

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

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Department of Housing and
Community Development
Loan Portfolio Restructuring Program
P.O. Box 952052
Sacramento, CA 94252-2052
Attn: **Legal Affairs Division**
__-LPR-__

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
LOAN PORTFOLIO RESTRUCTURING PROGRAM**

REGULATORY AGREEMENT

LOAN NUMBER __-LPR-__

This Regulatory Agreement (the "Agreement") dated _____, 20__, for reference purposes only, is made and entered into by and between _____, a _____ (the "Borrower"), and the Department of Housing and Community Development, a public agency of the State of California (the "Department").

RECITALS:

- A. Borrower has applied to the Department for restructuring of that certain loan number _____ (the "Original Loan") from the _____ Program ("Original Program") for the continued affordability of a Rental Housing Development located at _____, California, consisting of a total of _____ rental units (the "Development"), of which _____ Assisted Units are to be occupied by Eligible Households as provided in this Agreement. The Development is located on the real property described in Exhibit A hereto (the "Property"). The Original Loan will be restructured in accordance with chapter 3.9 of part 2 of division 31 of the California Health and Safety Code sections 50560, 50561, and 50562 (the "Loan Portfolio Restructuring Program" or "LPR Program"), the Portfolio Restructuring Guidelines (the "Guidelines"), and provisions incorporated from the Multifamily

Housing Program ("MHP") Regulations and the Uniform Multifamily Regulations ("UMR"), California Code of Regulations, title 25, division 1, chapter 7, subchapter 4, section 7300 et seq. and section 8300 et seq. respectively (the "Regulations") into a restructured loan (the "Loan"). The obligations imposed on the Borrower by the Loan Portfolio Restructuring Program, the Guidelines, the Regulations, and the Department's policies and procedures are collectively referred to herein as the "Loan Portfolio Restructuring Program Requirements."

- B. The Original Loan was evidenced by a promissory note in the amount of \$ _____ (the "Original Note") secured by a deed of trust recorded on _____ as Instrument No. _____ in the Official Records of _____ County (the "Original Deed of Trust"). The Original Loan was also subject to a regulatory agreement recorded on even date therewith in the Official Records of _____ County as Instrument No. _____ (the "Original Regulatory Agreement"). The termination date of the Original Regulatory Agreement is _____ ("Original Regulatory Agreement Termination Date"). As of the date of Note (as described below) approximately \$ _____ of interest has accrued on the Original Note.
- C. Also as required by the Loan Portfolio Restructuring Program, Borrower has executed or will execute each of the following documents in a form approved by the Department:
1. A promissory note evidencing the Loan specifying, inter alia, the principal amount thereof, the interest accrued on the Original Note and accruing thereon and the terms of repayment thereof (the "Note").
 2. A deed of trust, assignment of rents, security agreement, and fixture filing securing the Note and naming the Department as beneficiary and the Borrower as trustor and recorded or to be recorded against the Property (the "Deed of Trust"). The Deed of Trust shall have such priority and be subject only to such matters of record as may be approved in writing by the Department.
 3. Such other documents and instruments as the Department may reasonably require.
- D. The Note, the Deed of Trust, this Agreement and such other documents and instruments as are reasonably required by the Department are collectively referred to herein as the "Loan Documents."
- E. Upon execution, acknowledgement, and recordation of the Loan Documents as required, the Original Note, Original Deed of Trust, and Original Regulatory

Agreement will be superseded by the Loan Documents and shall have no further effect.

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

NOW, THEREFORE, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are a part of this Agreement.
2. Property. Borrower is the owner in fee of the Property and all improvements now and hereafter located thereon.
[Or substitute one of the following as appropriate.]
Property. Borrower is the owner of a leasehold interest in the Property and the owner of a fee interest in all improvements now or hereafter located thereon.
Property. The Property is owned in fee by _____ a _____ (the "Public Agency"). Borrower has an agreement with the Public Agency for construction and operation of the improvements located on the Property. **[Modify as appropriate.]**
3. Definitions. Unless the context requires otherwise, or the terms are defined herein, the terms used in this Agreement shall be governed by the definitions set forth in the Regulations and Guidelines and the definitions found in chapter 2 of part 1 of division 1 of the California Health and Safety Code (commencing with § 50050) included by reference under the Regulations.

The following terms shall have the respective meanings assigned to them in this paragraph unless the context in which they are used clearly requires otherwise:

- a. "Assisted Unit" shall mean a residential rental unit subject to the Loan Portfolio Restructuring Program's rent and/or occupancy restrictions, as provided herein.
- b. "Date of Application Approval" shall mean, _____, the date the Department approved Borrower's application for restructuring of the Original Loan.
- c. "Date of Restructuring Approval" shall mean, _____, the date the Department approved the restructuring of the Original Loan.

- d. "Eligible Household(s)" shall have the meaning set forth in the Multifamily Housing Program Regulations, California Code of Regulations, title 25, division 1, chapter 7, subchapter 4, section 7301(f).
- e. "Existing Tenant or Existing Household" shall mean a tenant or household residing at the Development on the Date of Restructuring Approval.
- f. "Fiscal Integrity" shall mean that the total Operating Income plus funds released pursuant to this Agreement from the operating reserve account is sufficient to: (1) pay all current Operating Expenses; (2) pay all current debt service (excluding deferred interest); (3) fully fund all reserve accounts (other than the operating reserve account) established pursuant to this Agreement. The ability to pay any or all of the permitted annual Distributions shall not be considered in determining Fiscal Integrity.
- g. "Fiscal Year" for the Development shall mean the annual period commencing on _____ and concluding on _____ each year.
- h. "Household Income" shall mean income of the household occupying an Assisted Unit as calculated in accordance with rules and procedures adopted by the California Tax Credit Allocation Committee ("TCAC"), including TCAC requirements for determining the placed in service date.
- i. "Initial Operating Year" shall mean initial period of operation of the Development under the Loan beginning at the time of recordation of this Agreement and ending the last day of the Fiscal Year for the Development.
- j. "Monitoring Fee" shall mean payment(s) to the Department for monitoring as specified in Exhibit C hereto.
- k. "Net Cash Flow" shall mean all annual Operating Income of the Development less the amounts paid therefrom as allowed in clauses (1) through (9) of subparagraph b. of paragraph 20 hereof.
- l. "Rent" shall mean the same as "Gross Rent", as defined in the Internal Revenue Code (26 USC 42(g)(2)(B)). It includes all mandatory charges, other than deposits, paid by the tenant for the use and occupancy of an Assisted Unit, and a utility allowance established in accordance with TCAC requirements. For units assisted under the United States Housing and Urban Development Department ("HUD") Section 8 or similar rental subsidy programs, Rent includes only the tenant contribution portion of the contract rent.
- m. "Targeted Population Units" shall mean Assisted Units restricted to certain groups, such as disabled households, elderly households, or other specific

groups with unique housing needs as determined by the Department (“Targeted Populations”).

- n. “Sponsor” shall mean the entity relied upon by the Department for experience and capacity and which the Department expects to establish and maintain control over the Development. Where a Borrower has multiple layers in its organizational structure, the requirements of UMR 8313.2 must be met. The Sponsor for this Development is _____.
 - o. “Unit” shall mean a residential unit that is used as a primary residence by its occupants, including efficiency units and residential hotel units.
4. Compliance with Loan Portfolio Restructuring Program Requirements. The Borrower agrees that at all times its actions regarding the Development and the use of funds provided under the Loan shall be in conformity with all Loan Portfolio Restructuring Program Requirements, including the requirements of this Agreement and the other Loan Documents. The Borrower acknowledges that it is familiar with the Loan Portfolio Restructuring Program Requirements and has access to professional advice to the extent necessary to enable the Borrower to fully comply with the Loan Portfolio Restructuring Program Requirements.
5. Term of Agreement. This Agreement shall commence on the date set forth above and remain in full force and effect and shall apply to the Development through and including the _____ () anniversary of the date of recordation of this Agreement pursuant to paragraph 33 hereof regardless of any prepayment of the Loan or sale, assignment, transfer or conveyance of the Development, unless terminated earlier by the Department or extended by the mutual consent of the parties. Notwithstanding the above, this Agreement shall not terminate until repayment in full of the Loan.
6. Assisted Units, Restricted Units, and Targeted Population Units.
- a. For the full term of this Agreement, Borrower shall provide within the Development, the number, type and size of Assisted Units set forth in Exhibit B attached hereto and incorporated herein.
 - b. Restricted Units shall not differ substantially in size or amenity level from non-Restricted Units within the Development with the same number of bedrooms, and Restricted Units shall not be segregated from non-Restricted Units.
 - c. Within the limits of subparagraph b. above, and subject to the requirements of subparagraph a. above, Borrower may change the

designation of a particular Unit from Assisted Unit to non-Assisted Unit, and vice versa, over time.

