

RESOLUTION NO. 20-019

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE NOTES (SCOTT STREET LOFTS) SERIES 2020; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development, construction and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds (including notes), for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Board has determined to authorize the issuance of its Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the "Notes") pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") between the Department and Wilmington Trust, National Association, as trustee (the "Trustee"), for the purpose of providing funds in connection with the financing of the "affordable units" portion of the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Notes to fund a mortgage loan to Scott Street Lofts, LP, a Texas limited partnership (the "Borrower"), in connection with the acquisition, construction and equipping of a qualified residential rental development for seniors described in Exhibit A attached hereto (the "Development") located within the State

and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on September 5, 2019, declared its intent to issue its revenue bonds or notes to provide financing for the Development; and

WHEREAS, the Borrower has requested and received a reservation of private activity bond allocation from the State of Texas; and;

WHEREAS, it is anticipated that the Department and the Borrower will execute and deliver a Loan Agreement (the "Loan Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Notes (the "Loan") to the Borrower to enable the Borrower to finance the acquisition, construction and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a multifamily note (the "Borrower Note") in an original principal amount equal to the original aggregate principal amount of the Notes, and providing for payment of interest on such principal amount equal to the interest on the Notes and to pay other costs described in the Loan Agreement; and

WHEREAS, it is anticipated that the obligations of the Borrower under the Loan Agreement will be secured by a Subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing (the "Subordinate Mortgage") from the Borrower for the benefit of the Department and the Trustee; and

WHEREAS, the Department's rights (except for certain unassigned rights) under the Indenture, the Borrower Note and the Subordinate Mortgage will be assigned to the Trustee pursuant to an Assignment of Security Instrument (the "Assignment") from the Department to the Trustee; and

WHEREAS, with respect to the Notes, the Board has determined that the Department, the Trustee, and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") with respect to the Development, which will be filed of record in the real property records of Harris County, Texas; and

WHEREAS, in order to assure compliance with Section 103 and 141 through 150 of the Code, the Board has determined that the Department, the Trustee and the Borrower will execute a Tax Exemption Certificate and Agreement (the "Tax Exemption Agreement"), in connection with the Notes, pursuant to which the Department and the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Notes as exempt from gross income for federal income tax purposes; and

WHEREAS, the Borrower will obtain a loan (the "Lender Loan") from Zions Bancorporation, N.A. doing business as Amegy Bank, as lender (the "Lender"), and the Lender will deposit the proceeds of such loan with the Trustee, to be held by the Trustee as security for the Notes in accordance with the Indenture; and

WHEREAS, the Board has determined that the Department and the Lender will enter into a Subordination Agreement (the “Subordination Agreement”), joined by the Trustee, to subordinate the Loan to the Lender Loan; and

WHEREAS, the Board has determined that the Department, the Trustee, the Lender, the City of Houston, Texas (the “City”) and the Borrower will enter into a Declaration of Subordination of Senior Lender (the “Declaration”), setting forth, among other things, the priority of the Regulatory Agreement; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Notes of an official statement (the “Official Statement”) and to authorize the Authorized Representatives (as defined herein) to deem the Official Statement “final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final official statement for use in the public offering and sale of the Notes; and

WHEREAS, the Board has further determined that the Department will enter into a Note Purchase Agreement (the “Purchase Agreement”) with RBC Capital Markets, LLC (the “Underwriter”) and the Borrower, setting forth certain terms and conditions upon which the Underwriter will purchase the Notes from the Department and the Department will sell the Notes to the Underwriter; and

WHEREAS, if the Conditions to Conversion are satisfied on or before the Outside Forward Commitment Maturity Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement), (ii) the Funding Loan Agreement and the Project Loan Agreement attached to the Indenture as exhibits shall be delivered by the respective parties and become effective and shall amend and restate the Indenture and the Loan Agreement, respectively, in their entirety, and (iii) the Borrower will execute and deliver an Amended and Restated Project Note (the “Amended Project Note”); and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture (including the forms of Funding Loan Agreement and Project Loan Agreement attached as exhibits thereto), the Loan Agreement, the Assignment, the Regulatory Agreement, the Tax Exemption Agreement, the Subordination Agreement, the Official Statement and the Purchase Agreement (collectively, the “Issuer Documents”), all of which are attached to and comprise a part of this Resolution and (b) the Subordinate Mortgage, the Borrower Note and the Amended Project Note; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Article 1, to authorize the issuance of the Notes, the execution and

delivery of the Issuer Documents, the acceptance of the Subordinate Mortgage and the Borrower Note and the taking of such other actions as may be necessary or convenient in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE 1

ISSUANCE OF NOTES; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Notes. That the issuance of the Notes is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, and Chapter 1371, Texas Government Code, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Notes and to deliver the Notes to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Notes to or upon the order of the Underwriter.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chair of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption and tender provisions related to, and the price at which the Department will sell to the Underwriter or another party to the Purchase Agreement, the Notes, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative (as defined below) of the Department of the Indenture and the Purchase Agreement; provided, however, that (i) the Notes shall bear interest at the initial interest rate set forth in the Purchase Agreement in accordance with the provisions of the Indenture; provided that in no event shall the interest rate on the Notes (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Notes shall not exceed 2.5%; (ii) the aggregate principal amount of the Notes shall not exceed \$18,000,000; (iii) the final maturity of the Notes shall occur not later than July 1, 2041; and (iv) the price at which the Notes are sold to the initial purchaser thereof under the Purchase Agreement shall not exceed 100% of the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Loan Agreement. That the form and substance of the Loan Agreement are hereby approved, and that the Authorized

Representatives each are hereby authorized to execute the Loan Agreement, and to deliver the Loan Agreement to the Borrower.

Section 1.5 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Harris County, Texas.

Section 1.6 Approval, Execution and Delivery of the Tax Exemption Agreement. That the form and substance of the Tax Exemption Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Tax Exemption Agreement, and to deliver the Tax Exemption Agreement to the Borrower and the Trustee.

Section 1.7 Approval, Execution and Delivery of the Purchase Agreement. That the sale of the Notes to the Underwriter and/or any other parties pursuant to the Purchase Agreement is hereby approved, that the form and substance of the Purchase Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Purchase Agreement and to deliver the Purchase Agreement to the Borrower, the Underwriter, and/or any other parties to the Purchase Agreement, as appropriate.

Section 1.8 Approval, Execution and Delivery of the Subordination Agreement. That the form and substance of the Subordination Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Subordination Agreement, and to deliver the Subordination Agreement to the Lender and the Trustee

Section 1.9 Approval, Execution and Delivery of the Declaration. That the form and substance of the Declaration are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Declaration and to deliver the Declaration to the Lender, the Trustee, the City and the Borrower.

Section 1.10 Acceptance of the Borrower Note, the Amended Project Note and the Subordinate Mortgage. That the form and substance of the Borrower Note, the Amended Project Note and the Subordinate Mortgage are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Borrower Note without recourse.

Section 1.11 Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Assignment, and to deliver the Assignment to the Trustee.

Section 1.12 Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the

Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Authorized Representatives are hereby severally authorized to deem the Official Statement “final” for purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934; that the Authorized Representatives named in this Resolution each are authorized hereby to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Notes; that the Authorized Representatives named in this Resolution each are authorized hereby to accept the Official Statement, as required; and that the use and distribution of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Purchase Agreement and as may be approved by the Executive Director of the Department and the Department’s counsel.

Section 1.13 Conversion, Execution and Delivery of Governmental Note. The conversion of the Notes to the Governmental Note is hereby authorized, according to the conditions set forth in the Indenture and in the Funding Loan Agreement, and upon execution and delivery of the Funding Loan Agreement, the Authorized Representatives each are hereby authorized to execute, attest and affix the Department’s seal to the Governmental Note and to deliver the Governmental Note as provided in the Funding Loan Agreement.

Section 1.14 Approval, Execution and Delivery of the Funding Loan Agreement. The form and substance of the Funding Loan Agreement, as attached to the Indenture as an exhibit, are hereby approved, and if the Conditions to Conversion are satisfied, the Authorized Representatives each are hereby authorized to execute the Funding Loan Agreement and to deliver the Funding Loan Agreement to the Initial Funding Lender and Fiscal Agent (each as defined in the Funding Loan Agreement).

Section 1.15 Approval, Execution and Delivery of the Project Loan Agreement. The form and substance of the Project Loan Agreement, as attached to the Indenture as an exhibit, are hereby approved, and if the Conditions to Conversion are satisfied, the Authorized Representatives each are hereby authorized to execute the Project Loan Agreement and to deliver the Project Loan Agreement to the Fiscal Agent (as defined in the Funding Loan Agreement) and the Borrower.

Section 1.16 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department’s seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.17 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to

make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell LLP, Bond Counsel to the Department (“Bond Counsel”), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.18 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Borrower Note
- Exhibit F - Amended Project Note
- Exhibit G - Subordinate Mortgage
- Exhibit H - Assignment
- Exhibit I - Purchase Agreement
- Exhibit J - Official Statement
- Exhibit K - Subordination Agreement
- Exhibit L - Tax Exemption Agreement
- Exhibit M - Declaration

Section 1.19 Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds of the Department, the Director of Texas Homeownership of the Department, and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the “Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Notes in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Notes.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Notes and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department's consultants in seeking a rating from Moody's Investors Services, Inc., and its successors and assigns, is approved, ratified and confirmed hereby.

Section 2.5 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Notes and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and the Tax Exemption Agreement and to enter into any agreements relating thereto only to the extent permitted by the Indenture and the Tax Exemption Agreement.

Section 2.6 Underwriter. That the underwriter with respect to the issuance of the Notes will be RBC Capital Markets, LLC, or any other party identified in the Purchase Agreement.

Section 2.7 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Purchase Agreement and the requirements of Bond Counsel, provided such engagement is done in accordance with applicable law of the State.

Section 2.8 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Notes and the financing of the Development are hereby ratified and confirmed.

ARTICLE 3

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing developer that (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, which require, among other things, that the "affordable unit" portion of the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Notes in connection with the financing of the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Tax Exemption Agreement and the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That, in accordance with Section 2306.226 of the Act, the Board hereby finds and determines that the interest rate on the Loan established pursuant to the Loan Agreement will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Notes and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Notes.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase the Notes in the secondary open market for municipal securities.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Notes and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Notes, and under no circumstances shall the Notes be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Notes shall not be and does not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. Each Note shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with Section 2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act regarding meetings of the Governing Board.

PASSED AND APPROVED this 21st day of May, 2020.

EXHIBIT A

Description of Development

Borrower: Scott Street Lofts, LP, a Texas limited partnership

Development: The Development is an approximately 123-unit multifamily community for seniors (consisting of 98 affordable units and 25 market rate units as noted below) to be known as Scott Street Lofts and to be located at 1320 Scott Street, Houston, Texas 77003. It consists of three (3) residential apartment buildings with approximately 106,848 net rentable square feet. The unit mix will consist of:

63	one-bedroom/one-bath units
60	two-bedroom/two-bath units
123	Total Units

NOTE – The 123 total units are comprised of:

- 98 affordable units (48 1B/1BA and 50 2B/2BA); and
- 25 market rate units (15 1B/1BA and 10 2B/2BA).

Unit sizes will range from approximately 716 square feet to approximately 1,029 square feet.

TRUST INDENTURE

Between

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

and

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

Dated as of June 1, 2020

Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020

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TRUST INDENTURE

THIS TRUST INDENTURE (as amended, modified or supplemented from time to time, this “*Indenture*”) is entered into as of June 1, 2020, between TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (together with its successors and assigns, the “*Issuer*”), a public and official agency of the State of Texas, and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association authorized to exercise corporate trust powers in the State, and authorized to accept and execute trusts of the character herein set out, as Trustee (together with its successors and assigns, the “*Trustee*”).

RECITALS

Certain of the terms and words used in these Recitals, and in the following Granting Clauses and Agreements, are defined in Section 1.01 of this Indenture.

WHEREAS, on November 1, 1991, the Issuer was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the “*Act*”), for the purpose, among others, of providing construction and mortgage loans to finance the acquisition, equipping and rehabilitation of sanitary and safe residential housing at prices or rentals which persons and families of low, very low and extremely low income and families of moderate income and persons with special needs can afford; and

WHEREAS, the Act authorizes the Issuer (i) to provide construction and mortgage loans to finance the purchase, construction, remodeling or improvement of residential housing designed and planned for persons and families of low, very low and extremely low income and families of moderate income, as determined by the Issuer; (ii) to issue its revenue bonds (including notes) for the purposes of providing money with which to (a) make such loans, (b) pay the costs and expenses of issuing such bonds, and (c) pay the operation and maintenance expenses of the Issuer in connection with such bonds; and (iii) to pledge all or any part of the revenues, income or other resources of the Issuer, including, without limitation, the repayments of mortgage loans, the earnings from investment or deposit of the reserve funds and other funds of the Issuer and any other amounts or payments received by the Issuer pursuant to the Act in order to secure the payment of the principal, interest and redemption premium, if any, on such bonds; and

WHEREAS, Pursuant to the Act, Chapter 1371, Texas Government Code, as amended, and this Indenture, the Issuer has determined to issue and sell its Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 in the original aggregate principal amount of \$[] (the “*Notes*”), for the purpose of financing a portion of the cost of the acquisition, construction, installation and equipping of a multifamily rental housing project for seniors consisting of approximately 123 units and related personal property and equipment, and located in Houston, Texas (the “*Project*”) all pursuant to this Indenture and the Loan Agreement dated as of June 1, 2020 (as amended, modified or supplemented from time to time, the “*Note Loan Agreement*”), between the Issuer and Scott Street Lofts, LP, a limited partnership duly organized and existing under the laws of the State of Texas (together with its permitted successors and assigns, the “*Borrower*”); and

WHEREAS, the Issuer is authorized to enter into this Indenture and to do or cause to be done all the acts and things herein provided or required to be done to finance the Costs of the Project by the issuance of the Notes, all as hereinafter provided; and

WHEREAS, the Federal Home Loan Mortgage Corporation, a shareholder-owned government sponsored enterprise (“*Freddie Mac*”), has entered into a forward commitment with Jones Lang LaSalle Multifamily, LLC (the “*Freddie Mac Seller/Servicer*”) dated [_____], 2020 (the “*Freddie Mac Commitment*”), whereby Freddie Mac has committed, subject to the satisfaction on or before the Outside Forward Commitment Maturity Date of the Conditions to Conversion set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment, to facilitate the financing of the Project in the Permanent Phase; and

WHEREAS, if the Conditions to Conversion are satisfied on or before the Outside Forward Commitment Maturity Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Notes shall be subject to mandatory tender in accordance with Section 3.02 hereof, (ii) a portion of the principal amount of the Notes shall be cancelled such that the principal amount outstanding equals the Actual Project Loan Amount (as determined by Freddie Mac at such time), (iii) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement) which shall be purchased by the Freddie Mac Seller/Servicer, (iv) the Funding Loan Agreement attached hereto as *Exhibit D* and the Project Loan Agreement attached hereto as *Exhibit E* shall be delivered by the respective parties and become effective and shall amend and restate this Indenture and the Loan Agreement, respectively, in their entirety, (v) the proceeds of the Freddie Mac Seller/Servicer Purchase Price shall be deposited into the Collateral Fund, and (vi) the Lender Loan shall be paid in full with amounts on deposit in the Lender Loan Prepayment Fund from amounts transferred from the Collateral Fund in excess of the amount required to pay purchase price of the Notes, together with funds transferred from the Borrower for deposit in the Lender Loan Prepayment Fund, and all security related to the Lender Loan shall be released, pursuant to Section 2.13(b) hereof; and

WHEREAS, if the Conditions to Conversion are not satisfied on or before the Outside Forward Commitment Maturity Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligation with respect to the purchase of the Governmental Note; and

WHEREAS, with respect to the Construction Phase, the issuance, sale and delivery of the Notes and the execution and delivery of this Indenture and the Loan Agreement have been in all respects duly and validly authorized in accordance with the Act, and, with respect to the Permanent Phase, the conversion and delivery of the Governmental Note and the execution and delivery of the Funding Loan Agreement and the Project Loan Agreement have been in all respects duly and validly authorized in accordance with the Act; and

WHEREAS, in order to assure compliance with Sections 103 and 142 through 150 of the Code, the Issuer, the Borrower and the Trustee have entered into the Tax Agreement and the Regulatory Agreement, each of which sets forth various certifications, representations, and covenants relating to the Federal Tax Status of the Notes; and

WHEREAS, the Trustee has accepted the trusts created by this Indenture and has accepted its obligations hereunder, and in evidence thereof, this Indenture has been executed and delivered thereby.

Accordingly, the Issuer and the Trustee agree as follows for the benefit of each other and for the benefit of the Holders of the Notes:

GRANTING CLAUSES AND AGREEMENTS

NOW, THEREFORE, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of any or all of the Notes issued and sold by the Issuer from time to time under this Indenture by those who shall hold the same from time to time, and of the sum of one dollar, lawful money of the United States of America, duly paid to the Issuer by the Trustee at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of and interest on the Notes according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Notes and the payment and performance of all other of the obligations of the Issuer, the Issuer does hereby grant, bargain, sell, convey, pledge and assign, without recourse, unto the Trustee and unto its successors in trust forever, and grants to the Trustee and to its successors in trust, a security interest in, the following (such property being herein referred to as the "*Trust Estate*"):

(a) 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 this Indenture and the Note Loan Agreement (other than the Unassigned Rights of the Issuer), 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;

(b) All right, title and interest of the Issuer in and to the Borrower Note (other than the Unassigned Rights of the Issuer) including all payments and proceeds with respect thereto or replacement thereof;

(c) Any fund or account created under this Indenture except for the Cost of Issuance Fund, the Expense Fund and the Rebate Fund;

(d) All right, title and interest of the Issuer in and to, and remedies under, the Note Loan Agreement (other than the Unassigned Rights of the Issuer); and

(e) All 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 hereunder for the Notes by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof;

PROVIDED, HOWEVER, that there shall be excluded from the granting clauses of this Indenture all the Unassigned Rights of the Issuer, including all amounts paid or collected by the

Issuer in connection therewith, all amounts on deposit in the Cost of Issuance Fund and the Expense Fund and all amounts on deposit in the Rebate Fund, which amounts on deposit in the Rebate Fund shall be held for the sole benefit of the United States of America;

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in trust forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal and proportionate benefit, security and protection of all Holders from time to time of the Notes issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Notes over any of the other Notes.

PROVIDED, HOWEVER, that if the Issuer shall well and truly pay, or cause to be paid, the principal of the Notes issued hereunder, and interest due or to become due thereon, at the times and in the manner mentioned in the Notes, according to the true intent and meaning thereof, and shall cause the payments to be made into the Collateral Fund as required under Article IV hereof or by depositing with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all of the covenants and conditions pursuant to the terms of this Indenture and all of the other obligations of the Issuer to be kept, performed and observed by it, the Rebate Requirement shall be paid in full and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payment, as further provided in Section 9.01 hereof, and the termination of the Note Loan Agreement, this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise, this Indenture shall remain in full force and effect.

AND IT IS EXPRESSLY DECLARED that all Notes issued and secured hereunder are to be issued, authenticated and delivered and all such property, moneys, revenues and receipts hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted and does hereby agree and covenant with the Trustee and with the respective Holders from time to time of the Notes, or any part thereof, as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.01. **Definitions.** When used in this Indenture, the following terms shall have the meanings given to them in this Section 1.01 unless the context clearly indicates otherwise:

“*Account*” means an account within any Fund created pursuant to Article IV hereof.

“*Act*” has the meaning assigned in the Recitals hereto.

“*Actual Project Loan Amount*” has the meaning set forth in the Construction Phase Financing Agreement.

“*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.

“*Authorized Officer*” means (a) with respect to the Issuer, the Chair or Vice Chair of the Board, the Executive Director of the Issuer, the Director of Administration of the Issuer, the Director of Financial Administration of the Issuer, the Director of Bond Finance and Chief Investment Officer of the Issuer, the Director of Multifamily Bonds of the Issuer, the Director of Texas Homeownership of the Issuer, and the Secretary or Assistant Secretary to the Board, and (b) with respect to the Borrower or other party giving such instructions to the Trustee, the officer(s) listed in the incumbency certificate provided to the Trustee under Section 11.06(h) hereof.

“*Board*” means the Governing Board of the Issuer.

“*Bond Counsel*” means nationally recognized bond counsel selected by the Issuer and initially means Bracewell LLP.

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

“*Borrower*” means Scott Street Lofts, LP, a limited partnership duly organized and existing in the State of Texas, and its successors and assigns.

“*Borrower Documents*” means the Note Loan Agreement, the Borrower Note, the Tax Agreement, the Regulatory Agreement, the Note Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and any and all documents, agreements or instruments executed by the Borrower in connection with the Loan evidenced by the Note Loan Agreement.

“*Borrower Note*” means the Promissory Note, dated the Closing Date, from the Borrower to the Issuer in substantially the form attached as Exhibit B to the Note Loan Agreement, and any amendments, supplements or modifications thereto, which Note has been assigned by the Issuer to the Trustee.

“*Borrower Obligations*” means the obligations of the Borrower under the Note Loan Agreement, the Borrower Note and the other Borrower Documents to (a) pay the principal of, and interest on the Borrower 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 Note Loan Agreement, the Borrower Note, and the other Borrower Documents to be paid by the Borrower to the Issuer and the Trustee, 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 Note Loan Agreement, the Borrower Note, the Tax Agreement, the Regulatory Agreement, and any of the other Borrower Documents, to perform or observe.

“*Borrower Representative*” means a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by the General Partner, which certificate may designate an alternate or alternates.

“*Business Day*” or “*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 Trust Office of 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.

“*BVAL AAA Callable Curve*” means, for any Computation Date, the BVAL AAA Municipal Curve made available by Bloomberg Finance L.P. as of 4:00 p.m. New York, New York time for a term with a maturity of [month of Outside Forward Commitment Maturity Date].

“*Calculation Agent*” means Wilmington Trust, National Association or any other Person appointed by the Borrower to serve as calculation agent for the Notes.

“*Capitalized Interest Account*” means the Account by that name created in the Note Fund pursuant to Section 4.01(a).

“*Capitalized Interest Deposit*” means the deposit of \$[] from Preference Proof Moneys to the Project Fund on the Closing Date, as provided in Section 4.02 hereof.

“*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 Notes, designated by the Borrower and establishing the sufficiency of (a) the amount on deposit in the Project Fund, the Collateral Fund and the Capitalized Interest Account, (b) projected investment income to accrue on amounts on deposit in the Project Fund, the Collateral Fund and the Capitalized Interest Account during the applicable period and (c) any additional Preference Proof Moneys delivered to the Trustee by or on behalf of the Borrower to pay the principal of and interest on the Notes as and when they become due and payable to the Latest Mandatory Tender Date or the Mandatory Tender Date in connection with a proposed Conversion, as applicable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Notes, (ii) a release of amounts on deposit in the Capitalized Interest Account as provided in Section 4.02 hereof, or (iii) the mandatory tender of the Notes as provided in Section 3.02(a) hereof prior to the Latest Mandatory Tender Date. The cost and expense of obtaining any Cash Flow Projection shall be the sole responsibility of the Borrower.

“*City of Houston Loan*” means the subordinate loan relating to the Project from [], a Texas nonprofit corporation (the “*Conduit Borrower*”), to the Borrower, which subordinate loan was funded pursuant to a loan in the same amount from the City of Houston, Texas to the Conduit Lender.

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

“*Closing Memorandum*” means the closing memorandum prepared by the Underwriter and executed by the Borrower and/or the Issuer in connection with the issuance of the Notes.

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

“*Collateral Fund*” means the Collateral Fund created pursuant to Section 4.01(e) of this Indenture.

“*Completion Certificate*” means a certificate submitted by the Borrower Representative to the Issuer and the Trustee as provided in Section 3.05 of the Note Loan Agreement.

“*Completion Date*” means the date upon which the Completion Certificate is delivered by the Borrower to the Issuer and the Trustee.

“*Comptroller*” means the Comptroller of Public Accounts of the State of Texas.

“*Computation Date*” means the day that is three (3) Business Days immediately preceding each Interest Payment Date.

“*Conditions to Conversion*” has the meaning set forth in the Construction Phase Financing Agreement.

“*Confirmation of Rating*” means a written confirmation (or, at the option of the Rating Agency, a new rating with respect to the Notes), 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 Notes 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 Contract*” means that certain construction contract executed between the Contractor and the Borrower relating to the construction of the Project, as that contract may be amended from time to time.

“*Construction Draw Date*” means the date on which a disbursement from the Project Fund shall be made to pay Costs of the Project.

“*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.

“*Construction Phase Financing Agreement*” means the Construction Phase Financing Agreement dated as of the date hereof among Freddie Mac, the Lender and the Freddie Mac Seller/Service, and acknowledged and agreed to by the Borrower, as the same may be amended, modified or supplemented from time to time.

“*Continuing Disclosure Agreement*” means the Continuing Disclosure Agreement, dated as of June 1, 2020, between the Borrower and the Dissemination Agent.

“*Contractor*” means the entity identified as the general contractor under the Construction Contract.

“*Conversion*” means the conversion of the Loan from the Construction Phase to the Permanent Phase on the Conversion Date.

“*Conversion Date*” means the date the Freddie Mac Seller/Servicer purchases the Governmental Note upon the satisfaction of the Conditions to Conversion, as such Conversion Date is specified by the Freddie Mac Seller/Servicer in the Notice of Conversion; provided, however, the Conversion Date shall occur hereunder no earlier than the Earliest Mandatory Tender Date nor later than the Latest Mandatory Tender Date.

“*Costs of Issuance*” means all fees, costs and expenses incurred in connection with the issuance of the Notes and the extension of the Loan that are payable from amounts deposited in the Cost of Issuance Fund.

“*Cost of Issuance Deposit*” means \$[0.00].

“*Cost of Issuance Fund*” means the Cost of Issuance Fund created pursuant to Section 4.01(f) hereof.

“*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.

“*Default*” means any Default under the Note Loan Agreement as specified in and defined by Section 7.01 thereof.

“*Dissemination Agent*” means Wilmington Trust, National Association, a national banking association organized and existing under the laws of the United States of America and its permitted successors and assigns as Dissemination Agent under the Continuing Disclosure Agreement.

“*Dissemination Agent Fee*” means a portion of the Trustee’s Fee payable to Wilmington Trust, National Association, in its capacity as Dissemination Agent pursuant to the Continuing Disclosure Agreement.

“*Documents*” means and shall include (without limitation), with respect to the Notes, this Indenture, the Note Documents, the Borrower Documents, 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 hereafter execute and deliver, to evidence or secure the Notes and the Borrower’s Obligations, or any part thereof, or in connection therewith, and any and all supplements thereto.

“*Earliest Mandatory Tender Date*” means April 1, 2022.

“*Event of Default*” or “*Default*” means, when used in this Indenture, those events of default or defaults specified in Section 10.01 hereof and, when used in the Note Loan Agreement, those events of default or defaults specified in Section 7.01 thereof.

“*Expense Fund*” means the fund by that name created and established pursuant to Section 4.01(d) of this Indenture.

“*Favorable Opinion of Bond Counsel*” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that, under existing law, such action or omission does not adversely affect the Federal Tax Status of the Notes (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Notes or other customary exceptions acceptable to the recipient(s) thereof).

“*Federal Tax Status*” means, as to the Notes, the status of the interest on the Notes as excludable from gross income for federal income tax purposes (except on any Note for any period during which it is held by a “substantial user” of the Project or by a “related person” of such a substantial user, each within the meaning of Section 147(a) of the Code).

“*Freddie Mac*” means the Federal Home Loan Mortgage Corporation, a shareholder owned government sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns.

“*Freddie Mac Commitment*” means the commitment from Freddie Mac to the Freddie Mac Seller/Servicer pursuant to which Freddie Mac has agreed to purchase the Governmental Note following the Conversion Date, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“*Freddie Mac Seller/Servicer*” means Jones Lang LaSalle Multifamily, LLC, as Freddie Mac’s seller/servicer under the Freddie Mac Commitment, or any of its successors or assigns under the Freddie Mac Commitment.

“*Freddie Mac Seller/Servicer Purchase Price*” means an amount equal to the Actual Project Loan Amount to be funded by the Freddie Mac Seller/Servicer on the Conversion Date.

“*Fund*” means any fund created pursuant to Article IV hereof.

“*Funding Agreement*” means the Funding Agreement dated as of [_____], 2020, among the Borrower, the Lender and the Trustee, as amended, supplemented or restated from time to time.

“*Funding Loan Agreement*” means the Funding Loan Agreement attached hereto as *Exhibit D*, which Funding Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“*General Partner*” means Scott Street Lofts Advisors, LLC, a Texas limited liability company, as general partner of the Borrower.

“*Government Obligations*” means direct obligations issued by 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 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 attached as Exhibit A to the Funding Loan Agreement, which Governmental Note shall be executed, delivered and become effective on the Conversion Date.

“*Governmental Requirements*” means all laws, ordinances, orders, rules or regulations of all Governmental Authorities applicable to the Project, the Issuer, the Borrower or any of the Borrower’s assets or other properties, including without limitation, laws, ordinances, orders, rules and regulations relating to securities or other public disclosures, zoning, licenses, permits, subdivision, building, safety, health, and fire protection and all environmental laws.

“*Hazardous Materials*” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“*PCBS*”) and compounds containing them; lead and lead based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above ground storage tanks, whether empty or containing any substance; any substance the presence of which at the Project is prohibited by any federal, state or local authority; any substance that requires special handling under any Hazardous Materials Law; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” within the meaning of any Hazardous Materials Law, but does not include any such substance that is a customary and ordinary household, cleaning, office, swimming pool or landscape maintenance product used on the Project by the Borrower or any tenant or agent of the Borrower, or customary construction materials used during the course of construction and equipping of the Project by the Borrower or the Contractor, provided such use is in accordance with applicable hazardous material laws.

“*Hazardous Materials Laws*” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials and apply to Borrower or to the Project. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*, the Toxic Substance Control Act, 15 U.S.C. Section 2601, *et seq.*, the Clean Water Act, 33 U.S.C. Section 1251, *et seq.*, and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, and their state analogs, including laws of the State.

“*Indenture*” means this Trust Indenture dated as of June 1, 2020, between the Issuer and the Trustee, and any and all Supplements hereto, authorizing the issuance of the Notes.

“*Independent*” means a Person that has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, partner, member or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, partner, member, officer or employee of any partner or member of the Borrower or any Affiliate of the Borrower.

“*Index Interest Rate*” means (i) for the first Interest Period, [_____] % per annum, and (ii) for each subsequent Interest Period, the Municipal Market Data (MMD) rate on the Computation Date immediately preceding such Interest Period for a term with a maturity of [month of Outside Forward Commitment Maturity Date (or if such rate is not available on a Computation Date, the BVAL AAA Callable Curve), plus a spread of 0.[_____]%, which Index Interest Rate shall be rounded upward to the second decimal place; provided, however, that the Index Interest Rate for any Interest Period may never be less than [_____] % per annum nor greater than [_____] % per annum.

“*Initial Note*” means the Note certificate registered by the Comptroller and subsequently canceled and replaced by a definitive Note pursuant to this Indenture.

“*Interest Payment Date*” means each January 1 and July 1, beginning January 1, 2021.

“*Interest Period*” means, initially, the period from the Closing Date to but not including first Interest Payment Date, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day preceding the next Interest Payment Date.

“*Investor Limited Partner*” means RBC Community Investments, LLC, an Illinois limited liability company, and its permitted successors and assigns in their capacity as the investor limited partner of the Borrower.

“*Issuer*” means the Texas Department of Housing and Community Affairs, a public and official agency of the State, or any successor to its rights and obligations under the Note Loan Agreement and this Indenture.

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

“*Issuer Indemnified Party*” or “*Issuer Indemnified Parties*” has the meaning set forth in Section 6.02 of the Note Loan Agreement.

“*Issuer’s Administrative Fee*” means the fee payable annually in advance to the Issuer on each July 1, in the amount of 0.10% per annum of the aggregate principal amount of the Loan at the inception of each payment period. On the Closing Date, the Borrower will pay the Issuer Administrative Fee to the Issuer for the period from the Closing Date to June 30, 2022. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), payable solely from funds provided by the Borrower, all payments of the Issuer Administrative Fee due on or after July 1, 2022.

“*Issuer’s Compliance Fee*” means the fee payable annually in advance to the Issuer on each July 1, in the amount of \$25 per Low-Income Unit in the Project. The first annual compliance fee shall be paid on the Closing Date. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), solely from funds provided by the Borrower, all payments of the Issuer’s Compliance Fee due on or after July 1, 2023. The Issuer’s Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“*Issuer’s Fees*” means, collectively, the Issuer’s Administrative Fee and the Issuer’s Compliance Fee.

“*Latest Mandatory Tender Date*” means the Outside Forward Commitment Maturity Date.

“*Lender*” means Zions Bancorporation, N.A. doing business as Amegy Bank, and its successors and assigns.

“*Lender Borrower Note*” means the promissory note from the Borrower to the Lender to evidence its indebtedness under the Lender Loan.

“*Lender Collateral Deposit*” shall have the meaning given to such term in Section 4.03 hereof.

“*Lender Loan*” means the mortgage loan made by the Lender to the Borrower in the original principal amount not to exceed \$[] with respect to the Project, as described and provided for in the Lender Loan Documents.

“*Lender Loan Documents*” means the documents related to the Lender Loan, including the Lender Borrower Note, the Lender Mortgage and any and all other documents, agreements, or instruments which evidence or secure the indebtedness evidenced by the Lender Loan.

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

“*Lender Loan Prepayment Fund*” means the Lender Loan Prepayment Fund created in Section 4.01 hereof.

“*Lender Mortgage*” means the first-lien priority Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing dated as of June 1, 2020, from the Borrower for the benefit of the Lender to secure the repayment of the Lender Borrower Note.

“*Loan*” means the loan in the principal amount of \$[] made by the Issuer to the Borrower evidenced by the Borrower Note, described in the Note Loan Agreement and made in connection with the issuance of the Notes.

“*Loan Documents*” means the Note Loan Agreement and the Borrower Note.

“*Mandatory Tender Date*” means the Conversion Date.

“*Maturity Date*” means July 1, 2040.

“*Moody’s*” means Moody’s Investors Service, Inc., a Delaware corporation, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer with the approval of the Borrower.

“*Note*” or “*Notes*” means the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 issued, authenticated and delivered under this Indenture, which are identified as such in Section 2.01(a) hereof.

“*Note Documents*” means, with respect to the Notes, this Indenture, the Note Loan Agreement, the Note Purchase Agreement, the Regulatory Agreement, the Continuing Disclosure Agreement, the Tax Agreement and any and all documents executed in connection with the Notes.

“*Note Fund*” means the Note Fund created in Section 4.01 of this Indenture.

“*Noteholder*” or “*Holder of the Notes*” or “*Holder*” or “*Owner of the Notes*” or “*Owner*” when used with respect to any Note, means the Person or Persons in whose name such Note is registered as the owner thereof on the books of the Issuer maintained at the Trust Office of the Trustee for that purpose.

“*Note Loan Agreement*” or “*Agreement*” means the Loan Agreement dated as of June 1, 2020, between the Issuer and the Borrower, and any and all amendments or supplements thereto, pursuant to which the Loan is being made to the Borrower.

“*Note Purchase Agreement*” means the Note Purchase Agreement dated [_____], 2020, among the Issuer, the Borrower and the Underwriter.

“*Note Registrar*” has the meaning assigned to it in Section 2.01(f) hereof.

“*Notice Address*” means, unless otherwise designated pursuant to Section 13.06 hereof:

(a) As to the Issuer:

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711
Attention: Director of Multifamily Bonds
Telephone: (512) 475-3344
Facsimile: (512) 475-1895

(b) As to the Borrower:

Scott Street Lofts, LP
c/o Mark-Dana Corporation
26302 Oak Ridge Dr., Suite 100
Spring, Texas 77380
Attention: David Mark Koogler
Telephone: 713.906.4460
E-mail: dkoogler@mark-dana.com

With a copy to:

Locke Lord LLP
600 Congress Avenue, Suite 2200
Austin, Texas 78701
Attention: Cynthia Bast
Telephone: (512) 305-4707
E-mail: cbast@lockelord.com

(c) As to the Rating Agency:

Moody's Investors Services
7 World Trade Center
250 Greenwich Street, 23rd Floor
New York, New York 10007
Attention: Public Finance Department – Municipal Structured Product Group
Facsimile: (347) 438-3037

(d) As to the Trustee:

Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attention: Charles Hicks, Corporate Trust Department
Telephone: (972) 383-3152
Facsimile: (888) 316-6238
E-mail: chicks@wilmingtontrust.com

(e) As to the Investor Limited Partner:

RBC Community Investments, LLC
600 Superior Avenue
Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel
E-mail:

With a copy to:

Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett P. Applegate
E-mail: bapplegate@att-law.com

(f) As to the Lender:

Amegy Bank
4576 Research Forest Drive
The Woodlands, Texas
Attention: Sara Hale
Telephone: (281) 297-7944
Email: Sara.hale@amegybank.com

With a copy to:

Greenberg Traurig LLP
1000 Louisiana, Suite 1700
Houston, Texas 77002
Attention: Wayne Yaffee
Telephone: (713) 374-3655
Email: yaffeew@gtlaw.com

(g) As to the Freddie Mac Seller/Servicer:

JLL Capital Markets
625 West College Street
Grapevine, Texas 76051
Attention: [_____]

(h) As to Freddie Mac:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4P
McLean, Virginia 22102
Attention: Multifamily Operations - Loan Accounting
Email: mfla@freddiemac.com
Telephone: (703) 714-4177

“*Notice of Conversion*” means a written notice to be delivered not less than ten (10) days prior to the Conversion Date by the Freddie Mac Seller/Servicer to the Issuer, the Trustee, the Borrower, the Lender and Freddie Mac (i) stating that the Conditions to Conversion have been satisfied on or before the Outside Forward Commitment Maturity Date or, if any Condition to

Conversion has not been satisfied on or before the Outside Forward Commitment Maturity Date, stating that such Condition to Conversion has been waived in writing by Freddie Mac (if a waiver is permitted and is granted by Freddie Mac, in its sole and absolute discretion) on or before the Outside Forward Commitment Maturity Date, and (ii) confirming the Conversion Date.

“*Official Statement*” means the Official Statement dated [_____], 2020, relating to the Notes.

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

“*Outside Forward Commitment Maturity Date*” means July 1, 2023.

