAHIF Loan”). The obligation to repay the BAHIF Loan will be set forth in a promissory note (the “BAHIF Note”) from the Borrower to Bay Area Housing Innovation Fund, LLC, a California limited liability company (the “BAHIF”), and the BAHIF Loan will be repayable on the terms and conditions set forth therein. The BAHIF Note will be secured by a subordinate leasehold mortgage against the Project subordinate to the Construction Loan. During the construction period, the BAHIF Note will have a term of [33 months]and will bear interest at a rate of 3% per annum*, with interest only paid monthly. During the Permanent period, the BAHIF Loan will have a principal amount of \$15,500,000*. The BAHIF Note will have a term of [18.5 years] and will bear interest at 4.5%*. The BAHIF Note will be paid from residual receipts.

The Santa Clara County Measure A Subordinate Loan. The Project will also utilize a subordinate loan in the principal amount of \$11,115,000* (the “County Subordinate Loan”). The obligation to repay the County Subordinate Loan will be set forth in a promissory note (the “County Subordinate Note”) from the Borrower to County of Santa Clara (the “County of Santa Clara”), and the County Subordinate Loan will be repayable on the terms and conditions set forth therein. The County Subordinate Note will be secured by a subordinate leasehold mortgage against the Project subordinate to the Construction Loan and the BAHIF Loan. The County Subordinate Note will have a term of 58 years and will bear interest at a rate of 3% per annum*, paid from residual receipts in accordance with the terms of the BAHIF Note.

The City of San José Subordinate Loan. The Project will also utilize a subordinate loan in the principal amount of \$9,898,877* (the “City Subordinate Loan”). The obligation to repay the City Subordinate Loan will be set forth in a promissory note (the “City Subordinate Note”) from the Borrower to City of San José (the “City”), and the City Subordinate Loan will be repayable on the terms and conditions set forth therein. The City Subordinate Note will be secured by a subordinate leasehold mortgage against the Project subordinate to the Construction Loan, the BAHIF Loan and the County Subordinate Loan. The City Subordinate Note will have a term of 58 years and will bear interest at a rate of 3% per annum* during the construction period and 4% per annum* during the permanent period, paid from residual receipts.

The California Department of Housing and Community Development Affordable Housing Sustainable Communities Subordinate Loan. The Project will also utilize a subordinate loan in the principal amount of \$29,000,000* (the “HCD Subordinate Loan”). The obligation to repay the HCD Subordinate Loan will be set forth in a promissory note (the “HCD Subordinate Note”) from the Borrower to California Department of Housing and Community Development (the “HCD”), and the HCD Subordinate Loan will be repayable on the terms and conditions set forth therein. The HCD Subordinate Note will be secured by a subordinate leasehold mortgage against the Project subordinate to the Construction Loan [describe other loans as applicable]. The HCD Subordinate Note will have a term of 55 years and will bear interest at a rate of 3% per annum*, paid from residual receipts.

Contributed Developer Fee. The Project will utilize deferred developer fee in the anticipated amount of \$3,000,000* as a source of funding.

* Preliminary, subject to change.

Deferred Developer Fee. The Project will utilize deferred developer fee in the anticipated amount of \$3,575,104* as a source of permanent funding. The deferred developer fee will be repaid through surplus cash flow received from the operation of the Project.

The HAP Contract

The Borrower will enter into an Agreement to Enter into a Housing Assistance Payment Contract (the “AHAP Contract”) with the Santa Clara Housing Authority (the “Contract Administrator”) to enter into a Project-Based Voucher Housing Assistance Payments contract (the “HAP Contract”) with Borrower subject to Borrower’s satisfaction of certain conditions. The HAP Contract will be entered into on or prior to the Conversion Date and will provide rental assistance covering 49 of the 195 units at the Project for a term of no less than fifteen (15) years.

Funding under the HAP Contract is subject to annual Congressional appropriations, as more particularly described below. The Section 8 project-based voucher housing assistance payment program (the “Section 8 Program”) is authorized by Section 8 of the United States Housing Act of 1937, as amended, and in the case of Section 8 project-based voucher contracts is administered by local public housing authorities. If the Borrower fails to comply with the terms of the HAP Contract, HUD or the Contract Administrator could seek to abate or terminate the payments under the HAP Contract or impose other sanctions. Further, because the HAP Contract is subject to receipt of annual appropriations by Congress, there is no assurance that the HAP Contract will be renewed or replaced upon its expiration. Further, funding for HAP contracts is appropriated by Congress on an annual basis, and there is no assurance that adequate funding will be appropriated each year during the term of the HAP Contract. Since payments received under the HAP Contract constitute a material source of revenues for the Project, the expiration of the HAP Contract, or the failure of Congress to appropriate funds sufficient to fund the HAP Contract during each year of its term, would have a material adverse effect on the ability of the Project to generate revenues.

Project Regulation

The Borrower intends to operate the Project as a qualified residential rental project in accordance with the provisions of Section 142(d) of the Code. Concurrently with the issuance of the Bonds, the Borrower, the Trustee and the Issuer will enter into the Regulatory Agreement. Under the Regulatory Agreement, the Borrower will agree that, at all times during the qualified project period (as defined in the Regulatory Agreement), the Borrower will rent at least 100% (exclusive of Manager’s units) of the units in the Project to persons whose adjusted family income (determined in accordance with the provisions of the Code) is no more than 60% of the area median income (adjusted for family size) (“AMI”). See “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” herein.

In addition to the rental restrictions imposed upon the Project by the Regulatory Agreement, the Project will be further encumbered by a tax credit restrictive covenant, to be executed by the Borrower in connection with the federal low-income housing tax credits anticipated to be granted for the Project and in compliance with the requirements of Section 42 of the Code. Section 42 of the Code will restrict the income levels of 100% of the residential units in the Project (the “Tax Credit Units”). Fifty (50) of the Tax Credit Units shall be held available for rental to persons whose adjusted family income is equal to or less than 30% of the AMI adjusted for family size and the rents which may be charged for occupancy of such units will be restricted to not more than 30% of 30% of AMI, adjusted for family size. Ninety Two (92) of the Tax Credit Units shall be held available for rental to persons whose adjusted family income is equal to or less than 50% of the AMI adjusted for family size and the rents which may be charged for occupancy of such units will be restricted to not more than 30% of 50% of AMI, adjusted for family size. Fifty one (51) of the Tax Credit Units shall be held available for rental to persons whose adjusted family income is equal to or less than 60% of the AMI adjusted for family size and the rents which may be charged for occupancy of such units will be restricted to not more than 30% of 60% of AMI, adjusted for family size.

In addition [Borrower to describe County, City and Density Bonus restrictions].

* Preliminary; subject to change.

Property Tax Exemption

The Project is eligible for an exemption from certain ad valorem real estate taxes (collectively, the “Real Estate Taxes”) pursuant to Section 214(g) of the California Revenue and Taxation Code (“CRT Code”), implementing exemptions permitted under Article XIII of the California Constitution, which CRT CODE Section 214(g) delineates the requirements of the welfare tax exemption (the “Welfare Exemption”). In California, affordable housing projects restricted with regulatory agreements with respect to the Bonds and Tax Credits may qualify for the Welfare Exemption when a nonprofit organization is part of the ownership structure and the property is used to provide housing to low-income households with incomes which do not exceed 80% of AMI. This Welfare Exemption applies to properties owned by nonprofits or by limited partnerships in which a nonprofit serves as the managing general partner, which nonprofit is an exempt organization status under Internal Revenue Code Section 501(c)(3) or California Franchise Tax Board Section 23701d. The Managing General Partner is owned by Compass for Affordable Housing, a California nonprofit public benefit corporation and an organization exempt under Section 501(c)(3) of the Internal Revenue Code. To be eligible, the property must be used exclusively for charitable purposes (typically, at least 90% of the units must be restricted to and occupied by low-income resident), and must be subject to a long-term affordability regulatory agreement, among other statutory requirements under CRT CODE Section 214(g). The Welfare Exemption can apply to both land and improvements, and may be full or partial depending on the actual qualified use and occupancy of the property by low-income residents with incomes which do not exceed 80% of Area Median Income. To claim the exemption, the nonprofit must submit the appropriate annual filings to the County Assessor and the State Board of Equalization, with annual filings required to maintain the Welfare Exemption.

The Managing General Partner has undertaken or will undertake the applicable duties and filing responsibilities under the terms of the Partnership Agreement to qualify for the Welfare Exemption. The granting of the welfare exemption under CRT Code Section 214(g) is subject, in all instances, to certain administrative and discretionary determinations of the County Assessor and the State Board of Equalization based on the actual use and occupancy of the Project on an annual basis.

CERTAIN BONDHOLDERS’ RISKS

The purchase of the Bonds will involve a number of risks. The following is a summary, which does not purport to be comprehensive or definitive, of some of such risk factors.

General

Payment of the Bond Debt Service Charges, and the Borrower’s obligations with respect to the Bond Debt Service Charges, will be secured by and payable from Bond proceeds held in the Project Fund, if any, and moneys deposited into the Collateral Fund and the Bond Fund, including the Negative Arbitrage Account held in the Bond Fund. Although the Borrower will execute the Note to evidence its obligation to repay the Loan, it is not expected that any revenues from the Project or other amounts, except moneys in the Bond Fund, Project Fund, if any, and Collateral Fund, will be available to satisfy that obligation. The Indenture requires the Trustee to verify, before any disbursement of funds from the Project Fund, that the sum of the funds on deposit in the Project Fund and the Collateral Fund is at least equal to the then outstanding principal amount of the Bonds. It is expected that all of the Bond proceeds in the Project Fund will be disbursed to pay Project Costs on and after the Closing Date. At all times funds on deposit in the Collateral Fund and Negative Arbitrage Account of the Bond Fund, and the interest earnings thereon (without the need for reinvestment), will be sufficient to pay the debt service on the Bonds.

Limited Security for Bonds

The Bonds are not secured by the Construction Loan. Investors should look exclusively to amounts on deposit in the Bond Fund, Project Fund, if any, and Collateral Fund under the Indenture and investment earnings on each as the source of payment of debt service on the Bonds.

Future Determination of Taxability of the Bonds

Failure of the Borrower to have complied with and to continue to comply with certain covenants contained in the Loan Agreement and the Regulatory Agreement could result in interest on the Bonds being taxable retroactive to the date of original issuance of the Bonds. The Bonds are not subject to redemption upon a determination of taxability and are not subject to payment of additional interest in such an event, and neither the Issuer nor the Borrower will be liable under the Bonds, the Indenture or the Loan Agreement for any such payment of additional interest on the Bonds.

Issuer Limited Liability

The Bonds will not be insured or guaranteed by any governmental entity or by the Issuer or any member or program participant of the foregoing. The Bondholders will have no recourse to the Issuer in the event of an Event of Default on the Bonds. The Trust Estate for the Bonds will be the only source of payment on the Bonds.

Enforceability of Remedies upon an Event of Default

The remedies available to the Trustee and the owners of the Bonds upon an Event of Default under the Indenture, the Loan Agreement, the Regulatory Agreement or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

Secondary Markets and Prices

No representation is made concerning the existence of any secondary market for the Bonds. The Remarketing Agent will not be obligated to repurchase any of the Bonds, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Bonds. Further, there can be no assurance that the initial offering prices for the Bonds will continue for any period of time. Furthermore, the Bonds should be purchased for their projected returns only and not for any resale potential, which may or may not exist. The Issuer has not and will not agree to provide any annual financial statements or other credit information of the Issuer or the Borrower to investors on a periodic basis.

Eligible Investments

Proceeds of the Bonds deposited into the Project Fund and Eligible Funds received by the Trustee for deposit into the Collateral Fund are required to be invested in Eligible Investments. See “APPENDIX A — DEFINITIONS OF CERTAIN TERMS” hereto for the definition of Eligible Investments. There can be no assurance that there will not be a loss resulting from any investment held for the credit of the Project Fund or the Collateral Fund, and any failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Bonds.

Rating Based on Eligible Investments

The rating on the Bonds is based on the amounts in the Project Fund, Bond Fund and the Collateral Fund being invested in Eligible Investments. If one or more of such investments fail to meet the rating standards for Eligible Investments after their acquisition and prior to maturity, such a change may result in a downgrade or withdrawal of the rating on the Bonds.

Subordination to Construction Loan Documents

The Indenture, the Loan Agreement, the Note, and the Regulatory Agreement contain provisions regarding subordination of such documents to the Construction Loan Documents. No assurance can be given that such provisions will not impair the excludability of interest on the Bonds from gross income for federal income tax purposes.

Future Legislation; IRS Examination

The Project, its operation and the treatment of interest on the Bonds are subject to various laws, rules and regulations adopted by the local, State and federal governments and their agencies. There can be no assurance that relevant local, State or federal laws, rules and regulations may not be amended or modified or interpreted in the future in a manner that could adversely affect the Bonds, the trust estate created under the Indenture, the Project, or the financial condition of or ability of the Borrower to comply with its obligations under the various transaction documents.

In recent years, the Internal Revenue Service (“IRS”) has increased the frequency and scope of its examination and other enforcement activity regarding tax exempt bonds. Currently, the primary penalty available to the IRS under the Code is a determination that interest on bonds is subject to federal income taxation. Such event could occur for a variety of reasons, including, without limitation, failure to comply with certain requirements imposed by the Code relating to investment restrictions, periodic payments of arbitrage profits to the United States of America, the timely and proper use of Bond proceeds and the facilities financed therewith and certain other matters. See “TAX MATTERS” herein. No assurance can be given that the IRS will not examine the Issuer, the Borrower, the Project or the Bonds. If the Bonds are examined, it may have an adverse impact on their price and marketability.

Potential Impact of Pandemics or Public Health Crises

The spread of the strain of a virus and resulting disease could alter the behavior of businesses and people in a manner that could have negative effects on global, state and local economies. There can be no assurances that the spread of a pandemic would not materially impact both local and national economies and, accordingly, have a materially adverse impact on the Project’s operating and financial viability. The effects of a pandemic could include, among other things, an increase in the time necessary to complete the construction and/or rehabilitation of the Project, suspension or delay of site inspections and other on-site meetings, interruption in the engagement of material participants in the Project, increase in the time necessary to conduct lease-up at the Project, and increased delinquencies and/or vacancies, all of which could impact the Borrower’s ability to make payments on the loans and result in a default and acceleration thereof.

Summary

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Bonds. In order for potential investors to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement and the Appendices hereto.

TAX MATTERS

Opinion of Bond Counsel

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Issuer, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), except that no opinion is expressed as to such exclusion of interest on any Bonds for any period during which such Bonds are held by a person who, within the meaning of Section 147(a) of the Code, is a “substantial user” of the facilities financed with the proceeds of the Bonds, or a “related person,” and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code, however, interest on the Bonds is included in the “adjusted financial statement income” of certain corporations that

are subject to the alternative minimum tax under Section 55 of the Code. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Issuer and the Borrower in connection with the Bonds, and Bond Counsel has assumed compliance by the Issuer with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code.

In addition, in the opinion of Bond Counsel to the Issuer, under existing statutes, interest on the Bonds is exempt from personal income taxes imposed by the State of California.

Bond Counsel expresses no opinion as to any other federal, state or local tax consequences arising with respect to the Bonds, or the ownership or disposition thereof, except as stated above. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement its opinion to reflect any action thereafter taken or not taken, any fact or circumstance that may thereafter come to its attention, any change in law or interpretation thereof that may thereafter occur, or for any other reason. Bond Counsel expresses no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, Bond Counsel expresses no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel regarding federal, state or local tax matters, including, without limitation, exclusion from gross income for federal income tax purposes of interest on the Bonds.