- d. Borrower shall comply with all the requirements for Targeted Population Units, if any, as set forth in Exhibit B.

7. Tenant Selection Procedures. Borrower shall rent Assisted Units in the Development to Eligible Households in accordance with the Management Plan developed by the Borrower and approved by and on file with the Department (the "Management Plan") pursuant to paragraph 13 of this Agreement. The Management Plan shall:

- a. detail actions to be taken by Borrower to affirmatively market all Units in a manner that ensures equal access to all persons in any category protected by federal, state or local laws governing discrimination, and without regard to any arbitrary factor, in accordance with California Health and Safety Code Section 50736 and Government Code Section 65863;
- b. specify reasonable criteria for determination of tenant eligibility, including household size;
- c. require that eligible tenants be selected based on order of application, lottery, or other reasonable method approved by the Department;
- d. require eligible applicants to be notified of eligibility and, based on turnover history, when a Unit may be available;
- e. require ineligible applicants to be notified of the reason for their ineligibility and of their right to appeal this determination;
- f. specify procedures through which applicants deemed to be ineligible may appeal this determination;
- g. require maintenance of a waiting list of eligible applicants;
- h. specify procedures for obtaining information regarding prospective tenants' incomes as necessary to certify that such income does not exceed the income limit limitations;
- i. be made available to prospective tenants upon request; and
- j. specify procedures for obtaining statistical information for identifying the status of tenants as either elderly or veteran.

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

9. Rental Agreement and Occupancy Procedures.

a. Each Eligible Household selected to occupy an Assisted Unit in the Development shall enter into a written rental or occupancy agreement with the Borrower, the form of which shall be subject to approval by the Department and be consistent with the Loan Portfolio Restructuring Program Requirements. Such rental agreement shall, inter alia, provide for good cause eviction, reference the appeal and grievance procedures set forth in the Management Plan, and require the tenant to annually recertify household income and size.

b. The Borrower may establish reasonable rules of conduct and occupancy. Such rules shall be consistent with state law and the Loan Portfolio Restructuring Program Requirements and shall not distinguish or discriminate between Restricted Units and non-Restricted Units. The rules shall be in writing and shall be given to each tenant upon occupancy. Any change to such rules shall become effective no less than thirty (30) days after giving written notice thereof to each household in the Development.

10. Assisted Unit Rents.

a. At the first regularly scheduled Rent increase after recordation of this Agreement, Borrower shall charge Rents for the Assisted Units in the Development in accordance with paragraph 10(d)(1) below.

For Units receiving HUD Section 8 or other similar rental assistance, the rules of the rental assistance program pertaining to Rent increases will prevail for as long as the rental assistance remains in place. Changes in the tenant contribution amounts may occur more often than annually as required by the rental assistance program.

- b. Rents for Assisted Units may be adjusted no more often than every twelve (12) months. Any Rent increase shall receive prior written approval by the Department.
- c. Maximum Rent Levels (Health and Safety Code section 50561(b))
 - (1) Rents may be adjusted to the maximum levels indicated in the Unit Mix Table in Exhibit B of this Agreement.
 - (2) For Original Program loans under RHCP-B and FHDP (Health and Safety Code section 50561(b)(1)):
 - (a) For “lower income units” as designated by the original regulatory agreement, rents may be increased to the maximum of 30% of 60% Area Median Income (“AMI”).
 - (b) For “very low income units” as designated by the original regulatory agreement, rents may be increased to the maximum of 30% of 35% AMI.
 - (3) For all other Original Program loans (Health and Safety Code section 50561(b)(2)):
 - (a) Rents for the greater of (1) at least 35% of the Assisted Units or (2) specified in the original regulatory agreement, shall be restricted to the midlevel target used by the Multifamily Housing Program.
 - (b) Rents for the balance of assisted units may be increased up to a maximum of 30% of 60% AMI.
 - (c) NOTE: “Midlevel target used by MHP” shall mean either of the following:
 - (i) For counties with AMI of 110% or less of State Medium Income (“SMI”), it shall mean 30% of 30% of SMI expressed as AMI.
 - (ii) For counties with AMI that exceeds 110% of SMI, it shall mean 30% of 35% of SMI expressed as AMI.
- d. Rent Increases (Health and Safety Code section 50561(c))
 - (1) Rent increases for Existing Tenants must meet all the following:

- (a) Rent increases shall not be greater than necessary to ensure the financial feasibility of the project.
 - (b) Rents, shall not exceed 50% of the household's actual income. This requirement shall be applied using maximum rent levels and household incomes at the time of the Date of Restructuring Approval.
 - (c) For Existing Tenants with incomes not exceeding 35% AMI, rent increases shall be limited to 5% per year, until the rents reach the levels set in the maximum rent levels in Unit Mix Table in Exhibit B.
 - (d) For Existing Tenants with incomes exceeding 35% AMI, increases shall be limited to 10% per year, until the rents reach the levels set in the maximum rent levels Unit Mix Table in Exhibit B.
- e. Rents for Vacated Units (Health and Safety Code section 50561(d))
- (1) After Existing Tenants at the time of the Date of Restructuring Approval, have vacated their units, Rents for those vacated units may be increased immediately up to the maximum levels set forth in the Unit Mix Table in Exhibit B.
- f. Maximum Rents Achieved
- (1) Once the maximum rent levels according to the Unit Mix Table in Exhibit B have been achieved by Existing Tenants and new tenants, income limits and rents shall be calculated consistent with the calculation methodology of MHP.
 - (2) Up until the time Existing Tenants have achieved the maximum rent levels as noted above in f.(1), Sponsors shall provide an annual accounting to the department for compliance with Health and Safety Code section 50561 (c) and (e) at the time of SRI (as defined below) submittal.
- g. RHCP-O – Assisted Units Subsidized by Annuity Funds
- (1) For assisted units subsidized by the annuity funds, Rents may be increased to 30% of household income, only as approved by the Department.

- (2) A household affected by the rent increase permitted by this subsection as approved by the Department, shall be given at least 90 days advanced notice of the increase in conjunction with any other notice requirements.
11. Rents for non-Assisted Units and Commercial Space. Borrower shall establish and implement a rent structure and operations budget for non-Assisted Units and/or Commercial Space, as applicable, which ensures the Fiscal Integrity of the Development. Rent for non-Assisted Units shall be in compliance with Exhibit B hereto. Borrower shall estimate all income and expenses attributable to the non-Assisted Units and, if applicable, Commercial Space, in the annual operating budget described in paragraph 15 herein, and shall report all income and expenses attributable to non-Assisted Units and Commercial Space in the annual report described in paragraph 17 herein.
12. Certification of Tenant Income and Household Size.
 - a. The income and household size of all households occupying Assisted Units shall be certified by the Borrower prior to occupancy and recertified annually thereafter in the manner specified in the Development's approved Management Plan and in accordance with applicable rules, regulations, and procedures governing the low income housing tax credit program ("LIHTC").
 - b. If, at the time of tenant recertification, the income of a household occupying an Assisted Unit exceeds the income level applicable to new tenants for respective Assisted Units, and, to the extent a rent increase for the household is permitted by the Department, the Borrower shall:
 - (1) redesignate the tenant's Unit as a Unit at the higher income level;
 - (2) increase the tenant's Rent to the level applicable to Units at the higher income level; and
 - (3) designate the next available comparable Unit as a Unit at the income level originally applicable to the household until the Unit mix required by this Agreement is achieved. A Unit shall be deemed "comparable" if it has the same number of bedrooms as the original Unit.

For example, in a Development where the income limits utilized to qualify new tenants are 20%, 40% and 50% of Area Medium Income (“AMI”), if the income of a household occupying a Unit designated as a 20% Unit increases to 48% of AMI, the Sponsor must redesignate the household’s Unit as a Unit at the 50% level, increase the tenant’s Rent to the level applicable to Units at the 50% level, and designate the next available comparable Unit as a Unit at the 20% income level.

This paragraph 12(b) shall not apply to Existing Households until the Existing Household meets the requirements of paragraph Section 10(f)(1) above.