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

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

(b) Notes for the payment of which moneys or obligations shall have been theretofore deposited with the Trustee or other escrow agent in accordance with Article IX; or

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

“*Partnership Agreement*” means the Amended and Restated Agreement of Limited Partnership of the Borrower, dated as of [_____], 2020, as may be amended and supplemented from time to time.

“*Paying Agent*” means the Trustee in its capacity as paying agent for the Notes.

“*Permanent Phase*” means the permanent phase of the Loan, which time period shall commence on the Conversion Date and remain in effect through the remaining term of the Loan.

“*Permitted Investments*” means (i) Government Obligations, (ii) to the extent permitted herein, money market funds rated “AAAm,” “Aaa-mf” or its equivalent by any rating agency that invest in Government Obligations, which funds are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended (including any money market 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 money market fund and receives reasonable compensation therefor), (iii) Fidelity Institutional Money Market Treasury Only – Class I as long as it is rated “AAAm,” “Aaa-mf” or its equivalent by any rating agency, and (iv) obligations of any state or local government with a short-term rating of MIG-1 or VMIG-1 and/or a long-term rating of Aaa or its equivalent which mature or are subject to mandatory prepayment no later than the Latest Mandatory Tender Date. Ratings of Permitted Investments shall be determined at the time of purchase of such Permitted Investments and without

regard to ratings subcategories, and the Trustee shall have no responsibility to monitor the ratings of Permitted Investments upon or after the initial purchase of such Permitted Investments.

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

“*Plans and Specifications*” means the plans and specifications and/or the scope of work for the Project, together with such amendments thereto as are made from time to time in accordance with Section 5.07 of the Note Loan Agreement.

“*Preference Proof Moneys*” means (i) moneys drawn on a letter of credit, (ii) proceeds of the Notes, (iii) moneys received by the Trustee representing advances to the Borrower (or an Affiliate) of funds from other third parties representing loans or grants of money earmarked for the Project, including but not limited to proceeds of the Lender Loan, (iv) proceeds of the Freddie Mac Seller/Servicer Purchase Price received from the Freddie Mac Seller/Servicer in connection with the purchase of the Governmental Note on the Conversion Date, (v) proceeds of the City of Houston Loan, or (vi) moneys in connection with which the Trustee shall have been delivered an opinion of bankruptcy counsel acceptable to it to the effect that the use of such moneys would not be avoidable as a preference under Section 547 of the United States Bankruptcy Code or give rise to a stay under Section 362(a) of the United States Bankruptcy Code.

“*Project*” means the multifamily rental housing development for seniors to be known as Scott Street Lofts, which will consist of approximately 123 units and related facilities to be located in Houston, Texas.

“*Project Fund*” means the Project Fund created in Section 4.01(b) hereof.

“*Project Loan Agreement*” means the Project Loan Agreement attached hereto as *Exhibit E*, which Project Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“*Qualified Project Costs*” has the meaning assigned to such term in the Tax Agreement.

“*Qualified Project Period*” has the meaning assigned to such term in the Regulatory Agreement.

“*Rating Agency*” means any national rating agency then maintaining a rating on the Notes, and initially means Moody’s.

“*Rebate Analyst*” means [_____] or any other rebate analyst selected by the Borrower and reasonably acceptable to the Issuer.

“*Rebate Analyst Fee*” means the fee payable by the Borrower annually in arrears to the Rebate Analyst on each January 1 in the amount of \$[_____], commencing on January 1, 2021, so long as any of the Notes are Outstanding.

“*Rebate Fund*” means the Rebate Fund created in Section 4.01(c) hereof.

“*Rebate Requirement*” means the amount, if any, which is to be paid to the United States of America pursuant to Section 148(f) of the Code and Section 5.01 hereof or to reduce the yield on investments to the yield on the Notes pursuant to Section 148 of the Code.

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

“*Regulations*” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“*Regulatory Agreement*” means the Regulatory and Land Use Restriction Agreement dated as of June 1, 2020, among the Issuer, the Trustee and the Borrower, and any and all amendments or supplements thereto.

“*Representation Letter*” means the Blanket Letter of Representations from the Issuer to DTC, or any similar Letter of Representations at the time in use by DTC.

“*Requisition*” means (a) the request signed by the Borrower Representative to make a disbursement from the Project Fund on a Construction Draw Date in the manner provided pursuant to Section 6.02 hereof or (b) the request signed by the Borrower Representative to make a disbursement from the Cost of Issuance Fund in the manner provided pursuant to Section 4.04(b) hereof.

“*Resolution*” means the resolution adopted by the Issuer on [May 21], 2020, duly authorizing and directing the issuance, sale and delivery of the Notes.

“*Responsible Officer*” means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate, associate or other officer of the Trustee within the Trust Office (or any successor corporate trust office) customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Trust Office because of such person’s knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Indenture.

“*Revenues*” means, all payments paid or payable to the Trustee in accordance with the Note Loan Agreement, the Loan and the Borrower Note and all investment earnings derived or to be derived on any moneys or investments held by the Trustee hereunder, but excluding (a) amounts paid as fees, reimbursement for expenses or for indemnification of any Issuer Indemnified Party and the Trustee, (b) amounts paid to or collected by the Issuer in connection with any Unassigned Rights of the Issuer and (c) any Rebate Requirement.

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

“*SLGS*” means United States Treasuries – Time Deposit State and Local Government Series.

“*Special Funds*” means, collectively, the Note Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in Section 4.01 of this Indenture.

“*Special Limited Partner*” means RBC Community Investments Manager II, Inc., a Delaware corporation, as special limited partner of the Borrower, and its permitted successors and assigns.

“*State*” means the State of Texas.

“*Subordinate Mortgage*” means the subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing, dated of even date with this Indenture, from the Borrower to Wilmington Trust, National Association for the benefit of the Trustee and the Issuer, as amended or supplemented from time to time.

“*Subordination Agreement*” means any subordination or intercreditor agreement(s) entered into with respect to any subordinate financing relating to the Project, as the same may be amended, supplemented or restated.

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

“*Tax Agreement*” means the Tax Exemption Certificate and Agreement dated as of June 1, 2020, among the Issuer, the Borrower and the Trustee, and any and all amendments or supplements thereto.

“*Term of Agreement*” means the term of the Note Loan Agreement as specified in Section 9.01 of the Note Loan Agreement.

“*Trust Estate*” has the meaning given such term in the Granting Clauses of this Indenture.

“*Trust Office*” means the corporate trust office of the Trustee located at the address set forth in Article I hereof or such other office designated by the Trustee from time to time, or such other offices as may be specified in writing to the Issuer by the Trustee.

“*Trustee*” means Wilmington Trust, National Association, a national banking association duly organized and existing under the laws of the United States of America, and authorized to exercise corporate trust powers in the State, having a corporate trust office in Dallas, Texas, and its successor or successors in the trust created by this Indenture.

“*Trustee’s Fee*” means the ongoing compensation and expenses payable to the Trustee as follows: (a) the acceptance fee of the Trustee of \$2,000 payable on the Closing Date; (b) the annual administration fees and expenses of the Trustee, as Trustee, Registrar and Paying Agent of \$4,000 per year for the ordinary services of the Trustee rendered under this Indenture during each twelve-month period, payable annually in advance beginning on the Closing Date and thereafter on each anniversary of the Closing Date; (c) the reasonable fees and charges of the Trustee for necessary extraordinary services rendered by it and extraordinary expenses incurred by it under this Indenture as and when the same become due, including reasonable counsel fees (including in-house counsel fees and fees prior to litigation, at trial, in insolvency proceedings or for appellate

proceedings); *provided, further*, that the Trustee shall not be required to undertake any such extraordinary services unless provision for payment of extraordinary expenses satisfactory to the Trustee shall have been made; (d) for purposes of the Note Loan Agreement, indemnification of the Trustee by the Borrower; and (e) the annual Dissemination Agent Fee under the Continuing Disclosure Agreement of \$500 per year, payable annually in advance on the Closing Date and thereafter on each anniversary of the Closing Date.

“*Unassigned Rights of the Issuer*” and “*Unassigned Rights*” means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to Section 4.03 of the Note Loan Agreement, including the Issuer’s Fees; (c) all rights of the Issuer to receive any Rebate Amount (as defined in the Tax Agreement) required to be rebated to the United States of America under the Code in connection with the Notes, as described in the Tax Agreement; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent hereunder and under the Note Loan Agreement, the Regulatory Agreement and the Tax Agreement; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Note Loan Agreement, in the Tax Agreement and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set forth in this Indenture, the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, or the Subordinate Mortgage, as applicable, regarding (1) the negotiability, registration and transfer of the Notes, (2) the loss or destruction of the Notes, (3) the limited liability of the Issuer as provided in the Act, this Indenture, the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Subordinate Mortgage or the Borrower Note, (4) no liability of the Issuer to third parties, and (5) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or modification of this Indenture, the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Subordinate Mortgage and the Borrower Note; (h) any and all limitations of the Issuer’s liability and the Issuer’s disclaimers of warranties set forth in this Indenture, the Regulatory Agreement, the Tax Agreement or the Note Loan Agreement, and the Issuer’s right to inspect and audit the books, records and permits of the Borrower and the Project.

“*Underwriter*” means RBC Capital Markets, LLC.

Section 1.02. **Rules of Construction.** The words “hereof,” “herein,” “hereunder,” “hereto,” and other words of similar import refer to this Indenture in its entirety.

The terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants.”

References to Articles, Sections, and other subdivisions of this Indenture are to the designated Articles, Sections, and other subdivisions of this Indenture.

The headings of this Indenture are for convenience only and shall not define or limit the provisions hereof.

All references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

Any reference to particular sections or subsections of the Code and applicable income tax regulations shall include any successor provisions of law or regulations, to the extent the same shall apply to the Notes.

Any reference to a Note or to the Notes shall include each portion in the minimum authorized denomination of any registered note having a denomination greater than the minimum authorized denomination.

ARTICLE II

CREATION OF NOTES; DETAILS OF THE NOTES

Section 2.01. Authorization and Terms of Notes.

(a) *Authorization of Notes.* The Issuer hereby authorizes for issuance under this Indenture, notes in the original aggregate principal amount of \$[] which shall be designated the “Texas Department of Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020” to be issued as hereinafter provided.

(b) *Registered Form; Numbering.* The Notes shall be issuable only as fully registered Notes in authorized denominations, substantially in the form, appropriately completed, attached hereto as *Exhibit A* and made a part hereof. The Notes shall be lettered “R” and shall be numbered separately from “1” consecutively upward, except for the Initial Note, which shall be numbered I-1.

(c) *Date, Denominations, Interest Rate and Maturity.* The Notes shall be dated June 1, 2020, shall be issued in denominations of \$5,000 each or integral multiples thereof, shall bear interest from the Closing Date to the Mandatory Tender Date at an Index Interest Rate and thereafter at the rate set forth in the Funding Loan Agreement, payable semiannually on each Interest Payment Date, and shall mature on the Maturity Date. If insufficient funds are available to pay the purchase price on the Notes following the mandatory tender thereof on the Mandatory Tender Date, the Notes shall accrue interest at []% per annum until funds are available for payment of the purchase price, with interest being paid monthly on the first Business Day of each month.

During each Interest Period, the Notes shall bear interest at the Index Interest Rate therefor. The Calculation Agent shall determine the Index Interest Rate on each Computation Date, and such rate shall become effective on the Interest Payment Date next succeeding the Computation Date. Promptly following the determination and confirmation of the Index Interest Rate, the Calculation Agent shall give notice thereof to the Trustee, the Issuer and the Borrower, and the Trustee promptly shall give notice thereof by first class mail to the Noteholders. If the Index Interest Rate is not determined by the Calculation Agent on a Computation Date, the rate of interest borne on the Notes shall be the rate in effect for the immediately preceding Interest Period until the Calculation Agent next determines the Index Interest Rate. On or before each Interest Payment

Date, the Calculation Agent shall provide notice to the Municipal Securities Rulemaking Board's EMMA System or any successor repository or entity fulfilling a substantially similar or like role of the Index Interest Rate to be in effect for the immediately succeeding Interest Period.

The Issuer intends to conform strictly to the usury laws applicable to this Indenture and the Notes and all agreements made in the Note Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Holders as interest or other amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed by Texas Government Code Section 1204.006(a) or under any other law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Note Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law; and if from any circumstances whatsoever, the Holders shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Holders, to the reduction of the principal remaining unpaid hereunder and under the Notes and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Note Documents.

(d) *Book Entry Form.* Initially, the Notes shall be in Book Entry Form by issuing a single note in the amount of \$[_____], registered in the name of Cede & Co., as nominee for DTC. In the event DTC discontinues its service with respect to the Notes and the Book Entry System is terminated, replacement Notes shall be issued in authorized denominations.

(e) *Dates from Which Interest Payable.* The Notes shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless authenticated on an Interest Payment Date, in which case it shall bear interest from such Interest Payment Date, or, unless authenticated prior to the first Interest Payment Date, in which case it shall bear interest from the Closing Date; *provided, however*, if at the time of authentication of any Note, the Issuer is in default with respect to the payment of interest thereon, such Note shall bear interest from the date to which interest shall have been paid. Interest payable on the Notes shall be calculated on the basis of a 360-day year of twelve 30-day months.

(f) *Medium and Place of Payment.* Principal of and interest on the Notes shall be payable in lawful money of the United States of America which, at the respective times of payment, is legal tender for the payment of public and private debts, but only from the Revenues and any other monies made available to the Issuer for such purpose. Principal of the Notes shall be payable at Trust Office of the Trustee upon presentation and surrender of the Notes as the same become due, and upon the request of any registered owner of Notes on the applicable Record Date having an aggregate principal amount of \$1,000,000 or more, such principal shall be paid by wire transfer of immediately available funds from the Trustee to the bank and account number specified by such Owner in writing to the Trustee. Interest on the Notes shall be payable to the registered Owners of the Notes by check or draft mailed to such Owners at their addresses as they appear on registration books kept by the Trustee as Note registrar (the "*Note Registrar*"), or, upon the request of any registered Owner of Notes having an aggregate principal amount of \$1,000,000 or more, by

wire transfer of immediately available funds from the Trustee to the domestic bank and account number specified by such Owner in writing to the Trustee at least three (3) Business Days prior to the applicable payment date.

(g) *Form of Notes.* The definitive Notes, which may be printed, typewritten, photocopied, or otherwise reproduced, including the Trustee’s certificate of authentication to be endorsed thereon, shall be substantially in the form as set forth in *Exhibit A* attached hereto with such appropriate variations, omissions and insertions as permitted or required by this Indenture.

The Initial Note, which shall be numbered I-1 and registered by the Comptroller, shall be identical to the form of Note attached as *Exhibit A* attached hereto, except that the legend at the top of the Note shall be deleted, the Initial Note shall be payable to the RBC Capital Markets, LLC, the CUSIP number may be omitted and the penultimate paragraph of the Initial Note shall read as follows:

“THIS NOTE SHALL NOT BE VALID OR BECOME OBLIGATORY for any purpose or be entitled to any benefit or security under the Indenture unless the Comptroller’s Registration Certificate hereon has been executed by an authorized representative of the Texas Comptroller of Public Accounts by manual signature.”

In lieu of the authentication certificate of the Trustee, the Initial Note shall contain the following certificate:

“COMPTROLLER’S CERTIFICATE

OFFICE OF THE COMPTROLLER
OF PUBLIC ACCOUNTS
THE STATE OF TEXAS

REGISTER NO. _____

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Note has been examined by him, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and it is a valid and binding limited obligation of the Issuer, and this Note has this day been duly registered by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE at Austin, Texas, this _____.

(COMPTROLLER’S SEAL)

Comptroller of Public Accounts
of the State of Texas”

The provisions of *Exhibit A* attached hereto may be rearranged or re-ordered for purposes of the Initial Note.

(h) *Payments or Actions to be taken on Saturdays, Sundays and Holidays.* In any case where the date of any action required hereunder to be taken or the date of maturity of interest on or principal of the Notes, shall not be a Business Day, then payment of interest or principal or the taking of such action need not be made or taken on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date such action was to be taken.

Section 2.02. **Source of Payment of Notes.** The Issuer covenants that it will promptly pay the principal of and the interest on the Notes only out of (a) the Revenues pledged for the payment thereof under this Indenture, (b) the amounts held in any Fund or Account created under this Indenture, other than amounts held in the Cost of Issuance Fund, the Rebate Fund or the Expense Fund, and (c) from any other moneys held pursuant to the Trust Estate. Nothing in the Notes or in this Indenture shall be construed as pledging any other funds or assets of the Issuer. All the Notes to be issued hereunder shall be equally and ratably secured, to the extent provided herein, by this Indenture.

Section 2.03. **Execution of Notes.** The Notes shall be executed on behalf of the Issuer by the manual or facsimile signature of the Chair or Vice Chair of the Issuer and attested by the manual or facsimile signature of the Secretary or Assistant Secretary of the Issuer. In case any authorized officer of the Issuer whose signature or a facsimile of whose signature shall appear on any of the Notes shall cease to be an authorized officer of the Issuer before the delivery of such Notes, such signature or such facsimile signature thereof shall nevertheless be valid and sufficient for all purposes, the same as if such authorized officer of the Issuer had remained in office until delivery. Any Note may be signed on behalf of the Issuer by such authorized officers as are at the time of execution of such Note proper officers of the Issuer, even though at the date of such Note, such authorized officer was not such officer. Furthermore, it shall not be necessary that the same authorized officer of the Issuer sign all of the Notes that may be issued hereunder at any one time or from time to time.

Section 2.04. **Certificate of Authentication.** Except for the Initial Note, only such Notes as shall have endorsed thereon a certificate of authentication substantially in the form set forth in the form of the Note herein provided and duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. Except for the Initial Note, no Note shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Note shall be conclusive evidence that such Note has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Note shall be deemed to have been executed by it if manually signed by an authorized officer of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Notes issued hereunder. At the time of authentication of any Note, the Trustee shall insert therein the date from which interest on such Note shall be payable as provided in Section 2.01(e) hereof.

Section 2.05. **Authentication and Delivery of Notes.** Upon the execution and delivery hereof, the Issuer shall execute the Initial Note and register the same with the Comptroller. Upon payment on the Closing Date of the purchase price of the Notes, the Trustee shall cancel the Initial Note and authenticate the definitive Notes and deliver them to the purchaser or purchasers as may

be directed by the Issuer as provided in this Section 2.05. Prior to the authentication by the Trustee of the Notes, there shall have been filed with the Trustee:

- (a) A copy, certified by an Authorized Officer of the Issuer, of the Resolution;
- (b) The Initial Note registered by the Comptroller;
- (c) A fully executed counterpart of this Indenture;
- (d) A fully executed counterpart of the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Continuing Disclosure Agreement and the original, fully executed Borrower Note;
- (e) A copy of the completed Internal Revenue Service Form 8038 to be filed by or on behalf of the Issuer pursuant to Section 149(e) of the Code; *provided*, that the Trustee is not responsible for filing the Form 8038 with the Internal Revenue Service;
- (f) An opinion of Bond Counsel to the effect that the interest on the Notes is excludable from the gross income for federal income tax purposes;
- (g) An opinion or opinions of counsel to the Issuer addressed to the Issuer and the Trustee to the effect that the Notes and the Issuer Documents have been duly executed and delivered by the Issuer and constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, subject to bankruptcy, insolvency or other laws affecting creditors' rights generally and to principles of sovereign immunity, and with respect to certain remedies which require, or may require, enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose;
- (h) An opinion of the Attorney General of the State of Texas approving the Notes;
- (i) A request and authorization signed by an Authorized Officer of the Issuer authorizing the Trustee to authenticate and to deliver the Notes to the purchaser or purchasers therein identified upon payment to the Trustee for the account of the Issuer of the amount specified in such request and authorization;
- (j) Written evidence from the Rating Agency confirming that the Notes have been assigned a rating of "Aaa/VMIG 1"; and
- (k) The Capitalized Interest Deposit, for deposit to the Capitalized Interest Account of the Note Fund.

The proceeds from the sale of the Notes shall be paid over directly to the Trustee and deposited to the credit of the Project Fund, as provided in Article VI hereof.

Section 2.06. **Temporary Notes.** Until Notes in definitive form are ready for delivery, the Issuer may execute, and upon its request in writing, the Trustee shall authenticate and deliver in lieu of any thereof, and subject to the same provisions, limitations and conditions, one or more printed, typewritten or photocopied Notes in temporary form, substantially of the tenor of the

Notes herein described, and with appropriate omissions, variations and insertions. Such Note or Notes in temporary form shall be delivered in denominations authorized by this Indenture, may be numbered using the prefix "T" before any number thereon as authorized by this Indenture, and may bear a legend thereon setting forth the terms for the exchange thereof for Notes in definitive form. Until exchanged for Notes in definitive form, such Notes in temporary form shall be entitled to the benefit of this Indenture. The Issuer shall, without unreasonable delay (unless the Holders of the Notes issued in temporary form agree otherwise), prepare, execute and deliver to the Trustee, and thereupon, upon the presentation and surrender of the Note or Notes in temporary form, the Trustee shall authenticate and deliver, in exchange therefor, a Note in a definitive authorized form in authorized denominations, of the same maturity or maturities, bearing the same interest rate or rates and for the same aggregate principal amount as the Note in temporary form surrendered. Such exchange shall be made by the Issuer at the Borrower's expense and without making any charge to the Holders of the Notes therefor.

Section 2.07. **Mutilated, Lost, Stolen or Destroyed Notes.** In the event any Note is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate a new Note of like date, maturity, interest rate and denomination as that of the Note mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Note there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. The Trustee may, with the consent of the Holder, provide to the Holder a typewritten (or similarly reproduced) Note certificate in lieu of a printed Note certificate. In the event any such Note shall have matured, instead of issuing a duplicate Note the Trustee may pay the same without surrender thereof. The Issuer and the Trustee may charge the Holder of such Note their expenses and reasonable fees, if any, in connection with the preparation, execution and authentication of a replacement Note.

Section 2.08. **Registration, Negotiability, Transfer and Exchange of Notes.** All of the Notes issued under this Indenture shall be negotiable, subject to the provisions for registration and transfer contained in this Indenture and in the Notes. So long as any of the Notes shall remain Outstanding, the Issuer shall maintain and keep at the Trust Office of the Trustee, books for the registration and transfer of Notes; and, upon presentation thereof for such purpose at such office, the Trustee shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as the Issuer or the Trustee may prescribe, any Note entitled to registration or transfer.

Each Note shall be transferable only upon the books of the Issuer maintained for such purpose by the Trustee, at the written request of the registered Owner thereof or his attorney duly authorized in writing, upon presentation and surrender thereof, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered Owner or his attorney duly authorized in writing. Upon the surrender for transfer of any Note, the Issuer shall issue, and the Trustee shall authenticate, in the name of the transferee, in authorized denominations, a new Note or Notes without coupons of the same aggregate principal amount, series, maturity and interest rate as the surrendered Note. If only a portion of any Note shall be redeemed pursuant to Section 3.01(a) hereof, a substitute Note or Notes in any authorized denomination at the request of the Holder, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Holder upon surrender thereof for redemption.

The Issuer and the Trustee shall deem and treat the Person in whose name any Outstanding registered Note shall be registered upon the books of the Issuer as the absolute Owner of such Note, whether such Note shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Note and for all other purposes, and all such payments so made to any such registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

For every exchange or transfer of Notes, whether temporary or definitive, the Issuer or the Trustee may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer which sum or sums shall be paid by the Person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Notwithstanding any other provision of this Indenture to the contrary, any expenses of the Issuer or the Trustee incurred in connection therewith (except any applicable tax or other governmental charge) shall be paid by the Borrower as required by the Note Loan Agreement. The Issuer shall not be obligated to make any such exchange or transfer of Notes during the fifteen (15) days next preceding an Interest Payment Date.

Section 2.09. **Limited Obligation.** NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, ANY OBLIGATION THAT THE ISSUER MAY INCUR UNDER THIS INDENTURE OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION HERewith THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE ISSUER, BUT SHALL BE A SPECIAL LIMITED OBLIGATION PAYABLE SOLELY FROM THE TRUST ESTATE. THE NOTES SHALL CONSTITUTE A VALID CLAIM OF THE RESPECTIVE HOLDERS THEREOF AGAINST THE TRUST ESTATE, WHICH IS PLEDGED TO SECURE THE PAYMENT OF THE NOTES AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS INDENTURE. THE NOTES, TOGETHER WITH INTEREST THEREON, SHALL BE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER GIVING RISE TO NO CHARGE AGAINST THE ISSUER'S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY, THE TRUST ESTATE. THE NOTES SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE ISSUER (EXCEPT TO THE EXTENT OF THE TRUST ESTATE). THE NOTES ARE NOT AND DO NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE ISSUER HAS NO TAXING POWER. The foregoing statement of limitation shall appear on the face of each Note.

Section 2.10. **Cancellation and Destruction of Notes.** All Notes that have been surrendered for payment, cancellation or for registration of transfer or exchange pursuant to Section 2.08 hereof shall be cancelled and destroyed by the Trustee and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Trustee to the Issuer and, upon written request therefor, to the Borrower. Any Notes so cancelled may be retained by the Trustee for such period of time as the Trustee may determine and shall be

destroyed by the Trustee at the end of such period. Any Note so cancelled shall thereafter no longer be considered Outstanding for any purpose of this Indenture or the Note Loan Agreement.

Section 2.11. **Book Entry System.** (a) (i) Except as provided in subparagraph (iii) of this Section 2.11(a), the registered owner of all of the Notes shall be, and the Notes shall be registered in the name of, Cede & Co. (“Cede”), as nominee of The Depository Trust Company (“DTC”). Payment of semi-annual interest for any Notes shall be made by transfer of same day funds to the account of Cede on the Interest Payment Date at the address indicated for Cede in the registration books of the Issuer kept by the Trustee.

(ii) The Notes shall be initially issued in the form of a separate single fully registered note in the amount of each separately stated maturity of the Notes. Upon initial issuance, the ownership of such Notes shall be registered in the registry books of the Issuer kept by the Trustee in the name of Cede, as nominee of DTC. With respect to Notes registered in the registry books kept by the Trustee in the name of Cede, as nominee of DTC, the Issuer and the Trustee shall have no responsibility or obligation to any participant of DTC (a “Participant”) or to any Person for whom a Participant acquires an interest in the Notes (a “Beneficial Owner”). Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any Participant with respect to any ownership interest in the Notes, (ii) the delivery to any Participant, any Beneficial Owner or any other person, other than DTC, of any notice with respect to the Notes or (iii) the payment to any Participant, any Beneficial Owner or any other person, other than DTC, of any amount with respect to the principal of or interest on the Notes. The Issuer and the Trustee may treat as and deem DTC to be the absolute owner of each Note for the purpose of payment of the principal of and interest on such Note, and other matters with respect to such Note, for the purpose of registering transfers with respect to such Note, and for all other purposes whatsoever. The Trustee shall pay all principal of and interest on the Notes only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer’s obligations with respect to the principal of and interest on the Notes to the extent of the sum or sums so paid. Payments of principal may be made without requiring the surrender of the Notes, and the Issuer and Trustee shall not be liable for the failure of DTC or any successor thereto to properly indicate on the Notes the payment of such principal. No Person other than DTC shall receive a Note evidencing the obligation of the Issuer to make payments of principal of and interest on the Notes pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions hereof, the word “Cede” in this Indenture shall refer to such new nominee of DTC.

(iii) (A) DTC may determine to discontinue providing its services with respect to the Notes at any time by giving written notice to the Issuer and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is not a successor securities depository), Note certificates will be delivered as described in this Indenture.

(B) The Issuer, in its sole discretion and without the consent of any other

person, may terminate the services of DTC with respect to the Notes if the Issuer determines that: (i) DTC is unable to discharge its responsibilities with respect to the Notes or (ii) a continuation of the requirement that all of the Outstanding Notes be registered in the registration books kept by the Trustee in the name of Cede, as nominee of DTC, is not in the best interest of the Beneficial Owners of the Notes. In the event that no substitute securities depository is found by the Issuer, or restricted registration is no longer in effect, Note certificates will be delivered as described in this Indenture.

(C) Upon the termination of the services of DTC with respect to the Notes pursuant to subparagraph (a)(iii)(B) of this Section 2.11, or upon the discontinuance or termination of the services of DTC with respect to the Notes pursuant to subparagraph (a)(iii)(A) or subparagraph (a)(iii)(B) of this Section 2.11 after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found which, in the opinion of the Issuer, is willing and able to undertake such functions upon reasonable and customary terms, the Notes shall no longer be restricted to being registered in the registration books kept by the Trustee in the name of Cede as nominee of DTC, but may be registered in whatever name or names Noteholders transferring or exchanging Notes shall designate, in accordance with the provisions of this Indenture.

(b) Notwithstanding any other provision of this Indenture to the contrary, so long as any Note is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal of and interest on such Note and all notices with respect to such Note shall be made and given, respectively, to DTC as provided in the applicable Representation Letter of the Issuer addressed to DTC.

(c) In connection with any notice or other communication to be provided to Noteholders pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by the Noteholders, the Issuer or the Trustee, as the case may be, shall establish a special record date for such consent or other action and give DTC notice of such special record date not less than fifteen (15) calendar days in advance of such special record date to the extent possible.

Section 2.12. **Non-Presentation of Notes.** Subject to the provisions of Section 11.20 hereof, in the event any Notes shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, if funds sufficient to pay such Notes shall have been made available to the Trustee for the benefit of the Holder or Holders thereof, all liability of the Issuer to the Holder thereof for the payment of such Note shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Holder of such Note, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on its part under this Indenture or on, or with respect to, such Note. Any such Notes shall cease to bear interest on the specified maturity and such Notes or portions thereof shall no longer be protected by or subject to the benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture.

Section 2.13. **Conversion.**

(a) If the Notice of Conversion is issued in the timeframe required under the Construction Phase Financing Agreement and all conditions with respect thereto and with respect to the purchase of the Governmental Note are satisfied, Conversion will occur on the Conversion Date indicated in such Notice of Conversion. If the Notice of Conversion is not so issued or all conditions with respect thereto and with respect to the funding of the Funding Loan are not so satisfied, then Conversion will not occur and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligations with respect to the purchase of the Governmental Note or otherwise with respect to the Loan or the Project.

(b) If Conversion occurs, on the Conversion Date (i) the Notes shall be subject to mandatory tender in accordance with Section 3.02 hereof, (ii) a portion of the principal amount of the Notes shall be cancelled such that the principal amount Outstanding following such cancellation equals the Actual Project Loan Amount (as determined by Freddie Mac at such time), (iii) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement) which shall be purchased by the Freddie Mac Seller/Servicer, (iv) the Funding Loan Agreement attached hereto as *Exhibit D* and the Project Loan Agreement attached hereto as *Exhibit E* shall be delivered by the respective parties and become effective and shall amend and restate in their entirety this Indenture and the Note Loan Agreement, respectively, (v) the proceeds of the Freddie Mac Seller/Servicer Purchase Price shall be deposited into the Collateral Fund, and (vi) the Lender Loan shall be paid in full with amounts on deposit in the Lender Loan Prepayment Fund from amounts transferred from the Collateral Fund in excess of the amount required to pay purchase price of the Notes, together with funds transferred from the Borrower for deposit in the Lender Loan Prepayment Fund, and all security related to the Lender Loan shall be released.

(c) Provided all Conditions to Conversion are satisfied, the Issuer and Trustee agree to execute and deliver the Funding Loan Agreement, the Governmental Note and Project Loan Agreement on the Conversion Date, subject to the completion of the attached forms, including filling in the Conversion Date, the Actual Project Loan Amount and attaching the final amortization schedule in accordance with subsection (d) below.

(d) The Governmental Note shall mature on the Maturity Date, subject to earlier prepayment as provided in the Funding Loan Agreement. The unpaid principal balance of the Governmental Note shall be paid on the dates and in the amounts set forth on the initial Funding Loan Amortization Schedule provided on the Closing Date and attached as Schedule 1 to the Governmental Note (the "*Funding Loan Amortization Schedule*") if the Conversion Date occurs on or prior to the Outside Forward Commitment Maturity Date. Additionally, in the event the outstanding amount of the Funding Loan on the Conversion Date is less than the starting principal amount set forth in the initial Funding Loan Amortization Schedule, a new Funding Loan Amortization Schedule will be generated on the Conversion Date at such lesser outstanding principal amount based on the parameters set forth in the Freddie Mac Commitment. In the event the initial Funding Loan Amortization Schedule is modified in accordance with this Section 2.13(d), a replacement Funding Loan Amortization Schedule will be provided by the Freddie Mac Seller/Servicer which will be attached to the Governmental Note on the Conversion Date.

(e) In addition to the Conditions to Conversion set forth in the Freddie Mac Commitment and the Construction Phase Financing Agreement, Conversion shall be conditioned upon the delivery of the items set forth in Section 2.10 of the Funding Loan Agreement.

(f) If Conversion does not occur by the Outside Forward Commitment Maturity Date, the Notes shall be subject to mandatory tender pursuant to Section 3.02(a) hereof on the Latest Mandatory Tender Date, and the Trustee shall cancel the Notes immediately following the purchase thereof on such date.

ARTICLE III

REDEMPTION AND MANDATORY TENDER OF NOTES

Section 3.01. Optional Redemption of Notes.

(a) The Notes are subject to optional redemption prior to maturity from Preference Proof Moneys, at the direction of an Authorized Officer of the Borrower (with delivery of a Cash Flow Projection and written notice to the Trustee at least 35 days prior to the proposed redemption date) in part in a principal amount not to exceed \$[] on January 1, 2022, or on any Business Day thereafter, at a redemption price equal to the principal amount of the Notes to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

(b) Other than as set forth in Section 3.01(a) above, the Notes are not subject to redemption prior to the Conversion Date.

(c) The Trustee shall utilize the amounts and take the actions set forth in the Cash Flow Projection to pay the redemption price of the Notes called for redemption.

(d) The particular Notes to be redeemed shall be selected by the Trustee by lot in such manner as the Trustee shall deem fair and appropriate, provided that if a Book Entry System is then in effect, the Securities Depository shall select the interests of the beneficial owners of the Notes to be redeemed.

Section 3.02. Mandatory Tender.

(a) The Notes are subject to mandatory tender in whole and not in part on the Mandatory Tender Date and shall be purchased at a price equal to 100 percent of the principal amount of such Notes, plus accrued interest, if any to the Mandatory Tender Date, and without premium.

(b) No later than 10:00 a.m., New York City time, on the Mandatory Tender Date, the Holders shall deliver the Notes to the Trustee.

(c) The Trustee shall utilize the following sources of payments to pay the tender price of the Notes not later than 1:30 p.m. New York City time on the Mandatory Tender Date, in the following priority: (i) amounts on deposit in the Collateral Fund and the Project Fund, to pay the principal amount of Notes tendered for purchase, (ii) amounts on deposit in the Note Fund (including the Capitalized Interest Account therein) to pay the accrued interest, if any, on Notes

tendered for purchase, and (iii) any other Preference Proof Moneys available or made available for such purpose at the direction of the Borrower.

Section 3.03. **Notice of Redemption.**

Notice of redemption shall be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first-class mail, postage prepaid, to the Holder of each Note to be redeemed, at the address of such Holder shown on the registration books kept by the Trustee as Note Registrar at the opening of business on the fifth day prior to such mailing, not less than 20 days nor more than 30 days prior to the date fixed for redemption.

All notices of redemption shall be dated and shall state:

- (1) the proposed redemption date,
- (2) the redemption price,
- (3) that on the redemption date the redemption price will become due and payable upon each such Note or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (4) the place where such Notes are to be surrendered for payment of the redemption price, and
- (5) that the notice of redemption is conditioned upon there being deposited with the Trustee on or prior to the date of redemption Preference Proof Moneys sufficient to pay the redemption price of the Notes to be redeemed and to pay through the Latest Mandatory Tender Date the principal of and interest on the Notes that are not being redeemed as set forth in a Cash Flow Projection.

Failure to receive notice by mailing or any defect in that notice regarding any Note, however, shall not affect the validity of the proceedings for the redemption of any other Note.

Notice of any redemption hereunder with respect to Notes held under a Book Entry System shall be given by the Trustee only to the Securities Depository, or its nominee, as the Holder of such Notes in the manner required by the Securities Depository. Notice of redemption to the beneficial owners is the responsibility of the Securities Depository and any failure of the Securities Depository to notify the beneficial owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of such Notes.

If Preference Proof Moneys as described in clause (5) above are not received by the Trustee on or prior to the redemption date, the redemption shall be cancelled and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received and that the redemption was cancelled as a result.

Section 3.04. **Notice of Mandatory Tender.**

(a) Not less than five (5) days before the Mandatory Tender Date, the Trustee shall give written notice of mandatory tender to the Holders by first class mail, postage prepaid, at their respective addresses as they appear on the registration books kept by the Trustee as Note Registrar. The notice shall state the Mandatory Tender Date and that:

(1) all Outstanding Notes are subject to mandatory tender for purchase on the Mandatory Tender Date and must be tendered for purchase on the Mandatory Tender Date no later than 10:00 a.m., New York City time, on the Mandatory Tender Date;

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

(3) Holders will not have the right to elect to retain their Notes and any Notes not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date; and

(4) the address of the office of the Trustee at which Holders should deliver their Notes for purchase on the Mandatory Tender Date.

(b) If notice is given as stated in this section, failure of any Holder to receive such notice, or any defect in the notice, shall not affect the tender or the validity of the proceedings for the mandatory tender and purchase of the Notes.

(c) Anything to the contrary contained herein notwithstanding, the Trustee shall not give notice of mandatory tender for a Mandatory Tender Date prior to the Latest Mandatory Tender Date unless the Trustee has received a Cash Flow Projection and any Preference Proof Moneys described therein.

ARTICLE IV

REVENUES AND FUNDS

Section 4.01. **Creation of Funds.** The following trust funds are hereby created by the Issuer and ordered established and held separately with the Trustee to be used for the purposes as hereinafter provided in this Indenture:

(a) *Note Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Note Fund” (herein referred to as the “*Note Fund*”), and within the Note Fund, a “Capitalized Interest Account,” which Fund shall be administered as provided in Sections 4.02 and 4.06 hereof.

(b) *Project Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Project Fund” (herein referred to as the “*Project Fund*”), which Fund shall be administered in accordance with the provisions of Section 6.02 hereof.

(c) *Rebate Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020– Rebate Fund” (herein referred to as the “*Rebate Fund*”), which Fund shall be administered in accordance with the provisions of Section 5.01 hereof. Moneys held in the Rebate Fund are not held for the benefit of the Owners and are not part of the Trust Estate.