Certain Federal Tax Requirements

Under applicable provisions of the Code, the exclusion from gross income of interest on the Bonds for purposes of federal income taxation requires that either (i) at least 20% of the units in a Project financed by the Bonds be occupied during the “Qualified Project Period” (defined below) by individuals whose incomes, determined in a manner consistent with Section 8 of the United States Housing Act of 1937, as amended, do not exceed 50% of the median income for the area, as adjusted for family size, or (ii) at least 40% of the units in a Project financed by the Bonds be occupied during the “Qualified Project Period” by individuals whose incomes, determined in a manner consistent with Section 8 of the United States Housing Act of 1937, as amended, do not exceed 60% of the median income for the area, as adjusted for family size, and (iii) all of the units of the Project be rented or available for rental on a continuous basis during the Qualified Project Period. “Qualified Project Period” for the Project means a period commencing upon the later of (a) occupancy of 10% of the units in the Project or (b) the date of issue of the Bonds, and running until the later of (i) the date which is 15 years after occupancy of 50% of the units in the Project, (ii) the first date on which no tax-exempt private activity bonds issued with respect to the Project are outstanding, or (iii) the date on which any assistance provided with respect to the Project under Section 8 of the 1937 Housing Act terminates. The Project will meet the continuing low income requirement as long as the income of the individuals occupying a low income unit does not increase to more than 140% of the applicable limit. Upon an increase over 140% of the applicable limit, the next available unit of comparable or smaller size in the Project must be rented to an individual having an income that does not exceed the applicable income limitation. The Issuer has established requirements, procedures and safeguards that it believes to be sufficient to ensure compliance with the requirements of the Code and the Regulations with respect to the Project. Such requirements, procedures and safeguards are incorporated into the Regulatory Agreement, the Loan Agreement and the Indenture. Bond Counsel’s opinion assumes continuous compliance with all covenants and requirements set forth in the Regulatory Agreement pertaining to those sections of the Code that affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

In the event of noncompliance with the requirements described in the preceding paragraph arising from events occurring after the issuance of the Bonds, the Treasury Regulations provide that the exclusion of interest on the Bonds from gross income for federal income tax purposes will not be impaired if the Issuer takes appropriate corrective action within a reasonable period of time after such noncompliance is first discovered or should have been discovered by the Issuer.

Certain Ongoing Federal Tax Requirements and Covenants

The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Bonds in order that interest on the Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate

requirement that certain excess earnings on gross proceeds be rebated to the federal government. Noncompliance with such requirements may cause interest on the Bonds to become included in gross income for federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The Issuer and the Borrower have covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code.

Certain Collateral Federal Tax Consequences

The following is a brief discussion of certain collateral federal income tax matters with respect to the Bonds. It does not purport to address all aspects of federal taxation that may be relevant to a particular owner of a Bond. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Bonds.

Prospective owners of the Bonds should be aware that the ownership of such obligations may result in collateral federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is excluded from gross income for federal income tax purposes. Interest on the Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

Original Issue Discount

“Original issue discount” (“OID”) is the excess of the sum of all amounts payable at the stated maturity of a Bond (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the “issue price” of a maturity (a bond with the same maturity date, interest rate, and credit terms) means the first price at which at least 10 percent of such maturity was sold to the public, i.e., a purchaser who is not, directly or indirectly, a signatory to a written contract to participate in the initial sale of the Bonds.

In general, the issue price for each maturity of Bonds is expected to be the initial public offering price set forth on the cover page of the Official Statement. Bond Counsel further is of the opinion that, for any Bonds having OID (a “Discount Bond”), OID that has accrued and is properly allocable to the owners of the Discount Bonds under Section 1288 of the Code is excludable from gross income for federal income tax purposes to the same extent as other interest on the Bonds.

In general, under Section 1288 of the Code, OID on a Discount Bond accrues under a constant yield method, based on periodic compounding of interest over prescribed accrual periods using a compounding rate determined by reference to the yield on that Discount Bond. An owner’s adjusted basis in a Discount Bond is increased by accrued OID for purposes of determining gain or loss on sale, exchange, or other disposition of such Bond. Accrued OID may be taken into account as an increase in the amount of tax-exempt income received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Bond even though there will not be a corresponding cash payment.

Owners of Discount Bonds should consult their own tax advisors with respect to the treatment of original issue discount for federal income tax purposes, including various special rules relating thereto, and the state and local tax consequences of acquiring, holding, and disposing of Discount Bonds.

Bond Premium

In general, if an owner acquires a bond for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the bond after the acquisition date (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates), that premium constitutes “bond premium” on that bond (a “Premium Bond”). In general, under Section 171 of the Code, an owner

of a Premium Bond must amortize the bond premium over the remaining term of the Premium Bond, based on the owner's yield over the remaining term of the Premium Bond determined based on constant yield principles (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner's regular method of accounting against the bond premium allocable to that period. In the case of a tax-exempt Premium Bond, if the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner's original acquisition cost. Owners of any Premium Bonds should consult their own tax advisors regarding the treatment of bond premium for federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, amortization of bond premium on, sale, exchange, or other disposition of Premium Bonds.

Information Reporting and Backup Withholding

Information reporting requirements apply to interest paid on tax-exempt obligations, including the Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number and Certification," or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to "backup withholding," which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a "payor" generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Bonds from gross income for federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the owner's federal income tax once the required information is furnished to the Internal Revenue Service.

Miscellaneous

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the federal or state level, may adversely affect the tax-exempt status of interest on the Bonds under federal or state law or otherwise prevent beneficial owners of the Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future, or enacted) and such decisions could affect the market price or marketability of the Bonds.

Prospective purchasers of the Bonds should consult their own tax advisors regarding the foregoing matters.

UNDERWRITING

Lument Securities, LLC (the "Underwriter"), is offering the Bonds at the price set forth on the cover hereof. The initial offering price may be changed from time to time and concessions from the offering price may be allowed to dealers, banks and others. The Underwriter has agreed to purchase the Bonds at the price set forth on the cover hereof. For its services as such, the Underwriter is to be paid a fee equal to \$_____, plus \$_____ for certain fees and expenses, but not including the fees and expenses of its counsel. From its fees, the Underwriter will pay certain of its expenses relating to the offering.

The Underwriter and its respective affiliates are full-service financial institutions engaged in various activities that may include securities trading, commercial and investment banking, municipal advisory, brokerage, and asset management. In the ordinary course of business, the Underwriter and its respective affiliates may actively trade debt and, if applicable, equity securities (or related derivative securities) and provide financial instruments (which may include bank loans, credit support or interest rate swaps). The Underwriter and its respective affiliates may engage in transactions for their own accounts involving the securities and instruments made the subject of this securities offering

or other offering of the Issuer and/or Borrower. The Underwriter and its respective affiliates may make a market in credit default swaps with respect to municipal securities in the future. The Underwriter and its respective affiliates may also communicate independent investment recommendations, market color or trading ideas and publish independent research views in respect of this securities offering or other offerings of the Issuer and/or Borrower.

The Underwriter does not guarantee a secondary market for the Bonds and is not obligated to make any such market in the Bonds. No assurance can be made that such a market will develop or continue. Consequently, investors may not be able to resell Bonds should they need or wish to do so for emergency or other purposes.

In addition to serving as Underwriter, Lument Securities, LLC has been designated to serve as Remarketing Agent and will receive a fee for its remarketing services in connection with any remarketing of the Bonds on the Fixed Mandatory Tender Date.

RATING

Moody's Investors Service, Inc., a Delaware corporation (the "Rating Agency"), has assigned to the Bonds the rating set forth on the cover page hereof. The rating reflects only the view of the Rating Agency at the time the rating was issued and an explanation of the significance of such rating may be obtained from the Rating Agency. The rating is not a recommendation to buy, sell or hold the Bonds. There is no assurance that any such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely by such rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of such rating can be expected to have an adverse effect on the market price of the Bonds.

None of the Underwriter, the Issuer or the Borrower have undertaken any responsibility after issuance of the Bonds to ensure the maintenance of the rating or to oppose any such revision or withdrawal.

UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

The Borrower has undertaken all responsibility for any continuing disclosure to Bondholders as described below, and the Issuer undertakes no responsibility and will have no liability to the Holders of the Bonds or any other person with respect to such disclosures.

Prior to the issuance of the Bonds, the Borrower will execute and deliver a Continuing Disclosure Agreement pursuant to which the Borrower will agree to provide ongoing disclosure pursuant to the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). Financial statements and other operating data will be provided at least annually to the Municipal Securities Rulemaking Board (the "MSRB") and notices of certain events will be issued pursuant to the Rule. Information will be filed with the MSRB through its Electronic Municipal Market Access ("EMMA") system, unless otherwise directed by the MSRB. A form of the Continuing Disclosure Agreement is attached hereto as APPENDIX E.

A failure by the Borrower to comply with the Continuing Disclosure Agreement will not constitute an Event of Default under the Loan Agreement. Nevertheless, such a failure must be reported in accordance with the Rule and must be considered by a broker or dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price and the ability of the Issuer to issue and sell bonds in the future.

The Borrower has not previously been subject to the continuing disclosure requirements of the Rule.

CERTAIN LEGAL MATTERS

Certain legal matters relating to the authorization and validity of the Bonds will be subject to an approving opinion of Hawkins Delafield & Wood LLP, Bond Counsel, San Francisco, California. Certain legal matters will be passed upon for the Borrower by its counsels, Katten Muchin Rosenman LLP, Los Angeles, California and Hobson Bernardino + Davis LLP, Culver City, California, and for the Underwriter by its counsel, Tiber Hudson LLC,

Washington, D.C. Payment of the fees of certain counsel to the transaction is contingent upon the issuance and delivery of the Bonds as described herein.

The various legal opinions to be delivered concurrently with the delivery of the Bonds express the professional judgment of the attorneys rendering those opinions on the legal issues explicitly addressed therein. By rendering the legal opinion, the opinion giver does not become an insurer or guarantor of an expression of professional judgment of the transaction opined upon or of the future performance of parties to such transaction, nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

ABSENCE OF LITIGATION

The Issuer

There is no litigation that has been served upon the Issuer and, to the knowledge of the Issuer, there is no litigation pending or threatened against the Issuer, restraining or enjoining the issuance, sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds, any proceedings of the Issuer taken with respect to the issuance or sale thereof, the Issuer Documents, the pledge or application of any money or security provided for the payment of the Bonds, the existence or powers of the Issuer relating to the Bonds or the title of any officers of the Issuer to their respective positions.

The Borrower

There is no legal action, suit, proceeding, investigation or inquiry at law or in equity, before or by any court, agency, arbitrator, public board or body or other entity or person, pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any member of the Borrower, in their respective capacities as such, nor, to the knowledge of the Borrower, any basis therefor, (i) which would restrain or enjoin the issuance or delivery of the Bonds, the use of this Official Statement in the marketing of the Bonds or the collection of revenues pledged under or pursuant to the Indenture or (ii) which would in any way contest or affect the organization or existence of the Borrower or the entitlement of any officer of the Borrower to its position or (iii) which would contest or have a material and adverse effect upon (A) the due performance by the Borrower of the transactions contemplated by this Official Statement, (B) the validity or enforceability of the Bonds or any other agreement or instrument to which the Borrower is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby and thereby, (C) the exclusion from gross income for federal income tax purposes of the interest on the Bonds or (D) the financial condition or operations of the Borrower, (iv) which contests in any way the completeness or accuracy of this Official Statement or (v) which questions the power or authority of the Borrower to carry out the transactions on its part contemplated by this Official Statement, or the power of the Borrower to own or operate the Project. The Borrower is not subject to any judgment, decree or order entered in any lawsuit or proceeding brought against it that would have such an effect.

ADDITIONAL INFORMATION

The summaries and explanation of, or references to, the Act, the Indenture and the Bonds included in this Official Statement do not purport to be comprehensive or definitive. Such summaries, references and descriptions are qualified in their entirety by reference to each such document, copies of which are on file with the Trustee.

The information contained in this Official Statement is subject to change without notice and no implication shall be derived therefrom or from the sale of the Bonds that there has been no change in the affairs of the Issuer from the date hereof.

This Official Statement is submitted in connection with the offering of the Bonds and may not be reproduced or used, as a whole or in part, for any other purpose. Any statements in this Official Statement involving matters of opinion or estimate, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Issuer and the owners of any of the Bonds.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this final official statement for purposes of, and as that term is defined in, SEC Rule 15c2-12.

[Signature pages to follow]

IN WITNESS WHEREOF, the foregoing Official Statement has been executed by the undersigned as of the date first written above.

BERRYESSA AFFORDABLE HOUSING, L.P.,
a California limited partnership

By: AHG Berryessa, LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation,
its Manager

By: _____
Robin Martinez
Executive Director

APPENDIX A

DEFINITIONS OF CERTAIN TERMS

Certain capitalized terms used in this Official Statement are defined below. The following is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.

“Act” means Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as the same may be amended.

“Actual Project Loan Amount” shall mean the amount funded by the Funding Lender on the Mandatory Tender Date pursuant to terms of the Forward Commitment Agreement (as further described in the Indenture), which amount shall either be (i) an amount equal to the permanent phase Funding Loan amount (if Stabilization occurs on the Mandatory Tender Date) or (ii) an amount equal to the outstanding principal amount of the Bonds (if Stabilization does not occur on the Mandatory Tender Date).

“Additional Payments” means the amounts required to be paid by the Borrower pursuant to the provisions of the Loan Agreement.

“Administrative General Partner” means AHG Berryessa, LLC, a California limited liability company.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Agreement” or “Loan Agreement” means the Loan Agreement dated as of the same date as the Indenture, between the Issuer and the Borrower and any and all Supplements thereto.

“Authorized Borrower Representative” means any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate revoking such person’s authority to act in such capacity. The initial Authorized Borrower Representative is [_____].

“Authorized Denomination” means \$5,000, or any integral multiple of \$1,000 in excess thereof.

“Authorized Officer” means (a) with respect to the Issuer, any “Authorized Officer” as such term is defined in the Bond Resolution.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

“Bond Counsel” means Hawkins Delafield & Wood LLP or other counsel selected by the Issuer and nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Bond Debt Service Charges” means payments to be made by the Borrower to the Issuer pursuant to the Loan Agreement and the Note in amount sufficient to pay the principal of and interest on the Bonds when due.

“Bond Fund” means the Bond Fund established pursuant to the Indenture.

“Bond Payment Date” means each Interest Payment Date and any other date Bond Debt Service Charges on the Bonds are due, whether at maturity, upon redemption, on mandatory tender or acceleration or otherwise.

“Bond Purchase Agreement” means the Purchase Contract, dated April __, 2026, among the Issuer, the Borrower and Underwriter.

“Bond Resolution” means the resolution adopted by the Issuer on April 14, 2026, authorizing, among other things, the issuance, sale, and delivery of the Bonds and related matters.

“Bondholder” or “Holder of the Bonds” or “Holder” or “Owner of the Bonds” or “Owner” when used with respect to any Bond, means the person or persons in whose name such Bond is registered as the owner thereof on the books of the Issuer maintained at the Designated Office of the Trustee for that purpose.

“Bonds” means the \$82,584,000* Multifamily Housing Revenue Bonds, Series 2026A (Berryessa TOD) of the Issuer issued, authenticated and delivered under the Indenture, which are identified as such in the Indenture.

“Book-Entry Form” or “Book-Entry System” means a form or system, as applicable, under which (i) the ownership of beneficial interests in the Bonds may be transferred only through a book entry and (ii) physical bond certificates in fully registered form are registered only in the name of a Securities Depository or its nominee as holder, with the physical bond certificates “immobilized” in the custody of the Securities Depository.