- c. If at the time of recertification a tenant household’s income exceeds the income limit designated for the household’s Unit, but does not exceed the limit for a higher income level applicable to new tenants, the Sponsor may increase the household’s Rent to an amount not exceeding the Rent limit applicable to the household’s income level at the time of recertification. For purposes of this subsection, income levels shall not be limited to those applicable to new tenants, and shall consist of five percent increments of AMI. Continuing with the example described in the subsection (b), the income levels utilized to establish Rent limits upon recertification would be 20%, 25%, 30%, 35%, etc. A household occupying a Unit in this Development with a 20% limit whose income, upon recertification, had increased to 32% of AMI could have their Rent increased to the Rent level applicable to the 35% income level.

This paragraph 12(c) shall not apply to Existing Households until the Existing Household meets the requirements of paragraph Section 10(f)(1) above.

13. Management and Maintenance.

- a. Borrower is responsible for all maintenance, repair, and management functions, including without limitation, the following: selection of tenants; recertification of family income and size; evictions; collection of Rents; routine and extraordinary repairs; and replacement of capital items. Borrower shall maintain all residential Units, common areas and Commercial Space in a safe and sanitary manner in accordance with local health, building, and housing codes and the Management Plan described below.
- b. Borrower is responsible for operating the Development in accordance with the Management Plan. All amendments to this plan require prior written approval of the Department.

- c. Borrower may, with the prior written approval of the Department, contract with a management agent for the performance of the services or duties required in subparagraphs a. and b. of this paragraph 13. However, such an arrangement does not relieve the Borrower of responsibility for proper performance of these duties. Such contract shall be subject to prior written approval by the Department and shall contain a provision allowing the Borrower to terminate the contract without penalty upon no more than thirty (30) days' notice. Upon a determination by the Department, and notice to the Borrower thereof, that the contractor performing the functions required in subparagraphs a. and b. has failed to operate the Development in accordance with this Agreement and the approved Management Plan, the Borrower shall exercise such right of termination forthwith and make immediate arrangements, which shall be subject to Department approval, for continuing performance of the functions required in subparagraphs a. and b.
- d. Upon a determination by the Department, and notice to the Borrower thereof, that the Borrower has failed to operate the Development in accordance with this Agreement, the Department may require the Borrower to contract with a qualified management agent to operate the Development, or to make such other arrangements as the Department deems necessary to ensure performance of the functions required in subparagraphs a. and b.
- e. Borrower shall operate, maintain and repair both Restricted and non-Restricted Units equally without regard to their designation as Restricted Units or non-Restricted Units.

14. Hazard and Liability Insurance and Condemnation.

- a. The Borrower shall at all times keep the Development insured against loss by fire and such other hazards, casualties, liabilities and contingencies, and in such amounts and for such periods as required by the Department. All insurance policies and renewals thereof shall be issued by a carrier and in a form acceptable to the Department.
- b. In the event of any fire or other casualty to the Development or eminent domain proceedings resulting in condemnation of the Development or any part thereof, Borrower shall have the right to rebuild the Development, and to use all available insurance or condemnation proceeds therefore, provided that, as determined by the Department in its sole discretion, (a) such proceeds are sufficient to keep the Loan in balance and rebuild the Development in a manner that provides adequate security to the

Department for repayment of the Loan or if such proceeds are insufficient, then Borrower shall have funded any deficiency, (b) the Department shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material breach or default then exists under the Loan Documents. If the casualty or condemnation affects only part of the Development and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the Loan in a manner that provides adequate security to the Department for repayment of the remaining balance of the Loan.

15. Annual Operating Budget.

- a. For the Initial Operating Year, Borrower shall operate the Development and expend Operating Income in accordance with the initial operating budget and Schedule of Rental Income (SRI), which were approved by and on file with the Department prior to loan closing. Such budget shall show all anticipated Operating Income, debt service, Operating Expenses and amount payable to reserves for the Initial Operating Year. Such SRI shall set forth the rent roll, which will identify each tenant household (by unit number or other method of household or tenant identification that is acceptable to the Department), as well as the following information in connection with each tenant household: size, income, current rent, and proposed rent adjustments (including utility allowances, if applicable). Such SRI shall provide estimated income for Assisted Units, non-Assisted Units, and Commercial Space or use.
- b. No later than sixty (60) days prior to the beginning of each subsequent Fiscal Year of the Development, the Borrower shall submit to the Department a proposed annual operating budget and SRI on forms provided by the Department. The proposed annual operating budget and SRI, together, shall set forth the Borrower's estimates for the upcoming year of Operating Income, Operating Expenses and debt service, amounts payable to reserves, and proposed Rent adjustments. Annual operating budgets and rent adjustments are subject to approval by the Department. No rent adjustments may be implemented without the Department's advance written approval.
- c. If the Development contains either non-Assisted Units or Commercial Space, or both, each annual operating budget shall show amounts, sources and uses of income allocated between Assisted Units, Restricted Units, non-Restricted Units, and Commercial Space. The allocation method used for each budget line item shall be subject to Department

approval and shall apportion income and expenses in a manner that accurately reflects the particular physical, operational and economic characteristics of the Development.

16. Periodic Reports. During the Initial Operating Year, Borrower shall submit to the Department such periodic reports as deemed necessary by the Department to monitor the Borrower's compliance with this Agreement. The reports may include, but are not limited to:
- a. an income and expense statement for the reporting period;
 - b. a summary of the occupancy of the Development, indicating the number and type of Units reserved for Eligible Households, the number of vacant Units, and the number of evictions completed or in process;
 - c. a report on maintenance or other issues anticipated to impact the current budget needs of the Development;
 - d. information on the status of waiting lists for the Assisted Units, including the number of households on lists for different Unit sizes and by income group; and
 - e. other information as required by the Department to accurately monitor Borrower's performance hereunder.

If, after the Initial Operating Year, the Department determines that such periodic reports continue to be necessary, the Department shall so notify the Borrower as part of the annual budget or report approval process. Upon such notification, Borrower shall submit the requested reports.

17. Annual Report and Audit.
- a. Borrower shall file an annual report with the Department no later than ninety (90) days after the end of each Fiscal Year for the Development. The report shall be in such form and contain such information as required by the Department.
 - b. As part of the annual report, the Borrower shall submit an audit of the Development prepared by an independent certified public accountant in accordance with Department audit requirements, as specified in the Department's Audit Handbook, titled "Audited Financial Statements for Multifamily Rental Housing, published June 2013, as periodically updated.

- c. The report must specifically identify the number of units rented to the elderly. The report must also specifically identify the number of units rented to military veterans.
18. Required Reserves. Borrower shall establish, fund and maintain reserve accounts for the term of this Agreement as listed below. All such accounts shall be in the name of the Borrower, earn interest, and, unless otherwise approved in writing by the Department, insured by an agency of the federal government or other comparable federal insurance program. All interest earned on a reserve account shall become a part of the account. Withdrawals from the reserve accounts shall require prior written approval of the Department. Should the Department fail to take action on a request for a withdrawal from a reserve account within thirty (30) days of documented receipt of the request, that request will be deemed approved.
- a. Replacement Reserve Account. Commencing no later than the date of recordation of this Agreement, Borrower shall establish a segregated replacement reserve account. Borrower shall make annual deposits from Operating Income to the replacement reserve account in the amount set forth in Exhibit C, unless the Department determines, in its sole discretion, that more frequent deposits are required. Borrower shall also deposit any Development funds designated for replacement reserves into this account, including those identified in Exhibit C. The amount of the minimum annual deposit may be adjusted, as determined by the Department, in its sole discretion, based on the results of reserve studies, performed by an independent third party at the Borrower's expense as requested by the Department or as based on other reliable indicators of the need for reserve funds over time. In no event shall this reserve be used to fund limited partner exit costs.
- b. Operating Reserve Account. Borrower shall establish an operating reserve account or sub-account within the Development's general operating account no later than sixty (60) days from the date of recordation of this Agreement. Borrower shall fund the operating reserve account with an initial deposit in an amount as specified in Exhibit C, and through monthly deposits from Operating Income in amounts as specified in Exhibit C or in approved annual operating budgets. Borrower shall fully replace any withdrawals from the operating reserve account using available cash flow prior to use of any cash flow to pay deferred Developer Fee, partnership management or similar fees, Supportive Services Costs (when not paid as part of operating costs), or Distributions. In no event shall the Operating Reserve be used to fund limited partner exist costs, except for amounts in excess of the balance required by the Department.