(d) *Expense Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Expense Fund” (herein referred to as the “*Expense Fund*”), which Fund shall be administered in accordance with the provisions of Section 4.07 hereof. Moneys held in the Expense Fund are not held for the benefit of the Owners and are not part of the Trust Estate.

(e) *Collateral Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020– Collateral Fund” (herein referred to as the “*Collateral Fund*”), which Fund shall be administered in accordance with the provisions of Section 4.03 hereof.

(f) *Cost of Issuance Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Cost of Issuance Fund” (herein referred to as the “*Cost of Issuance Fund*”), which Fund shall be administered in accordance with the provisions of Section 4.04 hereof. Moneys held in the Cost of Issuance Fund (other than amounts derived from the proceeds of the Notes) are not held for the benefit of the Owners and are not part of the Trust Estate.

(g) *Lender Loan Prepayment Fund.* “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Lender Loan Prepayment Fund” (herein referred to as the “*Lender Loan Prepayment Fund*”), which Fund shall be administered in accordance with the provisions of Section 4.09 hereof. Moneys held in the Lender Loan Prepayment Fund are not held for the benefit of the Owners and are not part of the Trust Estate.

Section 4.02. **Deposits into the Note Fund.** On the Closing Date, upon receipt of the Capitalized Interest Deposit in accordance with Section 4.02 of the Note Loan Agreement, the Trustee shall deposit the Capitalized Interest Deposit to the Project Fund, and thereafter transfer or allocate to the Capitalized Interest Account of the Note Fund the amounts set forth in the Closing Memorandum. All Revenues received by the Trustee, except for funds deposited in the Note Fund (including the Capitalized Interest Account therein), the Project Fund or the Collateral Fund on the Closing Date and any investment earnings thereon, shall be deposited, first, to the credit of the Expense Fund to the extent any fees, costs, or expenses described in Section 4.07 hereof are due and payable, and then to the Note Fund. In accordance with the last sentence of Section 11.04, for so long as the Notes are outstanding hereunder, funds on deposit in the Project Fund, the Collateral Fund or the Note Fund (including the Capitalized Interest Account therein) shall not be deposited in the Expense Fund or otherwise used to pay fees, costs or expenses described in Section 4.07 hereof.

In connection with the issuance of the Notes, certain moneys may be deposited with the Trustee before the Closing Date pursuant to one or more letters of instruction from the provider or

providers of such moneys. Such moneys will be held by the Trustee subject to the terms and conditions of this Indenture in addition to terms provided in such letter(s) of instruction.

Upon receipt by the Trustee of (a) a Confirmation of Rating provided by the Rating Agency and (b) a Cash Flow Projection provided on behalf of the Borrower, but no more than once prior to the Latest Mandatory Tender Date, the Trustee is hereby authorized to release from the Capitalized Interest Account the amount set forth in the Cash Flow Projection to or at the written direction of the Borrower.

Section 4.03. **Use of Moneys in Collateral Fund.** Upon receipt of funds provided by the Lender (each, a “*Lender Collateral Deposit*”) or other Preference Proof Moneys, the Trustee shall, in accordance with the Funding Agreement, deposit such amounts to the Collateral Fund. Together with amounts on deposit in the Project Fund and the Note Fund (including the Capitalized Interest Account therein), amounts on deposit in the Collateral Fund, including any investment earnings thereon, shall be sufficient at all times to pay the principal of and interest on the Notes as and when they become due to the Latest Mandatory Tender Date, assuming that the Notes bear interest at [_____] % per annum to but not including January 1, 2021, and at [_____] % per annum thereafter to but not including the Latest Mandatory Tender Date. On each date on which principal of or interest on the Notes is due, the Trustee shall transfer a sufficient amount of funds from the Collateral Fund for deposit to the Note Fund to enable the Trustee to make such payments as and when due.

Section 4.04. **Use of Moneys in the Cost of Issuance Fund.**

(a) *Deposits into the Cost of Issuance Fund.* On or before the Closing Date, the Borrower shall deliver the Cost of Issuance Deposit to the Trustee. On the Closing Date, the Trustee shall deposit or transfer, as applicable, the Cost of Issuance Deposit into the Cost of Issuance Fund as designated in the Closing Memorandum.

(b) *Disbursements from the Cost of Issuance Fund.* Except as otherwise provided in this Section 4.04, the amounts deposited in the Cost of Issuance Fund shall be expended for Costs of Issuance and for no other purpose. The Borrower shall deliver to the Trustee the Requisition in the form attached hereto as *Exhibit C*, executed by the Borrower (and approved by the Lender), specifying in detail the amount that constitutes Costs of Issuance to be paid or reserved to be paid under this Section 4.04, the respective firms or persons to whom such payments are to be made, and their respective payment instructions. The Trustee shall make the payments specified therein concurrently with or as soon as may be practicable after the delivery of the Notes.

(c) *Disposition of Remaining Amounts.* Any moneys remaining in the Cost of Issuance Fund twelve (12) months after the Closing Date and not needed to pay still unpaid Costs of Issuance will be returned to the Borrower upon the written instruction to the Trustee from the Borrower, in accordance with Section 4.06 hereof. Upon final disbursement, the Trustee shall close the Cost of Issuance Fund.

Section 4.05. **Use of Moneys on Deposit in the Note Fund; Application of Loan Payments.** The funds on deposit in the Note Fund shall be used by the Trustee to pay principal of and interest on the Notes on each Interest Payment Date.

In the event that amounts on deposit in the Note Fund on any Interest Payment Date are insufficient to make the payment of principal of or interest on the Notes when due, the Trustee shall transfer funds in the following order to the Note Fund and use such funds, together with amounts then on deposit in the Note Fund, to make such payments when due:

- (a) *first*, from amounts on deposit in the Capitalized Interest Account of the Note Fund;
- (b) *second*, from amounts on deposit in the Collateral Fund; and
- (c) *third*, from amounts on deposit in the Project Fund.

So long as there are any Outstanding Notes, payments due under the Borrower Note and the Note Loan Agreement shall be deemed made by the Trustee's transfer of funds on each Interest Payment Date from the Capitalized Interest Account of the Note Fund or from the Collateral Fund to the Note Fund, in an amount necessary to pay the interest on and principal (if any) of the Notes.

Section 4.06. **Payment of Excess Moneys.** Subject to the provisions of Section 13.10 hereof, any amounts remaining in the Cost of Issuance Fund after the payment in full of all Costs of Issuance shall be paid (upon written direction from the Borrower to the Trustee) to the Borrower in accordance with Section 4.04 hereof, any amounts remaining in the Collateral Fund or the Project Fund after payment in full of the purchase price of the Notes on the Conversion Date shall be transferred to the Lender Loan Prepayment Fund, and any amounts remaining in the Note Fund (except for amounts then held by the Trustee for payment of principal of, or interest on any of the Notes) after payment in full of the purchase price of the Notes on the Conversion Date, and other costs associated with the conversion of the Notes, and payment in full of any outstanding fees and expenses of the Paying Agent, the Issuer and the Trustee and any other fees and expenses due under the Note Documents, shall, upon written instruction to the Trustee from the Borrower, be deposited into the Loan Payment Fund established under the Funding Loan Agreement or for any other purpose provided that the Trustee is furnished with a Favorable Opinion of Bond Counsel.

Section 4.07. **Expense Fund.** The Trustee shall deposit amounts received from the Borrower for the purpose of paying Trustee's Fees, the Issuer's Fees, the Rebate Analyst Fee and any other fees and expenses required under the Note Loan Agreement into the Expense Fund. The Trustee shall pay such amounts to the proper persons on the dates and in the amounts due. Amounts on deposit in the Expense Fund shall be withdrawn or maintained, as appropriate by the Trustee to pay (i) to the Issuer, the Issuer's Fees, (ii) to the Trustee, the Trustee's Fee, (iii) to the Rebate Analyst, the Rebate Analyst Fee, (iv) upon receipt, to the Trustee, any amounts due to the Trustee which have not been paid, other than amounts paid in accordance with clause (ii) hereof and (v) upon receipt, to the Issuer, the Issuer's Fees due and unpaid, other than amounts paid in accordance with clause (i) above.

Section 4.08. **Allocation and Reallocation of Permitted Investments Deposited to the Collateral Fund and the Project Fund.** On the Closing Date, the Trustee shall allocate ownership of the Permitted Investments acquired pursuant to Section 7.01 hereof and deposited for the benefit of the Project Fund and the Collateral Fund as follows: the Trustee shall (i) allocate to the Capitalized Interest Account the portion of the Permitted Investments set forth in the Closing Memorandum, (ii) allocate such portion of the remaining Permitted Investments to the Collateral

Fund a percentage of such Permitted Investments equal to the amount of Preference Proof Moneys presented to the Trustee for deposit to the Collateral Fund on the Closing Date divided by the aggregate Outstanding principal amount of the Notes and multiplied by 100 (the “*Initial Collateral Fund Percentage*”), and (iii) allocate the remainder (i.e., 100% minus the Initial Collateral Fund Percentage) of such Permitted Investments to the Project Fund. On each subsequent month when additional Preference Proof Moneys are presented to the Trustee for deposit to the Collateral Fund (each, a “*Subsequent Allocation Date*”), the dollar amount of such Preference Proof Moneys shall be added to all prior Preference Proof Moneys so deposited, and the percentage of such Permitted Investments allocated to the Collateral Fund shall be adjusted to that percentage equal to the aggregate Preference Proof Moneys so deposited through such date divided by the aggregate Outstanding principal amount of the Notes and multiplied by 100 (the “*Collateral Fund Percentage*”) and the remainder (i.e., 100% minus the Collateral Fund Percentage) shall be allocated to the Project Fund. On each Subsequent Allocation Date, the Trustee shall be deemed to have liquidated that portion of the Permitted Investments allocated to the Project Fund and purchased equivalent Permitted Investments to be allocated to the Collateral Fund.

Section 4.09. **Lender Loan Prepayment Fund.** On the Conversion Date, the Trustee shall deposit in the Lender Loan Prepayment Fund the amounts described in Section 2.13(b)(vi) hereof, such that the amount in the Lender Loan Prepayment Fund equals the Lender Loan Prepayment Amount, which amount shall be used on the Conversion Date to pay the Lender Loan in full.

ARTICLE V

REBATE FUND

Section 5.01. **Rebate Fund.** The Rebate Fund is created for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Issuer or the Holders of the Notes. The Rebate Fund is established for the purpose of complying with Section 148 of the Code. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust and applied solely as provided in the Tax Agreement. The Rebate Fund is not a portion of the Trust Estate and is not subject to any lien under this Indenture. Notwithstanding the foregoing, with respect to the Rebate Fund the Trustee is afforded all the rights, protections and immunities otherwise accorded to it hereunder.

ARTICLE VI

CUSTODY AND APPLICATION OF NOTE PROCEEDS

Section 6.01. **Custody and Application of Project Fund.** The proceeds received by the Trustee for such purpose upon the issuance and sale of the Notes shall be deposited in the Project Fund in the amount set forth in the Closing Memorandum.

Section 6.02. **Procedure for Making Disbursements from Project Fund.** Disbursements from the Project Fund shall be made upon the receipt by the Trustee of the following and shall be used solely to pay Costs of the Project incurred in connection with the

acquisition and construction of the Project: (1) a request or requests therefor executed by the Borrower, in the form of a Requisition in substantially the form attached as Exhibit B hereto, and (2) an amount equal to the requested disbursement has been received by the Trustee and deposited to the Collateral Fund in accordance with this Indenture. Together with amounts on deposit in the Project Fund and any other Preference Proof Moneys on deposit in the Capitalized Interest Account of the Note Fund, amounts on deposit in the Note Fund and the Collateral Fund, including any investment earnings thereon, shall be sufficient at all times to pay the principal of and interest on the Notes as and when they become due to the Latest Mandatory Tender Date.

Each Requisition with respect to the Project Fund shall be made in accordance with the Lender Loan Documents. Following approval of a Requisition submitted to the Lender by the Borrower (each, an "*Approved Advance*"), the Lender shall, as provided in and in accordance with the Funding Agreement, deliver to the Trustee an amount equal to the Approved Advance to be held by the Trustee and to be deposited into the Collateral Fund, together with the approved Requisition for a disbursement from the Project Fund in an amount equal to the Approved Advance, which disbursement shall be funded by the Trustee to the Borrower's checking account located at the Lender to be used for the payment of Costs of the Project as set forth in such Requisition. In the event that for any reason the Trustee is not prepared to promptly disburse funds from the Project Fund, the Trustee shall so inform the Lender and the Borrower and shall return such deposit to the Lender in accordance with the written instructions of the Lender.

Notwithstanding any provision of the Note Loan Agreement or any other provision of this Indenture to the contrary, the Trustee shall not disburse moneys from the Project Fund, other than to pay principal and/or interest payments on the Notes in accordance with Section 4.05 hereof, unless and until the Trustee receives satisfactory evidence that a Lender Collateral Deposit in an amount equal to or greater than the requested disbursement amount 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, (ii) the Capitalized Interest Account of the Note Fund, (iii) the Project Fund and (iv) the Note Fund, will be sufficient to pay principal of and interest on the Notes as and when they become due to the Latest Mandatory Tender Date. Upon satisfaction of the conditions precedent set forth in this Section 6.02, and notwithstanding anything in the Note Documents to the contrary, once the Lender deposits the Lender Collateral Deposit and upon satisfaction of the conditions set forth in the first paragraph of Section 6.02 hereof, the Trustee is irrevocably and unconditionally obligated to disburse an equal amount of moneys from the Project Fund in accordance with approved Requisitions.

All disbursements from the Project Fund will be made to or at the direction of the Lender, or shall be transferred to the Note Fund.

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 this Indenture, when such failure is within the Trustee's control, and after notice of such failure and a three (3) Business 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 shall have any right or claim against the Trustee or the Issuer under this Indenture.

Section 6.03. **Trustee May Rely on Requisitions and Certifications.** In making any such disbursement from the Project Fund, the Trustee may rely on any Requisition delivered to it pursuant to Section 6.02 hereof, and the Trustee shall be relieved of all liability with respect to making such payments in accordance with any such Requisition.

Section 6.04. **Completion of Project.** The completion of the Project and the payment of all costs and expenses incident thereto shall be evidenced for the Project by the filing with the Trustee and the Issuer of (a) the Completion Certificate and (b) a certificate signed by the Borrower Representative stating that all obligations and Costs of the Project have been paid and discharged except for Costs of the Project not then due and payable or then in dispute as provided in the Note Loan Agreement. Additionally, the Borrower has agreed pursuant to Section 3.06 of the Note Loan Agreement that in the event that there are insufficient moneys available in the Project Fund to pay the Costs of the Project, the Borrower will complete the Project and pay the portion of the Costs of the Project in excess of the moneys available therefor in the Project Fund.

ARTICLE VII

INVESTMENT OF FUNDS AND ACCOUNTS

Section 7.01. **Investment.** On the Closing Date, a portion of the moneys on deposit in the Project Fund in the amount, if any, set forth in the Closing Memorandum will be held by the Trustee uninvested until disbursed to the Borrower on the Closing Date in accordance with the Closing Memorandum. The balance of amounts on deposit in the Project Fund after the Closing Date shall be invested as set forth in the following paragraph.

The Trustee is hereby directed to purchase on the Closing Date a portfolio of Permitted Investments maturing on or before the Latest Mandatory Tender Date, with respect to the investment of certain amounts on deposit in the Special Funds, the principal and interest of which will be sufficient to pay principal and interest on the Notes when due. All interest earned from the foregoing investments shall be deposited in the Note Fund. Such funds shall remain on deposit, subject to reallocation pursuant to Section 4.08 hereof, until the Mandatory Tender Date, on which date they will be withdrawn to make payment on the Notes. In the event that any investments in the Special Funds must be liquidated prior to the Latest Mandatory Tender Date, such investments shall be liquidated hereunder.

At no time shall the Borrower direct that any funds constituting Gross Proceeds (as defined in the Tax Agreement) of the Notes be used in any manner as would constitute failure of compliance with Section 148 of the Code, all as set forth in the Tax Agreement.

Except as otherwise specified herein, amounts on deposit in the Special Funds shall be invested at all times in Permitted Investments or held uninvested. The investments described in each of the above paragraphs shall be made by the Trustee pursuant to the direction provided hereby and in accordance with the written direction of the Borrower to be provided on the Closing Date, which shall remain in effect until further written direction is provided by the Borrower. In the absence of investment instructions from the Borrower, the Trustee shall hold moneys in the Special Funds uninvested until such time as the Borrower otherwise provides direction to invest in Permitted Investments maturing on or before the Latest Mandatory Tender Date. The Trustee

shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with written investment instructions provided by the Borrower.

Subject to the following sentence, investments shall be sold at the best price obtainable whenever it shall be necessary to do so in order to provide moneys to make any transfer, withdrawal, payment or disbursement from the applicable Special Fund. Prior to the Latest Mandatory Tender Date, at the direction of the Borrower, the Trustee is permitted to invest in Permitted Investments that mature on or before the Latest Mandatory Tender Date but is not permitted to sell or otherwise dispose of any such Permitted Investment prior to such time without first receiving from or on behalf of the Borrower: (i) a Cash Flow Projection, and (ii) Preference Proof Moneys in the amount, if any, set forth in such Cash Flow Projection.

Amounts, if any, on deposit in the Cost of Issuance Fund, until disbursed or returned to the Borrower pursuant to Section 4.04(c) hereof, shall be invested at the direction of the Borrower Representative. The Expense Fund shall be invested at the direction of the Borrower Representative. In the absence of investment instructions from the Borrower, the Trustee shall not be responsible or liable for keeping the moneys held in the Cost of Issuance Fund or the Expense Fund hereunder fully invested in Permitted Investments.

Section 7.02. **Investment of Rebate Fund.** Any moneys held as part of the Rebate Fund, and not immediately required for the purposes of the Rebate Fund, shall be invested or reinvested by the Trustee as set forth in the Tax Agreement.

Section 7.03. **Accounting for Termination of Investments.** Subject to Section 7.01 hereof, in the event the moneys in the Collateral Fund or the Project Fund have been invested in Permitted Investments and the Permitted Investment at any time and for any reason fails to satisfy the requirements of Section 7.01 hereof, the Trustee shall, at the written direction of the Borrower and with the written approval of the Rating Agency, terminate any such investment, and the proceeds of such termination, shall be credited to the Collateral Fund or the Project Fund, as applicable.

Section 7.04. **Trustee's Own Bond or Investment Department.** The Trustee may make any and all investments permitted under Section 7.01 hereof through its own bond or investment department or that of any affiliate and may charge its ordinary and customary fees for such trades, including cash sweep account fees. 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 hereby 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 hereunder if no activity occurred in such fund or account during such month.

Section 7.05. **Moneys to be Held in Trust.** Subject to Section 4.07 hereof, all moneys required to be deposited with or paid to the Trustee for account of the Collateral Fund, the Note Fund or the Project Fund under any provision of this Indenture shall be held by the Trustee in trust, and shall, while held by the Trustee, constitute part of the Trust Estate and be subject to the lien and claim created by this Indenture. The Trustee, acting in its capacity as Trustee and not as

sponsor, advisor or manager in connection with any investments hereunder, shall not be liable for any loss arising from investments made in accordance with this Section 7.05, or for any loss resulting from the redemption or sale of any such investments as authorized by this Indenture. The Issuer and the Borrower (by its execution of the Note Loan Agreement) acknowledge that the Trustee is not providing investment supervision, recommendations or advice.

ARTICLE VIII

GENERAL COVENANTS

Section 8.01. **Payment of Notes.** Each and every covenant made in this Indenture, including all covenants made in the several sections of this Article VIII, is predicated upon the condition that any obligation for the payment of money incurred by the Issuer shall be payable solely (a) from Revenues, which are specifically assigned to secure the payment of the Notes in the manner and to the extent specified in this Indenture, (b) from the moneys held in the funds and accounts created under this Indenture, except for amounts held in the Rebate Fund, the Cost of Issuance Fund and the Expense Fund and (c) from any other moneys held pursuant to the Trust Estate. Nothing in the Notes or in this Indenture shall be construed as pledging any other funds or assets of the Issuer.

The Issuer covenants that it will cause to be paid, as provided herein, the principal of and interest on the Notes from the Trust Estate at the place, on the date and in the manner provided herein and in the Notes.

The Revenues due under the Borrower Note are to be remitted by the Borrower directly to the Trustee for the account of the Issuer and constitute a part of the Trust Estate and are subject to the lien and claim created by this Indenture. The moneys held by the Trustee in the Note Fund (including the Capitalized Interest Account therein) and the Collateral Fund shall be used to make timely payment of the principal of and interest on the Notes. Such amounts are to be sufficient in amount at all times to pay the principal of and interest on the Notes to the Maturity Date. The entire amount of Revenues and the entire amount of moneys held in the Note Fund (including the Capitalized Interest Account therein) and the Collateral Fund are assigned to secure the payment of the principal of and interest on the Notes.

Section 8.02. **Performance of Covenants.** The Issuer covenants that it will faithfully perform at all times any and all applicable covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Note executed, authenticated and delivered hereunder and in all proceedings pertaining thereto, subject, however to the limitations set forth in Section 2.09 hereof. The Issuer covenants that it is duly authorized under the laws of the State to issue the Notes, to enter into this Indenture and the Note Loan Agreement and to assign the Revenues, and that, upon issuance, authentication, and delivery, the Notes are and will be valid and enforceable limited obligations of the Issuer according to the import thereof.

Section 8.03. **Maintenance of Existence; Compliance with Laws.** The Issuer will (i) maintain its corporate existence or assure the assumption of its obligations under this Indenture by any public body succeeding to its powers under the Act and (ii) comply with all valid material

acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to this Indenture and the Note Loan Agreement.

Section 8.04. **Enforcement of Borrower's Obligations**. So long as any of the Notes are Outstanding, the Issuer will cooperate with the Trustee in enforcing the obligations of the Borrower to pay, or cause to be paid, all the payments and other costs and charges payable pursuant to the Note Loan Agreement and the Note. NOTHING CONTAINED IN THIS SECTION 8.04 OR IN ANY OTHER SECTION OF THIS INDENTURE SHALL BE DEEMED TO MODIFY THE PROVISIONS OF THE ACT AND SECTION 2.09 HEREOF OR REQUIRE THAT THE ISSUER EXPEND ANY OF ITS OWN FUNDS OR ASSETS TO ENFORCE THE OBLIGATIONS OF THE BORROWER UNDER THE DOCUMENTS.

Section 8.05. **Further Assurances, Instruments and Actions**. The Issuer will from time to time execute and deliver such further instruments, conveyances, assignments and transfers and take such further actions as may be reasonable and as may be required to better assure, convey, grant, assign or confirm the Trust Estate and all other rights, revenues or funds pledged, assigned or intended to be so pledged or assigned hereunder for the benefit of the owners of the Notes; provided, however, that no such instruments or actions shall pledge the credit or taxing power of the State, the Issuer or any political subdivision of the State, or create or give rise to any monetary obligation or liability of the Issuer. The Issuer has no taxing power.

Section 8.06. **Priority of Pledge**. The Issuer covenants and agrees that it will not create any lien or claim upon the Revenues other than the liens and claims hereby created. Except for the assignment to the Trustee, the Issuer will not sell, lease or otherwise dispose of or encumber any of the Revenues, and will cooperate in causing to be discharged or satisfied any lien or charge on any part of the Trust Estate.

Section 8.07. **Books and Documents Open to Inspection**. The Trustee hereby covenants and agrees that all books and documents in its possession relating to the Notes, the Project, and the moneys, revenues and receipts derived from the Project, if any, that shall at any time be in its possession, shall, within a reasonable time of a written request by the Issuer or the Borrower, be open to inspection during the Trustee's regular business hours by such accountants or other agents as the Issuer, the Trustee or the Borrower may from time to time designate.

Section 8.08. **Borrower to Indemnify and Hold the Issuer and Trustee Harmless from Liability**. The Borrower has agreed to indemnify and hold the Issuer Indemnified Parties and the Trustee harmless from and against liability arising out of claims as defined and as provided in Section 6.02 of the Note Loan Agreement.

Section 8.09. **Issuer Tax Covenants**. The Issuer represents, covenants and agree that it will:

(a) comply with all applicable requirements of the Code that are necessary to preserve the Federal Tax Status of the Notes, as further set forth in the Tax Agreement; and

(b) not take any action inconsistent with its expectations stated in the Tax Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

ARTICLE IX

DISCHARGE

Section 9.01. **Discharge of Lien.** If and when the Notes secured hereby shall become due and payable in accordance with their terms as provided in this Indenture, or otherwise, and the whole amount of the principal and the interest so due and payable upon all of the Notes, together with all other amounts payable hereunder by the Issuer and all fees and expenses of the Trustee and the Issuer, shall be paid, or provision shall have been made for the payment of the same, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Noteholders shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, upon request of the Borrower, the Trustee shall turn over to the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing and after receipt of a rebate analyst report and, if necessary, funding for any rebate payment, any surplus in the Collateral Fund and all balances remaining in any other fund created under this Indenture and shall assign and transfer to the Borrower all other property then held by the Trustee under this Indenture and shall execute such documents as may be reasonably required by the Borrower.

If and when the Trustee shall hold sufficient moneys hereunder, as verified to the Trustee in writing by an Independent public accounting firm of national reputation or other firm similarly experienced in performing such computations, to provide for payment of the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all the Notes, together with all other amounts (exclusive of amounts in the Cost of Issuance Fund, the Rebate Fund or the Expense Fund) payable or which may thereafter become payable hereunder by the Issuer, notwithstanding that all the Notes have not yet become due and payable and that consequently the right, title and interest of the Trustee in and to the Trust Estate shall not have ceased, terminated and become void pursuant to the foregoing provisions of this Section 9.01, the Trustee, on demand of the Borrower, shall deposit with or at the direction of the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing, any surplus in the Collateral Fund in excess of the amount sufficient to pay the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all Notes together with all other amounts payable or which may thereafter become payable hereunder by the Issuer or the Borrower.

All Outstanding Notes shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect described above if (a) there shall have been deposited with the Trustee (as verified to the Trustee in writing by an Independent public accounting firm of national reputation or other firm similarly experienced in performing such computations) either (i) moneys in an amount which shall be sufficient, or (ii) Government Obligations that are not subject to redemption prior to maturity, the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal and interest due and to become due on such Notes on the maturity date thereof, and (b) the Borrower shall have given the Trustee, in form satisfactory to it irrevocable instructions to give, as soon as practicable, a notice to the Holders of such Notes and the Rating Agency that the deposit required by (a) above has been made with the Trustee and that such Notes are deemed to have been paid in accordance with the provisions

described in this Section and stating such maturity upon which moneys are to be available for the payment of the principal and interest on such Notes.

Neither the securities nor moneys deposited with the Trustee pursuant to this Section 9.01 nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal and interest, on such Notes; *provided* that any cash received from such principal or interest payments on such securities deposited with the Trustee, if not then needed for such purpose, may be reinvested in Government Obligations (including any short term investment fund rated AAA, Aaa, A-1+ or VMIG 1 (or comparable) by any rating agency and secured by and invested solely in Government Obligations) maturing at times and in amounts sufficient to pay when due the principal and interest to become due on such Notes on and prior to such maturity dates thereof, as the case may be, and interest earned from such reinvestment shall be deposited into the Note Fund.

The release of the obligations of the Issuer under this Section 9.01 shall be without prejudice to the right of the Trustee provided in Section 11.04 hereof to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements, including those of its attorneys, agents and employees, and shall not affect the obligations of the Borrower to make the payments required by the Note Loan Agreement or the Note.

Notwithstanding the foregoing, any provisions of this Indenture which relate to the maturity of Notes, interest payments and dates thereof, exchange, transfer and registration of Notes, replacement of mutilated, destroyed, lost or stolen Notes, the safekeeping and cancellation of Notes, non-presentment of Notes, the holding of money in trust, the rebate of money to the United States in accordance with Section 5.01 hereof and the Tax Agreement, and the rights and duties of the Trustee in connection with all of the foregoing, or which by their terms survive payment and discharge of the Notes, shall remain in effect and be binding upon the Trustee and the Holders notwithstanding the release and discharge of this Indenture. The provisions of this Article shall survive the release, discharge and satisfaction of this Indenture.

Notwithstanding anything herein to the contrary, the purchase of Permitted Investments in accordance with Section 7.01 hereof, together with the Capitalized Interest Deposit, shall not cause a discharge of the Indenture under this Section 9.01.

ARTICLE X

DEFAULTS AND REMEDIES

Section 10.01. **Events of Default and Acceleration.** If any of the following events occur, it is hereby defined as and declared to be and constitute an "Event of Default":

- (a) any interest on any Note is not paid on the date on which the same becomes due; or
- (b) the principal of any Note is not paid on the date on which the same becomes due, whether at the stated maturity thereof, by acceleration or otherwise; or
- (c) an Event of Default occurs under the Note Loan Agreement; or

(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 10.01) contained in the Notes or in this 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 and the Borrower 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 100% in principal amount of the Notes 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 or the Borrower is taking appropriate corrective action to cure such failure and if such failure will not impair the security for the Loan or the Notes.

If any Loan payment required under the Note Loan Agreement to avoid a default under (a) or (b) of this Section 10.01 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 and the Investor Limited Partner, which telephonic notice shall be confirmed by electronic, telegraphic or written notice to the Borrower and the Investor Limited Partner. If any other default shall occur under the provisions of this Section 10.01, 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 Investor Limited Partner, the Holders of the Notes and the Rating Agency. 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 Noteholders and not in limitation of such rights.

If an Event of Default specified in (a) or (b) of this Section 10.01 shall occur and be continuing, the Trustee, may, and upon written request of the Holders of a majority in aggregate principal amount of the Notes then Outstanding shall, declare the principal of all Notes then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Borrower and the Rating Agency, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided in such notice, anything in this Indenture or in the Notes to the contrary notwithstanding.

If an Event of Default specified in (c) or (d) of this Section 10.01 shall occur and be continuing, the Trustee, upon written request of the Holders of 100% in aggregate principal amount of the Notes then Outstanding, shall declare the principal of all Notes then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Borrower and the Rating Agency, 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 this Indenture or in the Notes to the contrary notwithstanding.

Anything herein to the contrary notwithstanding, the Investor Limited Partner shall have the right, but not the obligation, to cure any default hereunder on the same terms provided to the Borrower.

Section 10.02. **Trustee to Enforce Rights of the Issuer.** Only in accordance with the provisions of this Indenture, the Trustee, as the assignee of all the right, title and interest of the

Issuer in and to each of the documents constituting a part of the Trust Estate (except the Unassigned Rights of the Issuer), may enforce the rights granted to the Issuer pursuant to such documents. In the enforcement of any rights or remedies under such documents, no provision of such documents shall require, and none shall be construed to require, that the Trustee post a bond or establish any surety of any kind as a condition precedent to exercising any such rights or remedies.

Section 10.03. **Remedies.** Upon the happening of any Event of Default that is uncured and is continuing and in addition to and not in limitation of any rights and remedies under Section 10.01 hereof, then and in every such case the Trustee in its discretion may, and upon the written request of the Holders of a majority in principal amount of the Notes then Outstanding and receipt of satisfactory indemnity, shall:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Noteholders, and require the Issuer or the Borrower to carry out any agreements with or for the benefit of the Noteholders and to perform its or their duties under the Act and the Documents including, but not limited to, foreclosing upon the security interest in or otherwise using funds on deposit in the Special Funds;

(b) bring suit upon the Notes; 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 Noteholders.

Notwithstanding anything contained herein to the contrary, upon the occurrence and continuance of an Event of Default, before taking any action which may subject the Trustee to liability under any environmental law, statute, regulation or similar requirement relating to the environment, the Trustee may require that a satisfactory indemnity bond, indemnity or environmental impairment insurance be furnished for the payment or reimbursement of all expenses to which it may be put and to protect it against all liability resulting from any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability) and expenses which may result from such action.

Section 10.04. **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, or shall have been determined adversely to the Trustee, then and in every such case, the Issuer, the Trustee, the Noteholders and the Borrower shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Section 10.05. **Right of Noteholders to Direct Proceedings.** No Holder of any of the Notes shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder, or any other remedy hereunder or on the Notes, unless such Holder previously shall have given to the Trustee written notice of an Event of Default as hereinabove provided and unless also the Holders of a majority in aggregate principal amount of the Notes 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 hereinabove

granted, 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 hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the trusts of this Indenture or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Notes hereby secured shall have any right in any manner whatever by its or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder or under the Notes, except in the manner herein provided and for the equal benefit of all Holders of Outstanding Notes. 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 written notice and compliance with the foregoing terms and conditions, whereupon, the Holders of a majority in aggregate principal amount of the Notes may take such action in the place of the Trustee. Nothing this Indenture contained shall, however, affect or impair the right of any Holder of Notes to enforce the payment of the principal of and interest on any Note at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest, on each of the Notes issued hereunder to the respective Holders of the Notes at the time, place, from the source and in the manner herein and in such Notes expressed.

Section 10.06. **Remedies Vested in Trustee.** All rights of action under this Indenture or under any of the Notes secured hereby which are enforceable by the Trustee may be enforced by it without the possession of any of the Notes, or the production thereof at the trial or other proceedings relative thereto, and any such 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 Notes, subject to the provisions of this Indenture.

Section 10.07. **Remedies Non-Exclusive and Cumulative.** No remedy herein conferred upon or reserved to the Trustee or to the Holders of the Notes is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 10.08. **Delays or Omissions by Trustee.** No delay or omission of the Trustee or of any Holder of the Notes to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or any acquiescence therein; and every power and remedy given by this Article X to the Trustee and to the Holders of the Notes, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 10.09. **Application of Moneys.** All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article X shall, after payment of all costs and expenses of the Trustee and the Issuer, be deposited in the Collateral Fund and all moneys so deposited in the Collateral Fund during the continuance of an Event of Default (other than moneys for the payment of Notes 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:

First – To the payment to the Persons entitled thereto of all installments of interest then due on the Notes, 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 Notes, which shall have become due (other than Notes which have matured or otherwise become payable prior to such Event of Default and moneys for the payment of which are held in the Collateral Fund or otherwise held by the Trustee), with interest on such principal from the respective dates upon which the same became due and, if the amount available shall not be sufficient to pay in full the amount of principal, and the interest due on any particular date, 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; and

Third – To be held for the payment to the Persons entitled thereto as the same shall become due of the principal of and interest on the Notes which may thereafter become due either at maturity or otherwise and, if the amount available shall not be sufficient to pay in full Notes due on any particular date, together with interest then due and owing thereon, payment shall be made ratably according to the amount of principal due on such date to the persons entitled thereto without any discrimination or privilege; and

Fourth – The remainder, if any, shall be deposited in the Collateral Fund.

Whenever moneys are to be applied pursuant to the provisions of this Section 10.09, 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 Note until such Note shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 10.10. **Severability of Remedies.** It is the purpose and intention of this Article X to provide rights and remedies to the Trustee and the Noteholders which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Noteholders shall be entitled, as above set forth, to every other right and remedy provided in this Indenture and by law.

Section 10.11. **No Interference or Impairment of Lender Loan.** Notwithstanding anything herein to the contrary, none of the Issuer, the Trustee nor any other Person shall:

(a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Lender Loan; or

(b) interfere with or attempt to interfere with or influence the exercise by the Lender of any of its rights under the Lender Loan, including, without limitation, the Lender remedial rights under the Lender Loan upon the occurrence of an event of default by the Borrower under the Lender Loan.

The foregoing prohibitions and limitations shall not be construed to affect the Unassigned Rights of the Issuer or to limit the rights of the Issuer to enforce its rights against the Borrower under the indemnification provisions of this Indenture.

Notwithstanding anything in this Indenture to the contrary, any right of the Issuer or the Trustee to take any action at law or in equity to enforce the obligations, covenants and agreements of the Borrower under this Indenture which includes any claim for indemnification, damages or any other monetary obligation sought to be enforced shall be subject and subordinate in all respects to the repayment in full of all amounts due under the Lender Loan Documents.

No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligation of any prior Borrower unless specifically assumed in writing by a subsequent Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations shall be personal to the Person who was the Borrower at the time the default or breach was alleged to have occurred and such Person shall remain liable for any and all damages occasioned by the default or breach even after such Person ceases to be the Borrower with regards the Project.

Promptly upon determining that an Event of Default under this Indenture has occurred, the Issuer or the Trustee shall, by notice in writing to the Lender, inform the Lender that such Event of Default has occurred, the nature of such Event of Default and that such Event of Default has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such Event of Default, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Lender Loan or to foreclose on the Lender Mortgage.

ARTICLE XI

CONCERNING THE TRUSTEE

Section 11.01. **Acceptance of Trusts.** The Trustee hereby accepts the trusts hereby created and agrees to perform and execute such trusts as an ordinary prudent trustee under a corporate indenture, but only upon the additional terms set forth in this Article XI, to all of which the Issuer agrees and the respective Holders of the Notes agree upon and by their acceptance of delivery of any of the Notes.

Section 11.02. **Trustee Not Responsible for Recitals, Statements and Representations.** Except as otherwise expressly provided herein, any representations or warranties by the Issuer in this Indenture or in the Notes contained shall be taken and construed as made by and on the part

of the Issuer, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

The Trustee shall have no responsibility for any information in any Official Statement or other disclosure material distributed with respect to the Notes, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the Notes.

The Trustee shall not be responsible or accountable for the use or application by the Borrower of any of the Notes or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any paying agent. Except as expressly set forth herein, (i) neither the Trustee nor any of its directors, officers, employees, agents or affiliates shall be responsible for nor have any duty to monitor the performance of any action of the Issuer or Borrower, or any of their directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party, and (ii) the Trustee shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other Person.

The Trustee shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any agreement, instrument or document to which it is not a party, even if an original or copy of such agreement has been provided to the Trustee, and the Trustee shall have no duty to know or inquire as to the performance or nonperformance of any provisions of any other agreement, instrument or document to which it is not a party.

Section 11.03. **Action by Trustee Through and in Reliance Upon Others.** The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees and shall not be responsible for the acts or omissions of any such attorney or agent appointed with due care. The Trustee shall be entitled to rely on advice of counsel concerning all matters of trust and its duties hereunder, and the advice or opinion of such counsel shall be full and complete authorization and protection for any action taken or omitted by it in good faith and in accordance with such advice or opinion. The Trustee may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may be reasonably employed in connection with the trusts hereof, all of which shall be paid by the Borrower. The Trustee shall not be answerable for the exercise of any discretion or power under this Indenture or for anything whatever in connection with the trust, except only for negligence or willful misconduct with respect to its responsibilities hereunder.