“Borrower” means Berryessa Affordable Housing, L.P., a California limited partnership, and its successors and assigns.

“Borrower Documents” means the Loan Agreement, the Note, the Tax Certificate, the Regulatory Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Forward Commitment Agreement and any and all documents, agreements or instruments executed by the Borrower in connection with the Loan and the Bonds, but excluding the Construction Loan Documents.

“Borrower Loan Agreement” means the Borrower Loan Agreement attached an appendix to the Indenture, which Borrower Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“Borrower’s Obligations” means the obligations of the Borrower under the Loan Agreement, the Note, and the other Borrower Documents to (a) pay the principal of, and interest on the Note, when and as the same shall become due and payable (whether at the stated maturity thereof, on any payment date or by acceleration of maturity or otherwise), (b) pay all other amounts required by the Loan Agreement, the Note, and the other Borrower Documents to be paid by the Borrower to the Issuer, as and when the same shall become due and payable, and (c) timely perform, observe and comply with all of the terms, covenants, conditions, stipulations, and agreements, express or implied, which the Borrower is required by the Loan Agreement, the Note, the Regulatory Agreement, and any of the other Borrower Documents, to perform or observe.

“Business Day” means a day, other than a Saturday or Sunday, on which (a) banks located in New York, New York, or in the city in which the Trustee is located, are not required or authorized by law or executive order to close for business, and (b) the New York Stock Exchange is not closed.

“Cash Flow Projection” means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the

* Preliminary, subject to change.

Borrower and acceptable to the Underwriter and the Rating Agency, establishing the sufficiency of (a) the amount on deposit in the Project Fund, the Collateral Fund and the Bond Fund, (b) projected investment income to accrue on amounts on deposit in the Project Fund, the Collateral Fund and the Bond Fund during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Debt Service Charges and the administrative expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in the Indenture, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in the Indenture and (iv) the purchase, sale or exchange of Eligible Investments as provided in the Indenture.

“CDLAC” means the California Debt Limit Allocation Committee or its successors.

“Certificate of Occupancy” means the temporary or final certificate of occupancy, as the case may be, issued for the multifamily units in the Project, or if certificates of occupancy are not required or provided for multifamily units, then evidence of all final inspection approvals needed to occupy the multifamily units.

“Closing Date” means the date of initial delivery of the Bonds in exchange for the purchase price thereof.

“Code” means the Internal Revenue Code of 1986, including applicable final, temporary and proposed regulations and revenue rulings applicable to the Bonds.

“Collateral Fund” means the Collateral Fund created in the Indenture.

“Completion Certificate” means a certificate submitted by the Authorized Borrower Representative to the Issuer, the Trustee and CDLAC as provided in the Regulatory Agreement, a form of which is attached to the Regulatory Agreement as an exhibit.

“Completion Date” means the date upon which the Completion Certificate and the Certificate of Occupancy are delivered by the Borrower to the Issuer, the Trustee and CDLAC.

“Confirmation of Rating” means a written confirmation, obtained prior to the event or action under scrutiny, from the Rating Agency to the effect that, following the proposed action or event under scrutiny at the time such confirmation is sought, the rating of the Rating Agency with respect to all Bonds then Outstanding and then rated by the Rating Agency will not be downgraded, suspended, qualified or withdrawn as a result of such action or event.

“Construction Lender” means Deutsche Bank AG, New York Branch, and any successors and assigns.

“Construction Loan” means the construction loan to be made by the Construction Lender to the Borrower with respect to the Project, as described and provided for in the Construction Loan Documents.

“Construction Loan Agreement” means the Construction Loan Agreement dated as of the date of the Indenture, between the Construction Lender and the Borrower, as the same may be amended, supplemented or restated.

“Construction Loan Documents” means the Construction Loan Agreement, the Construction Loan Security Instrument, the Construction Note, and all other documents required by the Construction Lender in connection with the Construction Loan.

“Construction Loan Prepayment Amount” means an amount necessary to prepay in full the outstanding principal amount of the Construction Loan (in whole or in part, as may be applicable), together with accrued interest to, but not including, the Conversion Date, as set forth in a payoff statement submitted by the Construction Lender to the Trustee on or prior to the Conversion Date.

“Construction Loan Prepayment Fund” means the Construction Loan Prepayment Fund established pursuant to the Indenture.

“Construction Loan Security Instrument” means the Construction Mortgage, which will secure the Construction Loan, as the same may be amended, supplemented or restated.

“Construction Note” means the Promissory Note evidencing the Construction Loan, delivered by the Borrower to the Construction Lender, as may be amended and restated.

“Construction Phase” means the construction phase of the Loan, which time period shall commence on the Closing Date and remain in effect to, but not including, the Conversion Date.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of April 1, 2026, between the Borrower and the Dissemination Agent, as the same may be amended, supplemented or modified from time to time.

“Conversion” means the the purchase by the Funding Lender of the Governmental Note(s) upon mandatory tender of the Bonds on the Mandatory Tender Date, as set forth in the Indenture.

“Costs of Issuance” means all fees, costs and expenses payable or reimbursable directly or indirectly by the Issuer or the Borrower and related to the authorization, issuance and sale of the Bonds, including issuance costs of the Bonds (within the meaning of Section 147(g) of the Code.

“Costs of Issuance Fund” means the Costs of Issuance Fund established pursuant to the Indenture.

“Costs of the Project” with respect to the Project shall be deemed to include all items permitted to be financed under the provisions of the Code and the Act.

“Designated Office” of the Trustee, the Remarketing Agent or the Underwriter means, with respect to the Trustee the designated office of the Trustee at which at any times its corporate trust business shall be administered, or with respect to the Remarketing Agent, the office of the Remarketing Agent, or with respect to the Underwriter, the office of the Underwriter, each at the respective Notice Address set forth in the Indenture or at such other address as may be specified from time to time in writing by the Trustee, the Remarketing Agent or the Underwriter, as applicable, as provided in the Indenture, or the designated corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time in writing as provided in the Indenture).

“Dissemination Agent” means initially UMB Bank, National Association, or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

“Documents” means and shall include the Indenture, the Bonds, the Loan Agreement, the Note, the Regulatory Agreement, the Tax Certificate, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, this Official Statement, the Forward Commitment Agreement and any and all other documents which the Issuer, the Borrower or any other party or parties or their representatives, have executed and delivered, or may execute and deliver, with respect to the Bonds or the Loan, or in connection therewith (which, for purposes of the Indenture, shall be identified to the Trustee as required to be received by the Trustee prior to delivery of the Bonds), and any and all Supplements thereto, but excluding the Construction Loan Documents.

“Electronic Means” means the following communications methods: portable document format (“.pdf”) or other replicating image attached to an e-mail, facsimile transmission or other unsecured electronic methods, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services under the Indenture.

“Eligible Funds” means, as of any date of determination, any of:

(a) The proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase price thereof or as an advance by the Underwriter);

- (b) moneys drawn on a letter of credit;
- (c) moneys received by the Trustee representing advances to the Borrower of proceeds of the Construction Loan;
- (d) remarketing proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase and or remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, any Affiliate of either the Borrower or the Issuer);
- (e) any other amounts, including the proceeds of any refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;
- (f) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no act of bankruptcy has occurred during such period;
- (g) proceeds of the Funding Lender Purchase Price received from the Funding Lender in connection with the purchase of the Governmental Note on the Conversion Date; and
- (h) investment income derived from the investment of the money described in (a) through (g) above.

“Eligible Investments” means any of the following investments which at the time of investment are legal investments for moneys of the Issuer and each of which investments must mature or be guaranteed to be able to be tendered at a price of par prior to the Fixed Mandatory Tender Date (or if moneys are invested after the Fixed Mandatory Tender Date, prior to the date such funds are expected to be needed):

- (a) Direct obligations of the United States of America including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America, including, when available, SLGS (“Governmental Obligations”); or
- (b) Money market funds rated “Aaa-mf” by Moody’s (or the equivalent Highest Rating Category given by the Rating Agency for that Rating Category) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) that are registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

“Event of Default” or “Default” means any of the events described as an Event of Default in the Indenture or the Loan Agreement.

“Extension Payment” means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to the Indenture, which shall be determined by a Cash Flow Projection and must consist of Eligible Funds.

“Extraordinary Services” and “Extraordinary Expenses” mean all services rendered and all reasonable fees and expenses properly incurred by the Trustee or the Issuer (including reasonable and actual fees, costs and expenses of counsel) under the Indenture or the other Documents, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include but are not limited to services rendered

or fees or expenses incurred by the Trustee or the Issuer in connection with, or in contemplation of, an Event of Default (including reasonable and actual fees, costs and expenses of counsel).

“Federal Tax Status” means, as to the Bonds, the status of the interest on the Bonds as excludible from gross income for federal income tax purposes of the Holders of the Bonds (except on Bonds while held by a substantial user or related person to a substantial user within the meaning of Section 147(a) of the Code or by an applicable corporation within the meaning of Section 59(k) of the Code).

“Fixed Mandatory Tender Date” means May 1, 2029*.

“Forward Commitment Agreement” means the Forward Commitment Agreement, dated the Closing Date, by and between the Construction Lender, the Funding Lender and the Borrower.

“Funding Lender” means Deutsche Bank Securities Inc., and its successor and assigns.

“Funding Lender Purchase Price” means an amount equal to the Actual Project Loan Amount to be funded by the Funding Lender on the Mandatory Tender Date.

“Funding Loan Agreement” means the Funding Loan Agreement attached as an appendix to the Indenture, which Funding Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“Funding Loan Fund” means the Funding Loan Fund established under the Funding Loan Agreement.

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

“Governmental Authority” means any federal, State or local governmental or quasi-governmental entity, including, without limitation, any agency, department, commission, board, bureau, administration, service, or other instrumentality of any governmental entity.

“Governmental Note” means the Governmental Note of the Issuer in the form attached as an exhibit to the Funding Loan Agreement, which Governmental Note shall be executed, delivered and become effective on the Conversion Date.

“Highest Rating Category” means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below Aa1 or Aa1/VMIG-1 if rated by Moody’s or A-1+ or AA+ if rated by S&P.

“Indenture” means the Trust Indenture, dated as of April 1, 2026, by and between the Issuer and the Trustee, and any and all Supplements thereto.

“Independent” means any person not an employee or officer of the Borrower or its affiliates.

“Initial Borrower Deposit” means Eligible Funds in the amount set forth in the Indenture.

“Initial Interest Rate” means ____%.

“Initial Remarketing Date” means the Fixed Mandatory Tender Date, but only if the Conversion has not occurred on such date and the conditions for remarketing the Bonds on such date as provided in the Indenture are satisfied.

* Preliminary; subject to change.

“Interest Payment Date” means (a) May 1 and November 1 of each year beginning November 1, 2026* and (c) each Redemption Date.

“Interest Rate” means, as applicable, the Initial Interest Rate to, but not including, the Fixed Mandatory Tender Date and thereafter the applicable Remarketing Rate; provided, however, upon Conversion, the Interest Rate shall be as set forth in the Funding Loan Agreement.

“Investor Limited Partner” means BF FRE 2023, Limited Partnership, a Delaware limited partnership, and its successors and assigns.

“Issuer” means the City of San José, a municipal corporation and charter city, organized and existing under the laws of the State.

“Issuer Documents” means the Loan Agreement, the Indenture, the Regulatory Agreement, the Bond Purchase Agreement, the Tax Certificate and any and all documents, agreements or instruments executed by the Issuer in connection with the Loan.

“Issuer’s Obligations” means, subject to the Indenture, the obligations of the Issuer under the Bonds, the Indenture, and the other Documents to (a) pay the principal of and interest on the Bonds, when and as the same shall become due and payable (whether at the stated maturity thereof, or by acceleration of maturity or after notice of prepayment or otherwise) and, (b) timely perform, observe and comply with all of the terms, covenants, conditions, stipulations, and agreements, express or implied, which the Issuer is required, by the Bonds, the Indenture, or any of the other Documents, to perform and observe.

“Loan” means the loan in the original principal amount of \$82,584,000* made by the Issuer to the Borrower from the proceeds of the Bonds pursuant to the Loan Agreement and evidenced by the Note.

“Loan Agreement” means the Loan Agreement dated April 1, 2026, between the Issuer and the Borrower and any and all Supplements thereto.

“Loan Payments” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and the Loan Agreement.

“Managing General Partner” means CFAH Housing LLC, a California limited liability company.

“Mandatory Tender Date” means the Fixed Mandatory Tender Date and any subsequent date on which all Outstanding Bonds are subject to mandatory tender as set forth in the Indenture.

“Maturity Date” means May 1, 2066*.

“Moody’s” means Moody’s Investors Service, Inc., a Delaware corporation, and its successors and assigns, or if it is dissolved or no longer assigns credit ratings, then any other nationally recognized statistical rating agency, acceptable to the Remarketing Agent, that assigns credit ratings.

“Negative Arbitrage Account” means the Negative Arbitrage Account of the Bond Fund established pursuant to the Indenture.

“No Adverse Effect Opinion of Bond Counsel” means an opinion of Bond Counsel to the effect that such action will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

* Preliminary, subject to change.

“Note” means the Promissory Note, dated the Closing Date from the Borrower to the Issuer, in substantially the form attached to the Loan Agreement as an exhibit, which Note has been assigned by the Issuer to the Trustee, as the same may be amended, supplemented or restated.

“Notice Address” has the meaning set forth in the Indenture.

“Official Statement” means, collectively, the preliminary and final Official Statement relating to the Bonds along with any amendments or supplements thereto.

“Opinion of Counsel” means an opinion from an attorney or firm of attorneys, acceptable to the Issuer, with experience in the matters to be covered in the opinion.

“Optional Call Date” means any date on or after the Mandatory Tender Date (if the Conversion has not occurred).

“Ordinary Services” and “Ordinary Expenses” mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to the Indenture.

“Outstanding,” “outstanding” or “Bonds Outstanding” when used with respect to the Bonds means any Bonds theretofore authenticated and delivered under the Indenture, except:

(a) Bonds theretofore canceled by the Trustee or theretofore delivered to the Trustee for cancellation;

(b) Bonds for the payment of which moneys or obligations shall have been theretofore deposited with the Trustee in accordance with the Indenture; or

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under the Indenture.

“Partnership Agreement” means the Agreement of Limited Partnership of the Borrower, as it may be amended in accordance with the Borrower Documents and the Construction Loan Documents.

“Person” shall include an individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“Plans and Specifications” means the plans and specifications describing the Project as now prepared and as they may be changed as provided in the Loan Agreement.

“Project” means the multifamily rental housing facility to be constructed at 1565 Mabury Road, San José, California 95133, which, upon completion, will include 195 units (including two unrestricted manager’s units) for low-income households and extremely low-income households.

“Project Fund” means the Project Fund created in the Indenture.

“Qualified Project Costs” means any expenditures which (a) are incurred not more than 60 days prior to the date on which the issuer first declared its “official intent” (within the meaning of Treasury Regulation Section 1.150-2) with respect to the Project (other than preliminary expenditures with respect to the Project in an amount not exceeding 20% of the aggregate principal amount of the Bonds); (b) are made exclusively to provide facilities and improvements that constitute part of a “qualified residential rental project” within the meaning of Section 142(d) of the Code; and (c) are properly chargeable to the Project’s capital account under general federal income tax principles or that would be so chargeable with a proper election or but for a proper election by the Borrower to deduct such expenditure. However, “Qualified Project Costs” do not include (i) issuance costs of the Bonds (within the meaning of Section 147(g) of the Code) or (ii) any fee, charge or profit payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) of the Borrower. As used in the Indenture, the term “preliminary

expenditures” includes architectural, engineering, surveying, soil testing and similar costs that were incurred prior to the commencement of the Project, but does not include land acquisition, site preparation and similar costs incident to commencement of construction of the Project.