- c. Other Reserve Accounts. Borrower certifies that Exhibit C hereto contains a complete listing of all reserve accounts established or to be established for the Development. All withdrawals from these accounts shall require prior written Department approval, except as specifically noted in Exhibit C.
19. Accounting Records. In a manner subject to Department approval, Borrower shall maintain an accrual or modified accrual basis general ledger accounting system that is posted monthly and that accurately and fully shows all assets, liabilities, income and expenses of the Development. All records and books relating to this system shall be retained for not less than seven (7) years and in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records shall be subject to inspection and audit by the Department or its representative.
20. Use of Income from Operations.
- a. The Borrower, or Borrower's management agent, shall promptly deposit all Operating Income in a segregated account established in the Borrower's name exclusively for the Development and insured by an agency of the federal government or other comparable federal insurance program.
- b. Withdrawals from the account shall be made only in accordance with the provisions of this Agreement, and the approved annual operating budget, and shall be disbursed, applied, or reserved and set aside for payment when due, in the following priority, to the extent available:
- (1) salaries, wages, and any other compensation due and payable to the employees or agents of the Borrower employed on site in connection with the maintenance, administration or operation of the Development, along with all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required in connection with such employees;
 - (2) all charges incurred in the operation of the Development in connection with utilities, real estate taxes and assessments, and liability, fire and other hazard insurance premiums;
 - (3) regularly scheduled non-contingent payments of interest, principal, impounds, fees and charges, including Monitoring Fee, if any, required on loans, including the Loan, which are secured by liens on the Property, which have been approved by the Department, payments on which are to be made prior to the determination of Net Cash Flow, as specified in Exhibit C, hereto;

- (4) all other incurred Operating Expenses, including the fee of the managing agent and any extraordinary expenses, in accordance with the approved annual operating budget of the Development or as otherwise approved in advance by the Department;
- (5) deposits to required reserve accounts;
- (6) deferred Developer Fee;
- (7) asset management, partnership management and similar fees, including fees paid to investors in an amount not to exceed per year the sum of:
 - a. \$30,000 for 2016 and increased at the rate of 3.5% for each subsequent year, plus
 - b. Unpaid asset management, partnership management and similar fees accrued for a period not to exceed three project fiscal years following the year during which they are earned, up to the difference between the limit for the year and the amount paid for that year;
- (8) Supportive Services Costs that the Regulations would allow to be paid as operating costs, but that other funding sources do not; and
- (9) Distributions, in accordance with paragraph 21 of this Agreement.

The withdrawals permitted under subparagraph 20 (b) (6), (7), (8) and (9) shall also be subject to the restrictions of paragraph 18 (b) above.

The Borrower may depart from the foregoing priorities of payment only upon the express written approval of the Department. Net Cash Flow shall be distributed in accordance with paragraph 22 hereto.

21. Distributions.

- a. Borrower shall be limited to annual Distributions equal to fifty-percent (50%) of the annual Operating Income remaining after payment of the items allowed in clauses (1) through (8) of subparagraph b. of paragraph 20 above. If the Development generates insufficient cash flow to permit payment of Distributions in a particular year, Distributions in future years shall not be accrued, or increased to cover the lack of Distributions in prior years.

- b. Borrower may deposit all or a portion of the amount permitted for Distributions into a Development account for distribution in subsequent years. Such future distributions shall not reduce the otherwise permitted Distributions in those subsequent years.
- c. Distributions shall be permitted for a particular Fiscal Year, including Distributions from an accumulated Distributions account, only after the Borrower submits a complete annual report and operating budget and the Department determines that the report and budget demonstrate compliance with all Loan Portfolio Restructuring Program Requirements.
- d. No Distributions, deferred Developer Fee, asset management fees, partnership management fee and similar fees shall be made in the following:
 - (1) when written notice of default has been issued by any entity, including the Department, with an equitable or beneficial interest in the Development;
 - (2) when the Department determines that the Borrower or Borrower's management agent has failed to comply with the Department's written notice of any reasonable requirement for proper maintenance or operation of the Development;
 - (3) if all currently required debt service, including mandatory payments on the Loan, Monitoring Fee, and Operating Expenses have not been paid; or
 - (4) if the replacement reserve account, operating reserve account or any other required reserve account is not fully funded pursuant to this Agreement.

22. Use of Net Cash Flow.

Net Cash Flow shall be applied to payment of interest, principal, impound fees and charges, if any, on loans which are secured by liens on the Property, including the Loan, which have been approved by the Department and which are to be paid from Net Cash Flow in the amounts, proportion and in accordance with the terms specified in Exhibit C hereto. Upon payment in full of the loans payable from Net Cash Flow as set forth in Exhibit C, all Net Cash Flow shall thereafter be retained by the Borrower for Department approved uses that: (1) directly benefit Eligible Households; or (2) augment reserves required by paragraph 18. Direct eligible household benefits could include reducing rents for

Assisted Units or providing low-cost or subsidized services and benefits, in addition to those services and benefits required by this Agreement, to Eligible Households. In the event that any Net Cash Flow is not used for an approved purpose, all remaining Net Cash Flow shall be paid to the Department as excess cash.

23. Department Review and Inspections.

- a. At any time during the term of this Agreement, the Department or its designee may enter and inspect the physical premises and inspect all accounting records pertaining to the construction, development or operation of the entire Development. Upon request by the Department, the Borrower shall notify occupants of upcoming inspections of their Units in accordance with state law.
- b. In addition to the annual audit required in paragraph 17 above, and at the Department's request, the Borrower shall provide, at Borrower's expense, a special audit of the Development certified by an independent certified public accountant. The Department may also perform or cause to be performed audits of any and all phases of the Borrower's activities related to the Development.
- c. The Department may request any other information that it deems necessary to monitor compliance with the Loan Portfolio Restructuring Program Requirements and the requirements set forth in this Agreement. The Borrower shall promptly provide such information.

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

- a. Except with the Department's prior written approval, Borrower shall not:
 - (1) make any sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, or transfer in any other form of the Property or Development or of any of its interest in either of them;
 - (2) substantially add to, remodel, remove, reconstruct, or demolish any part of the Development;
 - (3) permit the use of the Development for any purpose other than that permitted by this Agreement;
 - (4) incur any liability or obligation in connection with the Property or Development, other than for current Operating Expenses, nor incur

any liability, charge, assessment, or obligation whatsoever that is secured in whole or in part by any interest in or lien or encumbrance on the Property provided that the Department may permit refinancing or additional financing secured by the Property to the extent necessary to maintain or improve the Development's Fiscal Integrity, or to maintain affordable Rents;

- (5) enter into any contract relating to rehabilitating or managing the Development;
- (6) enter into any lease for more than a single rental Unit, a ground lease of the Property or any interest therein, except for the rental of Commercial Space in the Development; or
- (7) if the Borrower or its successor in interest is a limited partnership, discharge or replace any general partner or amend, modify or add to its partnership agreement, or amend, modify or add to the organizational documents of the general partner; except that it may transfer limited partner interests without such approval. The withdrawal, removal, and/or replacement of a general partner of the partnership pursuant to the terms of the partnership agreement shall not constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan, provided that any required substitute general partner is reasonably acceptable to the Department and is selected with reasonable promptness.

b. The Department may approve a sale, transfer or conveyance of the Property or Development provided all of the following conditions are met:

- (1) The transferor Borrower is in compliance with this Agreement or the sale, transfer or conveyance will result in the cure of any existing violations of this Agreement.
- (2) The transferee Borrower agrees to assume all obligations of the transferor Borrower pursuant to this Agreement, the other Loan Documents and the Loan Portfolio Restructuring Program Requirements.
- (3) The transferee Borrower demonstrates to the Department's satisfaction that it has the ability to own and operate the Development in full compliance with this Agreement and the Loan Portfolio Restructuring Program Requirements.