Except for fraud and willful misconduct, no personal recourse may be taken, directly or indirectly, against any officer, director, employee or agent of the Trustee with respect to the obligations of the Trustee under this Indenture or any certificate or other writing delivered in connection therewith. The Trustee's immunities and protections from liability and its right to indemnification (and the exceptions to its right to indemnification) in connection with the performance of its duties and functions under this Indenture shall extend to the Trustee's officers, directors, agents and employees.

The Trustee's immunities and protections from liability and its right to payment of compensation and indemnification in connection with performance of its duties and functions

under this Indenture shall survive the Trustee's resignation or removal and the final payment of the Notes.

Section 11.04. **Fees and Expenses of Trustee.** The Trustee shall be entitled to payment and/or reimbursement of such fees as the Trustee and the Borrower shall agree upon, and to payment and/or reimbursement of reasonable fees, for its services rendered hereunder and as Dissemination Agent, and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law. For so long as the Notes are outstanding hereunder, in no event will monies on deposit in the Project Fund, the Collateral Fund, and the Note Fund (including the Capitalized Interest Account therein) be used for the payment and/or reimbursement of such Trustee fees.

Section 11.05. **Trustee's Obligations to Take or Have Notice of Default.** The Trustee shall not be required to take notice, or to be deemed to have notice, of any default under this Indenture other than an Event of Default under Section 10.01(a) or Section 10.01(b) hereof, unless a Responsible Officer of the Trustee is specifically notified in writing of such default by the Issuer or by the Holders of at least 25% in aggregate principal amount of the Notes then Outstanding. The Trustee may, however, at any time, in its discretion, require of the Issuer information and advice as to the performance of any of the covenants, conditions and agreements contained herein.

Section 11.06. **Duties of Trustee.** (a) If an Event of Default has occurred and is continuing, the Trustee shall exercise its rights and powers and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(a) Except during the continuance of an Event of Default,

(1) The Trustee need perform only those duties that are specifically set forth in this Indenture and no others and no implied covenants or obligations will be read into this Indenture against the Trustee, and

(2) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine those certificates and opinions to determine whether they conform to the requirements of this Indenture.

(b) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that

(1) This paragraph does not limit the effect of paragraph (b) of this Section 11.06 or Section 11.03 hereof,

(2) The Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it is proved that the Trustee was negligent

in ascertaining the pertinent facts,

(3) The Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it in accordance with this Indenture and

(4) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(c) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense, but the Trustee shall not require indemnity as a condition to making any payments on the Notes, or declaring the principal of and interest on the Notes to be due immediately hereunder.

(d) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Indenture shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, and the exceptions to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the defeasance or discharge of this Indenture and final payment of the Notes.

(e) Except as otherwise provided in this Article XI, the Trustee shall be under no obligation to take any action in respect of any default or otherwise, or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing so to do by the Holders of a majority in aggregate principal amount of the Notes then Outstanding, and if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may require, with security and satisfactory indemnity. The foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provision of this Indenture to the Trustee to take action in respect of any default without such written notice or request from the Noteholders, or without such security or indemnity.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct as described in Section 11.06(c) above.

(g) Notwithstanding the effective date of this Indenture or anything to the contrary in this Indenture, the Trustee shall have no liability or responsibility for any act or event relating to this Indenture which occurs prior to the date the Trustee formally executes this Indenture and commences acting as Trustee hereunder.

(h) The Trustee may conclusively rely upon and shall be fully protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, requisition, direction, opinion or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who at the time of making such request or giving such authority or consent is the Owner of the Notes shall be conclusive and binding upon

all future owners of the same Notes and upon Notes issued in exchange therefor or in place thereof. The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions (“*Instructions*”) given pursuant to this Indenture and delivered using Electronic Means (as defined below); *provided, however*, that Borrower, the Issuer or such other party giving such instruction (the “*Sender*”) shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (“*Authorized Officers*”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. If the Sender elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Borrower, the Issuer and any other Sender understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means by the Borrower to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Issuer and the other parties who may give instructions to the Trustee under this Indenture; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. “*Electronic Means*” shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, 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 hereunder.

(i) The Trustee shall not be liable or responsible for the failure of the Borrower to maintain insurance on the Project, nor shall it be responsible for any loss due to the insufficiency of such insurance or by reason of the failure of any insurer to pay the full amount of any loss against which it may have insured to the Issuer, the Borrower, the Trustee or any other Person.

Section 11.07. **Trustee May Rely Upon Instruments.** The Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any indenture, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board, body or person or to have been prepared and furnished pursuant to any of the provisions of this Indenture or the Documents, but may accept

and rely upon the same as conclusive evidence of the truth and accuracy of such statements, and shall be protected and shall incur no liability in acting or proceeding in good faith in reliance thereon. The Trustee shall not be bound to recognize any Person as a Holder of any Note or to take any action at his request unless such Note shall be deposited with the Trustee or satisfactory evidence of the ownership of such Note shall be furnished to the Trustee.

Section 11.08. **Trustee May Own and Deal in Notes and Deal With the Issuer and Borrower**. The Trustee may in good faith buy, sell, own, hold and deal in any of the Notes issued hereunder and secured by this Indenture, and may join in any action which any Noteholder may be entitled to take with like effect as if the Trustee were not a party to this Indenture. The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Borrower or any related entity, and may act as depository, trustee, or agent for any committee or body of Holders of the Notes secured hereby or other obligations of the Issuer as freely as if it were not Trustee hereunder.

Section 11.09. **Financial Liability of the Trustee**. No provision of this Indenture will require the Trustee to expend or risk its own funds or otherwise incur or risk any financial liability in the performance of any of its duties under this Indenture, or in the exercise of any of its rights or powers if it will have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Except as may otherwise be provided in this Indenture, the Trustee will have the right to demand, in respect to the authentication of any Notes or the release of any property, any showings, certificates, opinions (including Opinions of Counsel), appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof or of the Note Loan Agreement required as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer or the Borrower to the authentication of any Notes, or the release of any property.

In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 11.10. **Trustee May Construe Ambiguous or Inconsistent Provisions**. The Trustee may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provisions hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Noteholders.

Section 11.11. **Resignation of Trustee**. The Trustee may at any time resign and be discharged of the duties and obligations created by this Indenture by giving not less than thirty (30) days written notice to the Issuer specifying the date when such resignation shall take effect and such resignation shall take effect upon the day specified in such notice unless previously a successor shall have been appointed, in which event such resignation shall take effect immediately on the appointment of such successor, provided that such resignation shall not take effect unless and until a successor shall have been appointed unless the Trustee has not been paid its fees and

expenses (in which case the resignation shall become effective on the date specified by the Trustee above).

Section 11.12. **Removal of Trustee.** The Trustee shall be removed by the Issuer or by the Holders of a majority in aggregate principal amount of the Notes then Outstanding or their attorney-in-fact duly authorized (with the consent of the Issuer), excluding any Notes held by or for the account of the Issuer, if so requested by an instrument or concurrent instruments in writing giving not less than sixty (60) days written notice, filed with the Trustee and the Issuer. The Issuer may also remove the Trustee at any time, except during the existence of any Event of Default as defined in Section 10.01 hereof, for cause or breach of trust or for acting or proceeding in violation of, or failing to act or proceed in accordance with any provision of this Indenture with respect to the duties and obligations of the Trustee by filing with the Trustee an instrument signed by an Authorized Officer of the Issuer. A copy of each such instrument providing for any such removal shall be delivered by the Issuer to any Noteholder who shall have filed his name and address with the Issuer. Such removal of the Trustee in accordance with this Section 11.12 shall not be effective until a successor trustee shall have been appointed.

Section 11.13. **Appointment of Successor Trustee.** In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, the Issuer (upon direction of the Borrower) covenants and agrees that it will thereupon appoint a successor Trustee.

If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provision of this Section 11.13 within sixty (60) days after the Trustee shall have given to the Issuer written notice as provided in Section 11.11 hereof, within sixty (60) days after the Issuer or the Holders shall have given to the Trustee written notice as provided in Section 11.12 hereof, or at any time after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, the Trustee or the Holder of any Note may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, prescribe and appoint a successor Trustee.

Any Trustee appointed under the provisions of this Section 11.13 in succession to the Trustee shall be a bank or trust company or national banking association with trust powers, having a combined capital, surplus and undivided profits of at least \$50,000,000 if there be such a bank or trust company or national bank association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture.

Section 11.14. **Appointment of Successor Trustee by Court.** In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article XI prior to the date specified in the notice of resignation as the date when such resignation shall take effect, the retiring Trustee may forthwith apply to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article within sixty (60) days after a vacancy shall have occurred in the office of Trustee, the Holder of any Note may

apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Trustee.

Section 11.15. **Acceptance of Trust by Successor Trustee.** Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and the Rating Agency an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trust, duties and obligations of its predecessor in the trust hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, the Trustee ceasing to act and the Issuer shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of the Trustee so ceasing to act, and the Trustee so ceasing to act shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

Section 11.16. **Merger or Consolidation of Trustee With Another Person.** Any Person into which any Trustee hereunder may be merged or with which it may be consolidated, or any Person resulting from any merger or consolidation to which any Trustee hereunder shall be a party, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, shall be the successor Trustee under this Indenture without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

Section 11.17. **Action of Trustee During Existence of an Event of Default.** Subject to Section 11.09 hereof, the Trustee shall, during the existence of an Event of Default known to the Trustee, exercise such of the rights and powers vested in it by this Indenture and use the same degree of skill and care in their exercise as a prudent person would use and exercise under the circumstances.

Section 11.18. **Notice of an Event of Default.** Notwithstanding anything herein to the contrary, upon the occurrence of an Event of Default known to a Responsible Officer of the Trustee, the Trustee shall within thirty (30) days give written notice thereof to the Issuer, the Rating Agency, the Borrower and each Noteholder at its last address appearing upon the registration books of the Issuer kept by the Trustee unless such Event of Default shall have been cured before the giving of such notice.

Section 11.19. **Trustee May Intervene.** In any judicial proceeding to which the Issuer is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Holders of the Notes, the Trustee may intervene on behalf of the Holders of the Notes and shall, upon receipt of satisfactory indemnity do so if requested in writing by the Holders of a majority in aggregate principal amount of Notes then Outstanding, if such intervention is permitted by the court having jurisdiction in the premises.

Section 11.20. **Unclaimed Moneys.** In case any moneys deposited with the Trustee for the payment of the principal of and interest on any Note remains unclaimed for three (3) years after such principal or interest has been paid or has become due and payable, the Trustee shall disburse the moneys in accordance with Title 6 of the Texas Property Code. Thereupon, the

Trustee and the Issuer shall be released from any further liability with respect to payment of such purchase price or principal, premium, or interest and the Holder shall be entitled (subject to any applicable statute of limitations) to look only to the Borrower as an unsecured creditor for the payment thereof. The Trustee shall comply with the reporting requirements of Chapter 74 of the Texas Property Code.

Section 11.21. **Appointment of Co-Trustee**. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as a trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Note Loan Agreement, and in particular in case of the enforcement thereof on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee. The following provisions of this Section 11.21 are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Approval in writing from the Issuer shall be required prior to the appointment of the separate or co-trustee by the Trustee. All such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer at the expense of the Borrower. In case any separate or co-trustee or a successor to either shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or co-trustee, so far as permitted by law and so approved by the Issuer, shall vest in and be exercised by the Trustee until the appointment of a successor to such separate or co-trustee.

Section 11.22. **Financing Statements**. Pursuant to Section 5.05 of the Note Loan Agreement, the Borrower shall cause to be perfected any security interest created hereunder by the filing of financing statements which fully comply with the State of Texas Uniform Commercial Code. Notwithstanding anything to the contrary contained herein, the Trustee shall not be responsible for any initial filings of any financing statements or the information contained therein (including the exhibits thereto), the perfection of any such security interests, or the accuracy or sufficiency of any description of collateral in such initial filings or for filing any modifications or amendments to the initial filings required by any amendments to Article 9 of the Uniform Commercial Code. The Trustee shall cause to be filed a continuation statement with respect to each Uniform Commercial Code financing statement relating to the Notes which was filed at the time of the issuance thereof, in such manner and in such places as the initial filings were made, provided that a copy of the filed original financing statement is timely delivered to the Trustee.

Unless the Trustee shall have been notified in writing by the Issuer or a Noteholder that the initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (i) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this Section 11.22 and (ii) filing any continuation statements in the same filing offices as the initial filings were made. The Borrower shall be responsible for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder.

Section 11.23. **Compliance with Texas Government Code.** The Trustee hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Indenture, the Regulatory Agreement and the Tax Agreement, and such representation is hereby incorporated by reference into each of the documents referenced herein. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Trustee understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

The Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Trustee and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Trustee understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

ARTICLE XII

MODIFICATION OF INDENTURE AND OTHER DOCUMENTS

Section 12.01. **Limitation on Amendments to this Indenture.** This Indenture shall not be modified or amended in any respect except as provided in accordance with and subject to the provisions of this Article XII.

Section 12.02. Amendments to Indenture and Note Loan Agreement Not Requiring Consent of Noteholders.

(a) The Issuer and the Trustee may, from time to time and at any time, without the consent of Noteholders, enter into Supplements or other agreements supplemental to this Indenture and the Note Loan Agreement as follows (provided, however, notwithstanding anything to the contrary set forth herein, any amendments hereto that affect the rights or obligations of Borrower shall require the Borrower's written consent, not to be unreasonably withheld):

(1) to specify and determine any matters and things relative to Notes which shall not materially adversely affect the interest of the Noteholders;

(2) to cure any formal defect, omission or ambiguity in this Indenture or the Note Loan Agreement if such action does not materially adversely affect the rights of the Noteholders;

(3) to grant to or confer upon the Trustee for the benefit of the Noteholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with this Indenture as heretofore in effect;

(4) to add to the covenants and agreements of the Issuer in this Indenture or the Note Loan Agreement other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Indenture or the Note Loan Agreement as theretofore in effect;

(5) to add to the limitations and restrictions in this Indenture or the Note Loan Agreement, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Indenture or the Note Loan Agreement as theretofore in effect;

(6) to confirm, as further assurance, any pledge under and the subjection to any claim, lien or pledge created, or to be created by, this Indenture, of the Revenues or of any other moneys, securities or funds; or

(7) to modify, amend or supplement this Indenture or the Note Loan Agreement in any respect which, in the judgment of the Trustee, is not materially adverse to the interests of the owners of the Notes.

(b) Before the Issuer shall enter into any Supplement to this Indenture pursuant to this Section 12.02, there shall have been filed with the Trustee an opinion of Bond Counsel to the effect that such Supplement is authorized or permitted by this Indenture and complies with the terms hereof, and that upon adoption such Supplement will be valid and binding upon the Issuer in accordance with its terms. The opinion of Bond Counsel filed with the Trustee shall also include a Favorable Opinion of Bond Counsel.

(c) The Trustee shall send written notice to the Rating Agency, the Borrower and the Investor Limited Partner of any amendment to this Indenture or the Note Loan Agreement.

Section 12.03. Amendments to Indenture Requiring Consent of Noteholders.

(a) Subject to the terms and provisions contained in this Section 12.03 and not otherwise, the Holders of at least 66 2/3% in aggregate principal amount of the Notes 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 Supplement to this Indenture as shall be deemed necessary or desirable by the Issuer and the Trustee for the purposes of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Indenture; provided, however, that, unless approved in writing by the Holders of all of the Notes then Outstanding, nothing herein 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 Note, or a reduction in the principal amount of any Outstanding Note 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 this 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 Note or Notes over any other Note or Notes, or (iv) a reduction in the aggregate principal amount of the Notes required for any action or consent by Noteholders set forth in this Indenture, including (without limitation) that required for consent to such Supplements. This Section 12.03 shall not limit or otherwise affect the ability of the Issuer to enter into Supplements to this Indenture without the consent of the Noteholders pursuant to Section 12.02 hereof.

(b) If at any time the Issuer and the Trustee shall determine to enter into any Supplement for any of the purposes of this Section 12.03, the Trustee shall cause written notice of the proposed Supplement to be given to all Holders of the Notes; *provided, however*, that failure to give such notice or any defect therein, shall not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed Supplement and shall state that a copy thereof is on file at the Trust Office of the Trustee for inspection by all Noteholders.

(c) No later than 120 days after the date of giving such notice, the Issuer and the Trustee may enter into such Supplement 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 at least 66 2/3% in aggregate principal amount of the Notes then Outstanding (or 100% if required hereunder) and (ii) an opinion of Bond Counsel to the effect that (1) such Supplement is authorized or permitted by this Indenture and complies with the terms hereof, and that upon adoption it will be valid and binding upon the Issuer in accordance with its terms, and (2) the effectiveness of the Supplement will not affect the exclusion of interest on the Notes from gross income for federal income tax purposes.

(d) If the Holders of at least the percentage of Notes required by this Section 12.03 shall have consented to and approved the Supplement as herein provided, no Holder of any Note shall have any right to object to such Supplement, 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.

(e) Upon the effectiveness of any Supplement entered into pursuant to the provisions of this Section 12.03, this Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all Holders of Notes then Outstanding shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments.

Section 12.04. **Supplemental Indentures Part of Indenture.** Any Supplement entered into in accordance with the provisions of this Article XII shall thereafter form a part of this Indenture and all the terms and conditions contained in any such Supplement 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 this Indenture for any and all such purposes.

Section 12.05. **Required Consent.** Notwithstanding anything herein to the contrary, the Trustee shall not be required to enter into or consent to any Supplement or any amendment of any other Document that would materially adversely affect the rights, obligations, powers, privileges, indemnities, immunities or other security provided the Trustee herein or therein, except to the extent necessary, as set forth in an opinion of Bond Counsel, to preserve the exclusion of interest on the Notes from gross income for federal income tax purposes.

Section 12.06. **Amendments to Documents Requiring Consent of Noteholders.** Except as provided in Section 12.02 hereof, the Issuer and the Trustee shall not consent to any amendment, change or modification of the Documents without the giving of notice and the written approval or consent of the Holders of the Notes at the time Outstanding given and procured as provided in Section 12.03 hereof. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice of such proposed amendment, change, or modification to be given in the same manner as provided by Section 12.03 hereof with respect to Supplements. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the Trust Office of the Trustee for inspection by all Noteholders.

Section 12.07. **Conversion Date.** On the Conversion Date and upon the execution and delivery of the Funding Loan Agreement, the Governmental Note and the Project Loan Agreement, this Indenture, the Note Loan Agreement and the Notes shall be deemed amended, restated and superseded in full by the terms thereof.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. **The Issuer's Successors.** In the event of the dissolution of the Issuer, all the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of, or for the benefit of, the Issuer, shall bind or inure to the benefit of the successors of the Issuer from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the Issuer shall be transferred.

Section 13.02. **Indenture for Benefit of the Issuer, Trustee and Noteholders.** Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any person, other than the Issuer, the Trustee and the Holders of the Notes, any right, remedy or claim under or by reason of this Indenture, this Indenture being intended to be for the sole and exclusive benefit of the Issuer and the Trustee and the Holders of the Notes; provided that this Indenture shall also be for the benefit of the Borrower, and the Borrower shall be deemed to be a third-party beneficiary of and in connection with those matters in which the terms of this Indenture fairly construed are indicative that they are for the benefit of the Borrower.

Section 13.03. **Severability.** In case any one or more of the provisions of this Indenture or of the Notes for any reason, is held to be illegal or invalid such illegality or invalidity shall not affect any other provisions of this Indenture or the Notes, and this Indenture and the Notes shall be construed and enforced to the end that the transactions contemplated hereby be effected and the obligations contemplated hereby be enforced as if such illegal or invalid provisions had not been contained therein.

Section 13.04. **Limitation of Liability of the Issuer and Its Officers, Employees and Agents.**

(a) No covenant, agreement, or obligation contained herein shall be deemed to be a covenant, agreement, or obligation of any present or future member, director, officer, employee or agent of the Issuer in his/her individual capacity, and neither the members or directors of the Issuer nor any officer thereof executing the Notes shall be liable personally on the Notes or be subject to any personal liability or accountability by reason of the issuance thereof. No member, director, officer, employee or agent of the Issuer shall incur any personal liability with respect to any other action taken by him pursuant to this Indenture or the Act, provided such member, director, officer, employee or agent acts in good faith.

(b) No agreements or provisions contained in this Indenture nor any agreement, covenant, or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project, or the issuance, sale, and delivery of the Notes shall give rise to any pecuniary liability of the Issuer or a charge against its general credit, or shall obligate the Issuer financially in any way except as may be payable from the payments by the Borrower under the Note Loan Agreement or the Borrower Note and the proceeds of the Notes and the other amounts held as part of the Trust Estate under this Indenture. No failure of the Issuer to comply with any term, condition, covenant, or agreement herein or in any document executed by the Issuer in connection with the issuance and sale of the Notes shall subject the Issuer to liability for any claim for damages, costs, or other financial or pecuniary charge except to the extent that the same can be paid or recovered from the payments by the Borrower under the Note Loan Agreement or proceeds of the Notes or the other amounts held as part of the Trust Estate under this Indenture. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant, or agreement herein, provided that no costs, expenses, or other monetary relief shall be recoverable from the Issuer except as may be payable from the Trust Estate or from the proceeds of the Notes or from the other amounts held as part of the Trust Estate under this Indenture.

(c) No recourse shall be had for the payment of the principal of or premium or interest on any of the Notes or for any claim based thereon or upon any obligation, covenant, or agreement contained in this Indenture against any past, present or future officer, director, member, employee, or agent of the Issuer, or of any successor, as such, either directly or through the Issuer or any successor, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees, or agents, as such, is hereby expressly waived and released as a condition of, and consideration for, the execution of this Indenture and the issuance of such Notes.

(d) Anything in this Indenture to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice, or other instrument furnished to the Issuer by the Trustee or the Borrower as to the existence of any fact or state of affairs required hereunder to be noticed by the Issuer; (b) the Issuer shall not be under any obligation hereunder to perform any record keeping or to provide any legal services; and (c) none of the provisions of this Indenture shall require the Issuer to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless it shall first have been adequately indemnified to its satisfaction against the cost, expenses, and liability which may be incurred thereby.

(e) Neither the members of the governing body of the Issuer nor any person executing the Notes shall be liable personally on the Notes by reason of the issuance thereof. The Notes are issued pursuant to the Act, and the Notes shall so state on their face, and shall state that the Notes shall not be a debt of the Issuer, or the State, or any political subdivision thereof; and neither the Issuer nor the State nor any political subdivision thereof shall be liable thereon; nor in any event shall the Notes or obligations be payable out of any funds or properties other than those of the Issuer identified herein.

Section 13.05. **Governing Law**. The laws of the State shall govern the construction of this Indenture and of all Notes issued hereunder.

Section 13.06. **Notices; Publication of Notice**.

(a) All notices, advice, certifications or other communications hereunder between the Issuer and the Trustee shall be sufficiently given and shall be deemed given when provided in writing and when delivered by hand or overnight courier, or mailed by certified or registered mail, postage prepaid, return receipt requested, or transmitted by electronic means (including, without limitation, e-mail and facsimile transmission) addressed to the appropriate Notice Address. The Issuer or the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, advice, certifications or other communications shall be sent. Notices to persons other than the Issuer or the Trustee (such as, for example, notices to owners of Notes) shall be governed by the other applicable provisions of this Indenture.

(b) Whenever the Issuer or the Trustee is required or permitted to give or publish notice of any event or occurrence under this Indenture, such notice shall be given or published in such manner and by such means as the Issuer or the Trustee, as the case may be, shall determine to be appropriate. Such publication may be by (but is not limited to) any of the following means:

(1) publication in one or more newspapers or trade journals selected by the Issuer or the Trustee, as the case may be; (2) publication by or through one or more financial information reporting services; (3) delivery to the Municipal Securities Rulemaking Board's EMMA System or any successor repository or entity fulfilling a substantially similar or like role; or (4) by mailing a copy of such notice by first class mail, postage prepaid, to the Person entitled to receive the notice at such Person's address as shown on the records of the Issuer or the Trustee.

Section 13.07. **Trustee as Paying Agent and Note Registrar.** The Trustee is hereby designated and agrees to act as Paying Agent and Note Registrar for and in respect to the Notes.

Section 13.08. **Execution of Instruments by Noteholders and Proof of Ownership of Notes.** Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by Noteholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Noteholders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of the Notes shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments within such jurisdiction, to the effect that the person signing such instrument acknowledged before him the execution thereof, or by an affidavit of a witness to such execution.

(b) The ownership of Notes shall be conclusively proved by the registration books kept under the provisions of Section 2.08 of this Indenture.

(c) Nothing contained in this Section 13.08 shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which to it may seem sufficient. Any request or consent of the Holder of any Note shall bind every future Holder of the same Note in respect of anything done by the Trustee pursuant to such request or consent.

Section 13.09. **Lender Loan Documents Independent.**

(a) Enforcement of the covenants in this Indenture will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower, the Project, the Lender Loan proceeds, any reserves or deposits required by the Lender in connection with the Lender Loan transaction, or the rents or deposits or other income of the Project.

(b) Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Indenture or any of the Borrower Documents will not serve as a basis for default on the Lender Loan, the underlying mortgage, or any of the other Lender Loan Documents.

(c) Notwithstanding anything in this Indenture, the Loan Agreement, the Note or the Note Purchase Agreement to the contrary, (i) the Mortgaged Property (as defined in the Lender Mortgage) shall not include any portion of the Trust Estate and the Lender shall not have any claim

to or lien upon the Trust Estate under this Indenture and funds held by the Trustee under this Indenture and pledged to secure the repayment of the Notes; and (ii) the Trust Estate shall not include any portion of the Mortgaged Property (as defined in the Lender Mortgage).

Section 13.10. **Notices to Rating Agency.** The Trustee shall provide to the Rating Agency notice in writing or by telephone or fax, promptly confirmed in writing, of

- (a) any sale or investment of securities held in the Special Funds after the Closing Date;
- (b) any change of the Trustee;
- (c) any Event of Default of which the Trustee is required to take notice or is deemed to have notice pursuant to Section 11.05 hereto;
- (d) any defeasance of the Notes;
- (e) any mandatory tender of the Notes; and
- (f) any amendment to this Indenture or the Note Loan Agreement.

Section 13.11. **Counterparts.** This Indenture may be simultaneously executed in several counterparts, each of which shall be an original, but all of which shall constitute but one and the same instrument.

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IN WITNESS WHEREOF, the Issuer has caused this Indenture to be signed in its name by its authorized officers, and the Trustee has caused this Indenture to be signed in its name by its duly authorized officers, all as of the day and year first above written.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
[]
Chair

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

By: _____
Vice President

EXHIBIT A

FORM OF NOTE

No. R- ____

\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING REVENUE NOTES
(SCOTT STREET LOFTS)
SERIES 2020

Unless this Note is presented by an authorized representative of the Securities Depository (as defined in the Indenture) to the Trustee for registration of transfer, exchange or payment, and any Note issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of the Securities Depository (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of the depository), any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

DATED DATE	INTEREST RATE	EARLIEST MANDATORY TENDER DATE	MATURITY DATE	CUSIP NUMBER
June 1, 2020	Variable			

Registered Owner: CEDE & Co.

Principal Amount: _____ DOLLARS

FOR VALUE RECEIVED, the Texas Department of Housing and Community Affairs (the "Issuer"), a public body and official agency of the State of Texas (the "State"), hereby promises to pay (but only out of the Trust Estate pledged therefor) to the registered owner identified above, or its successor or registered assignee or legal representative, the principal amount set forth above, on the Maturity Date identified above, in lawful money of the United States of America which on the date of payment is legal tender for the payment of public and private debts, upon the presentation and surrender of this Note at the corporate trust office of Wilmington Trust, National Association, a national banking association, as trustee, or its successor in trust (the "Trustee"), and to pay interest thereon (but only out of the Revenues) to the registered owner hereof from the initial delivery of the Note until the Mandatory Tender Date at the Index Interest Rate, payable at the times and in the manner hereinafter set forth. Principal hereof shall be payable, upon the request of any registered holder of Notes on the applicable Record Date having an aggregate principal amount of \$1,000,000 or more, by wire transfer of immediately available funds from the Trustee to the bank and account number specified by such holder to the Trustee in writing. All interest

hereon shall be paid by check or draft mailed by the Trustee to the registered owner hereof at his address as it appears on the registration books of the Issuer, or, upon the request of any registered holder of Notes having an aggregate principal amount of \$1,000,000 or more, by wire transfer of immediately available funds from the Trustee to the bank and account number provided by such registered owner to the Trustee in writing, such interest to the maturity hereof being payable semi-annually on each January 1 and July 1, commencing January 1, 2021, in lawful money of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts.

NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, ANY OBLIGATION THAT THE ISSUER MAY INCUR UNDER THE INDENTURE OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION THEREWITH THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE ISSUER, BUT SHALL BE A SPECIAL LIMITED OBLIGATION PAYABLE SOLELY FROM THE TRUST ESTATE. THIS NOTE SHALL CONSTITUTE A VALID CLAIM OF THE HOLDER HEREOF AGAINST THE TRUST ESTATE, WHICH IS PLEDGED TO SECURE THE PAYMENT OF THE NOTES AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THE INDENTURE. THIS NOTE SHALL BE A LIMITED OBLIGATION OF THE ISSUER GIVING RISE TO NO CHARGE AGAINST THE ISSUER'S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY, THE TRUST ESTATE. THE NOTES SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE ISSUER (EXCEPT TO THE EXTENT OF THE TRUST ESTATE). THIS NOTE IS NOT AND DOES NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS NOTE OR FOR ANY CLAIM BASED ON THIS NOTE, OR OTHERWISE IN RESPECT OF THIS NOTE, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST THE GENERAL CREDIT OF THE ISSUER OR AGAINST ANY PAST, PRESENT OR FUTURE GOVERNING BOARD MEMBER, DIRECTOR, OFFICER, AGENT OR EMPLOYEE OF THE ISSUER, OR OF ANY SUCCESSOR TO THE ISSUER, AS SUCH, EITHER DIRECTLY OR THROUGH THE ISSUER OR ANY SUCCESSOR TO THE ISSUER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS NOTE.

This Note is one of an issue of the \$[] Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the "Notes"), of like date and tenor, except as to number and denomination, issued under and pursuant

to the laws of the State and in particular Chapter 2306, Texas Government Code, as amended (the “Act”), and a resolution of the Issuer adopted on [May 21], 2020, for the purpose of financing a portion of the costs of the acquisition, rehabilitation, construction and equipping by Scott Street Lofts, LP, a Texas limited partnership (the “Borrower”), of a multifamily rental housing development for seniors consisting of approximately 123 units to be known as Scott Street Lofts and to be located at 1320 Scott Street in the City of Houston, Texas (the “Project”). The proceeds of the Notes are being loaned to the Borrower by the Issuer under a Loan Agreement dated as of June 1, 2020, between the Borrower and the Issuer (the “Note Loan Agreement”) and evidenced by a Promissory Note dated the Closing Date from the Borrower to the Issuer (the “Borrower Note”).

The Notes are issued under a Trust Indenture dated as of June 1, 2020 (the “Indenture”), between the Issuer and the Trustee, and, to the extent provided therein, are equally and ratably secured and entitled to the protection given by the Indenture. Pursuant to the Indenture, the Issuer has assigned to the Trustee (among other things) the Revenues. Pursuant to the Borrower Note and the Note Loan Agreement, payments sufficient for the prompt payment when due of the principal of and interest on the Notes are to be paid by the Borrower to the Trustee for the account of the Issuer. The obligations of the Borrower under the Borrower Note and the Note Loan Agreement are secured by the proceeds of the Notes deposited into the Project Fund created pursuant to Section 4.01(b) of the Indenture, and from moneys deposited into the Collateral Fund created pursuant to Section 4.01(e) of the Indenture.

Reference is made to the Indenture, the Borrower Note and the Note Loan Agreement and to all amendments and supplements thereto for a description of the property pledged and assigned and the provisions, among others, with respect to the nature and extent of the security, the rights, duties and other obligations of the Issuer and the Trustee, the terms on which the Notes are issued and secured, the rights of the holders of the Notes and provisions for defeasance of such rights. Capitalized terms used herein have the same meaning as set forth in the Indenture. The terms and conditions set forth herein concerning payment and other rights and remedies of the owners of the Notes are descriptive only and are subject in all cases to the terms and conditions as set forth in the Indenture.

This Note is negotiable and is transferable, as provided in the Indenture, only upon the books of the Issuer kept at the office of the Trustee, by the registered owner hereof in person or by his duly authorized attorney, and may be exchanged for new Notes of the same aggregate principal amount of authorized denominations, maturity and interest rate, in registered form, but only upon presentation and surrender of this Note, all in the manner and subject to the limitations and conditions provided in the Indenture. The Issuer and the Trustee may deem and treat the Person in whose name this Note is registered as the absolute owner hereof for all purposes; and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Notes are issuable in the form of registered Notes without coupons in denominations of \$5,000 each or integral multiples thereof.

The Notes are subject to mandatory tender in whole and not in part on the Mandatory Tender Date specified above and shall be purchased at a price equal to 100 percent of the principal

amount of such Notes, plus accrued interest, if any to the Mandatory Tender Date, and without premium, as set forth in the Indenture.

The Notes are subject to optional redemption as set forth in the Indenture.

In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Notes then outstanding under the Indenture may become or may be declared due and payable before the stated maturities thereof, together with the interest accrued thereon.

The Holder of this Note shall have no right to enforce the provisions of the Indenture, or to institute action to enforce the covenants therein, or to take any action with respect to any default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture. The Trustee shall treat the registered owner of this Note as the Person exclusively entitled to payment of principal and interest, and the exercise of all rights and powers of the owner of this Note.

In any case where the date of maturity of or an Interest Payment Date for this Note shall not be a Business Day, then payment of interest or principal need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity.

This Note shall not be entitled to any benefit under the Indenture, or be valid or become obligatory for any purpose, until the Trustee shall have executed the Certificate of Authentication appearing hereon.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this Note is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Note to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that all acts, conditions and things necessary to be done or performed by the Issuer or to have happened precedent to or in the execution and delivery of the Indenture have been done and performed and have happened in regular and due form as required by law.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS has caused this Note to be executed in its name and on its behalf by the manual or facsimile signature of its [Vice] Chair and attested by the manual or facsimile signature of its [Assistant] Secretary.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
[Vice] Chair

ATTEST:

By: _____
[Assistant] Secretary

[Initial Note Only]

[FORM OF COMPTROLLER'S CERTIFICATE]

COMPTROLLER'S CERTIFICATE

OFFICE OF THE COMPTROLLER
OF PUBLIC ACCOUNTS
STATE OF TEXAS

REGISTER NO. _____

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Note has been examined by him, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and it is a valid and binding limited obligation of the Issuer, and this Note has this day been duly registered by me.

WITNESS MY HAND AND SEAL OF OFFICE at Austin, Texas, this _____.

(COMPTROLLER'S SEAL)

Comptroller of Public Accounts
of the State of Texas

[Definitive Notes Only]

CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes described in the Indenture referred to in this Note.

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

Date of Authentication: _____, 20____

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto
(Please Print or Type Name and Address of Assignee): _____

(Social Security or Taxpayer Identification Number: _____
_____) the within Note and all rights thereunder, and hereby
irrevocably constitutes and appoints _____

attorney to transfer the said Note on the books of the within named issuer maintained by the
Trustee for the registration thereof, with full power of substitution in the premises.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within note in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed.

Signature guaranteed by:

[Bank, Trust Company or Firm]

Authorized Signature

(Signature(s) must be guaranteed by a broker or other financial institution which is a participant in the Securities Transfer Agent's Medallion Program (STAMP, SEMP, MSP)).

**EXHIBIT B
FORM OF REQUISITION**

BORROWER: SCOTT STREET LOFTS, LP

PROJECT: SCOTT STREET LOFTS

REQUISITION NO.: _____

In the Amount of \$ _____

TO: Wilmington Trust, National Association, as trustee

The Borrower hereby requests payments in the following amounts, from the following sources and to be made to the following parties, all as set forth on the Request for Payment attached to this Requisition:

AMOUNT	SOURCE [identify name of Account and Fund]	PAYABLE TO: [Borrower's account number] [third party payment/wire instructions must be attached]
--------	-----------------------------------------------	-----------------------------------------------------------------------------------------------------------

REQUISITION – CONTENTS AND ATTACHMENTS

Borrower's Representations and Warranties

Contractor's Application and Certification for Payment (AIA Form G 702)

Requisitions and Invoices Supporting Application

REPRESENTATIONS AND WARRANTIES

1. To the Borrower's knowledge, no changes have been made in the Plans and Specifications that require and have not received the prior approval of any Governmental Authority having jurisdiction over the Project or any other parties from whom such approval is required.
2. To the Borrower's knowledge, the construction and equipping of the Project has been performed in accordance with the Plans and Specifications.

3. Funding of this Requisition shall be in accordance with the terms and provisions of (i) the Loan Agreement dated as of June 1, 2020 (the “*Agreement*”), and (ii) the Trust Indenture dated as of June 1, 2020, with respect to the Notes (the “*Indenture*”).
4. All monies requisitioned by the Borrower for acquisition and construction and disbursed by the Trustee under previously approved requisitions have been paid to the Contractor or other contractor or supplier or other party entitled to payment and, to Borrower’s best knowledge, all subcontractors, vendors and suppliers; all other funds requisitioned by the Borrower and disbursed by the Trustee under previously approved requisitions have been expended for the purpose for which they were requisitioned.
5. All of the information submitted to the Trustee in connection with this Requisition is true and accurate as of the date of submission.
6. The representations and warranties set forth in the Documents are true and correct as of the date hereof with the same effect as if made on this date unless such representation or warranty relates to a specific time.
7. The Borrower represents and warrants that (i) there has occurred no Event of Default or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default on the part of the Borrower under the terms of the Documents, (ii) except as previously disclosed by the Borrower to the Issuer, the Borrower has not received notice from or been informed by any Governmental Authority of any alleged deficiencies in the work performed to date or any deviation of such work from Plans and Specifications or notice of any assertion of a claim that the Project has not been constructed in accordance with all applicable requirements and (iii) the Documents are in full force and effect.
8. The Borrower represents and warrants that, following the disbursement by the Trustee of the aggregate amounts requested under these Requisitions, (i) no more than 5% of the Net Proceeds of the Notes will have been used for costs that are not Qualified Project Costs; (ii) less than 25% of the Net Proceeds of the Notes will have been used for the cost of acquiring land; and (iii) not more than 2% of the Net Proceeds of the Notes will have been used for Costs of Issuance.
9. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto under the Indenture or the Tax Agreement.