“Rating Agency” means Moody’s, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns, and initially means Moody’s so long as Moody’s is rating the Bonds.

“Rating Category” means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

“Rebate Fund” means the Rebate Fund created in the Indenture.

“Record Date” means the 15th day of the month preceding any Interest Payment Date or 45 days prior to any Mandatory Tender Date.

“Regulatory Agreement” means the Regulatory Agreement, dated as of April 1, 2026, by and between the Issuer and the Borrower.

“Remarketing Agent” means Lument Securities, LLC, or any successor as Remarketing Agent designated in accordance with the Indenture.

“Remarketing Agreement” means the Remarketing Agreement, dated as of April 1, 2026, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“Remarketing Date” means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Remarketing Period” means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to the Indenture.

“Remarketing Proceeds Account” means the Remarketing Proceeds Account of the Bond Fund created in the Indenture.

“Remarketing Rate” means the interest rate or rates established pursuant to the Indenture and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable, which shall be the lowest rate at which the remarketed Bonds can be sold at a price equal to par.

“Requisition” means the written request to make a disbursement from the Project Fund in substantially the form attached as an appendix to the Indenture or a disbursement request from the Costs of Issuance Fund in substantially the form attached as an appendix to the Indenture.

“Revenues” means (a) the Loan Payments, (b) the Eligible Funds received by the Trustee for deposit into the Collateral Fund, (c) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (d) any money and investments in the Project Fund and the Collateral Fund, and (e) all income and profit from the investment of the foregoing moneys. The term “Revenues” does not include any money or investments in the Rebate Fund, the Costs of Issuance Fund, the Expense Fund or the Construction Loan Prepayment Fund, amounts paid as fees, reimbursement for expenses or for indemnification of the Issuer and the Trustee, or amounts paid to or collected by the Issuer in connection with any Unassigned Issuer’s Rights.

“S&P” means S&P Global Ratings.

“Securities Depository” means the Depository Trust Company, its successors and assigns, or any other securities depository for the Bonds designated by the Issuer or the Borrower to the Trustee in writing.

“Special Funds” means, collectively, the Bond Fund, the Collateral Fund and the Project Fund, and any accounts therein, all as created in the Indenture.

“State” means the State of California.

“Supplement” or “Supplements” means any and all extensions, renewals, modifications, amendments, supplements and substitutions to any Document.

“Tax Certificate” means the Tax Certificate and Agreement executed by the Issuer and the Borrower.

“Title Company” means Corinthian Title & Escrow Company.

“Trust Estate” means the property rights, money, securities and other amounts pledged and assigned to the Trustee under the Indenture pursuant to the Granting Clauses of the Indenture.

“Trustee” means UMB Bank, National Association, [a national banking association], organized and existing under the laws of the United States and authorized to conduct business in the State, and its successor or successors in the trust created by the Indenture.

“Unassigned Issuer’s Rights” means those certain rights of the Issuer under the Documents to which the Issuer is a party to indemnification and to payment or reimbursement of fees and expenses of the Issuer, its right to give and receive notices and to enforce notice and reporting requirements and restrictions on transfer of ownership, its right to inspect and audit the books, records and premises of the Borrower and of the Project, its right to collect attorneys’ fees and related expenses, its right to specifically enforce the Borrower’s covenant to comply with applicable federal tax law and State law (including the Act and the rules and regulations of the Issuer, if any), and its right to give or withhold consent to amendments, changes, modifications and alterations to the Documents relating to the Unassigned Issuer’s Rights.

“Undelivered Bond” means any Bond that is required under the Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“Underwriter” means Lument Securities, LLC.

APPENDIX B

SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE

The following is a brief summary of certain provisions of the Indenture. The following summary does not purport to be complete or definitive and is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.

Creation of Funds

The following funds and accounts will be established and maintained by the Trustee under the Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account;
- (b) the Project Fund;
- (c) the Rebate Fund;
- (d) the Costs of Issuance Fund;
- (e) the Collateral Fund;
- (f) the Expense Fund; and
- (g) the Construction Loan Prepayment Fund.

The Trustee may create one or more accounts or subaccounts within any fund authorized by the Indenture for the purpose of accounting for funds deposited into or held in each fund or for carrying out any of the requirements of the Indenture. The Trustee may transfer funds between accounts and subaccounts within any fund as permitted by the Indenture.

In the event certain moneys are deposited with the Trustee prior to the Closing Date, whether or not pursuant to one or more letters of instruction from the provider or providers of such moneys, such moneys shall be held by the Trustee subject to the terms and conditions of the Indenture, in addition to the terms of any such letter(s) of instruction. For such purpose, the standards of care, any provisions governing the responsibilities and indemnification and other provisions relating to the Trustee contained in the Indenture and in the Loan Agreement (the “Effective Provisions”) shall be effective as of the first date of receipt by the Trustee of such moneys. The Effective Provisions shall be deemed incorporated into any such letter(s) of instructions. Funds in the Costs of Issuance Fund, the Construction Loan Prepayment Fund and the Rebate Fund shall not be pledged to the payment of the Bonds and shall not be part of the Trust Estate.

Deposits into and Use of Moneys in the Bond Fund

On the Closing Date, the Trustee shall deposit the Initial Borrower Deposit, if any, into the Negative Arbitrage Account of the Bond Fund. The Bond Fund and amounts on deposit in the Bond Fund are to be invested pursuant to the Indenture. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to the Indenture shall also be deposited into the Negative Arbitrage Account. Upon receipt by the Trustee of a Cash Flow Projection provided on behalf of the Borrower, the Trustee is authorized to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to be released to or at the written direction of the Borrower from such account.

So long as there are any Outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Loan Agreement shall be paid on or before each Bond Payment Date directly

to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the interest and the principal due on the Bonds on such Bond Payment Date.

Bond Debt Service Charges shall be payable as they become due, (a) in the first instance from the money on deposit in the Bond Fund (excluding the Negative Arbitrage Account of the Bond Fund), (b) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (c) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (d) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Except as otherwise provided in the Indenture, moneys in the Bond Fund shall be used solely for the payment of the principal of and interest on the Bonds when due.

Collateral Fund; Project Fund

To the extent moneys are not otherwise provided to the Trustee to make the necessary interest and principal payments on each Bond Payment Date, including moneys deposited into the Bond Fund or the Collateral Fund, the Trustee shall, without further written direction, transfer from the Project Fund to the Bond Fund sufficient Eligible Funds to make such necessary interest and principal payments on each Bond Payment Date in accordance with the Indenture. Upon the receipt of a Requisition for disbursement from the Project Fund subject and pursuant to the terms of the Indenture and the receipt of Eligible Funds in amounts equal to or greater than such requests, the Trustee shall concurrently take the following steps:

- (i) deposit such Eligible Funds into the Collateral Fund; and
- (ii) disburse Bond proceeds from the Project Fund in an amount equal to the Eligible Funds received and deposited pursuant to subparagraph (i) above, in accordance with the Indenture; provided to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee shall not sell or otherwise terminate such Eligible Investments prior to their stated maturity date and instead the Trustee is instructed to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Costs of the Project, as described in further detail in the Indenture: (a) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the Requisition for disbursement, to the Collateral Fund, and (b) transfer to the Project Fund a like amount of Eligible Funds on deposit in the Collateral Fund to be disbursed in accordance with this subparagraph (ii).

Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions of the Indenture.

The Trustee shall cause to be kept and maintained accurate records pertaining to the Project Fund and all disbursements therefrom. If requested by the Issuer or the Borrower, after the Project has been completed and a certificate of payment of all costs is filed as provided in the Indenture, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with the Issuer and the Borrower.

Each Requisition submitted to the Trustee shall evidence and request disbursements from the Project Fund, and/or the Costs of Issuance Fund.

Notwithstanding any other provision of the Indenture to the contrary, after the Closing Date the Trustee shall not disburse moneys from the Project Fund, other than to pay Bond Debt Service Charges on the Bonds, unless and until the Trustee receives satisfactory evidence that Eligible Funds in an amount equal to or greater than the requested disbursement amount (the "Collateral Deposit") has been deposited in the Collateral Fund. Prior to making any disbursement, the Trustee shall verify that upon making the disbursement, the aggregate amount to be held in (i) the Collateral Fund and (ii) the Project Fund (less the requested disbursement amount) will be at least equal to the then-Outstanding principal amount of the Bonds. In the event that, following receipt of the Collateral Deposit, the Trustee determines that it cannot correspondingly disburse Bond proceeds in an amount equal to the Collateral Deposit to or at the direction of the Borrower and the Construction Lender, the Trustee shall immediately notify the Borrower and

the Construction Lender, as applicable, of the reason for such determination and shall immediately return the subject Collateral Deposit to the Construction Lender.

Upon the occurrence and continuance of an Event of Default under the Indenture because of which the principal amount for the Bonds has been declared to be due and immediately payable under the Indenture, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund for payment of Bond Debt Service Charges.

Construction Loan Prepayment Fund

On the Mandatory Tender Date, the Trustee shall deposit into the Construction Loan Prepayment Fund the proceeds of the Funding Lender Purchase Price and other funds of the Borrower (including equity funds), if any, such that the amount in the Construction Loan Prepayment Fund equals the Construction Loan Prepayment Amount, which amount shall be used on the Mandatory Tender Date Date to prepay all or a portion of the Construction Loan.

Disposition of Excess Funds in the Bond Fund, the Collateral Fund, and the Project Fund Prior to the Conversion Date

If the Bonds are subject to mandatory redemption or acceleration prior to the Conversion Date, then to the extent any moneys remain in the Project Fund, the Bond Fund or the Collateral Fund after there are no Bonds Outstanding and payment in full, or provision for payment, of the final Rebate Amount and any remaining fees or expenses or other amounts owed to the Issuer or Trustee, such moneys will be paid directly to the Construction Lender and applied first to the payment of the outstanding balance of the Construction Loan to the extent such funds are not proceeds of the Bonds or otherwise restricted funds.

Procedure for Making Disbursements from Project Fund

On the Closing Date, the Borrower shall submit the initial Requisition from the Project Fund for the amount specified in the Indenture and shall cause Eligible Funds in an equal amount to be delivered to the Trustee for deposit into the Collateral Fund. Thereafter, upon each deposit of Eligible Funds into the Collateral Fund, as provided in the Indenture, the Trustee shall disburse from the Project Fund an equal amount of Bond proceeds on such date solely to pay the Costs of the Project and only upon the receipt by the Trustee of a Requisition in substantially the form attached as an appendix to the Indenture, which includes the certification by an Authorized Borrower Representative that such costs are Qualified Project Costs. The Trustee shall not disburse money from the Project Fund, other than to pay interest and principal on the Bonds, unless and until a Collateral Deposit or other Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited into the Collateral Fund and the Trustee has determined that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the requested disbursement amount) is at least equal to the then-Outstanding principal amount of the Bonds. The Borrower shall determine in good faith whether an architect or engineer is required to execute any Requisition under the Indenture, and the Trustee shall in no instance be required to make such determination. For purposes of complying with the requirements of this section, the Trustee may, in the absence of bad faith, conclusively rely and shall be protected in acting or refraining from acting upon the requisition signed by an Authorized Borrower Representative. The Trustee shall not be bound to make an investigation into the facts or matters stated in any Requisition. The Trustee shall not be responsible for determining whether the funds on hand in the Project Fund are sufficient to complete the Project. The Trustee shall not be responsible to collect lien waivers.

To the extent money on deposit in the Project Fund is invested in Eligible Investments and the Borrower has requested that the Trustee not sell or otherwise terminate such Eligible Investments prior to their stated maturity date, the Trustee is authorized to make the following allocations and exchanges in accordance with the Indenture, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Costs of the Project: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund, and (ii) transfer to the Project Fund a like amount of Eligible Funds on deposit in the Collateral Fund.

Money in the Project Fund shall be disbursed in accordance with the provisions of the Loan Agreement and the Indenture. To the extent moneys are not otherwise provided to the Trustee to make the necessary interest and

principal payments on each Bond Payment Date, including moneys deposited into the Bond Fund or the Collateral Fund, the Trustee shall, without further written direction, transfer from the Project Fund to the Bond Fund sufficient Eligible Funds to make such necessary interest and principal payments on each Bond Payment Date in accordance with the Indenture.

Notwithstanding anything contained in the Indenture or any of the Borrower Documents to the contrary, with respect to Eligible Funds funded by the Construction Lender for deposit into the Collateral Fund, the Trustee shall be irrevocably and unconditionally obligated to disburse an equal amount of funds from the Project Fund to either the Construction Lender, the Borrower or the Title Company pursuant to a Requisition from the Project Fund as directed by the Construction Lender and the Borrower. Such disbursements shall not be made more frequently than once per month, unless approved by Construction Lender.

Subject to the Trustee's obligation to return the Eligible Funds to the Construction Lender as set forth above, the Trustee and the Issuer shall not, in any event, be responsible or liable to any person (other than the Borrower, but only in the case of the Trustee, and only in the event of a failure by the Trustee to make disbursements following request for disbursements in accordance with the Indenture, when such failure is within the Trustee's sole control, and after receipt of written notice of such failure and a three-day opportunity to cure such failure) for the disbursement of, or failure to disburse, moneys from the Project Fund or any part thereof, and no contractor, subcontractor or material or equipment supplier or their respective successors and assigns shall have any right or claim against the Trustee or the Issuer under the Indenture.

Notwithstanding anything contained in the Indenture or any of the Borrower Documents to the contrary, if for any reason the Trustee is not able to disburse a corresponding amount of Bond proceeds from the Project Fund to or at the direction of the Construction Lender immediately following receipt of Eligible Funds from the Construction Lender for deposit into the Collateral Fund, the Trustee shall promptly wire transfer such funds back to the Construction Lender and not deposit same into the Collateral Fund.

Investment of Special Funds

Amounts held by the Trustee in the Special Funds shall be invested and reinvested by the Trustee, and at all times held in Eligible Investments at the written direction of the Borrower (including a facsimile transmission), such written direction of the Borrower to specify the particular investment in Eligible Investments to be made. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any. Ratings of Eligible Investments shall be determined at the time of purchase of such Eligible Investments and without regard to ratings subcategories. The Trustee shall not be liable for losses, fees, taxes or other charges on investments, reinvestments or liquidations made in compliance with the provisions of this Indenture. In the absence of written direction of the Borrower, the Trustee shall keep the moneys held by it under the Indenture fully invested in [Money Market (CUSIP No.)], which fund qualifies as an Eligible Investment on the date of the Indenture, or if such fund is unavailable, the Trustee shall invest in another fund that satisfied paragraph (b) of the definition of Eligible Investments.

At no time shall the Borrower direct that (a) any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code or (b) any funds be held other than in Eligible Investments. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything in the Indenture to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Debt Service Charges shall be held uninvested as cash and (ii) Bond proceeds and the Negative Arbitrage Deposit shall be held uninvested as cash until the Trustee has purchased, sold or exchanged Eligible Investments.

Investments of money in the Special Funds shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide money to pay any amounts due on the Bonds as they become due on each Bond Payment Date (including each Mandatory Tender Date). In addition, investment of money in the Project Fund shall mature or be redeemable at the option of the Trustee (at the direction of the Borrower) at the times and in the amounts as may be necessary to make anticipated payments from the Project Fund.