- (4) Any terms of the sale, transfer or conveyance shall not jeopardize the Department's security or the transferee Borrower's ability to comply with all Loan Portfolio Restructuring Program Requirements.
- (5) The Department will not approve any cash out payment to the selling party or to any party related to or affiliated with the selling party. The Sponsor may not cash out its equity. Deferred developer fee, and seller carry back loans, cannot be cashed out from the proceeds of the sale, transfer, conveyance or refinance.
- c. The Department may grant its approval for a sale, transfer or conveyance of the Property or Development subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Development or to ensure compliance with the Loan Portfolio Restructuring Program Requirements. Such conditions may include, but are not limited to, the deposit of sales proceeds, or a portion thereof, to maintain required reserves or to offset negative cash flow.
- d. If Borrower or its successor in interest is a limited partnership, the execution and delivery of the purchase option and right of first refusal agreement described in the partnership agreement shall not constitute a default under the Loan Documents or accelerate the maturity of the Loan thereunder, provided that such purchase option is and remains subordinate to the documents securing the Loan. Any requisite consent of the Department to (a) the exercise of said purchase option and right of first refusal agreement by the Development sponsor identified therein, and to (b) the assumption without penalty of Loan obligations by the Development sponsor and the release of Borrower from such obligations shall not be unreasonably withheld, but may be conditioned upon the execution of an operating guaranty from the Borrower in form provided by the Department. Subject to any such consent requirement, the exercise of rights under such agreement shall not constitute a default under the Loan Documents or accelerate maturity of the Loan.
- e. If Borrower or its successor in interest is a limited partnership and the purchase option and right of first refusal agreement described in the partnership agreement is not exercised and the Development is sold subject to low-income housing use restrictions contained in this Agreement, the requisite consent of the Department to said sale, and to the assumption without penalty of Loan obligations by the purchaser and the release of Borrower from such obligations, shall not be unreasonably withheld, but may be conditioned upon, among other requirements, the

execution of an operating guaranty from the Borrower in form provided by the Department.

- f. The Borrower agrees that if it is organized as a partnership or other legal entity, Borrower shall not dissolve the partnership or other legal entity prior to the expiration of the term of this Agreement, without the prior written approval of the Department.

25. Violation of Agreement by Borrower.

- a. In the event of the Borrower's breach, violation or default in the performance of any covenant, agreement or obligation of the Borrower set forth in this Agreement including, but not limited to, Borrower's covenant to perform its obligations under the Loan Documents, the Department shall give the Borrower written notice in the manner specified in paragraph 38 of this Agreement, specifying the nature of the violation, breach or default and the action needed to cure. If the default, breach or violation is not cured to the satisfaction of the Department within the time period specified in the notice, which shall not be less than the applicable time to cure as stated in paragraph 26 of this Agreement, the Department may declare a default hereunder and may take any one or more of the following actions:
 - (1) Collect all Rents and income in connection with the operation of the Development and use the same and the reserve funds for the operation and maintenance of the Development.
 - (2) Take possession of the Development and bring any action necessary to enforce any rights of the Borrower growing out of the operation of the Development, and operate the Development in accordance with the terms of this Agreement until such time as the Department, in its sole discretion, shall determine that the Borrower is again in a position to operate the Development in accordance with the terms of this Agreement.
 - (3) Apply to any court, state or federal, for specific performance of this Agreement or for the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement, or for such other relief as may be appropriate. It is agreed by the Borrower that the injury to the Department arising from a default under any of the terms of this Agreement would be irreparable and that the amount of compensation, which would provide adequate relief to the Department, in light of the purposes and requirements of the Loan Portfolio Restructuring Program, would be impossible to ascertain.

- (4) Accelerate all amounts, including outstanding principal and interest, due under the terms of the Loan Documents and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, the Note provides that the Department may proceed with a foreclosure or sale under the power of sale in accordance with the provisions of the Deed of Trust and state law regarding foreclosures.
 - (5) Seek such other appropriate remedies as may be available under the law.
- b. In the event that the breach or violation involves charging tenants Rent or other charges in excess of those permitted under this Agreement, the Department may demand the return of such excess Rents or other charges to the affected households. If legal action is necessary to enforce the provisions of this Agreement, the Department may seek the return of such overcharges to the affected households.
 - c. The remedies of the Department hereunder and under the other Loan Documents are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by the Department of any one or more of its other remedies.
 - d. The tenants of the Assisted Units shall be considered third party beneficiaries of this Agreement and all shall have such rights and remedies to enforce the Loan Portfolio Restructuring Program Requirements of this Agreement as may be available to third party beneficiaries under the law.

26. Time to Cure

- a. If a monetary event of default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder the Department shall give Borrower written notice of such default. Borrower shall have a period of seven (7) days after such notice is given within which to cure the default prior to exercise of remedies by the Department under the Loan Documents, or such longer period of time as may be specified in the Loan Documents.
- b. If a non-monetary event of default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder, the Department shall give Borrower written notice of such default. If the

default is reasonably capable of being cured within thirty (30) days, as determined by the Department in its sole discretion, Borrower shall have such period to effect a cure prior to exercise of remedies by the Department under the Loan Documents, or such longer period of time as may be specified in the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, as determined by the Department in its sole discretion, or such longer period if so specified, and if Borrower (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is determined by the Department, in its sole discretion, to be reasonably necessary to cure the default prior to exercise of any remedies by the Department. If Borrower or its successor in interest is a limited partnership, if Borrower fails to take corrective action or to cure the default within such a specified time, the Department shall give Borrower written notice thereof, whereupon the limited partner may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. In no event shall the Department be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given, or such longer period of time as may be specified in the Loan Documents.

27. Property Tax Exemption. To the extent the property tax exemption provisions of section 214 of the Revenue and Taxation Code are applicable to the Borrower and the Development, Borrower shall take all actions necessary to qualify the Development for the maximum exemption from property taxes available pursuant to said section 214 of the Revenue and Taxation Code. Such actions may include, but are not limited to the following:
- a. Modify, add to or delete from the articles of incorporation, bylaws or other organizational documents of Borrower or of the managing general partner of Borrower;
 - b. Apply for nonprofit, tax-exempt status to the appropriate state or federal agency;
 - c. Provide the certifications and assurances required by section 214 of the Revenue and Taxation Code; and
 - d. Comply with the procedures and requirements imposed by local government agencies as a condition of receiving the property tax exemption.

28. Controlling Agreement.

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

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

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

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

32. Binding on Successors. This Agreement shall bind, and the benefits hereof shall inure to, the respective parties hereto, their legal representatives, executors, administrators, transfers, successors in interest and assigns, provided, however, that the Borrower may not assign this Agreement or any of its obligations hereunder, voluntarily or by operation of law, without the prior written approval of the Department. The term "Borrower" as used herein shall include and apply to any person or entity succeeding to the legal, equitable, proprietary or possessory interest of Borrower in the Development.

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

34. Indemnification and Waiver.

- a. Borrower agrees to indemnify the Department and its agents, employees and officers against, and holds the Department and its agents, employees and officers harmless from, any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees) of every name, kind and description, which the Department may incur as a direct or indirect consequence of: (1) the making of the Loan to the Borrower; (2) Borrower's failure to perform any obligations as and when required by this Agreement or any of the other Loan Documents; (3) any failure at any time of any of Borrower's representations or warranties to be materially true and correct; (4) any act or omission by Borrower, any contractor, subcontractor, material supplier, engineer, architect or other person or entity with respect to the Property or the construction, management, maintenance or operation of the Development; or (5) the presence of any recognized environmental conditions at the Development or on the Property. Borrower shall pay immediately upon the Department's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of ten percent (10%) per annum. Borrower's duty to indemnify and save harmless includes the duties to defend as set forth in section 2778 of the Civil Code. Borrower shall indemnify and hold harmless the Department and its agents, officers and employees as set forth herein regardless of the existence or degree of fault or negligence whether active or passive, primary or secondary on the part of the Department, the Borrower or their respective agents, officers, employees, contractors or subcontractor; provided, however, that Borrower's duty to indemnify and hold harmless hereunder shall not extend to liability arising from the gross negligence or willful misconduct of the Department. Borrower's duty to indemnify the Department shall survive the term of this Agreement, the release and cancellation of the Note, and the reconveyance or partial reconveyance of the Deed of Trust. In the event HUD acquires title to the Development, this indemnification provision will not apply to HUD.
- b. The Borrower waives and releases any and all rights to any types of express or implied indemnity against the Department or its agents, officers or employees.
- c. The Borrower expressly waives the protections of section 1542 of the Civil Code in relation to subparagraphs a. and b. above. Said section 1542 provides as follows: A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

35. No Waiver. No waiver by the Department of any breach or violation of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach or violation thereof or default thereunder.
36. Captions. The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or the intent of this Agreement.
37. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California. All code references herein refer to the California Codes, unless specifically indicated otherwise.
38. Notice. Except for any notice required under applicable law to be given in another manner, any notices, demands or communications between the parties hereto shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested or delivered by express delivery service with delivery receipt, to the address of the respective party as set forth below, or to such other address as the respective party may have designated by written notice given to the other party in the manner provided herein. Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered, the date on which delivery was refused, or the date on which delivery was attempted.
39. Attorneys' Fees. The prevailing party in any action to enforce this Agreement, including residents of Assisted Units, shall be entitled to reasonable attorneys' fees as determined by the trier of fact in that forum.
40. Department's Approval Etc. Whenever this Agreement or any of the other Loan Documents requires the approval, consent, or other determination by the Department, the Department shall act reasonably and in good faith.
41. Compliance with IRC Section 42(h)(6)(E)(ii). In the event a regulatory agreement required by TCAC is recorded against the Property as a condition of the award of federal tax credits, the Department agrees to comply with the provisions set forth in Internal Revenue Code ("IRC") Section 42(h)(6)(E)(ii). As of the date of this Agreement, IRC Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an Existing Tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or instrument in lieu of foreclosure.
42. Special Conditions. The Borrower agrees to comply with and be bound by the special conditions, if any, set forth in Exhibit C hereto.