Executed this ____ day of _____, 20__.

BORROWER:

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
[name, title]

Approved:

ZIONS BANCORPORATION, N.A.
doing business as Amegy Bank

By: _____
Name: _____
Title: _____

CONTRACTOR'S APPLICATION FOR PAYMENT

REQUISITIONS AND INVOICES

EXHIBIT C

**FORM OF REQUISITION
(Costs of Issuance)**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020**

Dated: _____

Costs of Issuance Requisition No. ____

TO: Wilmington Trust, National Association as trustee (the "*Trustee*") under the Trust Indenture dated as of June 1, 2020, between the Texas Department of Housing and Community Affairs and the Trustee (the "*Indenture*").

Terms used herein and not otherwise defined shall have the meanings given to such terms in the Indenture.

The undersigned, Borrower Representative of Scott Street Lofts, LP (the "*Borrower*"), hereby certifies to you that he/she is authorized and empowered to submit this Requisition to you and that attached hereto as Schedule "A" is a schedule of Costs of Issuance incurred in connection with the issuance of the above described Notes, including the names and addresses of the payees and the specific amounts payable to each such payee, and that to the best of the undersigned's information and belief, such amounts are true and correct.

This Requisition is being delivered to you in accordance with the referenced Indenture pursuant to which the Notes were issued. You are hereby instructed to withdraw from the Cost of Issuance Fund created under the Indenture the amounts shown across from each payee listed on Schedule "A" hereto and pay such amounts to each such payee by wire transfer, check delivered by first class mail or by such other means as is acceptable to you and any such payee.

[SIGNATURE APPEARS ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned has signed this Requisition by and on behalf of the Borrower.

BORROWER:

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
[name, title]

SCHEDULE "A"

SCHEDULE OF COSTS OF ISSUANCE

PAYEE	AMOUNT
-------	--------

EXHIBIT D
FUNDING LOAN AGREEMENT

**FUNDING LOAN AGREEMENT
(Revised 9-30-2019)**

among

**JONES LANG LASALLE MULTIFAMILY, LLC,
as Initial Funding Lender**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender**

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Fiscal Agent**

Relating to

**Scott Street Lofts
1320 Scott Street
Houston, Texas 77003**

Funding Loan Principal Amount: \$[ACTUAL FUNDING LOAN PRINCIPAL AMOUNT]

Dated as of [CONVERSION DATE]

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FUNDING LOAN AGREEMENT

THIS FUNDING LOAN AGREEMENT (this "Funding Loan Agreement"), is made and entered into as of [CONVERSION DATE], among Jones Lang LaSalle Multifamily, LLC, in its capacity as Initial Funding Lender (the "Initial Funding Lender"), the Texas Department of Housing and Community Affairs (the "Governmental Lender"), a public and official agency of the State of Texas (the "State"), and Wilmington Trust, National Association, a national banking association, organized and operating under the laws of the United States of America, having a corporate trust office in Dallas, Texas, as Fiscal Agent (the "Fiscal Agent"). Capitalized terms are defined in Section 1.01 of this Funding Loan Agreement.

RECITALS

WHEREAS, pursuant to Chapter 2306, Texas Government Code, as amended (the "Act"), the Governmental Lender is authorized to issue revenue bonds (including notes) and use the proceeds from the sale of such bonds to make loans for the acquisition, construction, equipping, furnishing, and placement in service of residential developments; and

WHEREAS, pursuant to and in accordance with the Act and a Trust Indenture dated as of June 1, 2020 (the "Indenture"), between the Governmental Lender and the Fiscal Agent, the Governmental Lender issued and sold its \$[] Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the "Notes"), and used the proceeds thereof to make a loan to Scott Street Lofts, LP, a Texas limited partnership (the "Borrower"), upon the terms and conditions of a Loan Agreement dated as June 1, 2020 (the "Loan Agreement"), between the Governmental Lender and the Borrower, for the purpose of financing the cost of the acquisition, construction, installation and equipping of a multifamily rental housing development, consisting of approximately 123 units and related personal property and equipment, to be known as Scott Street Lofts and located in Houston, Texas (the "Project"); and

WHEREAS, the Borrower's payment obligations under the Loan Agreement are evidenced by a promissory note dated [], 2020 (the "Borrower Note"), from the Borrower to the Governmental Lender in the original principal amount of \$[]; and

WHEREAS, the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise ("Freddie Mac"), entered into a forward commitment with the Initial Funding Lender dated [], 2020 (the "Freddie Mac Commitment"), whereby Freddie Mac committed, subject to the satisfaction on or before the Outside Forward Commitment Maturity Date of the Conditions to Conversion set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment, to facilitate the financing of the Project in the Permanent Phase; and

WHEREAS, the Conditions to Conversion were satisfied on or before the Outside Forward Commitment Maturity Date and on the Conversion Date, (i) the Notes are subject to mandatory tender in accordance with the Indenture, (ii) the purchase price of the Notes is being paid with amounts on deposit under the Indenture, (iii) a portion of the principal amount of the Notes is being cancelled such that the principal amount outstanding equals the Actual Project Loan Amount (as defined in the Construction Phase Financing Agreement), (iv) the Notes are being removed from the Book-Entry System and being converted to a physical Governmental

Note (in the form attached to this Funding Loan Agreement) which is being purchased by the Initial Funding Lender, (v) this Funding Loan Agreement and the Project Loan Agreement dated as of the date hereof (the "Project Loan Agreement") by and among the Governmental Lender, the Fiscal Agent and the Borrower are being delivered by the respective parties and becoming effective and amending, restating and superseding in their entirety the Indenture and the Loan Agreement, and (vi) the taxable mortgage loan provided by Zions Bancorporation, N.A. doing business as Amegy Bank is being paid in full in accordance with the Indenture; and

WHEREAS, on the Conversion Date, the Borrower Note is being amended and restated pursuant to the Amended and Restated Project Note (together with all riders and modifications thereto, the "Project Note") and the Borrower is entering into a Continuing Covenant Agreement with the Initial Funding Lender (the "Continuing Covenant Agreement"), which sets forth various other requirements with respect to the Project; and

WHEREAS, pursuant to the Freddie Mac Commitment, Freddie Mac has agreed to purchase the Funding Loan from the Initial Funding Lender upon the date of satisfaction of the conditions set forth in the Freddie Mac Commitment (the "Freddie Mac Purchase Date"), and on the Freddie Mac Purchase Date, the Initial Funding Lender will assign to Freddie Mac all of its rights and interest in the Governmental Note, this Funding Loan Agreement, the Continuing Covenant Agreement and the other Financing Documents; and

WHEREAS, to secure the Borrower's obligations under the Project Note, the Borrower is executing and delivering to the Fiscal Agent on the Conversion Date a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Security Instrument") with respect to the Project; and

WHEREAS, on and after the Freddie Mac Purchase Date, Freddie Mac will act as Funding Lender Representative with respect to the Loans (in such capacity and any successor in such capacity, the "Funding Lender Representative"), and the Initial Funding Lender will act as initial servicer for the Loans on behalf of the Funding Lender Representative (in such capacity, the "Servicer"); and

WHEREAS, the Governmental Lender has determined that all things necessary to incur the Funding Loan and to make the Governmental Note, when executed by the Governmental Lender and authenticated by the Fiscal Agent and issued in accordance with this Funding Loan Agreement, the valid, binding and legal obligation of the Governmental Lender and to constitute this Funding Loan Agreement a valid lien on the properties, interests, revenues and payments herein pledged to the payment of the principal of, premium, if any, and interest on, the Governmental Note, have been duly taken, and the creation, execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Note, subject to the terms of this Funding Loan Agreement, have been duly authorized by the Governmental Lender; and

WHEREAS, the Fiscal Agent has the power and authority to enter into this Funding Loan Agreement, including corporate trust powers to accept the trusts hereunder and to accept and assume its other responsibilities hereunder as Fiscal Agent as evidenced by its execution of this Funding Loan Agreement.

NOW, THEREFORE, in consideration of the premises and of the origination and funding of the Funding Loan by the Funding Lender, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. The terms used in this Funding Loan Agreement (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Funding Loan Agreement and of any amendment or supplement hereto shall have the respective meanings specified below. Terms used herein not otherwise defined shall have the respective meanings set forth in the Project Loan Agreement, the Tax Regulatory Agreement or the Tax Exemption Agreement.

“*Act*” means Chapter 2306, Texas Government Code, as amended.

“*Administration Fund*” means the Administration Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Authorized Officer*” means (a) when used with respect to the Governmental Lender, the Chair or Vice Chair of the Governing Body of the Governmental Lender, the Executive Director of the Governmental Lender, the Director of Administration of the Governmental Lender, the Director of Financial Administration of the Governmental Lender, the Director of Bond Finance and Chief Investment Officer of the Governmental Lender, the Director of Multifamily Bonds of the Governmental Lender, the Director of Texas Homeownership of the Governmental Lender, and the Secretary or Assistant Secretary to the Governing Body of the Governmental Lender and any other officer or employee of the Governmental Lender designated by certificate of any of the foregoing or authorized by the Governmental Lender in writing to act on its behalf, (b) when used with respect to the Borrower, any officer of the managing member of the general partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Fiscal Agent, any authorized signatory of the Fiscal Agent, or any Person who is authorized in writing to take the action in question on behalf of the Fiscal Agent, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, and (e) when used with respect to the Funding Lender Representative, any Person who is authorized in writing to take the action in question on behalf of the Funding Lender Representative.

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

“*Bond Counsel*” means (a) on the Conversion Date, the law firm or law firms delivering the approving opinion(s) with respect to the Governmental Note, or (b) any other firm of attorneys selected by the Governmental Lender that is experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer’s Municipal Marketplace and is acceptable to the Funding Lender Representative.

“*Borrower*” means Scott Street Lofts, LP, a limited partnership duly organized and existing under the laws of the State of Texas, or any of its permitted successors or assigns, as owner of the Project.

“*Business Day*” means any day other than (a) a Saturday or a Sunday, or (b) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Fiscal Agent is located are authorized or obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

“*Casualty Proceeds*” when used with respect to any insurance or condemnation award, means the proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses incurred in the collection of such insurance proceeds or condemnation award, including reasonable attorneys’ fees.

“*Certificate of the Governmental Lender*” and “*Request of the Governmental Lender*” mean, respectively, a written certificate or request signed in the name of the Governmental Lender by an Authorized Officer of the Governmental Lender or such other Person as may be designated and authorized to sign for the Governmental Lender. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

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

“*Construction Phase Financing Agreement*” means the Construction Phase Financing Agreement dated as of June 1, 2020, by and among Freddie Mac, Zions Bancorporation, N.A. doing business as Amegy Bank, as the taxable mortgage lender, and the Freddie Mac Seller/Service, and acknowledged and agreed to by the Borrower, as the same may be amended, modified or supplemented from time to time.

“*Continuing Covenant Agreement*” means the Continuing Covenant Agreement dated as of the date hereof by and between the Borrower and the Initial Funding Lender, as the same may be amended, modified or supplemented from time to time.

“*Conversion Date*” means [CONVERSION DATE].

“*Default Rate*” means the lesser of (i) an annual interest rate equal to 4 percentage points above the Interest Rate, and (ii) the maximum interest rate that may be paid on the Governmental Note under State law pursuant to Chapter 1204 of the Texas Government Code.

“*Determination of Taxability*” means (a) a determination by the Commissioner or any District Director of the Internal Revenue Service, (b) a private ruling or Technical Advice Memorandum issued by the National Office of the Internal Revenue Service in which the Governmental Lender and the Borrower were afforded the opportunity to participate, (c) a determination by any court of competent jurisdiction, (d) the enactment of legislation that has

become effective, or (e) receipt by the Fiscal Agent or the Funding Lender Representative, at the request of the Governmental Lender, the Borrower, the Fiscal Agent or the Funding Lender Representative, of an opinion of Bond Counsel, in each case to the effect that the interest on the Governmental Note is includable in gross income for federal income tax purposes of the Funding Lender or any former Funding Lender, other than a Funding Lender or a holder of the Governmental Note who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code) of such a “substantial user”; provided, however, that no such Determination of Taxability under clause (a), (b) or (c) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (i) a final determination from which no appeal may be taken with respect to such determination, (ii) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (iii) one year from the date of initial determination.

“*Electronic Notice*” means delivery of notice in a Word format or a Portable Document Format (PDF) by electronic mail to the electronic mail addresses listed in Section 11.04 hereof; provided, that if a sender receives notice that the electronic mail is undeliverable, notice must be sent as otherwise required by Section 11.04 hereof.

“*Event of Default*” or “*event of default*” means any of those events specified in and defined by the applicable provisions of Article VI hereof to constitute an event of default.

“*Extraordinary Services*” means and includes, but not by way of limitation, services, actions and things carried out and all expenses incurred by the Fiscal Agent, in respect of or to prevent default under this Funding Loan Agreement or the Project Loan Documents, including any reasonable attorneys’ or agents’ fees and expenses and other litigation costs that are entitled to reimbursement under the terms of the Project Loan Agreement, and other actions taken and carried out by the Fiscal Agent which are not expressly set forth in this Funding Loan Agreement or the Project Loan Documents.

“*Extraordinary Fiscal Agent’s Fees and Expenses*” means all those fees, expenses and disbursements earned or incurred by the Fiscal Agent as described under Section 7.06 hereof for Extraordinary Services, as set forth in a detailed invoice to the Borrower, the Servicer and the Funding Lender Representative.

“*Fair Market Value*” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with Section 1.148-5(d)(6)(ii) of the Regulations, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with Section 1.148-5(d)(6)(iii) of the Regulations, (c) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United

States Bureau of Public Debt, or (d) any commingled investment fund in which the Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the Federal Tax Status of the Governmental Note (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Governmental Note or other customary exceptions acceptable to the recipient(s) thereof).

“Federal Tax Status” means, as to the Governmental Note, the status under existing law of the interest on the Governmental Note as excludable from gross income for federal income tax purposes (except on the Governmental Note for any period during which it is held by a “substantial user” of the Project or by a “related person” of such a “substantial user,” each within the meaning of Section 147(a) of the Code).

“Financing Documents” means, collectively, this Funding Loan Agreement, the Governmental Note, the Tax Regulatory Agreement, the Tax Exemption Agreement, the Project Loan Documents and all other documents or instruments evidencing, securing or relating to the Loans.

“Fiscal Agent” means Wilmington Trust, National Association, and its successors hereunder.

“Freddie Mac” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns.

“Freddie Mac Commitment” means the commitment from Freddie Mac to the Initial Funding Lender pursuant to which Freddie Mac has agreed to purchase the Funding Loan, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“Freddie Mac Purchase Date” means the date Freddie Mac purchases the Funding Loan from the Initial Funding Lender upon satisfaction of the conditions set forth in the Freddie Mac Commitment.

“Freddie Mac Seller/Servicer” means Jones Lang LaSalle Multifamily, LLC, as Freddie Mac’s seller/servicer under the Freddie Mac Commitment, or any of its successors or assigns under the Freddie Mac Commitment.

“Funding Lender” means any Person who is the holder of the Governmental Note.

“Funding Lender Representative” means the Funding Lender or any Person designated by the Funding Lender to act on behalf of the Funding Lender as provided in Section 11.05, or an assignee of such Person as provided in Section 11.05. The initial Funding Lender Representative shall be the Initial Funding Lender, and Freddie Mac shall become the Funding Lender Representative upon the occurrence of the Freddie Mac Purchase Date.

“*Funding Loan*” means the loan made to the Governmental Lender pursuant to this Funding Loan Agreement by the Initial Funding Lender on the Conversion Date in the principal amount of \$[ACTUAL FUNDING LOAN AMOUNT].

“*Funding Loan Amortization Schedule*” means the Funding Loan Amortization Schedule attached as Schedule 1 to the Governmental Note.

“*Government Obligations*” means investments meeting the requirements of clause (a) or (b) of the definition of “Qualified Investments” herein.

“*Governmental Lender*” means the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas.

“*Governmental Lender Administration Fee*” means the fee payable annually in advance to the Governmental Lender on each June 1, commencing [FIRST JUNE 1 FOLLOWING THE CONVERSION DATE], in the amount of 0.10% per annum of the aggregate principal amount of Governmental Note outstanding at the inception of each payment period. The Fiscal Agent will remit to the Governmental Lender (upon receipt of an invoice from the Governmental Lender), payable solely from funds provided by the Borrower, all payments of the Governmental Lender Administration Fee due on or after [FIRST JUNE 1 FOLLOWING THE CONVERSION DATE].

“*Governmental Lender Compliance Fee*” means the fee payable annually in advance to the Governmental Lender on each June 1, in the amount of \$25 per Low-Income Unit in the Project. The first annual Governmental Lender Compliance Fee shall be paid on [FIRST JUNE 1 FOLLOWING THE CONVERSION DATE]. The Fiscal Agent will remit to the Governmental Lender (upon receipt of an invoice from the Governmental Lender), solely from funds provided by the Borrower, all payments of the Governmental Lender Compliance Fee. The Governmental Lender Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“*Governmental Lender Fees*” means, collectively, the Governmental Lender Administration Fee and the Governmental Lender Compliance Fee.

“*Governmental Note*” or “*Multifamily Note*” means the multifamily housing revenue note with the series designation Texas Department of Housing and Community Affairs Multifamily Housing Revenue Note (Scott Street Lofts) Series 2020 dated [CONVERSION DATE], executed by the Governmental Lender and authenticated by the Fiscal Agent in favor of the Initial Funding Lender, in the form attached hereto as Exhibit A, as the same may be amended, restated, supplemented or otherwise modified from time to time, or any mortgage note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time.

“*Guide*” means the Freddie Mac Multifamily Seller/Servicer Guide, as the same may be amended, modified or supplemented from time to time.

“*Initial Debt Service Deposit*” means an amount equal to the sum of (i) the interest payable on the Funding Loan, and (ii) the ongoing fees payable with respect to the Project Loan (as provided in Section 4.02 of the Project Loan Agreement), in each case for the period

commencing on the Conversion Date to but not including the first day of the calendar month immediately succeeding the Conversion Date.

“*Initial Funding Lender*” means Jones Lang LaSalle Multifamily, LLC, as initial holder of the Governmental Note.

“*Interest Payment Date*” means (i) the first day of each calendar month, commencing [_____] 1, 202[____], (ii) the date of any prepayment of the Funding Loan, but only with respect to the portion of the Funding Loan subject to prepayment, and (iii) the Maturity Date.

“*Interest Rate*” means the interest rate of [____.____]% per annum; provided during the continuance of any Event of Default hereunder, the Interest Rate shall be the Default Rate.

“*Investment Income*” means the earnings and profits derived from the investment of money pursuant to Section 4.08 hereof.

“*Investor Limited Partner*” means RBC Community Investments, LLC, an Illinois limited liability company, and its permitted successors and/or assigns as the Investor Limited Partner of the Borrower, including [FUND], as a permitted assignee.

“*Loan Payment Fund*” means the Loan Payment Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Loan Prepayment Fund*” means the Loan Prepayment Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Loans*” means, together, the Project Loan and the Funding Loan.

“*Maturity Date*” means the maturity date of the Funding Loan set forth in Section 2.01(b) hereof.

“*Moody’s*” means Moody’s Investors Service, Inc., its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

“*Notes*” means, together, the Project Note and the Governmental Note.

“*Ordinary Fiscal Agent’s Fees and Expenses*” means the annual administration fee for the Fiscal Agent’s ordinary fees and expenses in rendering its services under this Funding Loan Agreement during each twelve month period, which fee is equal to (and shall not exceed) \$[_____] and shall be payable annually on each [MONTH AND DAY OF ORIGINAL CLOSING].

“*Person*” means an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated association, a limited liability company or a government or any agency or political subdivision thereof, or any other organization or entity (whether governmental or private).

“*Pledged Security*” shall have the meaning given to that term in Section 2.02 hereof.

“*Prepayment Premium*” shall mean any premium payable hereunder in connection with a prepayment of the Funding Loan, which premium shall be in an amount equal to the amount payable by the Borrower under Section 10 of the Project Note in connection with a prepayment of the Project Loan.

“*Principal Office of the Fiscal Agent*” means the office of the Fiscal Agent referenced in Section 11.04(a) hereof, or such other office or offices as the Fiscal Agent may designate in writing from time to time, or the office of any successor Fiscal Agent where it principally conducts its business of serving as Fiscal Agent under indentures pursuant to which municipal or governmental obligations are issued.

“*Project*” means, collectively, the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements known as Scott Street Lofts and further identified on Schedule I attached hereto located in Houston, Texas, including the interests in real estate described in the Security Instrument.

“*Project Loan*” means the loan made by the Governmental Lender to the Borrower pursuant to the Project Loan Agreement in the outstanding principal amount of \$[ACTUAL PROJECT LOAN AMOUNT] on the Conversion Date, as evidenced by the Project Note.

“*Project Loan Agreement*” means the Project Loan Agreement dated as of the date hereof among the Borrower, the Governmental Lender and the Fiscal Agent, as amended, supplemented or restated from time to time.

“*Project Loan Documents*” means the Security Instrument, the Project Note, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, the Assignment, the Continuing Covenant Agreement, any Subordination Agreement(s) and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Project Loan or any portion thereof.

“*Project Note*” means the Amended and Restated Project Note dated the Conversion Date from the Borrower, including all riders and addenda thereto, evidencing the Borrower’s obligation to repay the Project Loan, which Project Note will be delivered to the Fiscal Agent as security for the Funding Loan, as the same may be amended, restated, supplemented or otherwise modified from time to time, or any note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time.

“*Qualified Investments*” means any of the following if and to the extent permitted by law: (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States of America the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; (c) senior debt obligations of Freddie Mac; (d) senior debt obligations of Fannie Mae; (e) demand deposits or time deposits with, or certificates of deposit issued by, the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000; provided that the Fiscal Agent or such other institution has been rated at least “VMIG-1”/“A-1+” by Moody’s or S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the

Office of the Comptroller of the Currency; (f) investment agreements with a bank or any insurance company or other financial institution which has a rating assigned by Moody's or S&P to its outstanding long-term unsecured debt which is the highest rating (as defined below) for long-term unsecured debt obligations assigned by Moody's or S&P, and which are approved by the Funding Lender Representative; (g) shares or units in any money market mutual fund rated "Aaa"/"AAA" by Moody's or S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including, mutual funds of the Fiscal Agent or its affiliates or for which the Fiscal Agent or an affiliate thereof serves as investment advisor or provides other services to such mutual fund receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of (A) direct obligations of the government of the United States of America, or (B) tax exempt obligations; (h)(i) tax-exempt obligations rated in the highest short term rating category by Moody's or S&P, or (ii) shares of a tax-exempt municipal money market mutual fund or other collective investment fund registered under the federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of "Aaa"/"AAA" by Moody's or S&P (or if a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security), for which at least 95% of the income paid to the holders on interest in such money market fund will be excludable from gross income under Section 103 of the Code, including money market funds for which the Fiscal Agent or its affiliates receive a fee for investment advisory or other services to the fund; or (i) any other investments approved in writing by the Funding Lender Representative. For purposes of this definition, the "highest rating" shall mean a rating of at least "VMIG-1"/"A-1+" for obligations with less than one year maturity; at least "Aaa"/"VMIG-1"/"AAA"/"A-1+" for obligations with a maturity of one year or greater but less than three years; and at least "Aaa"/"AAA" for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

"*Rating Agency*" means Moody's or S&P, as applicable, or any successor rating service thereof.

"*Rebate Analyst*" shall have the meaning ascribed thereto in the Tax Exemption Agreement.

"*Rebate Fund*" means the Rebate Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

"*Regulations*" means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

"*Resolution*" means the resolution adopted by the Governmental Lender on [May 21], 2020, authorizing the Funding Loan, the Project Loan and the execution and delivery of the Financing Documents to which it is a party.

“*Responsible Officer*” means any officer of the Fiscal Agent employed within or otherwise having regular responsibility in connection with the corporate trust department of the Fiscal Agent and the trusts created hereunder.

“*Revenue Fund*” means the Revenue Fund established by the Fiscal Agent pursuant to Section 4.01 hereof.

“*Revenues*” means (a) all payments made with respect to the Project Loan pursuant to the Project Loan Agreement, the Project Note or the Security Instrument, including but not limited to all casualty or other insurance benefits and condemnation awards paid in connection therewith and all payments obtained through the exercise of remedies under the Financing Documents, and (b) all money and securities held by the Fiscal Agent in the funds and accounts established pursuant to this Funding Loan Agreement (excluding money or securities designated for deposit into and held in the Administration Fund and the Rebate Fund), together with all investment earnings thereon.

“*Security Instrument*” means the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof, by the Borrower, granting a first priority mortgage and security interest in the Project to the Fiscal Agent to secure the repayment of the Project Loan and related obligations, as security for the Funding Loan, as the same may be amended, supplemented or restated.

“*S&P*” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, and its successors and assigns, if such successors and assigns continue to perform the services of a securities rating agency.

“*Servicer*” means any entity appointed by the Funding Lender Representative to service the Loans and any successor in such capacity as appointed by the Funding Lender Representative pursuant to Section 3.02 of the Project Loan Agreement. Initially, the Servicer shall be Jones Lang LaSalle Multifamily, LLC.

“*Special Limited Partner*” means RBC Community Investments Manager II, Inc., a Delaware corporation, and its permitted successors and assigns.

“*State*” means the State of Texas.

“*Tax Exemption Agreement*” means the Tax Exemption Certificate and Agreement dated as of June 1, 2020, among the Governmental Lender, the Fiscal Agent and the Borrower.

“*Tax Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of June 1, 2020, among the Governmental Lender, the Fiscal Agent and the Borrower.

“*Transferee Representations Letter*” has the meaning set forth in Section 2.08 hereof.

“*Unassigned Rights*” means (a) all of the Governmental Lender’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Governmental Lender to receive amounts payable to it pursuant to Section 4.02 of the Project Loan Agreement, including the Governmental Lender Fees; (c) all rights of the Governmental

Lender to receive any Rebate Amount (as defined in the Tax Exemption Agreement) required to be rebated to the United States of America under the Code in connection with the Governmental Note, as described in the Tax Exemption Agreement; (d) all rights of the Governmental Lender to receive notices, reports or other information, and to make determinations and grant approvals or consent hereunder and under the Project Loan Agreement, the Tax Regulatory Agreement and the Tax Exemption Agreement; (e) all rights of the Governmental Lender of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Project Loan Agreement, in the Tax Exemption Agreement and in the Tax Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Governmental Lender set forth in this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, and the Project Loan Documents, as applicable, regarding (1) the negotiability, registration and transfer of the Governmental Note, (2) the loss or destruction of the Governmental Note, (3) the limited liability of the Governmental Lender as provided in the Act, this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, and the Project Loan Documents, (4) no liability of the Governmental Lender to third parties, and (5) no warranties of suitability or merchantability by the Governmental Lender; (g) all rights of the Governmental Lender in connection with any amendment to or modification of this Funding Loan Agreement, the Project Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement, and the Project Loan Documents; and (h) any and all limitations of the Governmental Lender's liability and the Governmental Lender's disclaimers of warranties set forth in this Funding Loan Agreement, the Tax Regulatory Agreement, the Tax Exemption Agreement or the Project Loan Agreement, and the Governmental Lender's right to inspect and audit the books, records and permits of the Borrower and the Project.

“*Window Period*” means the three (3) consecutive month period prior to the Maturity Date.

Section 1.02 Interpretation. The words “hereof,” “herein,” “hereunder,” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as in effect from time to time. References to Articles, Sections, and other subdivisions of this Funding Loan Agreement are to the designated Articles, Sections and other subdivisions of this Funding Loan Agreement as originally executed. The headings of this Funding Loan Agreement are for convenience only and shall not define or limit the provisions hereof.

ARTICLE II

THE FUNDING LOAN

Section 2.01 Terms.

(a) The Funding Loan is being fully funded on the Conversion Date in the principal amount of \$[ACTUAL FUNDING LOAN AMOUNT] with funds provided to the Governmental

Lender by the Initial Funding Lender. The proceeds of the Funding Loan shall be deposited and disbursed in accordance with the Indenture. The Funding Loan shall be evidenced by the Governmental Note and shall bear interest and be paid in accordance with the payment terms set forth in the Governmental Note and this Funding Loan Agreement.

(b) The Funding Loan shall bear interest payable on each Interest Payment Date at the Interest Rate and shall mature on [_____] 1, 203[____], subject to scheduled monthly principal payments as provided in Section 2.01(c) below and optional and mandatory prepayment prior to maturity as provided in Article III hereof. Interest on the Funding Loan shall be computed on the basis of a 360-day year and the actual number of days elapsed.

(c) The unpaid principal balance of the Funding Loan shall be paid on the dates and in the amounts set forth on the Funding Loan Amortization Schedule attached as Schedule 1 to the Governmental Note. All unpaid principal and all accrued and unpaid interest outstanding under the Funding Loan shall be due and payable on the Maturity Date.

(d) Payment of principal of, premium, if any, and interest on the Funding Loan shall be paid by wire transfer in immediately available funds to an account within the United States of America designated by such Funding Lender (unless otherwise directed by the Funding Lender)

(e) Subject to Section 2.12 hereof, on or before the date fixed for payment, money shall be deposited with the Fiscal Agent to pay, and the Fiscal Agent is hereby authorized and directed to apply such money to the payment of, the Funding Loan, together with accrued interest thereon to the date of payment.

(f) In no contingency or event whatsoever shall the aggregate of all amounts deemed interest hereunder and charged or collected pursuant to the terms of this Funding Loan Agreement exceed the highest rate permissible under any law which a court of competent jurisdiction shall, in a final determination, deem applicable hereto. In the event that such court determines the Funding Lender has charged or received interest hereunder in excess of the highest applicable rate, the Funding Lender shall apply, in its sole discretion, and set off such excess interest received by the Funding Lender against other obligations due or to become due under the Financing Documents and such rate shall automatically be reduced to the maximum rate permitted by such law.

Section 2.02 Pledged Security. To secure the payment of the principal of, premium, if any, and interest on the Funding Loan according to its tenor and effect, and the performance and observance by the Governmental Lender of all the covenants expressed or implied herein and in the Governmental Note, and the payment and performance of all amounts and obligations under the Continuing Covenant Agreement, the Governmental Lender does hereby grant, bargain, sell, convey, pledge and assign a security interest, unto the Fiscal Agent, and its successors in such capacity and its and their assigns in and to the following (said property being herein referred to as the “**Pledged Security**”) for the benefit of the Funding Lender:

(a) All right, title and interest of the Governmental Lender in and to all Revenues;

(b) All right, title and interest of the Governmental Lender in and to the Project Loan Agreement, the Project Note, the Security Instrument and the other Project Loan Documents (other than the Unassigned Rights), including all extensions and renewals of the terms thereof, if

any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the money, income, revenues, issues, profits and other amounts payable or receivable thereunder (including all casualty insurance benefits or condemnation awards), whether payable under the above referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Governmental Lender or any other Person is or may become entitled to do under said documents; and

(c) Except for funds, money or securities in the Administration Fund and the Rebate Fund, all funds, money 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 hereunder for the Funding Loan by the Governmental Lender or by anyone on its behalf or with its written consent to the Fiscal Agent, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

The foregoing notwithstanding, if the Governmental Lender or its successors or assigns shall pay or cause to be paid to the Funding Lender in full the principal, interest and premium, if any, to become due with respect to the Funding Loan at the times and in the manner provided in Article IX hereof, and if the Governmental Lender shall keep, perform and observe, or cause to be kept, performed and observed, all of its covenants, warranties and agreements contained herein, then these presents and the estate and rights hereby granted shall, at the option of the Governmental Lender, cease, terminate and be void, and thereupon the Fiscal Agent shall cancel and discharge the lien of this Funding Loan Agreement and execute and deliver to the Governmental Lender such instruments in writing as shall be requisite to satisfy the lien hereof, and, subject to the provisions of Sections 4.11 and 4.12 hereof and Article IX hereof, reconvey to the Governmental Lender the estate hereby conveyed, and assign and deliver to the Governmental Lender any property at the time subject to the lien of this Funding Loan Agreement which may then be in its possession, except for the Rebate Fund and cash held by the Fiscal Agent for the payment of interest on and principal of the Governmental Note; otherwise this Funding Loan Agreement to be and shall remain in full force and effect.

Section 2.03 Limited Obligations. Notwithstanding any other provision of this Funding Loan Agreement to the contrary, the Governmental Note is not and never shall become a general obligation of the Governmental Lender, but to the extent provided in and except as otherwise permitted by this Funding Loan Agreement, the Governmental Note shall be a limited obligation of the Governmental Lender and the principal of, premium, if any, thereon shall be payable equally and ratably solely from and secured solely by the Pledged Security.

NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, ANY OBLIGATION THAT THE GOVERNMENTAL LENDER MAY INCUR UNDER THIS FUNDING LOAN AGREEMENT OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION HERewith THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE GOVERNMENTAL LENDER, BUT SHALL BE A LIMITED OBLIGATION PAYABLE SOLELY FROM THE PLEDGED SECURITY. THE GOVERNMENTAL NOTE SHALL CONSTITUTE A VALID CLAIM OF THE RESPECTIVE HOLDERS THEREOF AGAINST THE PLEDGED SECURITY, WHICH IS PLEDGED TO SECURE THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY

AND INTEREST ON THE GOVERNMENTAL NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS FUNDING LOAN AGREEMENT. THE GOVERNMENTAL NOTE, TOGETHER WITH INTEREST THEREON, SHALL BE A LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER GIVING RISE TO NO CHARGE AGAINST THE GOVERNMENTAL LENDER'S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY, THE PLEDGED SECURITY. THE PRINCIPAL OF, PREMIUM, IF ANY AND INTEREST ON THE GOVERNMENTAL NOTE SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE GOVERNMENTAL LENDER (EXCEPT TO THE EXTENT OF THE PLEDGED SECURITY). THE GOVERNMENTAL NOTE IS NOT AND DOES NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

No agreement or obligation contained herein shall be deemed to be an agreement or obligation of any governing board member, director, officer, agent or employee of the Governmental Lender in his or her individual capacity, and no member of the governing board of the Governmental Lender nor any officer executing the Governmental Note shall be liable personally on such Governmental Note or be subject to any personal liability or accountability by reason of the issuance thereof. No governing board member, director, officer, agent or employee of the Governmental Lender shall incur any personal liability with respect to any other action taken by him or her pursuant to this Funding Loan Agreement.

Section 2.04 *Funding Loan Agreement Constitutes Contract.* In consideration of the origination and funding of the Funding Loan by the Initial Funding Lender, the provisions of this Funding Loan Agreement shall be part of the contract of the Governmental Lender with the Initial Funding Lender and any successors or assigns thereof in such capacity from time to time.

Section 2.05 *Form and Execution.*

(a) The Governmental Note shall be in substantially the form attached as *Exhibit A*, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement. The Governmental Note shall be numbered consecutively from R-1 upwards.

(b) Each Governmental Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of the Chair or Vice Chair of the Governmental Lender, and attested by the manual or facsimile signature of the Secretary or an Assistant Secretary of the Governmental Lender and shall bear an impression or a facsimile of the seal of the Governmental Lender. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Governmental Note. Any reproduction of the official seal of the Governmental Lender on the Governmental Note shall have the same force and effect as if the official seal of the Governmental Lender had been impressed on the Governmental Note.

Section 2.06 Authentication. The Governmental Note shall not be valid or obligatory for any purpose or entitled to any security or benefit under this Funding Loan Agreement unless a certificate of authentication on the Governmental Note, substantially in the form set forth in Exhibit A, shall have been duly executed by an Authorized Officer of the Fiscal Agent; and such executed certificate of authentication upon the Governmental Note shall be conclusive evidence that the Governmental Note has been duly executed, registered, authenticated and delivered under this Funding Loan Agreement.

No Governmental Note shall be secured by, or be entitled to any lien, right or benefit under, this Funding Loan Agreement or be valid or obligatory for any purpose, unless there appears on such Governmental Note a certificate of authentication substantially in the form provided for herein, executed by the Fiscal Agent by manual signature, and such certificate upon the definitive Governmental Note shall be conclusive evidence, and the only evidence, that such definitive Governmental Note has been duly authenticated and delivered hereunder.

Section 2.07 Mutilated, Lost, Stolen or Destroyed Governmental Note. In the event the Governmental Note is mutilated, lost, stolen or destroyed, the Governmental Lender shall execute and the Fiscal Agent shall authenticate a new Governmental Note substantially in the form set forth in Exhibit A in exchange and substitution for and upon cancellation of the mutilated Governmental Note or in lieu of and in substitution for such lost, stolen or destroyed Governmental Note, upon payment by the Funding Lender of any applicable tax or governmental charge and the reasonable expenses and charges of the Governmental Lender and the Fiscal Agent in connection therewith, and in the case where the Governmental Note is lost, stolen or destroyed, the filing with the Fiscal Agent of evidence satisfactory to it that the Governmental Note was lost, stolen or destroyed, and of the ownership thereof, and furnishing the Governmental Lender and the Fiscal Agent with indemnity satisfactory to each of them. In the event where the Governmental Note shall have matured, instead of delivering a new Governmental Note the Governmental Lender may pay the same without surrender thereof.

Section 2.08 Registration; Transfer of Funding Loan; Transferee Representations Letter.

(a) The Funding Loan shall be fully registered as to principal and interest in the manner and with any additional designation as the Fiscal Agent deems necessary for the purpose of identifying the registered owner thereof. The Funding Loan shall be transferable only on the registration books of the Fiscal Agent. The Fiscal Agent shall maintain books or other records showing the name and date of registration, address and employer identification number of the registered owner of the Funding Loan and any transfers of the Funding Loan as provided herein. The Funding Loan shall initially be registered to the Initial Funding Lender, and upon the Freddie Mac Purchase Date, shall be registered to Freddie Mac.