The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient money applicable under the Indenture to and at times required for the purposes of paying any amounts due on the Bonds, and shall do so without necessity for any order on behalf of the Issuer or the Borrower and without restriction by reason of any order. An investment made from money credited to an applicable fund or account shall constitute part of that respective fund or account. All investment earnings from amounts on deposit in the Special Funds shall be credited to and become part of the Bond Fund to the extent necessary to pay the expected Bond Debt Service Charges to be paid on the Bonds to and including the Maturity Date and any excess amounts shall be transferred upon receipt to the Project Fund and used to pay Costs of the Project. All gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Special Funds shall be credited to and become part of the Bond Fund. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything in the Indenture to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Debt Service Charges shall be held uninvested as cash and (ii) Bond proceeds and the Initial Borrower Deposit shall be held uninvested as cash until the Trustee has purchased, sold or exchanged Eligible Investments.

Any investments may be purchased from or sold to the Trustee, or any bank, trust company or savings and loan association which is an affiliate or subsidiary of the Trustee provided that all such investments must be Eligible Investments.

The Trustee shall not be liable for losses, fees, taxes or other charges on investments, reinvestments or liquidations made in compliance with the provisions of the Indenture.

If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with a mandatory tender prior to the [Fixed] Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any.

Although the Issuer and the Borrower each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Issuer and the Borrower agree that confirmations of permitted investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

Investment of Other Funds

Any amounts held as part of the Rebate Fund, Costs of Issuance Fund, Expense Fund or Construction Loan Prepayment Fund and not immediately required for the purposes thereof, shall be invested or reinvested by the Trustee, at the written direction of the Authorized Borrower Representative, in Governmental Obligations or in any money market or short-term investment fund investing in or consisting solely of and secured by Governmental Obligations, including any such fund maintained by the Trustee or an affiliate thereof having maturities consonant with the need for funds as estimated by the Borrower. All investment earnings, gains resulting from the sale of, or income from, any investment made from amounts on deposit in the aforementioned funds shall be retained in the respective fund from which the investment was made.

Release of Indenture

If (a) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Debt Service Charges due or to become due thereon, and (b) provision also shall be made for the payment of all other sums payable under the Indenture, the Loan Agreement, the Tax Certificate and the Note, then the Indenture shall cease, terminate and become null and void (except for those provisions surviving by reason thereof in the event the Bonds are deemed paid and discharged pursuant to the Indenture), and the covenants, agreements and obligations of the Issuer thereunder shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of the Indenture if applicable,

(a) the Trustee shall release the Indenture (except for those provisions surviving by reason thereof in the event the Bonds are deemed paid and discharged pursuant to the Indenture), and shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer;

(b) the Trustee shall release and satisfy the Note and deliver such release and satisfaction to the Borrower; and

(c) the Trustee shall assign and deliver to the Issuer any property subject at the time to the lien of the Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be deposited in the [Funding Loan Fund] under the Indenture or paid to the Construction Lender under the Indenture, or (ii) to be held by the Trustee under the Indenture or otherwise for the payment of Bond Debt Service Charges.

Payment and Discharge of Bonds

All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of the Indenture, including without limitation, the provisions described in “Release of Indenture” above, if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient money, or

(b) the Trustee shall have received (i) in trust for and irrevocably committed thereto, noncallable Governmental Obligations; (ii) certification by an independent public accounting firm of national reputation to the effect that the Governmental Obligations have such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient together with any money to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment of all Bond Debt Service Charges on those Bonds at their maturity; and (iii) an opinion of Bond Counsel to the effect that the conditions of this section have been satisfied.

Any money held by the Trustee in accordance with the provisions of this section may be invested by the Trustee only in noncallable Governmental Obligations having maturity dates, or having redemption dates which, at the option of the Holder of those obligations, shall be not later than the date or dates at which money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in the Indenture for transfers of excess amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this section, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, and set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this section.

Events of Default and Acceleration

The occurrence of any of the following events is defined as and declared to be and to constitute an “Event of Default” under the Indenture:

(a) Any interest on any Bond is not paid on the date on which the same becomes due; or

(b) Any principal of any Bond (including the purchase price) is not paid on the date on which the same becomes due, whether at stated maturity thereof, by redemption, tender, acceleration or otherwise; or

(c) A “Default” (as defined in the Loan Agreement) occurs and is continuing under the Loan Agreement.

(d) The Issuer fails to duly and promptly perform, comply with, or observe any covenant, condition, agreement or provision (other than as specified in (a) or (b) of this section) contained in the Bonds or in the Indenture on the part of the Issuer to be performed, and such failure shall continue for a period of ninety (90) days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Issuer, the Borrower and the Investor Limited Partner by the Trustee, which notice may be given by the Trustee in its discretion and shall be given at the written request of the Holders of not less than 25% in principal amount of the Bonds then Outstanding; provided, however, that if such default be such that it is correctable but cannot be corrected within ninety (90) days, it shall not be an Event of Default if the Issuer, the Borrower or the Investor Limited Partner certifies to the Trustee in writing that it is taking appropriate corrective action to cure such failure and if such failure will not impair the security for the Loan or the Bonds.

If any Loan Payment required under the Loan Agreement to avoid a default under (a) or (b) of this section shall not have been received at the close of business on the last Business Day preceding the day on which payment must be made to avoid a default under such (a) or (b), the Trustee shall use its best efforts to give telephonic notice of such default to the Borrower, the Construction Lender and the Investor Limited Partner, which telephonic notice shall be confirmed by written notice to the Borrower and the Construction Lender. If any other default shall occur under the provisions of this Section, the Trustee shall, within five (5) days after having actual knowledge of such default, use its best efforts to give written notice of such default to the Issuer, the Borrower, the Construction Lender, the Investor Limited Partner and the Holders of the Bonds. A default or an Event of Default specified in (a) through (d) above shall occur even though the Trustee fails to give the notice required by this paragraph, the giving of such notice being intended solely to aid in the enforcement of the rights of Bondholders and not in limitation of such rights.

If an Event of Default specified in (a) or (b) of this section shall occur and be continuing, the Trustee shall declare the principal of all Bonds then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Investor Limited Partner, the Construction Lender and the Borrower, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided therein, anything in the Indenture or in the Bonds to the contrary notwithstanding.

If an Event of Default specified in (c) or (d) of this section shall occur and be continuing, the Trustee, upon written request of the Holders of a majority in principal amount of the Bonds then Outstanding shall, declare the principal of all Bonds then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Investor Limited Partner, the Construction Lender and the Borrower, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided therein, anything in the Indenture or in the Bonds to the contrary notwithstanding.

The Investor Limited Partner or Construction Lender shall be entitled (but shall not be obligated) at its election to cure any Event of Default under the Indenture for which a cure right is provided to the Borrower upon the same terms and conditions and within the same time frame provided to the Borrower. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner or Construction Lender shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Remedies in Addition to Acceleration

Upon the occurrence of, and during the continuance of, any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written request of the Holders of not less than 51% in principal amount of

the Bonds then Outstanding and receipt of satisfactory indemnity shall (in addition to its right or duty to accelerate as provided in the Indenture):

- (a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondholders, and require the Issuer or the Borrower to carry out any agreements with or for the benefit of the Bondholders and to perform its or their duties under the Act and the Documents;
- (b) bring suit upon the Bonds; or
- (c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

Termination of Proceedings

In case any proceeding taken by the Trustee on account of any Default or Event of Default shall have been discontinued or abandoned for any reason, the Default or Event of Default has been cured, or shall have been determined adversely to the Trustee, then and in every such case, the Issuer, the Trustee, the Bondholders, and the Borrower shall be restored to their former positions and rights under the Indenture, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Right of Bondholders to Direct Proceedings

No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust under the Indenture, or any other remedy under the Indenture or on the Bonds, unless such Holder previously shall have given to the Trustee written notice of an Event of Default as provided in the Indenture and unless also the Holders of not less than 51% in principal amount of the Bonds then outstanding shall have made written request of the Trustee to do so, after the right to exercise such powers or rights of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted by the Indenture, or to institute such action, suit or proceeding in its or their name; nor unless there also shall have been offered to the Trustee security and satisfactory indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the trusts of the Indenture or for any other remedy under the Indenture; it being understood and intended that no one or more Holders of the Bonds secured by the Indenture shall have any right in any manner whatever by its or their action to affect, disturb or prejudice any other Holders or the security of the Indenture, or to enforce any right under the Indenture or the Bonds, except in the manner provided in the Indenture and for the equal benefit of all Holders of Outstanding Bonds. For purposes of the foregoing sentence, the Trustee shall be deemed to have failed to act within a reasonable time if it fails to take action within sixty (60) days after receipt of notice and compliance with the foregoing terms and conditions, whereupon the Holders of 51% aggregate principal amount of the Bonds may take such action in the place of the Trustee. Nothing contained in the Indenture shall, however, affect or impair the right of any Holder of Bonds to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Bonds issued under the Indenture to the respective Holders of the Bonds at the time, place, from the source and in the manner in the Indenture and in such Bonds expressed.

Remedies Vested in Trustee

All rights of action under the Indenture or under any of the Bonds secured by the Indenture may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit, action or proceeding instituted by the Trustee shall be brought in its name for the equal and ratable benefit of the Holders of the Bonds, subject to the provisions of the Indenture.

Application of Moneys

All moneys received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture shall, after payment of the costs, fees and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses and advances incurred or made by the Trustee and the Issuer with respect thereto including fees of the Trustee for Extraordinary Services and Extraordinary Expenses (including without limitation, reasonable attorneys' fees, costs and expenses), be deposited into the Bond Fund and all moneys so deposited into the Bond Fund during the continuance of an Event of Default (other than moneys for the payment of Bonds which have matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default, which moneys shall continue to be held for such payments) shall be applied as follows:

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

First — To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the direct order of the maturity of the installments of such interest and, if the amounts available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

Second — To the payment to the persons entitled thereto of the unpaid principal, on any of the Bonds, which shall have become due (other than Bonds which have matured or otherwise become payable prior to such Event of Default and moneys for the payment of which are held in the Bond Fund or otherwise held by the Trustee), and if the amount available shall not be sufficient to pay in full the amount of principal, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto, without any discrimination or privilege;

Third — To the payment to the persons entitled thereto of all other of the Issuer's Obligations and the Borrower's Obligations, and, if the amount available shall not be sufficient to pay such obligations in full, then to the payment ratably, according to the amounts then due, to the persons entitled thereto without discrimination or privilege; and

Fourth — The remainder, if any, shall be paid over to the Borrower, its successors or assigns, or whomever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(b) If the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal of and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest to the persons entitled thereto without any discrimination or privilege. Any remaining funds shall be applied in accordance with the paragraphs designated "Third" and "Fourth" of subsection (a) above.

Whenever moneys are to be applied pursuant to the provisions of this section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts or principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Amendments to Indenture and Loan Agreement Not Requiring Consent of Bondholders

The Issuer and the Trustee may, from time to time and at any time, without the consent of Bondholders, enter into agreements supplemental to the Indenture (each, a “Supplemental Indenture”) as follows:

- (i) to specify and determine any matters and things relative to Bonds which shall not materially adversely affect the interest of the Bondholders;
- (ii) to cure any formal defect, omission or ambiguity in the Indenture if such action does not materially adversely affect the rights of the Bondholders;
- (iii) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with the Indenture as theretofore in effect;
- (iv) to add to the covenants and agreements of the Issuer in the Indenture other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with the Indenture as theretofore in effect;
- (v) to add to the limitations and restrictions in the Indenture, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with the Indenture as theretofore in effect;
- (vi) to confirm, as further assurance, any pledge under and the subjection to any claim, lien or pledge created, or to be created by, the Indenture, of the Revenues or of any other moneys, securities or funds;
- (vii) to evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under the Indenture, the Loan Agreement and the Bonds;
- (viii) to facilitate (i) the transfer of Bonds issued by the Issuer under the Indenture and held in Book-Entry Form from one Securities Depository to another and the succession of Securities Depositories, or (ii) the withdrawal of Bonds issued by the Issuer under the Indenture and delivered to a Securities Depository for use in a Book-Entry System and the issuance of replacement Bonds in fully registered form and in the form of physical certificates to others than a Securities Depository;
- (ix) to permit the Trustee to comply with any obligations imposed upon it by law;
- (x) to specify further the duties and responsibilities of the Trustee;
- (xi) to achieve compliance of the Indenture with any applicable federal securities or tax law;
- (xii) to make amendments to the provisions of the Indenture relating to arbitrage matters under Section 148 of the Code, if, in the opinion of Bond Counsel, those amendments would not adversely affect the Federal Tax Status of the Bonds which amendments may, among other things, change the responsibility for making the relevant calculations, provided that in no event shall such amendment delegate to the Trustee, in its sole discretion the obligation to make or perform the calculations required under Section 148 of the Code; or
- (xiii) to modify, amend or supplement the Indenture in any respect which is not materially adverse to the interests of the Owners of the Bonds.

Before the Issuer shall enter into any Supplemental Indenture pursuant to this section, there shall have been filed with the Trustee an opinion of Bond Counsel stating that (1) such Supplemental Indenture and the execution thereof are authorized or permitted by the Indenture and comply with its terms and such Supplemental Indenture is the legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, and

(2) the effectiveness of the Supplemental Indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

The Trustee shall send written notice to the Borrower, the Construction Lender, the Investor Limited Partner and the Rating Agency of any amendment to the Indenture and, if requested, copies of any such amendments.

Notwithstanding the foregoing, the Issuer and the Trustee may not, without the prior written consent of Construction Lender, amend the Indenture in any manner that adversely affects the rights and interests of the Construction Lender to receive notices thereunder or the rights of the Construction Lender with respect to any of the trust funds established thereunder, including with respect to certain provisions thereof.

Amendments to Indenture Requiring Consent of Bondholders

Subject to the terms and provisions contained in this section and not otherwise, the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, to consent to and approve the execution and delivery by the Issuer and the Trustee of any agreement supplemental to the Indenture as shall be deemed necessary or desirable by the Issuer for the purposes of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in the Indenture; provided, however, that, unless approved in writing by the Holders of all of the Bonds then Outstanding, nothing in the Indenture contained shall permit, or be construed as permitting, (i) a change in the terms of maturity of the principal of or the interest on any Outstanding Bond, or a reduction in the principal amount of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge or assignment of, the Trust Estate ranking prior to or on a parity with the claim, lien, assignment or pledge created by the Indenture, or the release of the Trust Estate or any part thereof (except to the extent permitted pursuant to the Documents), or (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (iv) a reduction in the aggregate principal amount of the Bonds required for any action or consent by Bondholders set forth in the Indenture, including (without limitation) that required for consent to such Supplemental Indentures. This section shall not limit or otherwise affect the ability of the Issuer to enter into agreements supplemental to the Indenture without the consent of the Bondholders pursuant to the Indenture.

If at any time the Issuer and the Trustee shall determine to enter into any Supplemental Indenture for any of the purposes of this section, the Trustee shall cause written notice of the proposed supplemental indenture to be given to all Holders of the Bonds; provided, however, that failure to give such notice or any defect therein, shall not affect the validity of any proceedings pursuant to the Indenture. Such notice shall be prepared by or on behalf of the Issuer at the Borrower's sole expense, briefly set forth the nature of the proposed Supplemental Indenture and state that a copy thereof is on file at the Designated Office of the Trustee for inspection by all Bondholders.

Within one hundred twenty (120) days after the date of giving such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice only if there shall have first been filed with the Issuer (i) the written consents of Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding (or 100% if required under the Indenture) and (ii) an Opinion of Counsel stating that (1) such Supplemental Indenture and the execution thereof are authorized or permitted by the Indenture and comply with its terms and such Supplemental Indenture is the legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, and (2) the effectiveness of the Supplemental Indenture will not adversely affect the exclusion of interest on the Bonds from gross income for federal income taxes.