43. Counterparts. This agreement may be signed by the different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Agreement.

44. Exhibits. The following exhibits are attached hereto, incorporated herein and made a part of this Agreement:

Exhibit A: Legal Description of the Property;

Exhibit B: Unit Designation and Rent Schedule and requirements for Targeted Population Units; and

Exhibit C: Special Conditions.

Exhibit D: Most Restrictive Department Requirements.

[Signatures of the Borrower and the Department follow on page ___ of this Regulatory Agreement. The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereby execute and enter into this Agreement as of the date first set forth above and agree to be bound hereby:

DEPARTMENT:

Department of Housing and Community Development, a public agency of the State of California

By: _____
Emeline T. Alvarez, Manager
Transactions Unit

Mailing Address:

Department of Housing and
Community Development
Asset Management and Compliance
P.O. Box 952052
Sacramento, CA 94252-2052
Attn: Program Manager

Principal Place of Business:

Department of Housing and
Community Development
Asset Management and Compliance
2020 West El Camino Avenue
Sacramento, CA 95833

BORROWER:

[NAME, TYPE OF ENTITY]

By: _____
Name: _____
Title: _____

Mailing Address:

Principal Place of Business:

EXHIBIT A TO REGULATORY AGREEMENT

LEGAL DESCRIPTION OF THE PROPERTY

DRAFT

EXHIBIT B TO REGULATORY AGREEMENT

I. UNIT DESIGNATIONS AND RENT SCHEDULES

Borrower shall comply with Rent provisions of all regulatory agreements regulating the Development.

A. At the first regularly scheduled Rent increase after recordation of this Agreement, Borrower shall charge Rents for the Assisted Units of Existing Tenants in accordance with paragraph 10(d)(1) in this Agreement.

B. For New Tenants and after Existing Tenants move out of the project, Borrower shall charge Rents for Assisted Units that do not exceed Rents set forth in the Unit Mix Table below. Therefore, the Unit Mix Table will represent the unit mix after an Existing Tenant(s) have vacated and those Assisted Units thereafter are replaced with new Eligible Households or when Existing Tenants meet the standards in accordance with paragraph 10(f) in this Agreement.

Unit Mix Table:

# of Bdrms	HCD Assisted Units	Other Restricted	Non-Assisted (mgr unit)	Total Units	Income/Rent Limit	SH Units	SNP Units
1					35% AMI		
					40% AMI		
					50% AMI		
					60% AMI		
2					35% AMI		
					40% AMI		
					50% AMI		
					60% AMI		
3					35% AMI		
					40% AMI		
					50% AMI		
					60% AMI		
TOTALS	21	0	0	21			5

[IF APPLICABLE - For RHCP-O Annuity Projects – use the below sentence and delete the highlighted column above “Max Rent (AMI%)”]

* Rent for all units will be calculated at 30% of the Household Income Limit (AMI %) as published annually by HCD.

II. TARGETED POPULATION UNITS

A. SUPPORTIVE HOUSING UNITS REQUIREMENTS

1. For the full term of this Agreement, Borrower shall restrict occupancy of _____ Units within the Development as Supportive Housing Units to be occupied by Eligible Households which are both (1) homeless or at risk of homelessness and (2) include a disabled adult.
2. For these units, Borrower shall select tenants in strict accordance with the criteria and procedures identified in the supportive services plan for the Development approved by the Department, as may be amended from time to time. For the full term of this Agreement, Borrower shall make a good-faith effort to provide all the supportive services identified in the supportive

services plan for the Development approved by the Department. At a minimum, Borrower shall provide without cost to tenant the following services, or arrange for their provision:

3. No later than ninety (90) days after the end of each Fiscal Year for the Development, Borrower shall submit for Department review and approval a report on the Supportive Housing Units households in the Development. This report shall be on a form provided by the Department and shall include a listing of the number and type of Supportive Housing Units residents, a description of the supportive services provided to them, and such other matters as the Department may require.

B. SPECIAL NEEDS POPULATIONS DEVELOPMENT REQUIREMENTS

1. For the full term of this Agreement, Borrower shall restrict occupancy of _____ units within the Development to the following Special Needs Population or Populations:
2. For these units, Borrower shall select tenants in strict accordance with the criteria and procedures identified in the supportive services plan for the Development approved by the Department, as may be amended from time to time. For the full term of this Agreement, Borrower shall make a good-faith effort to provide all the supportive services identified in the supportive services plan for the Development approved by the Department. At a minimum, Borrower shall provide without cost to tenant the following services, or arrange for their provision:
3. No later than ninety (90) days after the end of each Fiscal Year for the Development, Borrower shall submit for Department review and approval a report on the Special Needs Population households in the Development. This report shall be on a form provided by the Department and shall include a listing of the number and type of Special Needs Population residents, a description of the supportive services provided to them, and such other matters as the Department may require.

EXHIBIT C TO REGULATORY AGREEMENT
Special Conditions

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

Requirements for project-based Rental Assistance.

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

Rent Source	Rent Subsidy Program and Component	Bedroom Type	No. of Units	Subsidy Term	Amount of Annual Assistance	Is the subsidy renewable?
Oakland Housing Authority	Project Based Section 8			20 years	\$447,720.00	Yes
Total					\$447,720.00	

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

- (1) Borrower shall in good faith apply for and accept all available renewals of project-based rental assistance; and
- (2) If the project-based rental assistance is terminated, Rents for Units previously covered by this assistance may be increased above the levels shown in the schedule published by the Department for the applicable Unit size and income limit, but only to the minimum extent required for project feasibility, as determined by the Department. However, Rents shall not in any event be increased to an amount in excess of thirty percent (30%) of fifty percent (50%) of area median income, adjusted by bedroom number in accordance with the requirements of the LIHTC.

Required Reserves (paragraph 18).

Replacement Reserves (paragraph 18.a).^{1 2}

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

² The annual deposit of \$_____ will be held and controlled by CalHFA. The initial capitalized portion of \$_____ will be placed by Borrower in a separate account pursuant to the Department's regulations and requirements. When CalHFA no longer controls and actively manages the reserves, the CalHFA

Annual Deposit Amount³: \$ _____.
 based on a physical needs assessment dated _____.
 based on \$500 times number of units
 based on a direct federal loan or grant program.
 based on CalHFA requirements
 Initial Capitalization Amount: \$ _____
 Date of Initial Capitalization Amount Deposit: Close of Escrow
 Withdrawals Require Prior Department Approval: Yes

Operating Reserve (paragraph 18.b).

Deposit Amount:	\$ _____ per year
Initial Capitalization Amount:	\$ _____
Date of Deposit:	Close of Escrow or _____ ?
Withdrawals Require Prior Department Approval?	Yes

Other Reserves (paragraph 18.c). If applicable, approved transition reserve account established to prevent tenant displacement resulting from the termination of rent subsidies.

Name:	_____
Deposit Amount:	\$ _____ per _____ year
Initial Capitalization Amount:	_____
Withdrawals Require Prior Department Approval?	Yes

controlled balance will be combined with the capitalized reserve account and subject to the Department's regulations and requirements. [alternate reserve footnote for projects jointly funded with CalHFA when HCD defers to CalHFA, delete otherwise]

³ The first annual deposit amount shall be prorated from the close of escrow to the end of the Fiscal Year (defined in section 3.a.).