(b) The Funding Lender shall have the right to sell, assign or otherwise transfer in whole its interest in the Governmental Note and Funding Loan or to grant a participation interest in the Funding Loan in a percentage of not less than twenty-five percent (25%) of the outstanding principal amount of the Governmental Note; provided that the Funding Loan may be transferred, or any participation interest therein granted, only to an "accredited investor" as that term is defined in Rule 501(a)(1), (2), (3), (5), (6), (7) or (8) of Regulation D under the Securities Act or a "qualified institutional buyer" as that term is defined under Rule 144A of the Securities

Act (such “accredited investor” or “qualified institutional buyer” a “Qualified Transferee”; provided that, prior to the Freddie Mac Purchase Date, only an “accredited investor” as that term is defined in Rule 501(a)(1), (2), (3), (7) or (8) of Regulation D under the Securities Act or a “qualified institutional buyer” shall constitute a “Qualified Transferee”) that delivers a letter to the Fiscal Agent substantially in the form attached hereto as Exhibit C (the “Transferee Representations Letter”) setting forth certain representations with respect to such Qualified Transferee. Notwithstanding the preceding sentence, no Transferee Representations Letter shall be required for the Funding Lender Representative to (i) transfer the Funding Loan to any affiliate or other party related to the Funding Lender that is a Qualified Transferee or (ii) sell or transfer the Funding Loan to a special purpose entity, a trust or a custodial or similar pooling arrangement from which the Funding Loan or securitized interests therein are not expected to be sold or transferred except to (x) owners or beneficial owners thereof that are Qualified Transferees or (y) in circumstances where secondary market credit enhancement is provided for such securitized interests resulting in a rating thereof of at least “A” or better. In connection with any sale, assignment or transfer of Governmental Note and the Funding Loan, the Funding Lender shall give notice of such sale, assignment or transfer to the Fiscal Agent and the Fiscal Agent shall record such sale, assignment or transfer on its books or other records maintained for the registration of transfer of the Governmental Note.

(c) Other than to receive a Transferee Representation Letter as provided herein, the Fiscal Agent shall have no obligation to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Funding Loan Agreement or under applicable law with respect to any transfer of the Funding Loan.

Section 2.09 TEL Securitization; Allocation of Funding Loan Interest. In accordance with the provisions of Section 2.08 hereof, the Funding Lender may transfer the Funding Loan to a Qualified Transferee in connection with the securitization of the Funding Loan, in which event the Funding Lender Representative may direct the Fiscal Agent to make all future payments with respect to the Funding Loan to the appointed master servicer for that securitization (or an account designated by such master servicer), and the Fiscal Agent shall accept such direction from the Funding Lender Representative. In the event that the Funding Lender transfers the Funding Loan to a Qualified Transferee in accordance with the provisions of Section 2.08 hereof, the Funding Lender Representative may also give notice to the Fiscal Agent that the Funding Lender has agreed to allow the Servicer to retain a portion of the monthly interest payable on the Funding Loan as additional compensation for the servicing of the Funding Loan (“Additional Servicing Fee”), which Additional Servicing Fee will equal no more than an annual 2 basis points with respect to the unpaid principal balance of the Governmental Note, in which event the Fiscal Agent shall accept and pay to the Funding Lender such lesser amount of interest received from the Servicer and shall consider such payment to be in full compliance with the terms of the Governmental Note, the Project Note and all other Financing Documents with regard to the interest owed on the Funding Loan.

Section 2.10 Additional Conditions to Conversion; Delivery of Governmental Note. In addition to the Conditions to Conversion set forth in the Freddie Mac Commitment and the Construction Phase Financing Agreement, Conversion shall be conditioned upon, and the Governmental Lender shall only execute and deliver to the Fiscal Agent, and the Fiscal Agent shall only authenticate the Governmental Note and deliver the Governmental Note to the Initial Funding Lender upon, receipt by the Fiscal Agent of the following:

(a) executed counterparts of this Funding Loan Agreement and the Project Loan Agreement;

(b) an opinion of Bond Counsel or counsel to the Governmental Lender to the effect that the Governmental Lender is duly organized and existing under the laws of the State and has duly authorized, executed and delivered this Funding Loan Agreement, the Governmental Note and the other Financing Documents to which it is a party, and such documents are valid and binding special, limited obligations of the Governmental Lender enforceable in accordance with their terms subject to customary qualifications and exceptions;

(c) the proceeds of the Funding Loan from the Initial Funding Lender;

(d) the executed Project Note and an endorsement of the Project Note by the Governmental Lender in favor of the Fiscal Agent;

(e) a copy of the executed Security Instrument, the Assignment and the Continuing Covenant Agreement;

(f) an opinion of counsel to the Borrower subject to customary qualifications and exceptions to the effect that the Borrower is duly organized and validly existing and in good standing under the laws of the state in which it has been organized and in good standing under the laws of each other state in which the Borrower transacts business and has full power and authority to enter into the Financing Documents to which it is a party, that its execution and delivery of and performance of its covenants in such documents do not contravene law or any provision of any other documents to which it is a party or by which it or such property is bound or affected, and that all such agreements have been duly authorized, executed and delivered by the Borrower, and are legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms;

(g) a Favorable Opinion of Bond Counsel with respect to the Conversion;

(h) the Security Instrument shall have been executed and delivered by the Borrower to the title company for recording in the appropriate office for officially recording real estate documents in Harris County, Texas;

(i) receipt by the Fiscal Agent of a Transferee Representations Letter from the Initial Funding Lender substantially in the form attached hereto as Exhibit C; and

(j) all other Financing Documents to be delivered in connection with the Conversion shall have been executed by all parties thereto and provided to the Fiscal Agent, provided that the Fiscal Agent shall deem this condition met upon release of the opinion of Bond Counsel or counsel to the Governmental Lender referenced in Section 2.10(b) hereof.

Section 2.11 [Reserved].

Section 2.12 *Direct Loan Payments to Fiscal Agent; Servicer Disbursement of Fees.*

(a) Notwithstanding any provision in this Funding Loan Agreement to the contrary, during any period that a Servicer is engaged with respect to the Loans, the Borrower shall make

all payments in connection with the Project Loan to the Servicer, and the Servicer will (i) retain the allocable portion of the monthly Servicing Fee (if any) for its own account, (ii) remit to the Fiscal Agent to be paid by the Fiscal Agent to the holder of the Governmental Note all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together, with any other amounts due to the Funding Lender by no later than 1:00 pm Eastern Time the Business Day prior to the applicable Project Loan Payment Date, (iii) remit to the Fiscal Agent the Ordinary Fiscal Agent's Fees and Expenses, together with any other amounts due to the Fiscal Agent, and (iv) remit to the Fiscal Agent to be paid by the Fiscal Agent to the Governmental Lender the Governmental Lender Fees, together with any other amounts due to the Governmental Lender. During a period in which there is no Servicer, all notices to be sent to the Servicer shall be sent to the Funding Lender Representative (to the extent not already provided) and all amounts to be paid to the Servicer by the Borrower shall be paid directly to the Fiscal Agent. Any payment made in accordance with the provisions of this Section shall be accompanied by sufficient information to identify the source and proper application of such payment. The Servicer shall promptly notify the Fiscal Agent, the Funding Lender, the Funding Lender Representative and the Governmental Lender in writing of any failure of the Borrower to make any payment of principal of, Prepayment Premium, if any, and interest on the Project Loan when due or to pay any fees due hereunder or under the Project Loan Agreement, and the Fiscal Agent and the Governmental Lender shall not be deemed to have any notice of such failure unless it has received such notice in writing.

(b) If the Governmental Note is sold or transferred as provided in Section 2.08, the Funding Lender Representative shall notify the Fiscal Agent and the Borrower in writing of the name and address of the transferee.

ARTICLE III

PREPAYMENT OF THE FUNDING LOAN

Section 3.01 *Redemption of the Funding Loan Prior to Maturity.*

(a) **Optional Prepayment.** The Funding Loan, together with accrued interest thereon, is subject to optional prepayment in whole upon optional prepayment of the Project Loan in accordance with the notice and other prepayment provisions set forth in the Project Note.

(b) **Mandatory Prepayment.** The Funding Loan, together with accrued interest thereon, and together with Prepayment Premium (to the extent payable under the Project Note), is subject to mandatory prepayment on any Business Day, in whole or in part, at the earliest practicable date upon the occurrence of a mandatory prepayment of the Project Loan pursuant to Section 10(b) of the Project Note and receipt by the Fiscal Agent of a written direction by the Funding Lender Representative that the Funding Loan shall be subject to mandatory prepayment as a result thereof.

(c) Notwithstanding anything to the contrary in this Funding Loan Agreement, any prepayment of the Funding Loan in whole or in part shall constitute a redemption of the Governmental Note to the extent of the prepayment.

Section 3.02 *Notice of Prepayment.* Notice of the intended prepayment of the Funding Loan shall be given by the Fiscal Agent by first class mail, postage prepaid, or by overnight delivery service, to the Funding Lender and the Governmental Lender. All such prepayment notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional prepayment) nor more than sixty (60) days prior to the date fixed for prepayment. Notices of prepayment shall state (i) the prepayment date, (ii) the prepayment amount, and (iii) the place or places where amounts due upon such prepayment will be payable.

Notice of such prepayment shall also be sent by first class mail, postage prepaid, or by overnight delivery service, to the Servicer, not later than the time of mailing of notices required by the first paragraph above, and in any event no later than simultaneously with the mailing of notices required by the first paragraph above; provided, that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of the Funding Loan.

Notwithstanding the foregoing, in the event the Fiscal Agent is not collecting and remitting loan payments hereunder, the Fiscal Agent shall have no obligation to send prepayment notices pursuant to this Section 3.02.

ARTICLE IV

REVENUES AND FUNDS

Section 4.01 *Pledge of Revenues and Assets; Establishment of Funds.* The pledge and assignment of and the security interest granted in the Pledged Security pursuant to Section 2.02 hereof shall attach, be perfected and be valid and binding from and after the time of the closing of the Funding Loan and delivery of the Governmental Note by the Fiscal Agent or by any Person authorized by the Fiscal Agent to deliver the Governmental Note. The Pledged Security so pledged and then or thereafter received by the Fiscal Agent shall immediately be subject to the lien of such pledge and security interest without any physical delivery thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

The Fiscal Agent shall establish, maintain and hold in trust the following funds and accounts, each of which is hereby established and each of which shall be disbursed and applied only as herein authorized:

- (a) Revenue Fund;
- (b) Loan Payment Fund;
- (c) Loan Prepayment Fund;
- (d) Administration Fund; and
- (e) Rebate Fund.

The funds and accounts established pursuant to this Section 4.01 shall be maintained in the corporate trust department of the Fiscal Agent as segregated trust accounts, separate and identifiable from all other funds held by the Fiscal Agent. The Fiscal Agent may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Governmental Lender or the Fiscal Agent may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Funding Loan Agreement with respect to a deposit or use of money in the funds established hereunder, or result in commingling of funds not permitted hereunder.

Pursuant to the Tax Exemption Agreement, the Fiscal Agent shall cause to be kept and maintained adequate records pertaining to investment of all proceeds of the Governmental Note and the Funding Loan sufficient to permit the Borrower, on behalf of the Governmental Lender, to determine the amount of rebate, if any, required to be paid to the United States of America pursuant to Section 148 of the Code. The Fiscal Agent shall have no responsibility to make such determination of rebate liability.

Section 4.02 [Reserved].

Section 4.03 *Application of Revenues.*

(a) All Revenues received by the Fiscal Agent shall be deposited by the Fiscal Agent, promptly upon receipt thereof, to the Revenue Fund, except (i) as otherwise specifically provided in subsection (c) of this Section 4.03 with respect to certain deposits into the Loan Prepayment Fund; (ii) with respect to Investment Income to the extent required under the terms hereof to be retained in the funds and accounts to which they are attributable; and (iii) with respect to amounts required to be transferred between funds and accounts as provided in this Article IV.

(b) Subject to Section 2.12 hereof, on each Interest Payment Date or any other date on which payment of principal of or interest on the Funding Loan becomes due and payable, the Fiscal Agent, out of money in the Revenue Fund, shall credit the following amounts to the following funds, but in the order and within the limitations hereinafter indicated with respect thereto, as follows:

FIRST: to the Loan Payment Fund, an amount equal to the principal of and interest due on the Funding Loan on such date (including scheduled principal pursuant to the Funding Loan Amortization Schedule); and

SECOND: to the Loan Prepayment Fund, an amount equal to the principal and interest due on the Funding Loan on such date with respect to a mandatory prepayment of all or a portion of the Funding Loan pursuant to Section 3.01(b) hereof (other than any extraordinary mandatory prepayment as described in Section 4.03(c)(i) or (iii) below).

(c) Promptly upon receipt, the Fiscal Agent shall deposit directly to the Loan Prepayment Fund (i) Casualty Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Project Loan, such amount to be applied to

provide for the extraordinary mandatory prepayment of all or a portion of the Funding Loan pursuant to Section 3.01(b) hereof; and (ii) funds paid to the Fiscal Agent to be applied to the optional prepayment of all of the Funding Loan pursuant to Section 3.01(a) hereof.

(d) Subject to Section 2.12 hereof, should the amount in the Loan Payment Fund be insufficient to pay the amount due on the Funding Loan on any given Interest Payment Date, the Fiscal Agent shall credit to the Loan Payment Fund the amount of such deficiency by charging the following funds and accounts in the following order of priority: (1) the Revenue Fund; and (2) the Loan Prepayment Fund, except no such charge to the Loan Prepayment Fund shall be made from money to be used to effect a prepayment for which notice of prepayment has been provided for hereunder.

Section 4.04 *Application of Loan Payment Fund.* Subject to Section 2.12 hereof, the Fiscal Agent shall charge the Loan Payment Fund, on each Interest Payment Date, an amount equal to the unpaid interest and principal due on the Funding Loan on such Interest Payment Date as provided in Section 4.03(a) and (b), and shall cause the same to be applied to the payment of such interest and principal when due. Any money remaining in the Loan Payment Fund on any Interest Payment Date after application as provided in the preceding sentence may, to the extent there shall exist any deficiency in the Loan Prepayment Fund to prepay the Funding Loan if called for prepayment on such Interest Payment Date, be transferred to the Loan Prepayment Fund to be applied for such purpose.

Any Investment Income on amounts on deposit in the Loan Payment Fund shall be deposited by the Fiscal Agent upon receipt thereof in the Revenue Fund.

No amount shall be charged against the Loan Payment Fund except as expressly provided in this Article IV and in Section 6.05 hereof.

Section 4.05 *Application of Loan Prepayment Fund.* Any money credited to the Loan Prepayment Fund shall be applied as set forth in Sections 4.03(b) and 4.03(c) hereof; provided, however, that to the extent any money credited to the Loan Prepayment Fund is in excess of the amount necessary to effect the prepayments described in Sections 4.03(b) and 4.03(c) hereof it shall be applied to make up any deficiency in the Loan Payment Fund on any Interest Payment Date, to the extent money then available in accordance with Section 4.03(d) hereof in the Revenue Fund is insufficient to make up such deficiency; provided that no money to be used to effect a prepayment for which notice of prepayment has been provided shall be so transferred to the Loan Payment Fund.

On or before each Interest Payment Date, any Investment Income on amounts on deposit in the Loan Prepayment Fund shall be credited by the Fiscal Agent to the Revenue Fund.

No amount shall be charged against the Loan Prepayment Fund except as expressly provided in this Article IV and in Section 6.05 hereof.

Section 4.06 *Administration Fund.* Subject to Section 2.12 hereof, the Fiscal Agent shall deposit into the Administration Fund, promptly upon receipt thereof, all amounts received from the Servicer (or the Borrower if no Servicer exists for the Loans) designated for deposit into such fund. Amounts in the Administration Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent and used **FIRST**, to pay to the Fiscal Agent when due the

Ordinary Fiscal Agent's Fees and Expenses; **SECOND**, to pay to the Governmental Lender when due the Governmental Lender Fees; **THIRD**, to pay when due the reasonable fees and expenses of a Rebate Analyst in connection with the computations relating to arbitrage rebate required under this Funding Loan Agreement and the Project Loan Agreement, upon receipt of an invoice from the Rebate Analyst; **FOURTH**, to pay to the Fiscal Agent any Extraordinary Fiscal Agent's Fees and Expenses due and payable from time to time, as set forth in an invoice submitted to the Borrower and the Servicer; **FIFTH**, to pay to the Governmental Lender any extraordinary expenses it may incur in connection with the Loans or this Funding Loan Agreement from time to time, as set forth in an invoice submitted to the Fiscal Agent and the Servicer; **SIXTH**, to pay to the Funding Lender Representative any unpaid amounts due under the Continuing Covenant Agreement, as certified in writing by the Funding Lender Representative to the Fiscal Agent; **SEVENTH**, to make up any deficiency in the Loan Prepayment Fund on any prepayment date of the Funding Loan, to the extent money then available in accordance with Section 4.03(d) hereof in the Loan Prepayment Fund is insufficient to prepay the Funding Loan scheduled for prepayment on such prepayment date; and **EIGHTH**, to transfer any remaining balance after application as aforesaid to the Revenue Fund.

In the event that the amounts on deposit in the Administration Fund are not equal to the amounts payable from the Administration Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower and the Servicer of such deficiency and of the amount of such deficiency and request payment within two (2) Business Days to the Fiscal Agent of the amount of such deficiency. Upon payment by the Borrower or the Servicer of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

On or before each Interest Payment Date, any Investment Income on amounts on deposit in the Administration Fund not needed to pay the foregoing amounts shall be credited by the Fiscal Agent to the Revenue Fund.

No amount shall be charged against the Administration Fund except as expressly provided in this Article IV and Section 6.05 hereof.

Section 4.07 [Reserved].

Section 4.08 *Investment of Funds.* The money held by the Fiscal Agent shall constitute trust funds for the purposes hereof. Any money attributable to each of the funds and accounts hereunder shall be, except as otherwise expressly provided herein, invested by the Fiscal Agent, at the written direction of the Borrower (or, in the case of the Rebate Fund, as provided in the Tax Exemption Agreement), in Qualified Investments which mature or shall be subject to prepayment or withdrawal at par without penalty on or prior to the earlier of (i) six months from the date of investment and (ii) the date such money is needed; provided, that if the Fiscal Agent shall have entered into any investment agreement requiring investment of money in any fund or account hereunder in accordance with such investment agreement and if such investment agreement constitutes a Qualified Investment, such money shall be invested in accordance with such requirements. The Fiscal Agent has no duty or obligation to determine if a Qualified Investment is permitted by applicable law. In the absence of written direction from the Borrower, the Fiscal Agent shall invest amounts on deposit in the funds and accounts established under this Funding Loan Agreement in Government Obligations or in investments of the type

described in subparagraph (g) of the definition of Qualified Investments which shall have the same maturity and other restrictions as set forth above. Such investments may be made through the investment or securities department of the Fiscal Agent. The Fiscal Agent is authorized to implement its cash investment system to assure cash on hand is invested and to charge its normal cash investment management fees, which fees will be invoiced separately to the Borrower or may be deducted from any income earned on investments. The Fiscal Agent may purchase from or sell to itself or an affiliate, as principal or agent, securities herein authorized. The Fiscal Agent shall be entitled to assume, absent receipt by the Fiscal Agent of written notice to the contrary, that any investment which at the time of purchase is a Qualified Investment remains a Qualified Investment thereafter.

Qualified Investments representing an investment of money attributable to any fund or account shall be deemed at all times to be a part of said fund or account, and, except as otherwise may be provided expressly in other Sections hereof, the interest thereon and any profit arising on the sale thereof shall be credited to the Revenue Fund, and any loss resulting on the sale thereof shall be charged against the Revenue Fund. Such investments shall be sold at the best price obtainable (at least par) whenever it shall be necessary so to do in order to provide money to make any transfer, withdrawal, payment or disbursement from said fund or account. In the case of any required transfer of money to another such fund or account, such investments may be transferred to that fund or account in lieu of the required money if permitted hereby as an investment of money in that fund or account. The Fiscal Agent shall not be liable or responsible for any loss resulting from any investment made in accordance herewith.

The Governmental Lender acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the Governmental Lender the right to receive brokerage confirmations of the security transactions as they occur, to the extent permitted by law, the Governmental Lender specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Fiscal Agent hereunder, that no brokerage confirmations need be sent relating to the security transactions as they occur.

In computing for any purpose hereunder the amount in any fund or account on any date, obligations so purchased shall be valued at Fair Market Value.

Section 4.09 [Reserved].

Section 4.10 *Accounting Records.* The Fiscal Agent shall maintain accurate books and records for all funds and accounts established hereunder.

Section 4.11 *Amounts Remaining in Funds.* After full payment of the Funding Loan (or provision for payment thereof having been made in accordance with Section 9.01 hereof) and full payment of the fees, charges and expenses of the Governmental Lender, the Fiscal Agent, the Funding Lender and the Servicer and other amounts required to be paid hereunder or under any Project Loan Document, including, but not limited to, the Continuing Covenant Agreement (as certified in writing to the Fiscal Agent by the Governmental Lender with respect to amounts due to the Governmental Lender and by the Funding Lender Representative or the Servicer on its behalf with respect to amounts owed under the Continuing Covenant Agreement), any amounts remaining in any fund or account hereunder other than the Rebate Fund shall be paid to the Borrower.

Section 4.12 *Rebate Fund.* The Rebate Fund shall be maintained for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Funding Lender. The Rebate Fund is established for the purpose of complying with Section 148 of the Code and the Treasury Regulations promulgated pursuant thereto. The money deposited in the Rebate Fund, together with all investments thereof and Investment Income therefrom, shall be held in trust and applied solely as provided in this Section and in the Tax Exemption Agreement. The Rebate Fund is not a portion of the Pledged Security and is not subject to any lien under this Funding Loan Agreement. Notwithstanding the foregoing, the Fiscal Agent with respect to the Rebate Fund is afforded all the rights, protections and immunities otherwise accorded to it hereunder.

The Fiscal Agent may conclusively rely on the instructions of the Borrower with regard to any actions to be taken by it pursuant to this Section 4.12 and shall have no liability for any consequences of any failure of the Borrower to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided in this Section 4.12 and in the Tax Exemption Agreement, the Fiscal Agent shall have no duty or responsibility with respect to the Rebate Fund or the Borrower's duties and responsibilities with respect thereto except to follow the Borrower's specific written instructions related thereto.

Section 4.13 [Reserved].

Section 4.14 *Reports From the Fiscal Agent.* The Fiscal Agent shall, on or before the fifteenth (15th) day of each month, file with the Funding Lender Representative, the Servicer, the Governmental Lender (at its written request) and the Borrower a statement setting forth in respect of the preceding calendar month:

- (i) the amount withdrawn or transferred by it, and the amount deposited within or on account of each fund and account held by it under the provisions of this Funding Loan Agreement, including the amount of investment income on each fund and account;
- (ii) the amount on deposit with it at the end of such month to the credit of each fund and account;
- (iii) a brief description of all obligations held by it as an investment of money in each such fund and account; and
- (iv) any other information which the Funding Lender Representative or the Governmental Lender may reasonably request and to which the Fiscal Agent has access in the ordinary course of its operations.

Upon the written request of the Funding Lender, the Fiscal Agent, at the cost of the Borrower, shall provide a copy of such statement to Funding Lender. All records and files pertaining to the Pledged Security shall be open at all reasonable times to the inspection of the Governmental Lender and the Funding Lender Representative or the Servicer and their agents and representatives upon reasonable prior notice during normal business hours.

ARTICLE V

GENERAL COVENANTS AND REPRESENTATIONS

Section 5.01 *Payment of Principal and Interest.* The Governmental Lender covenants that it will promptly pay or cause to be paid, but only from the sources identified herein, sufficient amounts to provide for the payment of the principal of, premium, if any, and interest on the Funding Loan at the place, on the dates and in the manner provided herein and in the Governmental Note, according to the true intent and meaning thereof.

Section 5.02 *Performance of Covenants.* The Governmental Lender covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Funding Loan Agreement, in the Governmental Note and in all proceedings pertaining thereto.

Section 5.03 *Instruments of Further Assurance.* The Governmental Lender covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such supplements hereto, and such further acts, instruments and transfers as may be reasonably required for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Fiscal Agent all and singular its interest in the property herein described and the revenues, receipts and other amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Funding Loan. Any and all interest in property hereafter acquired which is of any kind or nature herein provided to be and become subject to the lien hereof shall and without any further conveyance, assignment or act on the part of the Governmental Lender or the Fiscal Agent, become and be subject to the lien of this Funding Loan Agreement as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Governmental Lender under this Section 5.03. The Governmental Lender covenants and agrees that, except as herein otherwise expressly provided, it has not and will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in the Pledged Security or the revenues or receipts therefrom.

The Governmental Lender will promptly notify the Fiscal Agent, and the Fiscal Agent will promptly notify the Funding Lender Representative and the Servicer, in writing of the occurrence of any of the following:

- (i) the submission of any claim or the initiation of any legal process, litigation or administrative or judicial investigation against the Governmental Lender with respect to the Loans of which the Governmental Lender has actual knowledge;
- (ii) any change in the location of the Governmental Lender's principal office or any change in the location of the Governmental Lender's books and records relating to the transactions contemplated hereby;
- (iii) the occurrence of any default or Event of Default of which the Governmental Lender has actual knowledge;

(iv) the commencement of any proceedings or any proceedings instituted by or against the Governmental Lender in any federal, state or local court or before any governmental body or agency, or before any arbitration board, relating to the Notes; or

(v) the commencement of any proceedings by or against the Governmental Lender under any applicable bankruptcy, reorganization, liquidation, rehabilitation, insolvency or other similar law now or hereafter in effect or of any proceeding in which a receiver, liquidator, conservator, trustee or similar official shall have been, or may be, appointed or requested for the Governmental Lender or any of its assets relating to the Loans.

Section 5.04 *Inspection of Project Books.* The Governmental Lender covenants and agrees that all books and documents in its possession relating to the Project shall, upon reasonable prior notice, during normal business hours, be open to inspection and copying by such accountants or other agents as the Fiscal Agent or the Funding Lender Representative may from time to time reasonably designate.

Section 5.05 *No Modification of Security; Additional Indebtedness.* The Governmental Lender covenants to and for the benefit of the Funding Lender that it will not, without the prior written consent of the Funding Lender Representative, take any of the following actions:

(i) alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement to which the Governmental Lender is a party, or which has been assigned to the Governmental Lender, and which relates to or affects the security for the Loans or the payment of any amount owed under the Financing Documents; or

(ii) create or suffer to be created any lien upon the Pledged Security or any part thereof other than the lien created hereby and by the Security Instrument.

Section 5.06 *Damage, Destruction or Condemnation.* Casualty Proceeds resulting from casualty to or condemnation of the Project shall be applied as provided in the Continuing Covenant Agreement and, to the extent consistent therewith, Section 3.01(b)(i) hereof.

Section 5.07 *Tax Covenants.*

(a) *Governmental Lender's Covenants.* The Governmental Lender represents, covenants and agrees that:

(i) the Governmental Lender will comply with all applicable requirements of the Code that are necessary to preserve the excludability of interest on the Governmental Note from gross income for federal income tax purposes, all as set forth in the Tax Exemption Agreement; and

(ii) the Governmental Lender will not take any action inconsistent with its expectations stated in the Tax Exemption Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

(b) *Fiscal Agent's Representations and Covenants.*

(i) The Fiscal Agent will invest funds held under this Funding Loan Agreement in accordance with the terms of this Funding Loan Agreement, the Tax Exemption Agreement and the written instructions of the Borrower.

(ii) The Fiscal Agent represents, covenants and agrees that it will not take any action inconsistent with its obligations expressly stated in the Tax Exemption Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

(c) *Change in Law.* To the extent that published rulings of the Internal Revenue Service or amendments to the Code or the Regulations modify the requirements that are the basis of the covenants of the Governmental Lender or the Fiscal Agent that are set forth in this Funding Loan Agreement or that are necessary for interest on the Governmental Note to be excludable from gross income for federal income tax purposes, the Fiscal Agent and the Governmental Lender will comply with such modifications upon the written direction of Bond Counsel specifying such modifications; provided, any such modifications shall be subject to the prior written consent of the Funding Lender Representative and shall be evidenced by an amendment entered into pursuant to Article VIII.

Section 5.08 *Representations and Warranties of the Governmental Lender.* The Governmental Lender hereby represents and warrants as follows:

(a) (a) The Governmental Lender is a public and official agency of the State.

(b) The Governmental Lender has all necessary power and authority to issue the Governmental Note and to execute and deliver this Funding Loan Agreement, the Project Loan Agreement and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.

(c) The revenues and assets pledged for the repayment of the Funding Loan are and will be free and clear of any pledge, lien or encumbrance prior to, or equal with, the pledge created by this Funding Loan Agreement, and all action on the part of the Governmental Lender to that end has been duly and validly taken.

(d) The Financing Documents to which the Governmental Lender is a party have been validly authorized, executed and delivered by the Governmental Lender, and assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding obligations of the Governmental Lender, enforceable against the Governmental Lender in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.

ARTICLE VI

DEFAULT PROVISIONS AND REMEDIES OF FISCAL AGENT AND FUNDING LENDER

Section 6.01 *Events of Default.* Each of the following shall be an event of default with respect to the Funding Loan (an "Event of Default") under this Funding Loan Agreement:

(a) failure to pay the principal of, premium, if any, or interest on the Funding Loan when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for prepayment thereof, by acceleration or otherwise; or

(b) failure to observe the covenants set forth in Section 5.05 hereof; or

(c) failure to observe or perform any of the covenants, agreements or conditions on the part of the Governmental Lender (other than those set forth in Sections 5.01 and 5.05 hereof) set forth in this Funding Loan Agreement or in the Governmental Note and the continuance thereof for a period of thirty (30) days (or such longer period, if any, as is specified herein for particular defaults) after written notice thereof to the Governmental Lender (with a courtesy copy to the Borrower) from the Fiscal Agent or the Funding Lender Representative specifying such default and requiring the same to be remedied; provided that if such default cannot be cured within such thirty (30) day period through the exercise of diligence and the Governmental Lender or the Borrower (to the extent curable by the Borrower) commences the required cure within such thirty (30) day period and continues the cure with diligence and the Governmental Lender reasonably anticipates that the default could be cured within sixty (60) days, the Governmental Lender and the Borrower (to the extent curable by the Borrower) shall have sixty (60) days following the Governmental Lender's receipt of such notice to effect the cure; or

(d) receipt by the Fiscal Agent of written notice from the Funding Lender Representative of the occurrence of an "Event of Default" under the Project Loan Agreement or the Continuing Covenant Agreement.

The Fiscal Agent will promptly notify the Governmental Lender, the Servicer and the Funding Lender Representative after a Responsible Officer obtains actual knowledge of the occurrence of an Event of Default or obtains actual knowledge of the occurrence of an event which would become an Event of Default with the passage of time or the giving of notice or both.

Section 6.02 *Acceleration; Other Remedies Upon Event of Default.*

Upon the occurrence of an Event of Default, the Fiscal Agent shall, upon the written request of the Funding Lender Representative, by notice in writing delivered to the Governmental Lender (with a courtesy copy to the Borrower), declare the principal of the Funding Loan and the interest accrued thereon immediately due and payable, and interest shall continue to accrue thereon until such amounts are paid.

At any time after the Funding Loan shall have been so declared due and payable, and before any judgment or decree for the payment of the money due shall have been obtained or entered, the Fiscal Agent may, but only if directed in writing by the Funding Lender Representative, by written notice to the Governmental Lender, the Borrower and the Fiscal Agent, rescind and annul such declaration and its consequences if the Governmental Lender or the Borrower shall pay to or deposit with the Fiscal Agent a sum sufficient to pay all principal on the Funding Loan then due (other than solely by reason of such declaration) and all unpaid installments of interest (if any) on the Funding Loan then due, with interest at the rate borne by the Funding Loan on such overdue principal and (to the extent legally enforceable) on such overdue installments of interest, and the reasonable fees and expenses of the Fiscal Agent

(including its counsel) shall have been made good or cured or adequate provision shall have been made therefor, and all outstanding amounts then due and unpaid under the Financing Documents (collectively, the “**Cure Amount**”) shall have been paid in full, and all other defaults hereunder shall have been made good or cured or waived in writing by the Funding Lender Representative; but no such rescission and annulment shall extend to or shall affect any subsequent default, nor shall it impair or exhaust any right or power consequent thereon.

Upon the occurrence and during the continuance of an Event of Default, the Fiscal Agent in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Funding Lender, may also proceed to protect and enforce any rights of the Fiscal Agent and, to the full extent that the Funding Lender itself might do, the rights of the Funding Lender under the laws of the State or under this Funding Loan Agreement by such of the following remedies as the Fiscal Agent shall deem most effectual to protect and enforce such rights; provided that, the Fiscal Agent may undertake any such remedy only upon the receipt of the prior written consent of the Funding Lender Representative (which consent may be given in the sole discretion of the Funding Lender Representative):

(i) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Funding Loan and to require the Governmental Lender to carry out any covenants or agreements with or for the benefit of the Funding Lender and to perform its duties under the Act, this Funding Loan Agreement, the Project Loan Agreement or the Tax Regulatory Agreement (as applicable) to the extent permitted under the applicable provisions thereof;

(ii) by pursuing any available remedies under the Project Loan Agreement, the Tax Regulatory Agreement or any other Financing Document;

(iii) by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder; and

(iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Funding Lender and execute any other papers and documents and do and perform any and all such acts and things as may be necessary or advisable in the opinion of the Fiscal Agent in order to have the claim of the Funding Lender against the Governmental Lender allowed in any bankruptcy or other proceeding.

No remedy by the terms of this Funding Loan Agreement conferred upon or reserved to the Fiscal Agent or to the Funding Lender is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Fiscal Agent or the Funding Lender hereunder or under the Project Loan Agreement, the Tax Regulatory Agreement, the Continuing Covenant Agreement or any other Financing Document, as applicable, 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 Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Fiscal Agent or the Funding Lender, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereto.

Notwithstanding anything to the contrary contained herein, the Fiscal Agent and the Governmental Lender agree that any cure made or tendered by the Investor Limited Partner or the Special Limited Partner 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.

Section 6.03 *Funding Lender Representative Control of Proceedings.* If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Funding Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Funding Loan Agreement. In addition, the Funding Lender Representative shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Financing Documents with or without the involvement of the Fiscal Agent or the Governmental Lender (and in connection therewith the Fiscal Agent shall transfer or assign to the Funding Lender Representative all of its interest in the Pledged Security at the request of the Funding Lender Representative). In no event shall the exercise of any of the foregoing rights result in an acceleration of the Funding Loan without the express direction of the Funding Lender Representative.

Section 6.04 *Waiver by Governmental Lender.* Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Governmental Lender nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or prepayment laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and prepayment to which it may be entitled under the laws of the State and the United States of America.

Section 6.05 *Application of Money After Default.* All money collected by the Fiscal Agent at any time pursuant to this Article shall, except to the extent, if any, otherwise directed by a court of competent jurisdiction, be credited by the Fiscal Agent to the Revenue Fund. Such money so credited to the Revenue Fund and all other money from time to time credited to the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article IV hereof and this Section 6.05.

In the event that at any time the money credited to the Revenue Fund, the Loan Payment Fund and the Loan Prepayment Fund available for the payment of interest or principal then due with respect to the Governmental Note shall be insufficient for such payment, such money shall be applied as follows and in the following order of priority:

(a) For payment of all amounts due to the Fiscal Agent incurred in performance of its duties under this Funding Loan Agreement, including, without limitation, the payment of all reasonable fees and expenses of the Fiscal Agent incurred in exercising any remedies under this Funding Loan Agreement.

(b) To the extent directed in writing by the Funding Lender Representative, to the reimbursement of any unreimbursed advances made by or on behalf of the Funding Lender pursuant to the Continuing Covenant Agreement or the Security Instrument.

(c) Unless the full principal amount of the Funding Loan shall have become or have been declared due and payable:

FIRST: to the Funding Lender, all installments of interest then due on the Funding Loan in the order of the maturity of such installments; and

SECOND: to the Funding Lender, unpaid principal of and premium, if any, on the Funding Loan which shall have become due, whether at maturity or by call for prepayment, in the order in which they became due and payable.

(d) If the full principal amount of the Governmental Note shall have become or have been declared due and payable, to the Funding Lender for the payment of the principal of, premium, if any, and interest then due and unpaid on the Funding Loan 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.

Section 6.06 Remedies Not Exclusive. No right or remedy conferred upon or reserved to the Fiscal Agent, the Funding Lender or the Funding Lender Representative by the terms of this Funding Loan Agreement is intended to be exclusive of any other right or remedy, but each and every such remedy shall be cumulative and shall be in addition to every other right or remedy given to the Fiscal Agent, the Funding Lender or the Funding Lender Representative under this Funding Loan Agreement or existing at law or in equity or by statute (including the Act).

Section 6.07 Fiscal Agent May Enforce Rights Without Governmental Note. All rights of action and claims, including the right to file proof of claims, under this Funding Loan Agreement may be prosecuted and enforced by the Fiscal Agent at the written direction of the Funding Lender Representative without the possession of the Governmental Note or the production thereof in any trial or other proceedings relating thereto. Subject to the rights of the Funding Lender Representative to direct proceedings hereunder, any such suit or proceeding instituted by the Fiscal Agent shall be brought in its name as Fiscal Agent without the necessity of joining as plaintiffs or defendants any Funding Lender, and any recovery or judgment shall be for the benefit as provided herein of the Funding Lender.

Section 6.08 [Reserved].

Section 6.09 Termination of Proceedings. In case the Fiscal Agent (at the direction of the Funding Lender Representative) or the Funding Lender Representative shall have proceeded to enforce any right under this Funding Loan Agreement by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower and the Funding Lender shall be restored to their former positions and rights hereunder with respect to the Pledged Security herein conveyed, and all rights, remedies and powers of the Fiscal Agent and the Funding Lender Representative shall continue as if no such proceedings had been taken.

Section 6.10 *Waivers of Events of Default.* The Fiscal Agent shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Funding Loan upon the written direction of the Funding Lender Representative. In case of any such waiver or rescission, or in case any proceeding taken by the Fiscal Agent on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Governmental Lender, the Fiscal Agent, the Borrower, the Servicer, the Funding Lender Representative and the Funding Lender shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

Section 6.11 *Interest on Unpaid Amounts and Default Rate for Nonpayment.* In the event that principal of or interest payable on the Funding Loan is not paid when due, there shall be payable on the amount not timely paid, on each Interest Payment Date, interest at the Default Rate, to the extent permitted by law. Interest on the Funding Loan shall accrue at the Default Rate until the unpaid amount, together with interest thereon, shall have been paid in full.

Section 6.12 *Assignment of Project Loan; Remedies Under the Project Loan.*

(a) The Funding Lender Representative shall have the right, with respect to the Project Loan, in its sole and absolute discretion, without directing the Fiscal Agent to effect an acceleration of the Funding Loan, to instruct the Fiscal Agent in writing to assign the Project Note, the Security Instrument and the other Project Loan Documents to the Funding Lender Representative, in which event the Fiscal Agent shall (a) endorse and deliver the Project Note to the Funding Lender Representative and assign (in recordable form) the Security Instrument, (b) execute and deliver to the Funding Lender Representative all documents prepared by the Funding Lender Representative necessary to assign (in recordable form) all other Project Loan Documents to the Funding Lender Representative and (c) execute all such documents prepared by the Funding Lender Representative as are necessary to legally and validly effectuate the assignments provided for in the preceding clauses (a) and (b). The Fiscal Agent's assignments to the Funding Lender Representative pursuant to this Section 6.12 shall be without recourse or warranty except that the Fiscal Agent shall represent and warrant in connection therewith (A) that the Fiscal Agent has not previously endorsed or assigned any such documents or instruments and (B) that the Fiscal Agent has the corporate authority to endorse and assign such documents and instruments and such endorsements and assignments have been duly authorized.