If the Holders of not less than the percentage of Bonds required by this section shall have consented to and approved the Supplemental Indenture as provided in the Indenture, no Holder of any Bond shall have any right to object to such Supplemental Indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety thereof, or to enjoin or restrain the Issuer or the Trustee from entering into the same or from taking any action pursuant to the provisions thereof.

Upon the effectiveness of any Supplemental Indenture entered into pursuant to the provisions of this section, the Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the Issuer, the Trustee and all Holders of Bonds then outstanding shall thereafter be determined, exercised and enforced under the Indenture subject in all respects to such modifications and amendments.

The Trustee shall send written notice to the Rating Agency of any amendment to the Indenture pursuant to the Indenture; provided, that the failure of the Trustee to provide such notice shall not constitute a default in the Trustee's obligations under the Indenture nor shall the providing of such notice constitute a condition precedent to the validity or effectiveness of any such amendment.

Supplemental Indentures Part of Indenture

Any Supplemental Indenture entered into in accordance with the provisions of the Indenture shall thereafter form a part of the Indenture and all the terms and conditions contained in any such Supplemental Indenture as to any provision authorized to be contained therein shall be and shall be deemed to be a part of the terms and conditions of the Indenture for any and all such purposes.

Amendments to Loan Agreement and Note Not Requiring Consent of Bondholders

Without the consent of or notice to the Holders, the Issuer, the Borrower and the Trustee may consent to any amendment, change or modification of the Loan Agreement or the Note, as may be required (a) by the provisions of the Note or the Loan Agreement, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement or the Note, or (c) in connection with an amendment or to effect any purpose for which there could be an amendment of the Indenture pursuant thereto.

Amendments to Loan Agreement and Note Requiring Consent of Holders

Except for the amendments, changes or modifications contemplated in the Indenture, neither the Issuer nor the Trustee shall consent to:

(a) any amendment, change or modification of the Loan Agreement or the Note which would change the amount or time as of which Loan Payments and Collateral Deposits are required to be paid or funded, without the giving of notice as provided in this section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then Outstanding Bonds affected by such amendment, change or modification, or

(b) any other amendment, change or modification of the Loan Agreement or the Note, without the giving of notice as provided in this section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding affected by such amendment, change or modification.

The consent of the Holders shall be obtained as provided in the Indenture with respect to Supplemental Indentures.

If the Issuer or the Borrower shall request at any time the consent of the Trustee to any proposed amendment, change or modification of the Loan Agreement or the Note contemplated in subparagraphs (a) or (b) of this section, upon being indemnified satisfactorily with respect to expenses, the Trustee shall cause notice of the proposed amendment, change or modification to be provided in the manner which is required by the Indenture with respect to notice of Supplemental Indentures. The notice shall be prepared by or on behalf of the Issuer or the Borrower, at the Borrower's sole expense, set forth briefly the nature of the proposed amendment, change or modification and state that copies of the instrument or document embodying it are on file at the Designated Office of the Trustee for inspection by all Holders.

Conversion, Bonds and Loan Agreement on the Mandatory Tender Date

Upon Conversion and upon the execution and delivery of the Funding Loan Agreement, Governmental Note(s) and the Borrower Loan Agreement and the Indenture, the Bonds and the Loan Agreement shall be deemed amended, restated and superseded in full by the respective terms thereof, and no consent of the Holders shall be sought or required for conversion.

Entire Agreement; Severability

The Indenture and the exhibits thereto set forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written. In case any one or more of the provisions of the Indenture or of the Bonds for any reason, is held to be illegal or invalid such illegality or invalidity shall not affect any other provisions of the Indenture or the Bonds, and the Indenture and the Bonds shall be construed and enforced to the end that the transactions contemplated by the Indenture be effected and the obligations contemplated by the Indenture be enforced as if such illegal or invalid provisions had not been contained therein.

Construction Loan Documents Independent

Enforcement of the covenants in the Indenture will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower (except with respect to the Unassigned Issuer's Rights), the Project, the Construction Loan proceeds (other than Construction Loan proceeds which have been deposited into the Collateral Fund by or at the direction of the Construction Lender), any reserves or deposits required by the Construction Lender in connection with the Construction Loan transaction, or the rents or deposits or other income of the Project.

Notwithstanding anything in the Indenture, the Loan Agreement, the Note or the Bond Purchase Agreement to the contrary, (i) the Mortgaged Property (as defined in the Construction Loan Security Instrument) shall not include any portion of the Trust Estate and the Construction Lender shall not have any claim to or lien upon the Trust Estate under the Indenture and funds held by the Trustee under the Indenture and pledged to secure the repayment of the Bonds, except for Eligible Funds that may be returned to the party that deposited said funds with the Trustee as may be required under the Indenture and (ii) the Trust Estate shall not include any portion of the Property (as defined in the Construction Loan Security Instrument).

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APPENDIX C

SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

The following is a summary of certain provisions of the Loan Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Loan Agreement, a copy of which is on file with the Trustee.

The Loan

The Issuer agrees, upon the terms and conditions in the Loan Agreement, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to fund the Loan shall be deemed fully discharged, and the principal amount of the Bonds shall be deemed fully advanced to the Borrower under the Note, upon the deposit in full of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note as assigned by the Issuer and made payable to the Trustee.

Disbursements from the Project Fund

In the Indenture, the Issuer has authorized and directed the Trustee to make disbursements from the Project Fund to pay Costs of the Project upon satisfaction of the requirements of the Indenture. The Trustee is directed in the Indenture to make disbursements from the Project Fund as provided in the Indenture, and pursuant to the receipt of a Requisition in substantially the form attached to the Indenture as an appendix.

The Borrower's right to request disbursements from the Project Fund is limited to the principal amount of the Loan and conditioned upon the deposit of Eligible Funds into the Collateral Fund as set forth in the Indenture.

Any disbursement for any item that is not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code and in the Notice of Public Hearing pertaining to the Bonds, shall be accompanied by an Opinion of Bond Counsel to the effect that such disbursement will not cause the interest on the Bonds to be included in the gross income of the Holders for federal income tax purposes.

Borrower Required to Pay in the Event Project Fund Is Insufficient

In the event the moneys in the Project Fund are not sufficient to pay the Costs of the Project in full, the Borrower agrees to complete the Project in accordance with the Plans and Specifications and to pay from its own funds or from other funds available to the Borrower that portion of the Costs of the Project in excess of the moneys available therefore in the Project Fund. The Issuer does not make any warranty, either express or implied, that the moneys paid into the Project Fund and available for payment of the Costs of the Project will be sufficient to pay all of the Costs of the Project. The Borrower agrees that if after exhaustion of the moneys in the Project Fund, the Borrower should pay any portion of the Costs of the Project pursuant to the provisions of this section, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds, nor shall the Borrower be entitled to any diminution of the amounts payable under the Loan Agreement.

Loan Repayment; Delivery of Note

In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, Loan Payments, equal to the amount necessary to pay interest on and principal of the Bonds due on the next Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and the Loan Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of the Bond Debt Service Charges on that date.

To secure the Borrower's performance of its obligations under the Loan Agreement, the Borrower shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Note and the Regulatory Agreement.

The Note shall secure equally and ratably all Outstanding Bonds, except that, so long as no Event of Default has occurred and is subsisting hereunder, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of the Bond Debt Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Debt Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and that Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of the Loan Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

Construction Loan to Borrower

Contemporaneously with the issuance of the Bonds, the Borrower shall obtain the Construction Loan from the Construction Lender.

The Borrower shall cause the Construction Lender, from time to time to deliver Eligible Funds to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse an equal amount of Bond proceeds from the Project Fund as approved by the Construction Lender pursuant to a completed and fully executed Requisition, in substantially the form attached to the Indenture as an appendix.

Borrower's Obligations Upon Tender of Bonds

The Borrower shall have the option to cancel or terminate the Loan Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments, Additional Payments and other amounts due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed and (c) the Construction Loan shall be repaid in full. Such option shall be exercised by the Borrower, with approval of the Investor Limited Partner (not to be unreasonably withheld, conditioned or delayed), giving the Issuer and the Trustee five (5) days' notice in writing of such cancellation or termination, and such cancellation or termination shall become effective at the end of such notice period. The provisions of this section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

Option to Terminate

The Borrower shall have the option to cancel or terminate the Loan Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments, Additional Payments and other amounts due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed and (c) the Construction Loan shall be repaid in full. Such option shall be exercised by the Borrower, with approval of the Investor Limited Partner (not to be unreasonably withheld, conditioned or delayed), giving the Issuer and the Trustee five (5) days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

Defaults Defined

The following shall be “Defaults” under the Loan Agreement and the term “Default” shall mean, whenever it is used in the Loan Agreement, any one or more of the following events:

- (a) Failure by the Borrower to pay any amount required to be paid under the Loan Agreement when due.
- (b) Failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Loan Agreement other than as referred to in subsection (a) of this section or failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in any other Borrower Document, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, will have been given to the Borrower, the Construction Lender and the Investor Limited Partner by the Issuer or the Trustee; provided, with respect to any such failure covered by this subsection (b), no Event of Default will be deemed to have occurred so long as a course of action adequate to remedy such failure will have been commenced within such 60-day period and will thereafter be diligently prosecuted to completion and the failure will be remedied thereby within 180 days from the provision of such notice.
- (c) The dissolution or liquidation of the Borrower, or the voluntary initiation by the Borrower of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Borrower of any such proceeding which shall remain undismissed for ninety (90) days, or failure by the Borrower to promptly have discharged any execution, garnishment or attachment of such consequence as would impair the ability of the Borrower to carry on its operations at the Project, or assignment by the Borrower for the benefit of creditors, or the entry by the Borrower into an agreement of composition with its creditors or the failure generally by the Borrower to pay its debts as they become due.
- (d) Any representation or warranty made by the Borrower in the Loan Agreement or any statement in any report, certificate, financial statement or other instrument furnished in connection with the Loan Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given.
- (e) The occurrence of an Event of Default under the Indenture (other than under clause (d) under the heading “APPENDIX B — SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE — Events of Default and Acceleration”) or any “event of default” beyond any applicable notice or cure period under the Regulatory Agreement.

The provisions of subsection (b) of this section are subject to the following limitation: if by reason of force majeure it is impossible for the Borrower in whole or in part, despite commercially reasonable efforts, to carry out any of its agreements contained in the Loan Agreement (other than its obligations relating to the Loan as set forth in the Loan Agreement), the Borrower shall not be deemed in Default under paragraph (b) above during the continuance of such inability. Such force majeure event does not affect any obligations of the Borrower other than the timing of performance of such obligations. The term “force majeure” as used in the Loan Agreement shall mean, without limitation, the following: acts of God; strikes or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or of any of their departments, agencies or officials, or of any civil or military authority; insurrections; riots; terrorism; landslides; earthquakes; fires; storms; droughts; floods; explosions; and events not reasonably within the control of the Borrower. The Borrower agrees, however, to use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreement. The settlement of strikes and other industrial disturbances shall be entirely within the discretion of the Borrower and the Borrower shall not be required to settle strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

Remedies on Default

Whenever any Default referred to under the section “Defaults Defined” above shall have happened and be continuing beyond the expiration of any applicable cure period, the Trustee, or the Issuer (in the event the Trustee fails to act), may take one or any combination of the following remedial steps:

(a) If the Trustee has declared the Bonds immediately due and payable pursuant to the Indenture, by written notice to the Borrower, declare all Loan Payments and all other amounts due under the Loan Agreement and under the Note to be immediately due and payable, whereupon the same shall become immediately due and payable; and

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under the Loan Agreement, the Note and the Regulatory Agreement or any other Document in the event of default thereunder.

Any amounts collected pursuant to action taken under this section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

No Remedy Exclusive

Except as otherwise indicated in the Indenture, no remedy conferred upon or reserved to the Issuer or the Trustee by the Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Loan Agreement and the Regulatory Agreement or the Note, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power nor shall it be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this article, it shall not be necessary to give any notice, other than such notice as may be required by law or for which express provision is made in the Loan Agreement. Such rights and remedies as are given the Issuer under the Loan Agreement shall also extend to the Trustee, and the Trustee and the Holders of the Bonds shall be entitled to the benefit of all covenants and agreements contained in the Loan Agreement, subject to the provisions of the Indenture, including, but not limited to the Unassigned Issuer’s Rights.

No Additional Waiver Implied by One Waiver

In the event any agreement contained in the Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under the Loan Agreement.

Construction Loan Documents Independent

To the extent not otherwise set forth above in this section, the provisions of the Indenture are incorporated in the Loan Agreement by reference to the same extent as if set forth in the Loan Agreement in full.

APPENDIX D

SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

The following is a brief summary of the Regulatory Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Regulatory Agreement, a copy of which is on file with the Trustee.

All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture and the Regulatory Agreement.

Residential Rental Property

The Borrower acknowledges and agrees with the Issuer that the Project is to be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the Qualified Project Period, the Borrower represents, covenants, warrants and agrees as follows:

(a) The Project Facilities will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project Facilities as a project to provide multifamily residential rental property comprising a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities in accordance with Section 142(d) of the Code and Section 1.103-8(b) of the Regulations and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. For purposes of this subsection (a), the term “functionally related and subordinate facilities” includes facilities for use by the tenants (for example, swimming pools, other recreational facilities and parking areas) and other facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash disposal equipment and units for resident managers and maintenance personnel. Substantially all of the Project will contain such units and functionally related and subordinate facilities.

(b) All of the dwelling units in the Project will be similarly constructed units, and each Low Income Unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range and oven, a sink and a refrigerator.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. Other than filing a condominium map and a final subdivision map on the Project and obtaining a Final Subdivision Public Report from the California Department of Real Estate, the Borrower shall not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period.

(e) All of the dwelling units (which shall not include any manager units) in the Project will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent of the following: (1) any dwelling units that are required to be leased or rented to Low Income Tenants, (2) the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the City), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to State law, local law and other applicable federal law, provided that in no event shall the Borrower give any preference in violation of the Code.

(f) The Project Site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the Project Facilities comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in the Project shall be occupied by the Borrower; provided, however, that if the Project contains five or more dwelling units, this subsection shall not be construed to prohibit occupancy of not more than one dwelling unit by one or more resident managers or maintenance personnel any of whom may be the Borrower.

(h) The Borrower shall not sell dwelling units within the Project.

(i) The Project shall be managed in a manner consistent with prudent property management standards and in compliance with all state and local laws, ordinances and regulations relating thereto.

(j) Should involuntary noncompliance with the provisions of Regulations Section 1.103-8(b) be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Issuer from enforcing the requirements of the Code, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the Regulations, and subject to the provisions of the Loan Documents, it will either prepay the Loan or apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the Regulations.

The Issuer elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code.

Low Income Tenants; Records and Reports

Pursuant to the requirements of the Code and the Issuer, the Borrower represents, warrants and covenants as follows:

(a) The Project will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property comprising a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities in accordance with the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) Commencing on the first day of the Qualified Project Period, Low Income Tenants shall occupy at least 40% of all completed and occupied units in the Project before any additional units are occupied by persons who are not Low Income Tenants; and for the Qualified Project Period no less than 40% of the total number of completed units of the Project shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this subsection (b), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined. In determining whether the requirements of this subsection (b) have been met, fractions of units shall be treated as entire units.

(c) Except as provided in the Regulatory Agreement, no tenant qualifying as a Low Income Tenant upon initial occupancy shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants; provided, however, that should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low Income Tenant of the same family size, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant; and provided further that, until such next available unit is rented to a tenant who is not a Low Income Tenant, the former Low Income Tenant who has ceased to qualify

as such shall be deemed to continue to be a Low Income Tenant for purposes of the 40% requirement of subsection (b) of this section (if applicable). If the Project consists of more than one building, this requirement shall apply on a building by building basis.