Name:	
Deposit Amount:	\$ _____ per _____
Initial Capitalization Amount:	
Withdrawals Require Prior Department Approval?	Yes

Loan Payments to be made Prior to Determination of Net Cash Flow (paragraph 20b.(3)).

[Delete table if N/A]

During construction period commencing on the date of this Agreement:

- o Construction Loans in its respective lien positions:
 - 1. Citibank \$8.7 MIL
 - 2. LA CDC \$4 MIL
 - 3. HCD
 - 4. LACDC CDBG \$330K
 - 5. GP Sponsor Loan \$385

Lender:	
Initial Principal Amount:	Approximately \$
Payment Amount:	Approximately \$
Term to Maturity:	months
Lien Position:	
Interest Rate:	Not to exceed _____

[Delete table if N/A]

Lender:	California Department of Housing and Community Development -- Loan Portfolio Restructuring Program
Initial Principal Amount:	\$
Payment Amount (including future adjustments, caps and balloons):	Monitoring Fee as described below; Interest is deferred for full term of loan.
Term to Maturity:	years
Lien Position:	
Interest Rate:	3% simple

[Delete table if N/A]

Permanent loan period after payoff of construction loan:

- Permanent Loan
 - Citibank DOJ Loan \$750K
 - Seller Loan \$ \$1.3 MIL

Lender:	
Initial Principal Amount:	\$
Payment Amount (including future adjustments, caps and balloons):	\$
Term to Maturity:	years
Lien Position:	
Interest Rate:	Not to exceed %

Lender:	California Department of Housing and Community Development -- Loan Portfolio Restructuring Program
Initial Principal Amount:	\$
Payment Amount (including future adjustments, caps and balloons):	Monitoring Fee as described below; Interest is deferred for full term of loan.
Term to Maturity:	years
Lien Position:	
Interest Rate:	3% simple

[Delete table if N/A]

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

Department Monitoring Fee to be made Prior to Determination of Net Cash Flow (paragraph 20b.(3)). The Borrower shall pay the Department Monitoring Fee as indicated below (Promissory Note Paragraph 2(e)). **[If the fee has been waived by HCD, then insert the sentence “The Monitoring Fee has been waived by the Department for this Development.” and delete the next 2 charts below.]**

[use one or other chart depending on if annual payment or one-time up-front payment.]

Annual Monitoring Fee:	
Annual Amount	To be determined as of the Start Date of Annual Payment stated below, based on the base Monitoring Fee amount as of the date of this Agreement at \$ _____ and adjusted annually in accordance with changes to the Consumer Price Index for All Urban Consumers, West Region, All Items, as published by the Bureau of Labor Statistics, United States Department of Labor or Consumer Price Index as updated under the Uniform Multifamily Regulations. Fifteen (15) years or more from the date of recordation of this Agreement this amount may be adjusted by the Department in accordance with adjustments to its monitoring costs.
Start Date of Annual Payment	The last day of the first Fiscal Year occurring after the Original Regulatory Agreement Termination Date: insert date
Other Payment Terms	[Include any deferral language and cash flow payment specific language or “N/A” as applicable]

OR

One Time Payment of Monitoring Fee:	
One Time Payment Amount	\$ _____ amount or “N/A” as applicable
Date of One Time Payment Amount	Close of escrow

Deferred Developer Fee (paragraph 20.b.). The Department approved Deferred Developer Fee from paragraph 20.b.(6) at close of escrow is \$_____.00. The Department approved Deferred Developer Fee from paragraph 20.b.(9) at close of escrow is approximately \$_____.00.

The Developer Fee may be adjusted for 9% tax credit projects (new construction) and 4% tax credit projects to reflect any change approved by the Department at placed-in-service date. Excess Developer Fee determined at placed-in-service date must be refunded to the Department in an amount pro rata with the other funding sources within 6 months of the placed-in-service date. Increases at placed-in-service date to the Developer Fee will result in an upward adjustment to the deferred Developer Fee payable in accordance with UMR 8314(a)(1)(A) and decreases will result in a downward adjustment to the deferred Developer Fee payable in accordance with UMR 8314(a)(1)(A). If a reduction in Developer Fee results in a credit to the Department owing to over-payment of Developer Fee from Operating Cash Flow, the deficit shall be paid to the Department from Distributions paid to Sponsor in accordance with paragraph 21 of this Agreement.

Any interest on deferred Developer Fee shall only be paid from Borrower's Distribution.

Asset management, partnership management and similar fees (paragraph 20.b.7). The Department approved initial asset management, partnership management and similar fees including fees paid to investors in paragraph 20.b.7 is \$_____[to be filled in by AMC depending on what year the project is closing]_____ and shall increase at the rate of 3.5% for each subsequent year. Furthermore, unpaid asset management, partnership management and similar fees including fees paid to investors, may be accrued for a period not to exceed three project fiscal years following the year during which they are earned. Moreover, if any portion of a fee owing in a particular fiscal year is not paid in full during that year, the balance of such fee may be paid within the next three year period.

Supportive Services Costs (see paragraphs 20.b.4. and/or 20.b.8). The Department approved Supportive Services cost from paragraph 20.b.4 and/or 20.b.8 is \$_____, which shall increase at the rate of 2.5% of each subsequent year. This amount is based on the number of Units for which supportive services are provided, times the maximum eligible amount per unit per UMR Section 8314(e). In the event that such services are provided to more or fewer units during a given fiscal year, said amount may be revised at the Department's sole discretion at the time of review and approval of the annual report and audit.

If another funding source does not allow Supportive Services Costs as an approved Operating Expense, then the Department shall allow Department- approved Supportive Services Costs to be paid after asset management, partnership management and similar fees, but before Distributions. Such approved costs shall be

calculated annually by the Department up to the maximum amount noted in the paragraph immediately above. In the event the full amount of Supportive Housing Costs are not captured by step (8) of paragraph 20.b of this Agreement, such costs will not accrue to the following fiscal year.

Use of Net Cash Flow (paragraph 22). Net Cash Flow shall be applied towards payment of the following loans, in the percentages noted:

NOTE: No residual receipts (Net Cash Flow) are payable during construction period. Net Cash Flow, if any, accumulated after rent up but before Perm Conversion (which shall be reported as Income from Operations in the form Cost Certification submitted to the Department) shall be applied towards construction costs.

Lender:	California Department of Housing and Community Development -- Loan Portfolio Restructuring Program
Initial Principal Amount:	\$
Percentage of Net Cash Flow:	%
Term to Maturity:	years
Lien Position:	
Interest Rate:	3%

Lender:	
Initial Principal Amount:	\$
Percentage of Net Cash Flow:	%
Term to Maturity:	years
Lien Position:	
Interest Rate:	

Lender:	
Initial Principal Amount:	\$
Percentage of Net Cash Flow:	%
Term to Maturity:	years
Lien Position:	
Interest Rate:	

[[[[[[Project Specific Special Conditions – insert/delete as applicable]]]]]]

Limited Partner Cure Rights. Notwithstanding anything to the contrary herein, the Department hereby agrees that any cure of any default offered by the limited partners of the Borrower shall be accepted or rejected on the same basis as if cure was offered by the Borrower. Copies of all notices of default sent hereunder shall be sent to the limited partners of the Borrower at the following address:

(name of equity partner/Financial Institution
____ Street or Mailing address
____ City, State Zip Code
Attn:

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

Los Angeles Housing and Community Investment (HCID). Borrower acknowledges that HCID's annual monitoring fee for the project will not exceed \$135 per restricted unit. The calculation of residual receipts by any lender, including but not limited to HCID, will prioritize HCD's required debt service of .42% for both the SHMHP loan and the AHSC loan prior to the determination of residual receipts as detailed above. **[[[[[ADD language for HCID projects; Otherwise Delete.]]]]]]**

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

Compliance with Department Requirements. The Borrower acknowledges that all partners of the Borrower, including the limited partner(s), have been provided copies of the Loan Documents and that the Borrower is authorized pursuant to the _____ Amended and Restated Agreement of Limited Partnership _____ dated on or about the date hereof (the "LPA") to enter into the HCD Loan and comply with the obligations imposed by the HCD Loan Documents. The Borrower acknowledges and agrees that it is obligated to comply with the terms and conditions of the HCD Loan Documents.

The Borrower must ensure that the Borrower's General Partner acting on behalf of the Borrower obtains any and all consents required under the LPA to perform the duties in subsections (A), (H), (I), and (K) of the BOE Property Tax Rule 140.1(a)(10). Failure of the Borrower's General Partner to obtain such consent, as specified within the LPA to perform any act required by the HCD's Loan Documents, does not excuse or relieve the Borrower from its obligations under the HCD Loan Documents. Nothing in the LPA or

this paragraph limits HCD's remedies including declaring a default under any of the HCD Loan Documents.