(b) The Funding Lender Representative shall have the right, in its own name or on behalf of the Governmental Lender or the Fiscal Agent, to declare any default and exercise any remedies under the Project Loan Agreement, the Project Note or the Security Instrument, whether or not the Governmental Note has been accelerated or declared due and payable by reason of an Event of Default or the occurrence of a mandatory prepayment.

Section 6.13 *Substitution.* Upon receipt of written notice from the Funding Lender Representative and the written approval of the Governmental Lender as and to the extent permitted under the Tax Regulatory Agreement, the Fiscal Agent shall exchange the Project Note and the Security Instrument for a new project note and security instrument, evidencing and securing a new loan (the "New Project Loan"), which may be executed by a person other than the Borrower (the "New Borrower"), provided that if the Fiscal Agent, the Funding Lender or a nominee of the Fiscal Agent or the Funding Lender has acquired the Project through foreclosure,

by accepting a deed in lieu of foreclosure or by comparable conversion of the Project, no approval from the Governmental Lender of such exchange shall be required. Prior to accepting a New Project Loan, the Fiscal Agent shall have received (i) written evidence that the New Borrower shall have executed and recorded a document substantially in the form of the Tax Regulatory Agreement (or executed and recorded an assumption of all of the Borrower's obligations under the Tax Regulatory Agreement) and that the Project Loan Documents have been modified as necessary to be applicable to the New Project Loan, and (ii) a Favorable Opinion of Bond Counsel, with respect to such exchange and modification.

ARTICLE VII

CONCERNING THE FISCAL AGENT

Section 7.01 *Standard of Care.* The Fiscal Agent, prior to an Event of Default as defined in Section 6.01 hereof and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically and expressly set forth in this Funding Loan Agreement and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent. The Fiscal Agent, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this Funding Loan Agreement and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its breach of trust, own negligence or willful misconduct, except that:

(a) prior to an Event of Default hereunder, and after the curing or waiver of all such Events of Default which may have occurred:

(i) the duties and obligations of the Fiscal Agent shall be determined solely by the express provisions of this Funding Loan Agreement, and the Fiscal Agent shall not be liable except with regard to the performance of such duties and obligations as are specifically set forth in this Funding Loan Agreement; and

(ii) in the absence of bad faith on the part of the Fiscal Agent, the Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Fiscal Agent by the Person or Persons authorized to furnish the same;

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Fiscal Agent shall not be liable for any error of judgment made in good faith by an officer, agent or employee of the Fiscal Agent except for willful misconduct or negligence by the officer, agent or employee of the Fiscal Agent as the case may be;

(ii) the Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Funding Lender Representative relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any trust or power

conferred upon the Fiscal Agent under this Funding Loan Agreement, and the Fiscal Agent shall be entitled to request and receive written direction or instruction from the Funding Lender and shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Fiscal Agent in accordance with the written direction of the Funding Lender; and

(iii) In no event shall the Fiscal Agent be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Fiscal Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

In no event shall the Fiscal Agent be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Fiscal Agent has been advised of the likelihood of such loss or damage and regardless of the form of action. The Fiscal Agent's rights, duties, powers and obligations hereunder are governed entirely by the terms and provisions of this Funding Loan Agreement, the Project Loan Agreement, the Tax Exemption Agreement and the Tax Regulatory Agreement.

Section 7.02 *Reliance Upon Documents.* Except as otherwise provided in Section 7.01 hereof:

(a) the Fiscal Agent may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, or other paper or document believed to be genuine and to have been signed or presented by the proper party or parties, including any Electronic Notice as permitted hereunder or under the Project Loan Agreement, not only as to due execution, validity and effectiveness, but also as to the trust and accuracy of any information contained therein;

(b) any notice, request, direction, election, order or demand of the Governmental Lender mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Governmental Lender by an Authorized Officer of the Governmental Lender (unless other evidence in respect thereof be herein specifically prescribed), and any resolution of the Governmental Lender may be evidenced to the Fiscal Agent by a copy of such resolution duly certified by an Authorized Officer of the Governmental Lender;

(c) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Borrower by any Authorized Officer of the Borrower (unless other evidence in respect thereof be herein specifically prescribed), and any resolution or certification of the Borrower may be evidenced to the Fiscal Agent by a copy of such resolution duly certified by a secretary or other authorized representative of the Borrower;

(d) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Servicer mentioned herein shall be sufficiently evidenced by an instrument signed

in the name of the Servicer by an Authorized Officer of the Servicer (unless other evidence in respect thereof be herein specifically prescribed);

(e) any notice, request, direction, election, order or demand of the Funding Lender Representative mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Funding Lender Representative by any Authorized Officer of the Funding Lender Representative (unless other evidence in respect thereof be herein specifically prescribed);

(f) the permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty and, with respect to such permissive rights, the Fiscal Agent shall not be answerable for other than its negligence or willful misconduct;

(g) In the event that any assets held by Fiscal Agent hereunder shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting such assets, the Fiscal Agent is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction; if the Fiscal Agent obeys or complies with any such writ, order or decree it shall not be liable to any of the parties hereto or to any other Person, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated;

(h) in the administration of the trusts of this Funding Loan Agreement, the Fiscal Agent may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and the Fiscal Agent may consult with counsel (who may be counsel for the Governmental Lender, the Servicer or the Funding Lender Representative) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

(i) whenever in the administration of the trusts of this Funding Loan Agreement, the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or permitting any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), may in the absence of negligence or willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of an officer or authorized agent of the Governmental Lender or the Borrower and such certificate shall in the absence of bad faith on the part of the Fiscal Agent be full warrant to the Fiscal Agent for any action taken or permitted by it under the provisions of this Funding Loan Agreement, but in its discretion the Fiscal Agent may in lieu thereof accept other evidence of such matter or may require such further or additional evidence as it may deem reasonable;

(j) the recitals herein and in the Governmental Note (except the Fiscal Agent's certificate of authentication thereon) shall not be considered as made by or imposing any obligation or liability upon the Fiscal Agent. The Fiscal Agent makes no representations as to the value or condition of the Pledged Security or any part thereof, or as to the title of the Governmental Lender or the Borrower to the Pledged Security, or as to the security of this

Funding Loan Agreement, or of the Governmental Note issued hereunder, and the Fiscal Agent shall incur no liability or responsibility in respect of any of such matters;

(k) the Fiscal Agent shall not be personally liable for debts contracted or liability for damages incurred in the management or operation of the Pledged Security except for its own willful misconduct or negligence as determined in a final judgment by a court of competent jurisdiction; and every provision of this Funding Loan Agreement relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section 7.02(k);

(l) the Fiscal Agent shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements (except to the extent they obligate the Fiscal Agent) herein or in any contracts or securities assigned or conveyed to or pledged with the Fiscal Agent hereunder, except Events of Default that are evident under Section 6.01(a) hereof. The Fiscal Agent shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) hereof to the extent they are collecting loan payments hereunder) unless a Responsible Officer shall receive from the Governmental Lender or the Funding Lender Representative written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Fiscal Agent may conclusively assume that there is no such default. Every provision contained in this Funding Loan Agreement or related instruments or in any such contract or security wherein the duty of the Fiscal Agent depends on the occurrence and continuance of such default shall be subject to the provisions of this Section 7.02(l);

(m) the Fiscal Agent shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished pursuant to any provisions hereof, except to the extent such statement or reports are furnished by or under the direction of the Fiscal Agent, and shall be under no other duty in respect of the same except to retain the same in its files and permit the inspection of the same at reasonable times by the Funding Lender;

(n) the Fiscal Agent shall be under no obligation to exercise those rights or powers vested in it by this Funding Loan Agreement, other than such rights and powers which it shall be obliged to exercise in the ordinary course of acting as Fiscal Agent under the terms and provisions of this Funding Loan Agreement and as required by law, at the request or direction of the Funding Lender Representative pursuant to Section 6.03 hereof, unless the Funding Lender Representative shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction;

(o) the Fiscal Agent may, at the expense of Borrower, request, rely on and act in accordance with officer's certificates and/or opinions of counsel, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance with such officer's certificates and opinions of counsel;

(p) none of the provisions contained in this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers;

(q) the Fiscal Agent is authorized and directed to execute in its capacity as Fiscal Agent, the Project Loan Agreement and the Tax Regulatory Agreement and shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the delivery of the Governmental Note;

(r) the Fiscal Agent or any of its affiliates may act as advisor or sponsor with respect to any Qualified Investments;

(s) the Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Funding Loan Agreement, provided that the Borrower has first furnished the Fiscal Agent with indemnity satisfactory to the Fiscal Agent.

(t) any resolution, certification, notice, request, direction, election, order or demand delivered to the Fiscal Agent pursuant to this Section 7.02 shall remain in effect until the Fiscal Agent receives written notice to the contrary from the party that delivered such instrument accompanied by revised information for such party;

(u) the Fiscal Agent shall have no responsibility for the value of any collateral or with respect to the perfection or priority of any security interest in any collateral except as otherwise provided in Section 7.17 hereof;

(v) the Fiscal Agent shall have no liability for any action taken, or errors in judgment made, in good faith by it or any of its officers, employees or agents, unless it shall have been negligent in ascertaining the pertinent facts;

(w) the Fiscal Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than agreements to which it is a party, whether or not an original or a copy of such agreement has been provided to the Fiscal Agent; and

(x) the Fiscal Agent shall have no duty to know or inquire as to the performance or nonperformance of any provision of any agreement, instrument, or document to which it is not a party.

Section 7.03 *Use of Proceeds.* The Fiscal Agent shall not be accountable for the use or application of the Governmental Note authenticated or delivered hereunder or of the proceeds of the Funding Loan except as provided herein.

Section 7.04 [Reserved].

Section 7.05 *Trust Imposed.* All money received by the Fiscal Agent shall, until used or applied as herein provided, be held in trust for the purposes for which it was received.

Section 7.06 *Compensation of Fiscal Agent.* The Fiscal Agent shall be entitled to its Ordinary Fiscal Agent's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise and performance of any of the powers and duties of the Fiscal Agent hereunder or under any Financing Document to the extent money is available therefor, in accordance with Section 4.06 hereof, exclusive of Extraordinary

Services. The Fiscal Agent shall be entitled to Extraordinary Fiscal Agent's Fees and Expenses in connection with any Extraordinary Services performed consistent with the duties hereunder or under any of the Financing Documents; provided the Fiscal Agent shall not incur any Extraordinary Fiscal Agent's Fees and Expenses without the consent of the Funding Lender Representative; and provided, further, that the Fiscal Agent shall have no responsibility to take any action or omit to take any action with regard to an Extraordinary Service until such consent is provided. If any property, other than cash, shall at any time be held by the Fiscal Agent subject to this Funding Loan Agreement, or any supplement hereto, as security for the Funding Loan, the Fiscal Agent, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Funding Loan Agreement as such security for the Funding Loan, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Fiscal Agent for its services and reimbursement to the Fiscal Agent for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in the Project Loan Agreement and in Sections 4.06, 4.11 and 6.05 hereof. The Governmental Lender shall have no liability for Fiscal Agent's fees, costs or expenses. Subject to the provisions of Section 7.09 hereof, the Fiscal Agent agrees that it shall continue to perform its duties hereunder and under the Financing Documents even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Ordinary Fiscal Agent's Fees and Expenses or, if applicable, the Extraordinary Fiscal Agent's Fees and Expenses as required by the Project Loan Agreement.

THE BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE FISCAL AGENT AND ITS OFFICERS, DIRECTORS, OFFICIALS, EMPLOYEES, AGENTS, RECEIVERS, ATTORNEYS, ACCOUNTANTS, ADVISORS, CONSULTANTS AND SERVANTS, PAST, PRESENT OR FUTURE, FROM AND AGAINST (A) ANY AND ALL CLAIMS BY OR ON BEHALF OF ANY PERSON ARISING FROM ANY CAUSE WHATSOEVER IN CONNECTION WITH THIS FUNDING LOAN AGREEMENT OR TRANSACTIONS CONTEMPLATED HEREBY, THE PROJECT, OR THE DELIVERY OF THE GOVERNMENTAL NOTE OR THE LOANS; (B) ANY AND ALL CLAIMS ARISING FROM ANY ACT OR OMISSION OF THE BORROWER OR ANY OF ITS AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES OR LICENSEES IN CONNECTION WITH THE PROJECT, OR THE DELIVERY OF THE GOVERNMENTAL NOTE OR THE LOANS; AND (C) ALL REASONABLE COSTS, COUNSEL FEES, EXPENSES OR LIABILITIES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR PROCEEDING BROUGHT THEREON OR FOR ANY ACTION TAKEN TO ENFORCE A FINANCING DOCUMENT OR THIS INDEMNITY PROVISION; EXCEPT THAT THE BORROWER SHALL NOT BE REQUIRED TO INDEMNIFY ANY PERSON FOR DAMAGES DIRECTLY CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR UNLAWFUL ACTS (AS THE SAME HAS BEEN FINALLY ADJUDICATED BY A COURT OF COMPETENT JURISDICTION) OF SUCH PERSON OR WHICH ARISE FROM EVENTS OCCURRING AFTER THE BORROWER CEASES TO OWN THE PROJECT. IN THE EVENT THAT ANY ACTION OR PROCEEDING IS BROUGHT OR CLAIM MADE AGAINST THE FISCAL AGENT, OR ANY OF ITS OFFICERS, DIRECTORS, OFFICIALS, EMPLOYEES, OR AGENTS, WITH RESPECT TO WHICH INDEMNITY MAY BE SOUGHT HEREUNDER, THE BORROWER, UPON WRITTEN NOTICE THEREOF FROM THE INDEMNIFIED PARTY, SHALL ASSUME THE INVESTIGATION AND DEFENSE THEREOF, INCLUDING THE EMPLOYMENT OF COUNSEL AND THE PAYMENT OF ALL

EXPENSES. THE INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO APPROVE A SETTLEMENT TO WHICH IT IS A PARTY AND TO EMPLOY SEPARATE COUNSEL IN ANY SUCH ACTION OR PROCEEDINGS AND TO PARTICIPATE IN THE INVESTIGATION AND DEFENSE THEREOF, AND THE BORROWER SHALL PAY THE REASONABLE FEES AND EXPENSES OF SUCH SEPARATE COUNSEL. THE PROVISIONS OF THIS SECTION 7.06 SHALL SURVIVE THE TERMINATION OF THIS FUNDING LOAN AGREEMENT AND THE RESIGNATION OR REMOVAL OF THE FISCAL AGENT.

Section 7.07 *Qualifications of Fiscal Agent.* There shall at all times be a Fiscal Agent hereunder which shall be a Person organized and doing business under the laws of the United States of America or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Fiscal Agent shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly-owned subsidiary of a Person that has such combined capital and surplus), and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 7.11 hereof. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this Section 7.07, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Fiscal Agent shall cease to be eligible in accordance with the provisions of this Section 7.07 and another Person is eligible, the Fiscal Agent shall resign immediately in the manner and with the effect specified in Section 7.09 hereof.

Section 7.08 *Merger of Fiscal Agent.* Any association or corporation into which the Fiscal Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any association or corporation resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, ipso facto, be and become successor Fiscal Agent hereunder and vested with all the title to the whole property or Pledged Security and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding, and shall also be and become successor Fiscal Agent in respect of the legal interest of the Fiscal Agent in the Loans.

Section 7.09 *Resignation by the Fiscal Agent.* The Fiscal Agent may at any time resign from the trusts hereby created by giving written notice to the Governmental Lender, the Borrower, the Servicer and the Funding Lender Representative. Such notice to the Governmental Lender, the Borrower, the Servicer and the Funding Lender Representative may be served personally or sent by certified mail or overnight delivery service. The resignation of the Fiscal Agent shall not be effective until a successor Fiscal Agent has been appointed as provided herein and such successor Fiscal Agent shall have agreed in writing to be bound by the duties and obligations of the Fiscal Agent hereunder.

Section 7.10 *Removal of the Fiscal Agent.* The Fiscal Agent may be removed at any time, either with or without cause, with the consent of the Funding Lender Representative (which consent of the Funding Lender Representative shall not be unreasonably withheld), by a written

instrument signed by the Governmental Lender and delivered to the Fiscal Agent, the Servicer and the Borrower. The Fiscal Agent may also be removed by a written instrument signed by the Funding Lender Representative and delivered to the Fiscal Agent, the Servicer, the Governmental Lender and the Borrower. In each case written notice of such removal shall be given to the Servicer, the Borrower and to the Funding Lender. Any such removal shall take effect on the day specified in such written instrument(s), but the Fiscal Agent shall not be discharged from the trusts hereby created until a successor Fiscal Agent has been appointed and has accepted such appointment and has agreed in writing to be bound by the duties and obligations of the Fiscal Agent hereunder.

Section 7.11 *Appointment of Successor Fiscal Agent.*

(a) In case at any time the Fiscal Agent shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Fiscal Agent or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Fiscal Agent or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Fiscal Agent hereunder, and the Borrower, with the written consent of the Funding Lender Representative and the Governmental Lender, shall promptly appoint a successor Fiscal Agent. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Borrower. If the Borrower fails to appoint a successor Fiscal Agent within ten (10) days following the resignation or removal of the Fiscal Agent pursuant to Section 7.09 or Section 7.10 hereunder, as applicable, the Funding Lender Representative may appoint a successor Fiscal Agent.

(b) If, in a proper case, no appointment of a successor Fiscal Agent shall be made pursuant to subsection (a) of this Section 7.11 within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 7.09 hereof or of removal of the Fiscal Agent pursuant to Section 7.10 hereof, the retiring Fiscal Agent may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Fiscal Agent.

Section 7.12 *Concerning Any Successor Fiscal Agent.* Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Governmental Lender a written instrument accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Pledged Security and the rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Governmental Lender, the Borrower or the Funding Lender Representative, or of its successor, and upon payment of all amounts due such predecessor, including but not limited to fees and expenses of counsel, execute and deliver such instruments as may be appropriate to transfer to such successor Fiscal Agent all the Pledged Security and the rights, powers and trusts of such predecessor hereunder; and every predecessor Fiscal Agent shall deliver all securities and money held by it as Fiscal Agent hereunder to its successor. Should any instrument in writing from the Governmental Lender be required by a successor Fiscal Agent for more fully and certainly vesting in such successor the Pledged Security and all rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Governmental Lender. The resignation of any Fiscal Agent

and the instrument or instruments removing any Fiscal Agent and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Fiscal Agent in each recording office where this Funding Loan Agreement shall have been filed and/or recorded. Each successor Fiscal Agent shall mail notice by first class mail, postage prepaid, at least once within 30 days of such appointment, to the Funding Lender.

Section 7.13 *Successor Fiscal Agent.* In the event of a change in the office of Fiscal Agent, the predecessor Fiscal Agent which shall have resigned or shall have been removed shall cease to be Fiscal Agent with respect to the Governmental Note, and the successor Fiscal Agent shall become such Fiscal Agent.

Section 7.14 *Appointment of Co-Fiscal Agent or Separate Fiscal Agent.* It is the intent of the Governmental Lender and the Fiscal Agent that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations or other Persons to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under or connected with this Funding Loan Agreement, the Project Loan Agreement or any of the other Financing Documents, and, in particular, in case of the enforcement of any remedies on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Fiscal Agent or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent, with the consent of the Governmental Lender and the Funding Lender Representative, appoint an additional individual or institution as a co-fiscal agent or separate fiscal agent.

In the event that the Fiscal Agent appoints an additional individual or institution as a co-fiscal agent or separate fiscal agent, in the event of the incapacity or lack of authority of the Fiscal Agent, by reason of any present or future law of any jurisdiction, to exercise any of the rights, powers, trusts and remedies granted to the Fiscal Agent herein or to hold title to the Pledged Security or to take any other action that may be necessary or desirable in connection therewith, each and every remedy, power, right, obligation, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement to be imposed upon, exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be imposed upon, exercisable by and vest in such separate fiscal agent or co-fiscal agent, but only to the extent necessary to enable such co-fiscal agent or separate fiscal agent to exercise such powers, rights, trusts and remedies, and every covenant and obligation necessary to the exercise thereof by such co-fiscal agent or separate fiscal agent shall run to and be enforceable by either of them, subject to the remaining provisions of this Section 7.14. Such co-fiscal agent or separate fiscal agent shall deliver an instrument in writing acknowledging and accepting its appointment hereunder to the Governmental Lender and the Fiscal Agent.

Should any instrument in writing from the Governmental Lender be required by the co-fiscal agent or separate fiscal agent so appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Governmental Lender, the Fiscal Agent and the Borrower. If the Governmental Lender shall fail to deliver the same within thirty (30) days of such request, the

Fiscal Agent is hereby appointed attorney-in-fact for the Governmental Lender to execute, acknowledge and deliver such instruments in the Governmental Lender's name and stead. In case any co-fiscal agent or separate fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such co-fiscal agent or separate fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a new Fiscal Agent or successor to such co-fiscal agent or separate fiscal agent.

Every co-fiscal agent or separate fiscal agent shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) the Governmental Note shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations by this Funding Loan Agreement conferred upon the Fiscal Agent in respect of the custody, control or management of money, papers, securities and other personal property shall be exercised solely by the Fiscal Agent;

(b) all rights, powers, trusts, duties and obligations conferred or imposed upon the Fiscal Agent shall be conferred or imposed upon or exercised or performed by the Fiscal Agent, or by the Fiscal Agent and such co-fiscal agent, or separate fiscal agent jointly, as shall be provided in the instrument appointing such co-fiscal agent or separate fiscal agent, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed the Fiscal Agent shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-fiscal agent or separate fiscal agent;

(c) any request in writing by the Fiscal Agent to any co-fiscal agent or separate fiscal agent to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking or the refraining from taking of such action by such co-fiscal agent or separate fiscal agent;

(d) any co-fiscal agent or separate fiscal agent to the extent permitted by law shall delegate to the Fiscal Agent the exercise of any right, power, trust, duty or obligation, discretionary or otherwise;

(e) the Fiscal Agent at any time by an instrument in writing with the concurrence of the Governmental Lender evidenced by a certified resolution may accept the resignation of or remove any co-fiscal agent or separate fiscal agent appointed under this Section 7.14 and in case an Event of Default shall have occurred and be continuing, the Fiscal Agent shall have power to accept the resignation of or remove any such co-fiscal agent or separate fiscal agent without the concurrence of the Governmental Lender, and upon the request of the Fiscal Agent, the Governmental Lender shall join with the Fiscal Agent in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-fiscal agent or separate fiscal agent so resigned or removed may be appointed in the manner provided in this Section 7.14;

(f) no Fiscal Agent or co-fiscal agent hereunder shall be personally liable by reason of any act or omission of any other Fiscal Agent hereunder;

(g) any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing executed by the Funding Lender Representative and delivered to the

Fiscal Agent shall be deemed to have been delivered to each such co-fiscal agent or separate fiscal agent; and

(h) any money, papers, securities or other items of personal property received by any such co-fiscal agent or separate fiscal agent hereunder shall forthwith, so far as may be permitted by law, be turned over to the Fiscal Agent.

The total compensation of the Fiscal Agent and any co fiscal agent or separate fiscal agent shall be as, and may not exceed the amount, provided in Section 7.06 hereof.

Section 7.15 *Notice of Certain Events.* The Fiscal Agent shall give written notice to the Governmental Lender, the Servicer and the Funding Lender Representative of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Determination of Taxability of which a Responsible Officer has actual knowledge.

Section 7.16 [Reserved].

Section 7.17 *Filing of Financing Statements.* The Fiscal Agent shall have no duty to give, execute, deliver, file, record, authorize or obtain any financing statements. The Fiscal Agent shall, at the expense of the Borrower, file or record or cause to be filed or recorded all UCC continuation statements (for financing statements provided to it) for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the original closing date or the Conversion Date in connection with the security for the Funding Loan pursuant to the authority of the UCC, copies of which filed financing statements have been delivered to the Fiscal Agent. Upon the filing of any such continuation statement the Fiscal Agent shall immediately notify the Governmental Lender, the Borrower, the Funding Lender Representative and the Servicer that the same has been done. If written direction is given by the Servicer or the Funding Lender Representative, the Fiscal Agent shall file all continuation statements in accordance with such directions. In addition, the Fiscal Agent shall have no responsibility or liability (i) in connection with the acts or omissions of any party in respect of the foregoing or (ii) for or with respect to the legality, validity and enforceability of any security interest or the perfection and priority of such security interest.

Section 7.18 *USA Patriot Act Requirements of the Fiscal Agent.* To help the government of the United States of America fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each Person who opens an account. For a non-individual Person such as a business entity, a charity, a trust, or other legal entity, the Fiscal Agent may request documentation to verify such Person's formation and existence as a legal entity. The Fiscal Agent may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent such Person or other relevant documentation.

Section 7.19 *Dispute Resolution.* If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Funding Loan Agreement, or the Fiscal Agent is in doubt as to the action to be taken hereunder, the Fiscal Agent may, at its option, after sending written notice of the same to the parties hereto, refuse to act until such time as it receives a written instruction, executed by each of the parties involved in such disagreement

or dispute, in a form reasonably acceptable to the Fiscal Agent, satisfactorily resolving such conflict, disagreement or dispute. The Fiscal Agent will be entitled to act on any such written instruction. The Fiscal Agent may file an interpleader action in a state or federal court, and upon the filing thereof, the Fiscal Agent will be relieved of all liability as to the subject of the interpleader action and will be entitled to recover from the Borrower reasonable and documented out-of-pocket attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action.

ARTICLE VIII

AMENDMENTS OF CERTAIN DOCUMENTS

Section 8.01 *Amendments to this Funding Loan Agreement.* Any of the terms of this Funding Loan Agreement and the Governmental Note may be amended or waived only by an instrument signed by the Fiscal Agent and the Governmental Lender, and with the prior written consent of the Funding Lender Representative.

Section 8.02 *Amendments to Financing Documents Require Consent of Funding Lender Representative.* Neither the Governmental Lender nor the Fiscal Agent shall consent to any amendment, change or modification of any Financing Document without the prior written consent of the Funding Lender Representative. The Fiscal Agent shall enter into such amendments as shall be directed by the Funding Lender Representative, provided, however, the Fiscal Agent shall not be obligated to enter into any such amendment to the Financing Documents that adversely affects the Fiscal Agent's rights, duties or immunities under such Financing Document or otherwise.

Section 8.03 *Favorable Opinion of Bond Counsel Required.* No amendment to this Funding Loan Agreement, the Governmental Note, the Project Loan Agreement, the Project Note, the Security Instrument, the Tax Exemption Agreement or the Tax Regulatory Agreement shall become effective unless and until (i) the Funding Lender Representative shall have consented to the same in writing in its sole discretion and (ii) the Funding Lender Representative, the Governmental Lender and the Fiscal Agent shall have received, at the expense of the Borrower, (A) a Favorable Opinion of Bond Counsel and (B) an opinion of counsel acceptable to the Funding Lender Representative and the Governmental Lender to the effect that any such proposed such amendment, change or modification is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE IX

SATISFACTION AND DISCHARGE OF FUNDING LOAN AGREEMENT

Section 9.01 *Discharge of Lien.* If the Governmental Lender shall pay or cause to be paid to the Funding Lender the principal, interest and premium, if any, to become due with respect to the Funding Loan at the times and in the manner stipulated herein and in the Governmental Note, in any one or more of the following ways:

(a) by the payment of all unpaid principal of (including Prepayment Premium, if any) and interest on the Funding Loan; or

(b) prior to the Window Period, by the deposit to the account of the Fiscal Agent, in trust, of money or securities in the necessary amount to pay the principal, Prepayment Premium and interest to the Maturity Date; or

(c) by the delivery of the Governmental Note by the Funding Lender to the Fiscal Agent for cancellation;

and shall have paid all amounts due and owing under the other Financing Documents, and shall have paid all fees and expenses of and any other amounts due to the Fiscal Agent, the Servicer and the Rebate Analyst, and if the Governmental Lender shall keep, perform and observe all and singular the covenants and promises in the Governmental Note and in this Funding Loan Agreement expressed as to be kept, performed and observed by it or on its part, then these presents and the estates and rights hereby granted shall cease, determine and be void, and thereupon the Fiscal Agent shall cancel and discharge the lien of this Funding Loan Agreement and execute and deliver to the Governmental Lender such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the Governmental Lender the estate hereby conveyed, and assign and deliver to the Governmental Lender any interest in property at the time subject to the lien of this Funding Loan Agreement which may then be in its possession, except amounts held by the Fiscal Agent for the payment of principal of, interest and premium, if any, on the Governmental Note, the payment of any amounts owed to the United States of America pursuant to Section 4.12 hereof.

Prior to the Window Period and subject to the satisfaction of the conditions set forth in Section 4.04(c) of the Project Loan Agreement, the Funding Loan shall, prior to the Maturity Date, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 9.01 based on a deposit of moneys or securities with the Fiscal Agent pursuant to Section 9.01(b) if, under circumstances which do not cause interest on the Governmental Note to become includable in the holders' gross income for purposes of federal income taxation, the following conditions shall have been fulfilled: (a) there shall be on deposit with the Fiscal Agent either money or noncallable and nonprepayable direct obligations of the United States of America (or other defeasance securities constituting Qualified Investments approved in writing by the Funding Lender Representative) in an amount, together with anticipated earnings thereon (but not including any reinvestment of such earnings), which will be sufficient to pay, when due, the principal and interest due and to become due on the Funding Loan up to and on the Maturity Date; (b) the Fiscal Agent shall have received a verification report of a firm of certified public accountants or financial analyst reasonably acceptable to the Fiscal Agent and the Funding Lender Representative as to the adequacy of the amounts or securities so deposited to fully pay the Funding Loan; (c) the Fiscal Agent and the Funding Lender Representative shall have received a written opinion of nationally recognized counsel experienced in bankruptcy matters to the effect that if the Borrower, any general partner, member or guarantor of the Borrower, or the Governmental Lender were to become a debtor in a proceeding under the Bankruptcy Code (x) payment of such money to the Funding Lender would not constitute a voidable preference under Section 547 of the Bankruptcy Code and (y) the automatic stay provisions of Section 362(a) of the Bankruptcy Code would not prevent application of such money to the payment of the Funding Loan; (d) the Fiscal Agent and the

Funding Lender Representative shall have received an opinion of Bond Counsel to the effect that the defeasance of the Funding Loan is in accordance with the provisions of the Funding Loan Agreement and that such defeasance will not adversely affect the exclusion of interest on the Governmental Note from gross income for federal income tax purposes; and (e) the Fiscal Agent shall have received written confirmation that all fees, expenses or reimbursement of any advances due to the Funding Lender and the Servicer under the Financing Documents have been fully paid.

Section 9.02 *Discharge of Liability on Funding Loan.* Upon the deposit with the Fiscal Agent, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.01 above) to pay or prepay the Funding Loan (whether upon or prior to their maturity or the prepayment date of the Funding Loan) provided that, if the Funding Loan is to be prepaid prior to the maturity thereof, notice of such prepayment shall have been given as in Article III provided or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, all liability of the Governmental Lender in respect of the Funding Loan shall cease, terminate and be completely discharged, except only that thereafter the Funding Lender shall be entitled to payment by the Governmental Lender, and the Governmental Lender shall remain liable for such payment, but only out of the money or securities deposited with the Fiscal Agent as aforesaid for their payment, subject, however, to the provisions of Section 9.03 hereof.

Section 9.03 *Payment of Funding Loan After Discharge of Funding Loan Agreement.* Notwithstanding any provisions of this Funding Loan Agreement, and subject to applicable unclaimed property laws of the State, any money deposited with the Fiscal Agent or any paying agent in trust for the payment of the principal of, interest or premium on the Governmental Note remaining unclaimed after the maturity or earlier payment date, to the extent permitted by applicable law, shall be paid to the Borrower, whereupon all liability of the Governmental Lender and the Fiscal Agent with respect to such money shall cease, and the Funding Lender shall thereafter look solely to the Borrower for payment of any amounts then due. All money held by the Fiscal Agent and subject to this Section 9.03 shall be held uninvested and without liability for interest thereon.

ARTICLE X

INTENTIONALLY OMITTED

ARTICLE XI

MISCELLANEOUS

Section 11.01 *Servicing of the Loans.* The Funding Lender Representative may appoint a Servicer (which may be the Funding Lender Representative if the Funding Lender Representative elects to service the Loans) to service the Loans as provided in Section 3.02 of the Project Loan Agreement.

Section 11.02 *Limitation of Rights.* With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Funding Loan Agreement or the Governmental Note is intended or shall be construed to give to any Person other than the parties

hereto, the Funding Lender, the Funding Lender Representative, the Servicer and the Borrower, any legal or equitable right, remedy or claim under or in respect to this Funding Loan Agreement or any covenants, conditions and provisions hereof.

Section 11.03 Construction of Conflicts; Severability. Notwithstanding anything provided herein, or in any of the documents referred to herein, in the event that any contracts or other documents executed by the Borrower or any other arrangements agreed to by the Borrower in order to finance or refinance the Project with the proceeds of the Funding Loan, the interest on which is excluded from gross income for federal income tax purposes under Section 103(a) of the Code are inconsistent with the Project Loan Documents, then the Project Loan Documents shall be controlling in all respects. If any provision of this Funding Loan Agreement shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Funding Loan Agreement contained, shall not affect the remaining portions of this Funding Loan Agreement, or any part thereof.

Section 11.04 Notices.

(a) Whenever in this Funding Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Investor Limited Partner, the Special Limited Partner, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by this Funding Loan Agreement by Electronic Notice. The Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Investor Limited Partner, the Special Limited Partner, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

The Governmental Lender: Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78701
Attention: Director of Multifamily Bonds

Email: teresa.morales@tdhca.state.tx.us
Telephone: (512) 475-3344

The Fiscal Agent:

Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75284
Attention: Charles Hicks, Corporate Trust Department
Telephone: (972) 383-3154
Email: chicks@wilmingtontrust.com

The Borrower:

Scott Street Lofts, LP
c/o Mark-Dana Corporation
26302 Oak Ridge Dr., Suite 100
Spring, Texas 77380
Attention: David Mark Koogler
Telephone: 713.906.4460
Email: dkoogler@mark-dana.com

with a copy to:

Locke Lord LLP
600 Congress Avenue, Suite 2200
Austin, Texas 78701
Attention: Cynthia Bast
Telephone: (512) 305-4707
Email: cbast@lockelord.com

(which copy shall not constitute notice to
Borrower)

Funding Lender
Representative
(as of Freddie Mac Purchase Date):

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4P
McLean, Virginia 22102
Attention: Multifamily Operations - Loan Accounting
Email: mfla@freddiemac.com
Telephone: (703) 714-4177

with a copy to:

Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive, MS 210
McLean, Virginia 22102
Attention: Managing Associate General Counsel –
Multifamily Legal Division
Email: joshua_schonfeld@freddiemac.com
Telephone: (703) 903-2000

Initial Funding Lender
and Servicer:

[_____]
[_____]
[_____]
Attention: [_____]
Email: [_____]
Telephone: [_____]

Investor Limited Partner or
Special Limited Partner:

c/o RBC Community Investments, LLC
600 Superior Avenue
Suite 2300
Cleveland, Ohio 44114
Attention: President and General Counsel

with a copy to:

Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attention: Bennett P. Applegate
Email: bapplegate@att-law.com
Telephone: (312) 441-3322

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Funding Lender Representative and by any party to the Funding Lender Representative to the Servicer.

The Fiscal Agent agrees to accept and act upon Electronic Notice of signed written instructions and/or directions pursuant to this Funding Loan Agreement.

(b) The Fiscal Agent shall provide to the Funding Lender Representative, the Governmental Lender and the Servicer (i) prompt notice of the occurrence of any Event of Default pursuant to Section 6.01 hereof and (ii) any written information or other written communication received by the Fiscal Agent hereunder within ten (10) Business Days of receiving a written request from the Funding Lender Representative and the Servicer for any such information or other communication.

Section 11.05 *Funding Lender Representative.*

(a) The Initial Funding Lender is the initial Funding Lender Representative with respect to the Governmental Note. Upon the Freddie Mac Purchase Date, Freddie Mac shall be the Funding Lender Representative. The Funding Lender Representative shall be entitled to all the rights and privileges of the Funding Lender hereunder and under the other Financing Documents.

(b) The Funding Lender Representative may provide written notice to the Fiscal Agent designating particular individuals or Persons authorized to execute any consent, waiver, approval, direction or other instrument on behalf of the Funding Lender Representative, and such notice may be amended or rescinded by the Funding Lender Representative at any time by

subsequent written notice. The Funding Lender Representative may be removed and a successor appointed by a written notice in the form of **Exhibit B** hereto given by the Funding Lender to the Fiscal Agent, the Governmental Lender, the Servicer and the Borrower. The removal and reappointment shall be effective immediately upon receipt of such notice by the Fiscal Agent. The Funding Lender may appoint any Person to act as Funding Lender Representative, including, without limitation, the Servicer. If, for any reason, a Funding Lender Representative resigns by written notice provided to the Fiscal Agent, the Funding Lender, the Governmental Lender, the Servicer and the Borrower, all references to Funding Lender Representative herein and in the other Financing Documents shall be deemed to refer to the Funding Lender until a successor Funding Lender Representative is appointed by the Funding Lender.

(c) Whenever pursuant to this Funding Loan Agreement or any other Financing Document, the Funding Lender Representative exercises any right given to it to approve or disapprove, any arrangement or term hereof, the decision of the Funding Lender Representative to approve or disapprove or to decide whether arrangements or terms are acceptable or not acceptable shall be in the sole discretion of the Funding Lender Representative, except as otherwise specifically indicated.

(d) Each Funding Lender, by their purchase or other acquisition of the Funding Loan, shall be deemed to have acknowledged and agreed to the provisions of this Funding Loan Agreement and the other Financing Documents with respect to the Funding Lender Representative and the rights and privileges thereof, including but not limited to the right to control all remedies in respect of the Governmental Note and the Loans.