(d) The Borrower will obtain, complete and maintain on file Income Certifications from each Low Income Tenant, including (i) an Income Certification dated no later than the day prior to the initial occupancy of such Low Income Tenant in the Project and, in the case of tenants residing in the Project as of the date of issuance of the Governmental Obligation (if applicable), dated no later than the day prior to the disbursement of Governmental Obligation proceeds to fund construction and development of the Project, and (ii) thereafter, annual Income Certifications dated as of the anniversary date of each initial Income Certification. The Borrower will obtain and provide such additional information as may be required in the future by the State, by the Issuer and by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or thereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations which are Tax Exempt under Section 142(d) of the Code. A copy of the most recent Income Certification for Low Income Tenants commencing or continuing occupation of a Low Income Unit (and not previously filed with the Issuer) shall be attached to the Certificate of Continuing Program Compliance which is to be filed with the Issuer no later than January 31 of each year until the end of the Qualified Project Period. The Borrower shall make a good faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by obtaining the acceptable forms of verification enumerated in Chapter 3 of the most current, amended edition of HUD Handbook 4350.3, or such instruction by HUD that may supersede this handbook, and any additional documentation that the Issuer shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification reasonably acceptable to the Issuer.

(e) The Borrower will maintain complete and accurate records pertaining to the Low Income Units, and will permit any duly authorized representative of the Issuer, the Lender, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project during regular business hours and upon reasonable notice, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower will prepare and submit to the Issuer and any administrator, no later than the fifteenth day of each month following the receipt by the Issuer of the Completion Certificate to and including the month in which such report indicates that 40% of the occupied units (excluding units occupied by property managers) are occupied by Low Income Tenants, and thereafter no later than March 31 of each year for the prior calendar year (or at the Issuer's request, at the end of each calendar quarter) until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Borrower.

(g) On or before each February 1 during the Qualified Project Period, the Borrower will submit to the Issuer a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code, as may be amended or renumbered. On or before each March 31 (or such other date as may be required by the Code); during the Qualified Project Period, the Borrower will submit such completed form to the Secretary of the Treasury, regardless of whether or not the Issuer has responded to such draft provided that at any point when no Tax Exempt private activity bonds are Outstanding with regards to the Project, but before the end of the Compliance Period, the Borrower may submit to the Issuer (in the same manner specified above) such other annual certification as the Issuer may reasonably require.

(h) Subject to the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, each lease or rental agreement pertaining to a Low Income Unit shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Income Certification; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Lender, the Trustee or the Administrator, and that the failure to provide accurate information in the Income

Certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the Income Certification and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with this subsection (d) and that if upon any such certification such tenant's Adjusted Income exceeds the applicable income limit under this subsection (c), such tenant may cease to qualify as a Low Income Tenant and such unit's rent is subject to increase.

For purposes of this section, no unit occupied by a resident manager shall be treated as a rental unit during the time of such occupation.

Sale or Transfer of the Project

For the Compliance Period, the Borrower shall not, except as provided below, sell, transfer or otherwise voluntarily dispose of the Project, in whole or in part, without the prior written consent of the Issuer, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied:

(a) the Issuer has received evidence, reasonably acceptable to the Issuer, that:

(i) the Borrower has not failed to comply under the Regulatory Agreement and no condition exists which could become an Event of Default under the Regulatory Agreement or an event of default under the Loan Agreement or the Borrower Loan Agreement, as applicable, which compliance conditions may be evidenced by a Certificate of Continuing Program Compliance, or the purchaser or assignee undertakes to cure any such failures to comply or conditions with respect to the Loan Agreement or the Borrower Loan Agreement, as applicable, to the reasonable satisfaction of the Issuer;

(ii) the continued operation of the Project complies with the provisions of the Regulatory Agreement;

(iii) either (A) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other State or federal laws or regulations or local governmental requirements applicable to such projects, or (B) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (A) above, or (C) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and

(iv) the person or entity that is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, State or federal regulatory agencies;

(b) the execution by the purchaser or assignee of any document reasonably requested by the Issuer with respect to the assumption of the Borrower's obligations under the Regulatory Agreement and, if either of the Governmental Obligation is outstanding at the time of transfer, the Loan Agreement or the Borrower Loan Agreement, as applicable, including without limitation an instrument of assumption of the Regulatory Agreement and thereof, and delivery to the Issuer of an opinion of such purchaser or assignee's counsel to the effect that each such document and the Regulatory Agreement are valid, binding and

enforceable obligations of such purchaser or assignee, subject to bankruptcy and other standard limitations affecting creditor's rights;

(c) receipt by the Issuer of an opinion of Tax Counsel to the effect that any such sale, transfer or other disposition will not adversely affect the Tax Exempt status of interest on the Governmental Obligation.

(d) receipt by the Issuer and Trustee of all fees and/or expenses then currently due and payable to the Issuer under the Regulatory Agreement and to the Issuer or Trustee under any of the Loan Documents; and

(e) receipt by the Issuer of evidence of satisfaction of compliance with the provisions of Section 29(d)(i) related to notice to CDLAC of transfer of the Project.

It is expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this section, other than pursuant to a foreclosure or deed in lieu of foreclosure following a default under the Loan Agreement or the Borrower Loan Agreement or under subordinate loan documents, as applicable, shall be null, void and without effect, cause a reversion of title to the Borrower, and be ineffective to relieve the Borrower of its obligations under the Regulatory Agreement. Nothing in this section shall affect any provision of any other document or instrument between the Borrower and any other party that requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project.

The written consent of the Issuer to any transfer of the Project shall constitute conclusive evidence that the transfer is not in violation of this section. Upon any sale or other transfer that complies with the Regulatory Agreement, the Borrower shall be fully released from its obligations under the Regulatory Agreement to the extent such obligations have been fully assumed in writing by the transferee of the Project. Except as otherwise provided in the Regulatory Agreement, any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this section, except as provided immediately below.

Interests in the Borrower may not be transferred without the prior written consent of the Issuer (which consent will not be unreasonably withheld), except as follows:

(i) transfers of the respective interests of the Borrower's limited partner(s) to any entity that is either (A) an affiliate of any limited partner, (B) controlled by, or under common control with, the Equity Investor or any affiliate thereof, or (C) the general partner of the Borrower or an affiliate of the general partner of the Borrower, provided that in the event of a transfer to the general partner of the Borrower or an affiliate of the general partner of the Borrower, the Borrower provides evidence satisfactory to the Issuer that the transfer of such interest or interests will not have a material adverse effect on the operation or finances of the Project;

(ii) transfers of interests among the Borrower's limited partners;

(iii) the pledge and encumbrance of the interest of Borrower's limited partners to or for the benefit of any financial institution that enables the limited partner(s) to make capital contributions to the Borrower; or

(iv) the removal, or withdrawal in lieu of removal, of a general partner of Borrower by a limited partner for cause, provided that the Issuer shall have the right to approve or disapprove any new general partner within 90 days after replacement of the existing general partner (with such approval not being unreasonably withheld).

The Borrower acknowledges that a sale or exchange of 50% or more of the capital and profits interests in the Borrower in any twelve-month period will be treated for federal tax purposes as a change in ownership of the Project at the time the 50% transfer occurs. The Borrower further acknowledges that there is a possibility of some or all of the Governmental Obligation being reissued at various points in the financing, including in connection with any

remarketing, and that a change in ownership of the Project within six months of a reissuance or refunding of the Governmental Obligation will cause the interest paid on the reissued or refunding bonds not to be excluded from gross income for federal tax purposes.

Restrictions on sale or transfer of the Project or of any interest in the Borrower, consent of the Issuer, transfer agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to the Lender or a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan or to any subsequent transfer by the Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Loan. Except as provided in this section, no such transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement.

For the Compliance Period, the Borrower shall not: (1) encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project, except pursuant or subordinate to the provisions of the Regulatory Agreement, and upon receipt by the Borrower of an opinion of Tax Counsel to the effect that such action will not adversely affect the Tax Exempt status of interest on the Governmental Obligation, or except upon a sale, transfer or other disposition of the Project in accordance with the terms of the Regulatory Agreement; (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Term

The Regulatory Agreement and all and several of the terms of the Regulatory Agreement shall become effective upon its execution and delivery, and shall remain in full force and effect for the Compliance Period and, except as provided in the Regulatory Agreement, shall terminate at the end of the Compliance Period, it being expressly agreed and understood that the provisions of the Regulatory Agreement are intended to survive the retirement of the Governmental Obligation and discharge of the Indenture, the Loan Agreement, the Funding Loan Agreement and the Borrower Loan Agreement.

The terms of the Regulatory Agreement to the contrary notwithstanding, the requirements of the Regulatory Agreement shall terminate and be of no further force and effect in the event of (i) involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date that prevents the Issuer from enforcing such provisions, or condemnation or (ii) foreclosure, transfer of title by deed in lieu of foreclosure (whereby a third party shall take possession of the Project), or a similar event, but only if, in the case of either (i) or (ii), within a reasonable period, either the Governmental Obligation is retired or amounts received as a consequence of such event are used to provide a project that meets the requirements of the Regulatory Agreement; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained in the Regulatory Agreement shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower agrees by the Regulatory Agreement that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provision of the Regulatory Agreement, the Regulatory Agreement may be terminated upon agreement by the Issuer and the Borrower, upon receipt by the Issuer and the Lender of an opinion of Tax Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Governmental Obligation for federal income tax purposes. Upon the termination of the terms of the Regulatory Agreement, the parties to the Regulatory Agreement agree to execute, deliver and record appropriate instruments of release and discharge of the terms of the Regulatory Agreement; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of the Regulatory Agreement in accordance with its terms.

Covenants to Run with the Land

Notwithstanding Section 1461 of the California Civil Code, the Borrower subjects the Project (including the Project Site) to the covenants, reservations and restrictions set forth in the Regulatory Agreement. The Issuer and the

Borrower declare their express intent that the covenants, reservations and restrictions set forth in the Regulatory Agreement shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that on the termination of the Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument thereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

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APPENDIX E

FORM OF CONTINUING DISCLOSURE AGREEMENT

\$82,584,000*

City of San José

Multifamily Housing Revenue Bonds, Series 2026A

(Berryessa TOD)

This Continuing Disclosure Agreement, dated as of April 1, 2026 (this “Continuing Disclosure Agreement”), is executed and delivered by Berryessa Affordable Housing, L.P., a California limited partnership (the “Borrower”), and UMB Bank, National Association, as dissemination agent (the “Dissemination Agent”), for the above-captioned bonds (the “Bonds”). The Bonds are being issued pursuant to a Trust Indenture, dated as of April 1, 2026 (the “Indenture”) between the City of San José (the “Issuer”) and UMB Bank, National Association, as trustee (the “Trustee”). Pursuant to the Indenture and the Loan Agreement, dated as of April 1, 2026, between the Issuer and the Borrower (the “Loan Agreement”), the Dissemination Agent and the Borrower covenant and agree as follows:

Section 1. Purpose of this Continuing Disclosure Agreement. This Continuing Disclosure Agreement is being executed and delivered by the Borrower, and the Dissemination Agent for the benefit of the holders of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer (i) is not an “obligated person” with respect to the Bonds for purposes of the Rule (as defined below); (ii) has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Continuing Disclosure Agreement, and (iii) has no liability to any person, including any holder of the Bonds or Beneficial Owner, with respect to any such reports, notices or disclosures.

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Continuing Disclosure Agreement unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“*Annual Report*” shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Continuing Disclosure Agreement.

“*Audited Financial Statements*” means, in the case of the Borrower, the annual audited financial statements prepared in accordance with generally accepted accounting principles, if any.

“*Beneficial Owner*” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Disclosure Representative*” shall mean the administrator of the Project or his or her designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

“*Dissemination Agent*” shall mean UMB Bank, National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

“*Listed Events*” shall mean any of the events listed in Section 5(a) of this Continuing Disclosure Agreement.

“*MSRB*” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934. All documents provided to the MSRB shall be in an electronic format and accompanied by identifying information, as prescribed by the MSRB. Initially, all document submissions to the

* Preliminary, subject to change.

MSRB pursuant to this Continuing Disclosure Agreement shall use the MSRB’s Electronic Municipal Market Access (EMMA) system at www.emma.msrb.org.

“*Participating Underwriter*” means Lument Securities, LLC, and its successors and assigns.

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The Borrower will, or will cause the Dissemination Agent to, not later than 180 days following the end of the Borrower’s fiscal year, commencing with the fiscal year ending on December 31, 2026, provide to the MSRB an Annual Report which is consistent with the requirements described below. No later than 15 Business Days prior to said date, the Borrower will provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package and may cross reference other information, provided that the audited financial statements for the prior calendar year of the Borrower may be submitted separately from the balance of the Annual Report.

(b) If by 15 Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent will contact the Disclosure Representative to determine if the Borrower is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Dissemination Agent will send in a timely manner a notice to the MSRB in substantially the form attached as Exhibit B to this Continuing Disclosure Agreement.

(d) The Dissemination Agent will file a report with the Borrower and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided pursuant to this Continuing Disclosure Agreement, stating the date it was provided.

Section 4. Content of Annual Reports. The Borrower’s Annual Report will contain or incorporate by reference the financial information with respect to the Project, provided at least annually, of the type included in Exhibit A hereto, which Annual Report may, but is not required to, include Audited Financial Statements. If the Borrower’s Audited Financial Statements are not available by the time the Annual Report is required to be filed, the Annual Report will contain unaudited financial statements, and the Audited Financial Statements will be filed in the same manner as the Annual Report when and if they become available.

Any or all of the items described in Exhibit A may be incorporated by reference from other documents, including official statements of debt issues with respect to which the Borrower is an “Obligated Person” (as defined by the Rule), which have been filed with the MSRB. The Borrower will clearly identify each such other document so incorporated by reference.

Each annual report submitted hereunder shall be in readable portable document format (“PDF”) or other acceptable electronic form.

Section 5. Reporting of Listed Events.

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events (each, a “Listed Event”):

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;

- (iii) Unscheduled draws on debt service reserves reflecting financial difficulty;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulty;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor or additional trustee or paying agent or the change of the name of a trustee or paying agent, if material;
- (xv) Incurrence of a financial obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borrower, any of which affect security holders, if material;
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borrower, any of which reflect financial difficulties; and
- (xvii) The Project's being placed in service for purposes of qualifying the property for low income housing tax credits. Notice of the Project's being placed in service from the Borrower to the Dissemination Agent shall be in the form attached as Exhibit D hereto or such other form as may be approved by the Dissemination Agent. Notice of the Project being placed in service from the Dissemination Agent to the Municipal Securities Rulemaking Board shall be in the form attached as Exhibit C hereto or such other form as may be approved by the Dissemination Agent.

For purposes of clauses (xv) and (xvi) of this Section 5(a), "financial obligation" is as contemplated by Exchange Act Release No. 34-83885; File No. S7-01-17 (the "Adopting Release").

(b) The Dissemination Agent shall, within three (3) Business Days of obtaining actual knowledge of the occurrence of any potential Listed Event, pursuant to subsection (c) of this Section 5 or otherwise, provide the Disclosure Representative with notice by facsimile transmission confirmed by telephone or by email. While the Dissemination Agent is also the Trustee, the Dissemination Agent shall be deemed to have actual knowledge of those items listed in clauses (i), (iii) (solely with respect to funds held by the Trustee), (iv), (v), (vii), (viii), (ix), (x) and (xiv) above without the Dissemination Agent's having received notice of such event. While the Dissemination Agent is not also the Trustee, the Dissemination Agent shall not be deemed to have actual knowledge of any items listed in clauses (i) - (xvii) above without the Dissemination Agent having received written notice of such event. For purposes of providing notice to the Disclosure Representative, the Dissemination Agent shall assume that the unscheduled draws described in clauses (iii) and (iv) reflect financial difficulty.