Term. The Term of this Agreement is 55 years; and such Term will not expire prior to the 55 year term, even following payment in full of the Department Loan, without the express written consent of the Department.

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

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

Limited Partner Exit. No Development funds, including reserves, nor any operating reserves except in accordance with section 8309(g) of the Regulations, may be used to fund the purchase of or to acquire a limited partner share.

Income from Commercial Space. All income generated in connection with the operation of the Rental Housing Development, including, but not limited to Rental Income for Commercial Space and commercial use, shall be included in Operating Income. For purposes hereof, "Rental Income for Commercial Space" shall be equal to the annual rental income earned by Borrower pursuant to any lease of the Commercial Space and the annual rental income earned by any tenant, any assignee, transferee or subtenant of a tenant, and any assignee, transferee or subtenant of any such assignee or subtenant of a tenant.

UMR2017 Catch-All Provision. The terms, provisions, and other information set forth in this Agreement are entered into and agreed upon by the parties after the adoption and effective date of the Uniform Multifamily Regulation amendments, dated November 8, 2017 (and effective November 15, 2017) ("UMR2017"). The Department represents, and the parties hereto acknowledge, that all matters contained herein are to be governed pursuant to standards and requirements set forth in the foregoing UMR2017. Despite the best efforts of all parties in drafting and negotiating terms for this Agreement, all parties acknowledge that the contents herein may not fully reflect all applicable loans, requirements, or program standards and allowances set forth in the UMR2017. To the extent there is a conflict between an express or implied provision of

this Agreement, and the UMR2017 or any other applicable law, the UMR2017 or other applicable law shall control. If and when any such conflict may be identified by any of the parties, all parties shall enter into any necessary amendment to this Agreement to reflect the requirements of UMR2017 or such other applicable law. Notwithstanding the foregoing, the provisions of the UMR2017, and all other applicable laws, shall control even in the absence of such amendment, which amendment shall be entered into as reasonably soon as possible by all the parties hereto.

[if applicable otherwise delete]

Existing Household Third Party Beneficiary Rights.

Existing Households shall retain the following third party beneficiary rights:

[Insert any 3rd party beneficiary rights that appear in the original regulatory agreement.]

[if applicable otherwise delete all language below]

Annuity Special Terms and Conditions. The following provisions only apply to Developments with an Original Loan from the Rental Housing Construction Program Original (RHCP-O) wherein an Annuity Fund Payment (defined below) will continue after recordation of this Agreement.

1. Definitions. The following terms shall have the respective meanings assigned to them in this paragraph:
 - a. "Annuity Fund Account" means the account established pursuant to California Code of Regulations Title 25, Division 1, chapter 7, subchapter 10, Section 7808.
 - b. "Annuity Fund Payment" is a payment from the Annuity Fund Account to subsidize approved operating costs attributable to Annuity Units that are reasonable and justifiable for the following items (approved operating costs for purposes of the annuity payment calculation shall not include deposits into operating reserves, monitoring fees, or debt service):
 - i. Management, including a management fee (which includes all indirect and direct costs of collecting rents and any salary or other payment to an on-site manager), advertising, legal, accounting, and telephone;
 - ii. Operations, including heating and lighting for common areas, water, elevator maintenance, common area maintenance and supplies, garbage and trash removal, payroll and payroll taxes, insurance, janitorial supplies, ground and drives maintenance, exterminating, and office supplies;
 - iii. Maintenance, including decorating and repairs;
 - iv. Vacancy reserve;

- v. Replacement reserve;
 - vi. Real estate taxes;
 - vii. In the case of cooperatives, an occupancy reserve which shall be for the purpose of providing downpayment loans to occupants of assisted units within the cooperative; and
 - viii. In the case of cooperatives, a surplus payment reserve which shall be for the purpose of reducing carrying charges to a household which initially occupied an assisted unit within the cooperative and whose income exceeds the income limits established by this Program.
- c. “Annuity Household” is a low or very low income Existing Household living in an Assisted Unit for which Annuity Fund Payments will continue to be made under the Annuity Fund Requirements (defined below).
 - d. “Annuity Unit” is an Assisted Unit occupied by an Annuity Household.
 - e. “Excess Annuity Fund Payment” means any remaining positive cash flow after deducting actual audited and approved operating costs as listed in Paragraph 1.b.i-viii above (“Annuity Approved Operating Expenses”) from Operating Income attributable to Annuity Units. The Department shall determine the Annuity Approved Operating Expenses from those listed in Paragraph 1.b.i-viii above attributable to Annuity Units based on annual submitted CPA audited financial reports as required by the Department by this Agreement.
2. Annuity Fund Payment. The Department has been making Annuity Fund Payments to the Development under the Original Regulatory Agreement to subsidize annual Annuity Approved Operating Expenses of the Development.
3. Continuation of Annuity Fund Payments for Annuity Units. Under the authority granted by the Guidelines, the Department will continue payments to Borrower from the Annuity Fund Account for the payment of operating subsidies for Annuity Units occupied by Annuity Households pursuant to the terms contained in this Agreement and applicable statutes and regulations concerning Annuity Fund Payments (California Health and Safety Code Section 50735 et. seq. and California Code of Regulations Title 25, Division 1, chapter 7, subchapter 10, Section 7800 et. seq.) as specified in Paragraphs 1-8 herein (collectively, the “Annuity Fund Requirements”).
4. Annuity Fund Payments for Annuity Units Only. Annuity Fund Payments will only be continued for Annuity Units and will not provide assistance to Assisted Units

other than those Annuity Units occupied by Annuity Households. When an Annuity Household vacates its Annuity Unit, that unit ceases to be an Annuity Unit and no further occupant thereof shall be an Annuity Household. The Annuity Fund Payment amount shall be the difference between Department approved Operating Expenses attributable to the Annuity Units at the Development and Department approved Operating Income attributable to the Annuity Units at the Development (as outlined herein) for the fiscal year and is subject to the Annuity Fund Requirements. Payments shall be terminated by the Department if the Department determines, in its sole discretion, that there are insufficient funds available from the Annuity Fund Account. Payments may also be reduced, adjusted, and/or terminated by the Department in the event of default or if the Development receives another operating subsidy, including a HUD operating subsidy for the Annuity Units.

5. Proration for Annuity Units. For purposes of calculating the Annuity Fund Payment for Annuity Units, the number of Annuity Units compared to the total number of Units shall be converted into a three-digit percentage. This percentage of Annuity Units shall be used to determine the Operating Expenses and Operating Income attributable to the Annuity Units. Operating Expenses and Operating Income attributable to the Annuity Units shall be determined from the Annual Operating Budget provided to and approved by the Department as part of the reporting requirements contained in this Regulatory Agreement (Paragraph 15).
6. Requests for Annuity Fund Payments. Borrower shall submit a request to the Department for the payment of Annuity Fund Payment in accordance with the Standard Agreement.
7. Additional Reporting Requirements for Annuity Fund Payments. In addition to the reporting requirements contained in this Agreement, including paragraphs 15 and 17, Borrower shall provide the following information to the Department:
 - a. The Annual Operating Budget shall include a rent roll identifying Annuity Households by unit number, names of head of household and all other household members, lease origination date, and current household income. A copy of the tenant income recertification form may be submitted to identify each Annuity Household.
 - b. Annual reporting shall include information identifying each date that an Annuity Household has vacated an Annuity Unit.

8. Excess Annuity Fund Payments. If the Borrower receives any Excess Annuity Fund Payments, Borrower must follow any directives issued by the Department concerning repayment, including, but not limited to, direct reimbursement of the funds to the Department or the reduction of future Annuity Fund Payments.

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EXHIBIT D

MOST RESTRICTIVE DEPARTMENT REQUIREMENTS

The Department has conditionally agreed to provide Borrower the following financing for the development of the Development:

- a. the Loan under the AHSC Program, in an amount not to exceed \$1,250,000; and
- b. a loan under the Transit-Oriented Development (“TOD”) program, in an amount not to exceed \$1,000,000.00.

The Development is governed by the requirements of the Loan Portfolio Restructuring Program Requirements. To the extent that the requirements of the Loan Portfolio Restructuring Program Requirements conflict, the Department will monitor to the most restrictive requirements.