(c) Whenever the Borrower obtains knowledge of the occurrence of a Listed Event, the Borrower shall, within five (5) Business Days of obtaining such knowledge and in any event no more than eight (8) Business Days after the occurrence of such event, determine if such event is in fact a Listed Event that is required by the Rule to be disclosed and provide the Dissemination Agent with notice and instructions pursuant to subsection (d) below.

(d) If the Borrower has determined that a Listed Event is required to be disclosed, then the Borrower shall prepare a written notice describing the Listed Event and provide the same to the Dissemination Agent along with instructions to file the same pursuant to subsection (e) below.

(e) If the Dissemination Agent has been provided with a written notice describing a Listed Event pursuant to subsection (c) of this Section 5 or otherwise, and is instructed by the Borrower to report the occurrence of such Listed Event, the Dissemination Agent shall, within two (2) Business Days of its receipt of such written notice and in any event no more than ten (10) Business Days after the occurrence of the Listed Event, file the notice with the MSRB and send a copy to the Borrower and the Issuer.

Section 6. Amendment; Waiver. Notwithstanding any other provision of this Continuing Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Continuing Disclosure Agreement (and the Dissemination Agent may, but shall not be obligated to, agree to any amendment so requested by the Borrower if such amendment affects its rights, duties, protections, immunities, indemnities or standard of care) and any provision of this Continuing Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions described under paragraph (a) under "Provision of Annual Reports," "Contents of Annual Reports" or paragraph (a) under "Reporting of Listed Events," it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of an Obligated Person (as defined in the Rule) with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Continuing Disclosure Agreement, the Borrower will describe such amendment in the next Annual Report and will include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change will be given in the same manner as for a Listed Event under Section 5(e) hereof and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in

quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 7. Default. In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Continuing Disclosure Agreement and such failure to comply continues beyond a period of thirty (30) days following written notice to the Borrower, the Borrower or any Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower or the Dissemination Agent, as the case may be, to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement will not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Continuing Disclosure Agreement will be an action to compel performance.

Section 8. Beneficiaries. This Continuing Disclosure Agreement will inure solely to the benefit of the Borrower, the Dissemination Agent, the Participating Underwriter, the Issuer and Holders from time to time of the Bonds and will create no rights in any other person or entity.

Section 9. Provision of Quarterly Statements. The Dissemination Agent shall, at the request of the Holders of the Bonds, furnish to the Holders of the Bonds, quarterly statements of the activity and assets held in each of the funds and accounts maintained by the Dissemination Agent in its capacity as Trustee under the Indenture. The Dissemination Agent shall satisfy this obligation by providing such quarterly statements via EMMA and/or an online system accessible to the Borrower and the Holders of the Bonds on each March 31st, June 30th, September 30th and December 31st. The Dissemination Agent shall furnish such quarterly statements at the sole cost of the Borrower.

Section 10. Additional Information. Nothing in this Continuing Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Continuing Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Continuing Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Borrower shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement. The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Borrower has provided such information to the Dissemination Agent as required by this Continuing Disclosure Agreement. The Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Dissemination Agent shall have no duty or obligation to review or verify any information, disclosures or notices provided to it by the Borrower and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Holders of the Bonds or any other party. The Dissemination Agent shall have no responsibility for the Borrower's failure to report to the Dissemination Agent a Listed Event or a duty to determine the materiality thereof. The Dissemination Agent shall have no duty to determine, or liability for failing to determine, whether the Borrower has complied with this Continuing Disclosure Agreement. The Dissemination Agent may conclusively rely upon certifications of the Borrower at all times.

The obligations of the Borrower under this Section 11 shall survive resignation or removal of the Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The reasonable fees and expenses of such counsel shall be payable by the Borrower. The Dissemination Agent shall possess the rights, powers,

privileges, protections, benefits, indemnities and immunities hereunder that it possesses as Trustee under the Indenture.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Continuing Disclosure Agreement shall be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB.

Section 12. Notices. All notices, requests, demands or other communications to or upon the respective parties hereto shall be deemed to have been duly given or made when delivered personally or by mail (including electronic mail) to the party to which such notice, request, demand or other communication is required or permitted to be given or made under this Continuing Disclosure Agreement and addressed as set forth below or telecopied to the telecopier number of the recipient, with confirmation of transmission, indicated below:

If to the Borrower:

Berryessa Affordable Housing, L.P.
c/o Affirmed Housing Group, Inc.
11673 George Cooke Express Drive
San Diego, CA 92127
Attention: President
Telephone: (858) 386-5176

If to the Dissemination Agent:

UMB Bank, National Association
[Address]
Attention: [_____]]
Telephone: [_____]]
Email: [_____]]

Section 13. Governing Law. This Continuing Disclosure Agreement shall be governed by the laws of the State of California.

Section 14. Termination of this Continuing Disclosure Agreement. The Borrower or the Dissemination Agent may terminate this Continuing Disclosure Agreement by giving written notice to the other party at least 30 days prior to such termination. The Dissemination Agent shall be fully discharged at the time any such termination is effective. The Borrower's and the Dissemination Agent's obligations under this Continuing Disclosure Agreement shall terminate upon the legal defeasance, prior redemption, tender, conversion or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Borrower shall give notice of such termination in a filing with the MSRB.

Section 15. Counterparts. This Continuing Disclosure 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. The exchange of copies of this Continuing Disclosure Agreement and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Continuing Disclosure Agreement as to the parties hereto and may be used in lieu of the original Continuing Disclosure Agreement and signature pages for all purposes.

[Signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Continuing Disclosure Agreement to be executed by their duly authorized representatives as of the date set forth above.

BERRYESSA AFFORDABLE HOUSING, L.P.,
a California limited partnership

By: AHG Berryessa, LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation,
its Manager

By: _____
Robin Martinez
Executive Director

[Counterpart Signature Page to Continuing Disclosure Agreement]

UMB BANK, NATIONAL ASSOCIATION,
as Dissemination Agent

By: _____
Authorized Officer

EXHIBIT A

ANNUAL REPORT

\$82,584,000*

City of San José

**Multifamily Housing Revenue Bonds, Series 2026A
(Berryessa TOD)**

CUSIP: _____

Annual report for the period ending December 31, _____

THE PROJECT

Name of the Project:	Berryessa TOD
Addresses:	1565 Mabury Road, San José, CA 95133
Number of Units:	195

INFORMATION ON THE BONDS

Original principal amount of Bonds:	
Outstanding principal amount of Bonds:	

OPERATING HISTORY OF THE PROJECT

The tables set forth below offer a summary of the operating results of the Project for fiscal year ended December 31, 20__, as derived from the Borrower's audited financial statements [or unaudited financial statements].

Financial Results for Fiscal Year Ending December 31, _____	
Revenues	
Operating Expenses ¹	
Net Operating Income	
Debt Service on the Bonds	
Net Income (Loss)	
Debt Service Coverage Ratio	

¹ Excludes depreciation and other non-cash expenses.

Occupancy Results for Fiscal Year Ending December 31, _____	
Physical Occupancy	%
Economic Occupancy ¹	%

¹ The physical occupancy rate is the proportion of units that are occupied or leased by tenants. The economic occupancy rate is the proportion of the gross potential rent that is actually collected. As such, the economic occupancy takes into consideration items such as model units, employee units, discounted units, rent incentives, loss to lease and bad debt expense.

* Preliminary, subject to change.

AUDITED FINANCIAL STATEMENTS

_____ Attached

_____ Audited financial statements of the Borrower for the period ending December 31, 20__ are not yet completed; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements. Audited financial statements will be filed when available.

_____ No audited financial statements of the Borrower were prepared for the period ending December 31, 20__; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements.

EXHIBIT B

**NOTICE OF FAILURE TO
FILE ANNUAL DISCLOSURE REPORT**

Name of Issuer: City of San José
Name of Bond Issue: Multifamily Housing Revenue Bonds, Series 2026A (Berryessa TOD)
Name of Borrower: Berryessa Affordable Housing, L.P.
CUSIP: _____
Date of Issuance: April __, 2026

NOTICE IS HEREBY GIVEN that the above-referenced borrower (the “Borrower”) has not provided an Annual Report with respect to the above-named Bonds as required by its Continuing Disclosure Agreement. The undersigned has been informed by the Borrower that it anticipates that Annual Report will be filed by _____.

DATED: _____

UMB BANK, NATIONAL ASSOCIATION,
as Dissemination Agent

By: _____
Authorized Officer

cc: Borrower

EXHIBIT C

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF
PROJECT PLACED IN SERVICE**

Name of Issuer: City of San José
Name of Bond Issue: Multifamily Housing Revenue Bonds, Series 2026A (Berryessa TOD)
Name of Borrower: Berryessa Affordable Housing, L.P.
Name of Project: Berryessa TOD
Address of Project: 1565 Mabury Road, San José, CA 95133
Date of Issuance: April __, 2026

NOTICE IS HEREBY GIVEN as per the requirements of the Continuing Disclosure Agreement, dated as of April 1, 2026, between the above-referenced borrower (the “Borrower”) and UMB Bank, National Association, as Dissemination Agent, that the Borrower has certified that the above-referenced project (the “Project”) is complete and placed in service by the Borrower as evidenced by a certificate from the Borrower confirming that the Project is placed in service for purposes of Section 42 of the Code.

Dated:

UMB BANK, NATIONAL ASSOCIATION,
as Dissemination Agent

By: _____
Authorized Officer

cc: Borrower

EXHIBIT D

FORM OF NOTICE OF PLACED IN SERVICE

\$82,584,000*

City of San José

**Multifamily Housing Revenue Bonds, Series 2026A
(Berryessa TOD)**

The undersigned hereby provides notice to UMB Bank, National Association, a national banking association, as dissemination agent (the “Dissemination Agent”) that the multifamily rental housing facility known as Berryessa TOD (the “Project”) has been placed in service in accordance with the Trust Indenture, dated as of April 1, 2026, between the City of San José (the “Issuer”) and UMB Bank, National Association, a national banking association, as trustee (the “Trustee”), pursuant to which the above-captioned bonds were issued, as further evidenced by the attached Certificate of Occupancy.

BERRYESSA AFFORDABLE HOUSING, L.P.,
a California limited partnership

By: AHG Berryessa, LLC,
a California limited liability company,
its Administrative General Partner

By: Affirmed Housing Group, Inc.,
a Delaware corporation,
its Manager

By: _____
James P. Silverwood
President

By: CFAH Housing LLC,
a California limited liability company,
its Managing General Partner

By: Compass for Affordable Housing,
a California nonprofit public benefit corporation,
its Manager

By: _____
Robin Martinez
Executive Director

* Preliminary, subject to change.

ATTACHMENT
Certificate of Occupancy

APPENDIX F

FORM OF BOND COUNSEL OPINION

On the date of issuance of the Bonds, Hawkins Delafield & Wood LLP, Bond Counsel to the Issuer, proposes to issue their approving opinion in substantially the following form:

April __, 2026

City of San José
San José, California

Re: \$82,584,000
 City of San José Multifamily Housing Revenue Bonds,
 Series 2026A (Berryessa TOD)

Ladies and Gentlemen:

We, as Bond Counsel to the City of San José (the “City”), have examined a record of proceedings relating to the issuance by the City of its City of San José Multifamily Housing Revenue Bonds, Series 2026A (Berryessa TOD), in the aggregate principal amount of \$82,584,000 (the “Bonds”). The Bonds are being issued pursuant to and under the authority of the City Charter of the City of San José (the “Charter”), Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the “Act”), and a Trust Indenture, dated as of [April] 1, 2026 (the “Trust Indenture”), between the City and [TRUSTEE], as trustee (the “Trustee”), and approved by the City by a resolution adopted [April 14], 2026. The Trust Indenture provides that the Bonds are being issued for the purpose of financing a loan (the “Loan”) to Berryessa Affordable Housing, L.P., a California limited partnership (the “Borrower”), pursuant to a Loan Agreement, dated as of [April] 1, 2026 (the “Loan Agreement”), between the City and the Borrower.

In our capacity as Bond Counsel, we have reviewed the Trust Indenture, the Loan Agreement, the Tax Certificate and Agreement (the “Tax Certificate”), dated the date hereof (the “Tax Agreement”), executed by the City and the Borrower, opinions of Senior Deputy City Attorney of the City, the Trustee and the Borrower, certificates of the City, the Trustee, the Borrower and others, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the City. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the first and second paragraphs, above.

We call attention to the fact that the rights and obligations under the Bonds, the Trust Indenture, the Loan Agreement and the Tax Certificate and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors’ rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California (the “State”). We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum or waiver provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the real or personal property described in or subject to the lien of the Trust Indenture or the Loan Agreement or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such property. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement relating to the Bonds or any other offering material relating to the Bonds and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of opinion that, under existing law:

(1) The Bonds have been duly authorized and executed, and are valid and binding limited obligations of the City. The Bonds are payable solely out of moneys held in trust and any other assets pledged therefore pursuant to the Trust Indenture. The Bonds do not constitute a pledge of the general credit or taxing power of the City, the State or any political subdivision thereof.

(2) The Trust Indenture and the Loan Agreement have been duly executed and delivered by the City and, constitute valid and binding agreements of the City.

(3) The Trust Indenture creates a valid pledge of the Trust Estate as security for the payment of the Bonds, subject only to the express exceptions stated therein and the reservation of the Unassigned Issuer's Rights (as defined in the Trust Indenture) of the City.

(4) Under existing statutes and court decisions, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), except that no opinion is expressed as to such exclusion of interest on any Bonds for any period during which such Bonds are held by a person who, within the meaning of Section 147(a) of the Code, is a "substantial user" of the facilities financed with the proceeds of the Bonds, or a "related person" and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code, however, interest on the Bonds is included in the "adjusted financial statement income" of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code.

The code establishes certain requirements that must be met subsequent to the issuance and delivery of the Bonds in order that interest on the Bonds be and remain excluded from gross income for federal income tax purposes. These requirements include, but are not limited to, requirements relating to the use and expenditure of Bond proceeds, restrictions on the investment of Bond proceeds prior to expenditure and the requirement that certain earnings be rebated to the federal government. Noncompliance with such requirements may cause interest on the Bonds to become subject to federal income taxation retroactive to its date of issue, irrespective of the date on which such noncompliance is ascertained. On the date of delivery of the Bonds, the City and the Borrower will execute the Tax Certificate containing provisions and procedures pursuant to which such requirements can be satisfied. In executing the Tax Certificate, the City and the Borrower covenant that they will comply with the provisions and procedures set forth therein and that they will do and perform all acts and things necessary or desirable to assure that interest paid on the Bonds will, for federal income tax purposes, be excluded from gross income. In rendering the opinion in paragraph 4 hereof, we have relied upon and assumed (i) the material accuracy of the representations, statements of intention and reasonable expectation, and certifications of fact contained in the Tax Certificate with respect to matters affecting the status of interest paid on the Bonds, and (ii) compliance by the City and the Borrower with the procedures and covenants set forth in the Tax Certificate as to such tax matters.

(5) Under existing statutes, interest on the Bonds is exempt from personal income taxes imposed by the State.

We express no opinion regarding any federal, state or local tax consequences arising with respect to the Bonds, or the ownership or disposition thereof, except as stated in paragraphs 4 and 5 above. We render our opinion under existing statutes and court decisions as of the date hereof, and assume no obligation to update, revise or supplement our opinion to reflect any action hereafter taken or not taken, or any fact or circumstance that may hereafter come to our attention, or any change in law or interpretation thereof that may hereafter occur, or for any other reason. We express no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence.

Very truly yours,