Section 11.06 Payments Due on Non-Business Days. In any case where a date of payment with respect to the Funding Loan shall be a day other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such date, and no interest shall accrue for the period after such date provided that payment is made on such next succeeding Business Day.

Section 11.07 Counterparts. This Funding Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.08 Laws Governing Funding Loan Agreement. The effect and meanings of this Funding Loan Agreement and the rights of all parties hereunder shall be governed by, and construed according to, the internal laws of the State without regard to conflicts of laws principles.

Section 11.09 No Recourse. No recourse under or upon any obligation, covenant or agreement contained in this Funding Loan Agreement or in the Governmental Note shall be had against any member, officer, commissioner, director or employee (past, present or future) of the Governmental Lender, either directly or through the Governmental Lender or its governing body or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, or otherwise, of any sum that may be due and unpaid by the Governmental Lender or its governing body upon the Governmental Note. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such member, officer, commissioner, director or employee, as such, to respond

by reason of any act or omission on his/her part or otherwise, for the payment for or to the Funding Lender or otherwise of any sum that may remain due and unpaid with respect to the Funding Loan hereby secured is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution of this Funding Loan Agreement and the delivery of the Governmental Note.

Section 11.10 *Successors and Assigns.* All the covenants and representations contained in this Funding Loan Agreement by or on behalf of the parties hereto shall bind and inure to the benefit of their successors and assigns, whether so expressed or not.

Section 11.11 *Prior Bond Documents.* On the Conversion Date, this Funding Loan Agreement, the Governmental Note and the Project Loan Agreement shall amend, restate and supersede in their entirety the Indenture, the Notes (as such term is used and defined in the Indenture) and the Loan Agreement, respectively.

Section 11.12 *Compliance with Texas Government Code.* Each of the Fiscal Agent and Initial Funding Lender hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Funding Loan Agreement, the Project Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, and any other Financing Document to which it is a party, and such representation is hereby incorporated by reference into each of such documents. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Each of the Fiscal Agent and Initial Funding Lender understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with such entity and exists to make a profit.

Each of the Fiscal Agent and Initial Funding Lender represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Fiscal Agent, Initial Funding Lender or any of the respective entity’s parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. Each of the Fiscal Agent and Initial Funding Lender understands “affiliate” to

mean any entity that controls, is controlled by, or is under common control with such entity and exists to make a profit.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Governmental Lender, the Initial Funding Lender and the Fiscal Agent have caused this Funding Loan Agreement to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

By: _____
Chair

**JONES LANG LASALLE MULTIFAMILY,
LLC,**

By: _____
Name: _____
Title: _____

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Fiscal Agent**

By: _____
Name: _____
Title: _____

]

SCHEDULE I

PROJECT DESCRIPTION

Scott Street Lofts containing approximately 123 units and located at 1320 Scott Street,
Houston, Texas 77003

EXHIBIT A

FORM OF GOVERNMENTAL NOTE

THIS GOVERNMENTAL NOTE IS SUBJECT TO
CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE
FUNDING LOAN AGREEMENT

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING REVENUE NOTE
(SCOTT STREET LOFTS)
SERIES 2020

\$_[]

No. R-__

INTEREST RATE

DATED DATE

MATURITY DATE

[]%]

[] 1, 202[]

[] 1, 203[]

FOR VALUE RECEIVED, the undersigned, TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Obligor**”), promises to pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement referenced below) to the order of _____ (the “**Funding Lender**”), and its assigns, the principal sum of _____ AND NO/100 Dollars (\$[]), plus premium, if any, on [] 1, 203[] (the “**Maturity Date**”), or earlier as provided herein, together with interest thereon at the rates, at the times, and in the amounts, and to pay other amounts owing from time to time hereunder, all as provided below, but solely from Pledged Security available for such purpose.

This Multifamily Housing Revenue Note (this “**Note**”) is being delivered pursuant to that certain Funding Loan Agreement dated as of [CONVERSION DATE] (together with any and all amendments, modifications, supplements and restatements, the “**Funding Loan Agreement**”), among the Funding Lender, the Obligor and Wilmington Trust, National Association (the “**Fiscal Agent**”), pursuant to which the Obligor has incurred a loan in the principal amount of \$[ACTUAL FUNDING LOAN AMOUNT] (the “**Funding Loan**”), and this Note is entitled to the benefits of the Funding Loan Agreement and is subject to the terms, conditions and provisions thereof. The Obligor used the proceeds of the Funding Loan to make a loan to Scott Street Lofts, LP (the “**Borrower**”) pursuant to the Project Loan Agreement dated as of [CONVERSION DATE] (the “**Project Loan Agreement**”), among the Obligor, the Borrower and the Fiscal Agent.

1. **Defined Terms.** As used in this Note, (i) the term “Funding Lender” means the holder of this Note, and (ii) the term “Indebtedness” means the principal of, premium, if any, and interest on or any other amounts due at any time under this Note or the Funding Loan Agreement. “Event of Default” and other capitalized terms used but not defined in this Note shall have the meanings given to such term in the Funding Loan Agreement.

2. **Payments of Principal and Interest.** The Obligor shall pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement) on the first calendar day of each month commencing [] 1, 202[], interest on this Note at the rate of []% per annum (or such higher rate of interest borne by the Funding Loan upon any default) (the “**Interest Rate**”) on the outstanding principal balance of this Note, and shall also pay interest on this Note at the Interest Rate on the date of any optional or mandatory prepayment or acceleration of all or part of the Funding Loan pursuant to the Funding Loan Agreement, in an amount equal to the accrued and unpaid interest to the date of prepayment on the portion of this Note subject to prepayment (each such date for payment an “**Interest Payment Date**”). Interest on this Note shall be computed on the basis of a 360-day year and the actual number of days elapsed.

The Obligor shall pay (but solely from the sources and in the manner provided for in the Funding Loan Agreement) the outstanding principal of this Note in full on the Maturity Date and in monthly installments on each date set forth on the Funding Loan Amortization Schedule attached as Schedule 1 hereto in an amount equal to the corresponding amounts set forth thereon, or at such earlier times and in such amounts as may be required, in the event of an optional or mandatory prepayment or acceleration of the Funding Loan pursuant to the Funding Loan Agreement. The outstanding principal hereof is subject to acceleration at the time or times and under the terms and conditions, and with notice, if any, as provided under the Funding Loan Agreement.

3. **Manner of Payment.** All payments under this Note shall be made in lawful currency of the United States and in immediately available funds as provided for herein and in the Funding Loan Agreement.

4. **Application of Payments.** If at any time the Funding Lender receives any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, the Funding Lender may apply that payment to amounts then due and payable in any manner and in any order determined by the Funding Lender, in the Funding Lender’s discretion. Neither the Funding Lender’s acceptance of a payment in an amount that is less than all amounts then due and payable nor the Funding Lender’s application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is secured by, among other things, the Pledged Security pledged pursuant to the Funding Loan Agreement.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, and all other amounts payable under this Note shall at once become due and payable, at the option of the Funding Lender, as governed by the Funding Loan Agreement, without any prior notice to the Obligor. The Funding Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Optional Prepayment; Prepayment Premium.** The Funding Loan is subject to prepayment and this Note is subject to optional prepayment as specified in the Funding Loan Agreement. Prepayment Premium shall be payable as specified in the Funding Loan Agreement.

8. **Forbearance.** Any forbearance by the Funding Lender in exercising any right or remedy under this Note or any other document evidencing or securing the Funding Loan or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by the Funding Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of the Funding Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by the Funding Lender of any security for the obligations under this Note shall not constitute an election by the Funding Lender of remedies so as to preclude the exercise of any other right or remedy available to the Funding Lender.

9. **Waivers.** Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace and diligence in collecting the Indebtedness are waived by the Obligor and all endorsers and guarantors of this Note and all other third-party obligors.

10. **Loan Charges.** If any applicable law limiting the amount of interest or other charges permitted to be collected in connection with the Funding Loan is interpreted so that any interest or other charge provided for herein or in any other document evidencing or securing the Funding Loan, whether considered separately or together with other charges provided for in any such other document, violates that law, and the Obligor is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to the Funding Lender in excess of the permitted amounts will be applied by the Funding Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from the Obligor has been violated, all indebtedness that constitutes interest, as well as all other charges made in connection with the indebtedness that constitute interest, will be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

11. **Governing Law.** This Note shall be governed by the internal law of the State of Texas (the "**Property Jurisdiction**").

12. **Captions.** The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

13. **Address for Payment.** All payments due under this Note shall be payable at the principal office of the Funding Lender as designated by the Funding Lender in writing to the Fiscal Agent and the Servicer.

14. **Default Rate.** So long as (a) any monthly installment under this Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate (the "**Default Rate**") of the lesser of an annual interest rate equal to 4 percentage points

above the Interest Rate or the maximum interest rate that may be collected under applicable law. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate.

15. **Limited Obligation.** NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, ANY OBLIGATION THAT THE GOVERNMENTAL LENDER MAY INCUR UNDER THE FUNDING LOAN AGREEMENT OR UNDER ANY INSTRUMENT EXECUTED IN CONNECTION THEREWITH THAT SHALL ENTAIL THE EXPENDITURE OF MONEY SHALL NOT BE A GENERAL OBLIGATION OF THE GOVERNMENTAL LENDER, BUT SHALL BE A LIMITED OBLIGATION PAYABLE SOLELY FROM THE PLEDGED SECURITY. THIS NOTE SHALL CONSTITUTE A VALID CLAIM OF THE HOLDER HEREOF AGAINST THE PLEDGED SECURITY, WHICH IS PLEDGED TO SECURE THE PAYMENT OF PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE AND WHICH SHALL BE UTILIZED FOR NO OTHER PURPOSE, EXCEPT AS EXPRESSLY AUTHORIZED IN THE FUNDING LOAN AGREEMENT. THIS NOTE SHALL BE A LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER GIVING RISE TO NO CHARGE AGAINST THE GOVERNMENTAL LENDER'S GENERAL CREDIT AND PAYABLE SOLELY FROM, AND CONSTITUTE CLAIMS OF THE HOLDERS THEREOF AGAINST ONLY, THE PLEDGED SECURITY. PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE DEBT OF THE GOVERNMENTAL LENDER (EXCEPT TO THE EXTENT OF THE PLEDGED SECURITY). THIS NOTE IS NOT AND DOES NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS NOTE OR FOR ANY CLAIM BASED ON THIS NOTE, OR OTHERWISE IN RESPECT OF THIS NOTE, OR BASED ON OR IN RESPECT OF THE FUNDING LOAN AGREEMENT OR ANY SUPPLEMENTAL FUNDING LOAN AGREEMENT, AGAINST THE GENERAL CREDIT OF THE GOVERNMENTAL LENDER OR AGAINST ANY PAST, PRESENT OR FUTURE GOVERNING BOARD MEMBER, DIRECTOR, OFFICER, AGENT OR EMPLOYEE OF THE GOVERNMENTAL LENDER, OR OF ANY SUCCESSOR TO THE GOVERNMENTAL LENDER, AS SUCH, EITHER DIRECTLY OR THROUGH THE GOVERNMENTAL LENDER OR ANY SUCCESSOR TO THE GOVERNMENTAL LENDER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS NOTE.

16. **Funding Loan Agreement Controlling.** The terms of this Note are subject in all respects to the terms of the Funding Loan Agreement. If there is a conflict between the provisions of this Note and the Funding Loan Agreement, the Funding Loan Agreement shall control.

THIS NOTE SHALL NOT BE ENTITLED to any benefit under the Funding Loan Agreement or be valid or obligatory for any purpose until the Fiscal Agent shall have executed the Certificate of Authentication appearing hereon.

[Signature page follows]

IN WITNESS WHEREOF, the Obligor has caused this Note to be duly executed by the manual or facsimile signature of its authorized representative and attested by the manual or facsimile signature of its authorized representative.

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

[SEAL]

By: _____
Chair

ATTEST:

By: _____
Secretary

CERTIFICATE OF AUTHENTICATION

This Note is issued under the provisions of and described in the within-mentioned Funding Loan Agreement.

Date of Authentication: _____, 20__

**WILMINGTON TRUST, NATIONAL
ASSOCIATION**

By: _____
Authorized Officer

SCHEDULE 1
PRINCIPAL AND INTEREST PAYMENT SCHEDULE

EXHIBIT B

**FORM OF NOTICE OF APPOINTMENT
OF FUNDING LENDER REPRESENTATIVE**

WILMINGTON TRUST, NATIONAL ASSOCIATION
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75284

SCOTT STREET LOFTS, LP
c/o c/o Mark-Dana Corporation
26302 Oak Ridge Dr., Suite 100
Spring, Texas 77380
Attention: David Mark Koogler

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P.O. Box 13941
Austin, Texas 78711
Attention: Director of Multifamily Bonds

JONES LANG LASALLE MULTIFAMILY, LLC

[
]
[
]

Re: Scott Street Lofts

Ladies and Gentlemen:

The undersigned is the holder (the “**Funding Lender**”) of the Multifamily Housing Revenue Note dated [CONVERSION DATE] (the “**Governmental Note**”) delivered pursuant to the Funding Loan Agreement dated as of [CONVERSION DATE] (the “**Funding Loan Agreement**”), among Jones Lang LaSalle Multifamily, LLC, in its capacity as Initial Funding Lender (the “**Initial Funding Lender**”), the Texas Department of Housing and Community Affairs (the “**Governmental Lender**”) and Wilmington Trust, National Association (the “**Fiscal Agent**”). Pursuant to Section 11.05 of the Funding Loan Agreement, you are hereby notified that, effective immediately upon receipt of this notice by the Fiscal Agent, the Funding Lender Representative appointed under Section 11.05 of the Funding Loan Agreement shall be _____ . [The person or entity previously appointed as Funding Lender Representative shall upon the effectiveness of this notice no longer have any further rights or obligations as Funding Lender Representative.]

The following individual or individuals shall have the authority to execute any consent, waiver, approval, direction or other instrument on behalf of the Funding Lender Representative and the signature(s) set forth next to his/her (their) name(s) is (are) his/her (their) true and correct signature(s).

NAME

SIGNATURE

Additional individuals may be given such authority by written notice to you from the Funding Lender Representative or from the Funding Lender.

This notice is dated as of the _____ day of _____, _____.

[NAME OF FUNDING LENDER]

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF TRANSFEREE REPRESENTATIONS LETTER

[To be prepared on letterhead of transferee]

[Date]

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P.O. Box 13941
Austin, Texas 78711
Attention: Director of Multifamily Bonds

WILMINGTON TRUST, NATIONAL ASSOCIATION
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75284

Re: Scott Street Lofts

Ladies and Gentlemen:

The undersigned (the "Funding Lender") hereby acknowledges receipt of the Multifamily Housing Revenue Note dated [CONVERSION DATE] (the "Governmental Note"), delivered pursuant to the Funding Loan Agreement dated as of [CONVERSION DATE] (the "Funding Loan Agreement"), among Jones Lang LaSalle Multifamily, LLC, in its capacity as Initial Funding Lender (the "Initial Funding Lender"), the Texas Department of Housing and Community Affairs (the "Governmental Lender") and Wilmington Trust, National Association (the "Fiscal Agent"). Capitalized terms used herein and not otherwise defined have the meanings given to such terms in the Funding Loan Agreement.

In connection with the [origination/purchase] of the Funding Loan by the Funding Lender, the Funding Lender hereby makes the following representations upon which you may rely:

1. The Funding Lender has authority to [originate/purchase] the Funding Loan and to execute this letter, and any other instruments and documents required to be executed by the Funding Lender in connection with the [origination/purchase] of the Funding Loan.

2. The Funding Lender is an "accredited investor" under Regulation D of the Securities Act of 1933 (the "Act"), [INSERT FOR INITIAL FUNDING LENDER AND FREDDIE MAC SELLER/SERVICER TRANSFEREE REPRESENTATION LETTER: excluding Section 230.501(a)(4), (a)(5) and (a)(6)] [INSERT FOR FREDDIE MAC TRANSFEREE REPRESENTATION LETTER: excluding Section 230.501(a)(4)], or a "qualified institutional buyer" under Rule 144(a) of said Act (such "accredited investor" or "qualified institutional buyer", is a "Qualified Transferee"), and therefore, has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Funding Loan.

3. The Funding Lender acknowledges that it is [originating/purchasing] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof (except as set forth below), in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Loan (except as set forth below); provided, however, that the Funding Lender may, notwithstanding the foregoing and the terms of Paragraph 4 below, (i) transfer the Funding Loan to any affiliate or other party related to the Funding Lender that is a Qualified Transferee or (ii) sell or transfer the Funding Loan to a special purpose entity, a trust or a custodial or similar pooling arrangement from which the Funding Loan or securitized interests therein are not expected to be sold except to (x) owners or beneficial owners thereof that are Qualified Transferees or (y) in circumstances where secondary market credit enhancement is provided for such securitized interests resulting in a rating thereof of at least "A" or better [INSERT FOR SELLER/SERVICER PURCHASER LETTER;]; provided, further, however, the Funding Lender has originated and funded the Funding Loan with the expectation that the Funding Loan will be sold to the Federal Home Loan Mortgage Corporation ("Freddie Mac") pursuant to the commitment dated [_____], 2020 (the "Freddie Mac Commitment").

4. In addition to the right to sell or transfer the Funding Loan as set forth in Paragraph 3 above, the Funding Lender further acknowledges its right to sell or transfer the Funding Loan, subject, as required under the Funding Loan Agreement, to the delivery to the Fiscal Agent of a transferee representations letter from the transferee to substantially the same effect as this Transferee Representations Letter or in such other form authorized by the Funding Loan Agreement with no revisions except as may be approved in writing by the Governmental Lender.

5. The Funding Lender understands that the Governmental Note is not registered under the Act and that such registration is not legally required as of the date hereof; and further understands that the Governmental Note (a) is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable.

6. The Funding Lender understands that (a) the Funding Loan is not secured by any pledge of any moneys received or to be received from taxation by the State of Texas or any political subdivision thereof and that the Governmental Lender has no taxing power, (b) the Funding Loan does not and will not represent or constitute a general obligation or a pledge of the faith and credit of the Governmental Lender, the State of Texas or any political subdivision thereof; and (c) the liability of the Governmental Lender with respect to the Funding Loan is limited to the Pledged Security as set forth in the Funding Loan Agreement.

7. The Funding Lender has either been supplied with or been given access to information, including financial statements and other financial information, which it considers necessary to make an informed decision in connection with the [origination/purchase] of the Funding Loan. The Funding Lender has not relied upon the Governmental Lender for any information in connection with its purchase of the Funding Loan.

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

All agreements, representations and warranties made herein shall survive the execution and delivery of this letter agreement and, notwithstanding any investigation heretofore or hereafter, shall continue in full force and effect.

[NAME OF TRANSFEREE]

By: _____
Name: _____
Title: _____

EXHIBIT E

PROJECT LOAN AGREEMENT

**PROJECT LOAN AGREEMENT
(Revised 9-30-2019)**

among

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Governmental Lender**

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Fiscal Agent**

and

**SCOTT STREET LOFTS, LP,
as Borrower**

Relating to

**Scott Street Lofts
1320 Scott Street
Houston, Texas 77003**

Original Project Loan Principal Amount: \$[ACTUAL PROJECT LOAN AMOUNT]

Dated as of [CONVERSION DATE]

All of the right, title and interest of the Texas Department of Housing and Community Affairs (except for its Unassigned Rights) in and to this Project Loan Agreement are being assigned to Wilmington Trust, National Association, as Fiscal Agent, as security for the Funding Loan made pursuant to that certain Funding Loan Agreement dated as of [CONVERSION DATE] by and among the Governmental Lender, the Initial Funding Lender named therein and the Fiscal Agent.

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PROJECT LOAN AGREEMENT

THIS PROJECT LOAN AGREEMENT (this “**Project Loan Agreement**”) is made and entered into as of [CONVERSION DATE], by and among the **Texas Department of Housing and Community Affairs** (the “**Governmental Lender**”), a public and official agency of the State of Texas (the “**State**”), **Wilmington Trust, National Association**, a national banking association, duly organized and existing under the laws of the United States (together with any successor Fiscal Agents appointed under the Funding Loan Agreement, the “**Fiscal Agent**”), and **Scott Street Lofts, LP**, a limited partnership duly organized and existing under the laws of the State of Texas (together with its successors and assigns permitted hereunder, the “**Borrower**”).

RECITALS

WHEREAS, pursuant to Chapter 2306, Texas Government Code, as amended (the “**Act**”), the Governmental Lender is authorized to issue revenue bonds (including notes) and use the proceeds from the sale of such bonds to make loans for the acquisition, construction, equipping, furnishing, and placement in service of residential developments; and

WHEREAS, pursuant to and in accordance with the Act and a Trust Indenture dated as of June 1, 2020 (the “**Indenture**”), between the Governmental Lender and the Fiscal Agent, the Governmental Lender issued and sold its \$[] Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “**Notes**”), and used the proceeds thereof to make a loan to the Borrower upon the terms and conditions of a Loan Agreement dated as June 1, 2020 (the “**Loan Agreement**”), between the Governmental Lender and the Borrower, for the purpose of financing the acquisition, construction, installation and equipping of a multifamily rental housing development, consisting of approximately 123 units and related personal property and equipment, known as Scott Street Lofts and located in Houston, Texas (the “**Project**”); and

WHEREAS, the Borrower’s payment obligations under the Loan Agreement are evidenced by a promissory note dated June [], 2020 (the “**Borrower Note**”), from the Borrower to the Governmental Lender in the original principal amount of \$[]; and

WHEREAS, the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise (“**Freddie Mac**”), entered into a forward commitment with Jones Lang LaSalle Multifamily, LLC (the “**Initial Funding Lender**”) dated June [], 2020 (the “**Freddie Mac Commitment**”), whereby Freddie Mac committed, subject to the satisfaction on or before the Outside Forward Commitment Maturity Date of the Conditions to Conversion set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment, to facilitate the financing of the Project in the Permanent Phase; and

WHEREAS, the Conditions to Conversion were satisfied on or before the Outside Forward Commitment Maturity Date and on the Conversion Date, (i) the Notes are subject to mandatory tender in accordance with the Indenture, (ii) the purchase price of the Notes is being paid with amounts on deposit under the Indenture, (iii) a portion of the principal amount of the

Notes is being cancelled such that the principal amount outstanding equals the Actual Project Loan Amount (as defined in the Construction Phase Financing Agreement), (iv) the Notes are being removed from the Book-Entry System and being converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement) which is being purchased by the Initial Funding Lender, (v) this Project Loan Agreement and the Funding Loan Agreement dated as of the date hereof (the “**Funding Loan Agreement**”) by and among the Governmental Lender, the Fiscal Agent and the Initial Funding Lender are being delivered by the respective parties and becoming effective and amending, restating and superseding in their entirety the Loan Agreement and the Indenture, and (vi) the taxable mortgage loan provided by Zions Bancorporation, N.A. doing business as Amegy Bank is being paid in full in accordance with the Indenture; and

WHEREAS, pursuant to the Freddie Mac Commitment, Freddie Mac has agreed to purchase the Funding Loan from the Initial Funding Lender upon the date of satisfaction of the conditions set forth in the Freddie Mac Commitment (the “**Freddie Mac Purchase Date**”), and on the Freddie Mac Purchase Date, the Initial Funding Lender will assign to Freddie Mac all of its rights and interest in the Governmental Note, the Funding Loan Agreement, the Continuing Covenant Agreement and the other Financing Documents; and

WHEREAS, on the Conversion Date, the Borrower Note is being amended and restated pursuant to the Amended and Restated Project Note (together with all riders and modifications thereto, the “**Project Note**”) and the Borrower is entering into a Continuing Covenant Agreement with the Initial Funding Lender (the “**Continuing Covenant Agreement**”), which sets forth various other requirements with respect to the Project, and which agreement will be assigned to Freddie Mac on the Freddie Mac Purchase Date; and

WHEREAS, to secure the Borrower’s obligations under the Project Note, the Borrower is executing and delivering to the Fiscal Agent on the Conversion Date an Amended and Restated Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the “**Security Instrument**”) with respect to the Project; and

WHEREAS, on and after the Freddie Mac Purchase Date, Freddie Mac will act as Funding Lender Representative with respect to the Loans (in such capacity and any successor in such capacity, the “**Funding Lender Representative**”), and the Initial Funding Lender will act as initial servicer for the Loans on behalf of the Funding Lender Representative (in such capacity, the “**Servicer**”); and

NOW, THEREFORE, for and in consideration of the mutual covenants and representations hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. All words and phrases (except for Event of Default) defined in the Funding Loan Agreement and the Continuing Covenant Agreement shall have the same meanings for the purposes of this Project Loan Agreement. In addition to the words and phrases

defined in the Funding Loan Agreement and elsewhere herein, the following words and phrases shall have the following meanings:

“Event of Default” means any of those events specified in and defined by the applicable provisions of Article VII hereof to constitute an event of default.

“Fee Component” means the regular, ongoing fees due from time to time to the Governmental Lender, the Fiscal Agent and the Rebate Analyst, if any, expressed as a flat, fixed amount or in terms of a percentage of the unpaid principal amount of the Funding Loan on an annual basis.

“Hazardous Materials” means (a) petroleum or derivatives thereof or chemical products, whether in liquid, solid, or gaseous form, or any fraction or by product thereof, (b) asbestos or asbestos containing materials, (c) polychlorinated biphenyls (pcbs), (d) radon gas, (e) underground storage tanks, (f) any explosive or radioactive substances, (g) lead or lead based paint, or (h) any other pollutant, contaminant, substance, material, waste or mixture which is or shall be listed, defined, or otherwise determined by any governmental authority to be hazardous, toxic, dangerous or otherwise regulated, controlled or giving rise to liability under any Environmental Laws, including but not limited to 42 U.S.C. § 9601(14). Hazardous Materials shall not include consumer products or substances used in the ordinary course of business so long as they are used in accordance with applicable law.

“Partnership Agreement” means the Amended and Restated Agreement of Limited Partnership of the Borrower dated as of June 1, 2020.

“Project Loan Agreement” means this Project Loan Agreement, together with any amendments hereto.

“Project Loan Amortization Schedule” means the Project Loan Amortization Schedule attached as Schedule 1 to the Project Note.

“Project Loan Payment” means each payment of the Project Loan on each Project Loan Payment Date pursuant to the Project Note and this Project Loan Agreement.

“Project Loan Payment Date” means (A) the first day of each calendar month, commencing [FIRST DAY OF CALENDAR MONTH IMMEDIATELY FOLLOWING CONVERSION DATE], or (B) any other date on which the Project Loan is prepaid or paid, whether at scheduled maturity or upon prepayment or acceleration of the maturity thereof; provided, however, that if a Project Loan Payment Date is not a Business Day, payment shall be made on the first Business Day following such Project Loan Payment Date.

“Servicing Fee” means the ordinary fee payable to the Servicer in connection with the servicing of the Project Loan and the Funding Loan payable monthly in an amount equal to one twelfth of 0.[]% of the outstanding principal balance of the Project Loan, computed on the basis of a 360-day year and the actual number of days elapsed.

“*Taxes*” means all taxes, water rents, sewer rents, assessments and other governmental or municipal or public or private dues, fees, charges and levies and any liens (including federal tax liens) which are or may be levied, imposed or assessed upon the Project or any part thereof, or upon any leases pertaining thereto, or upon the rents, issues, income or profits thereof, whether any or all of the aforementioned be levied directly or indirectly or as excise taxes or as income taxes.

Section 1.02 Interpretation. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. Words importing persons include firms, partnerships, limited liability companies, joint ventures, associations and corporations. References to Articles, Sections and other subdivisions of this Project Loan Agreement are the Articles, sections and other subdivisions of this Project Loan Agreement as originally executed.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Project Loan Agreement; the term “heretofore” means before the date of execution of this Project Loan Agreement; and the term “hereafter” means after the date of execution of this Project Loan Agreement.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.01 Representations, Warranties and Covenants of the Governmental Lender. The Governmental Lender makes the following representations, warranties and covenants for the benefit of the Borrower, the Fiscal Agent, the Funding Lender and the Servicer:

- (a) The Governmental Lender is a public and official agency of the State.
- (b) The Governmental Lender has all necessary power and authority to incur the indebtedness of the Funding Loan evidenced by the Governmental Note and to make the Project Loan from the proceeds thereof, and to execute, and deliver this Project Loan Agreement, the Funding Loan Agreement, and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.
- (c) The Governmental Lender has taken all action on its part to incur the Funding Loan evidenced by the Governmental Note and make the Project Loan from the proceeds thereof and for the sale, execution and delivery thereof.
- (d) Each of the Financing Documents to which the Governmental Lender is a party has been duly and validly authorized, executed and delivered by the Governmental Lender and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Governmental Lender, enforceable against the Governmental Lender in accordance with its respective terms, except as enforceability may be

limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.

(e) The Governmental Lender has complied with the provisions of the laws of the State, including, but not limited to, the Act, which are prerequisites to the consummation of the transactions on the part of the Governmental Lender described or contemplated in the Financing Documents. The execution and delivery of the Governmental Note and the Financing Documents to which the Governmental Lender is a party, the consummation of the transactions on the part of the Governmental Lender contemplated thereby and the fulfillment of or compliance with the terms and conditions thereof do not conflict with or result in the breach of any of the terms, conditions or provisions of any agreement or instrument or judgment, order or decree to which the Governmental Lender is now a party or by which it is bound, nor do they constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature upon any property or assets of the Governmental Lender under the terms of any instrument or agreement.

(f) No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority, other than those already obtained, is required for the due execution and delivery by the Governmental Lender of, and performance by the Governmental Lender of its obligations under, the Financing Documents.

(g) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender by or before any court, governmental agency or public board or body, nor, to the Governmental Lender's knowledge, is there any basis therefor, which (i) affects or questions the existence or the territorial jurisdiction of the Governmental Lender or the title to office of any member of the governing body of the Governmental Lender; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any Financing Documents or the issuance, sale, execution or delivery of the Governmental Note; (iii) affects or questions the validity or enforceability of the Governmental Note or any Financing Document; (iv) questions the tax-exempt status of the Governmental Note; or (v) questions the power or authority of the Governmental Lender to perform its obligations under the Governmental Note or any Financing Document, or to carry out the transactions contemplated by the Governmental Note and the Financing Documents.

(h) No officer or other official of the Governmental Lender has any personal financial interest in the Project or the Borrower or in the transactions contemplated by this Project Loan Agreement.

It is expressly acknowledged that the Governmental Lender makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the issuance, sale, execution and delivery of the Governmental Note, or as to the correctness, completeness or accuracy of such statements.

Section 2.02 Representations, Warranties and Covenants of the Borrower. The Borrower makes the following representations, warranties and covenants, all of which, together with the other representations and agreements of the Borrower contained in this Project Loan Agreement, are relied upon by the Governmental Lender, the Funding Lender, the Servicer and the Fiscal Agent and serve as a basis for the undertakings of the Governmental Lender, the Servicer and the Fiscal Agent contained in this Project Loan Agreement:

(a) The Borrower is a limited partnership duly organized, validly existing and in good standing under the laws of the State and is duly qualified to conduct its business under the laws of the State and in every other state in which the nature of its business requires such qualification, has full legal right, power and authority to enter into this Project Loan Agreement and the other Financing Documents, and to carry out and consummate all transactions contemplated hereby and by the other Financing Documents, and by proper action has duly authorized the execution, delivery and performance of this Project Loan Agreement and the other Financing Documents. All corporate general partners and/or members, if any, of the Borrower are duly organized and in good standing under the laws of their respective states of organization and are duly qualified to transact business in the State as either domestic or foreign corporations, as applicable. All partnership general partners and/or members, if any, are duly formed and in good standing under the laws of their respective states of formation and, to the extent required by the laws of the State, are duly qualified to transact business in the State as either domestic or foreign partnerships or limited liability companies, as applicable.

(b) The Borrower has the legal right, power and authority to (i) own its properties and assets, including, but not limited to, the Project, (ii) to carry on its business as now being conducted and the Borrower contemplates it to be conducted with respect to the Project and (iii) execute and deliver, carry out its obligations under, and close the transactions provided for in, the Financing Documents to which it is a party.

(c) Each of the Financing Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general principles of equity.

(d) No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority is required for the due execution and delivery or approval, as the case may be, by the Borrower of, and the performance by the Borrower of its obligations under, the Financing Documents.

(e) None of the execution and delivery of the Financing Documents to which the Borrower is a party, the consummation of the transactions provided for in the Financing Documents, or the Borrower's fulfillment of or compliance with the terms and conditions of the Financing Documents (i) violates or will violate any law, rule or regulation of any governmental agency or body having jurisdiction over the Borrower, or any of its activities or properties, or any judgment, order, writ, injunction or decree to which the Borrower is subject, or any of the

organizational or other governing documents of the Borrower, (ii) conflicts or will conflict with any agreement, instrument or license to which the Borrower is now a party or by which it or any of its properties or assets is bound or results or will result in a breach of, or constitutes or will constitute a default (with due notice or the passage of time or both) under, any such agreement, instrument or license, (iii) contravenes or will contravene any such law, rule or regulation or any such judgment, order, writ, injunction or decree, or (iv) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, except for any lien, charge or encumbrance created or permitted under the terms of the Financing Documents.

(f) [Reserved].

(g) There is no action, suit, proceeding, inquiry or investigation pending or, to the Borrower's knowledge, threatened against or affecting the Borrower or any of its properties (including, without limitation, the Project), which, if adversely determined, would (i) impair the right of the Borrower to carry on its business substantially as now conducted and as contemplated by the Financing Documents, (ii) adversely affect the financial condition of the Borrower, (iii) prohibit, restrain or enjoin the making of the Funding Loan or the Project Loan or the execution and delivery of any of the Financing Documents, (iv) adversely affect the validity or enforceability of any of the Financing Documents, or (v) adversely affect the exclusion from gross income for federal income tax purposes of interest on the Governmental Note.

(h) The Project and the operation of the Project (in the manner contemplated by the Financing Documents) conform and will continue to conform in all material respects with the requirements of the Act as well as all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project.

(i) The Borrower has filed or caused to be filed all federal, state and local tax returns which are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(j) The Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party which default would materially adversely affect the transactions contemplated by the Financing Documents or the operations of the Borrower or the enforceability of the Financing Documents to which the Borrower is a party or the ability of the Borrower to perform all obligations thereunder.

(k) Pursuant to the terms of the Financing Documents, the Borrower agrees to pay all costs of maintenance and repair, all Taxes and assessments, insurance premiums (including public liability insurance and insurance against damage to or destruction of the Project) concerning or in any way related to the Project, or any part thereof, and any expenses or renewals thereof, and any other governmental charges and impositions whatsoever, foreseen or unforeseen, and all utility and other charges and assessments concerning or in any way related to the Project.

(l) If the Borrower is a partnership, all of the partnership interests in the Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests, except as set forth in the Partnership Agreement. If the Borrower is a limited liability company, all of the ownership interests in the Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests. Nothing in this Project Loan Agreement shall prevent the Borrower from issuing additional partnership interests or ownership interests if such units are issued in accordance with all applicable securities laws.

(m) The representations and warranties of the Borrower contained in the Tax Exemption Agreement and Tax Regulatory Agreement are incorporated by reference herein, the Borrower will comply with all requirements of the Tax Exemption Agreement, and the Borrower's representations set forth in the Tax Exemption Agreement and the Tax Regulatory Agreement are true and accurate in all material respects.

(n) The information, statements or reports furnished in writing to the Governmental Lender, the Servicer and the Funding Lender Representative by the Borrower in connection with this Project Loan Agreement or the consummation of the transactions contemplated hereby do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading; and the representations and warranties of the Borrower and the statements, information and descriptions contained in the Borrower's closing certificates, as of the Conversion Date, are true and correct in all material respects, do not contain any untrue statement of a material fact, and do not omit to state a material fact necessary to make the representations, warranties, statements, information and descriptions contained therein, in the light of the circumstances under which they were made, not misleading; and any estimates or assumptions contained in any certificate of the Borrower delivered as of the Conversion Date are reasonable.

(o) To the knowledge of the Borrower, no commissioner, member, officer or employee of the Governmental Lender has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other person, in the Financing Documents, the Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Financing Documents.

(p) The Borrower intends to hold the Project for its own account and has no current plans to sell, and has not entered into any agreement, to sell all or any portion of the Project, except as disclosed in the Partnership Agreement.

(q) The Project is located wholly within the boundaries of the State.

(r) The Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or adversely affect the excludability of the interest on the Governmental Note from gross income for federal income tax

purposes. The Borrower shall operate the Project as required by the Tax Regulatory Agreement and the Tax Exemption Agreement.

(s) The Funding Loan Agreement has been submitted to the Borrower for examination, and the Borrower, by execution of this Project Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Funding Loan Agreement and that it is bound by, shall adhere to the provisions of, covenants and agrees to perform all obligations required of the Borrower pursuant to, and shall have the rights set forth by the applicable terms and conditions of, the Funding Loan Agreement.

(t) The Borrower will have a fee simple interest in the land and the improvements on the Project, subject only to encumbrances and liens permitted under the Security Instrument.

(u) The Borrower acknowledges that (i) it understands the nature and structure of the transactions relating to the financing of the Project, (ii) it is familiar with the provisions of all of the documents and instruments relating to the financing, (iii) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (iv) it has not relied on the Governmental Lender, the Fiscal Agent, Freddie Mac, the Funding Lender Representative or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Financing Documents or otherwise relied on the Governmental Lender (other than in the context of Governmental Lender's role of administrating the tax credits awarded to the Project), the Fiscal Agent, Freddie Mac, the Funding Lender Representative or the Servicer in any manner.

(v) The Borrower hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent any of this Project Loan Agreement is a contract for goods or services, will not boycott Israel during the term of the Project Loan Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Borrower understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Borrower and exists to make a profit.

(w) To the extent this Project Loan Agreement is a contract for goods or services, the Borrower represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Borrower and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Borrower understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Borrower and exists to make a profit.

Section 2.03 *Representations and Warranties of the Fiscal Agent.* The Fiscal Agent makes the following representations and warranties for the benefit of the Governmental Lender, the Borrower, the Funding Lender and the Servicer:

(a) The Fiscal Agent is a national banking association, duly organized and existing under the laws of the United States. The Fiscal Agent is duly authorized to act as a fiduciary and to execute the trust created by the Funding Loan Agreement, and meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.

(b) The Fiscal Agent has complied with the provisions of law which are prerequisite to the consummation of, and has all necessary power (including trust powers) and authority (i) to execute and deliver this Project Loan Agreement and the other Financing Documents to which it is a party, (ii) to perform its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, and (iii) to consummate the transactions contemplated by this Project Loan Agreement and the other Financing Documents to which it is a party.

(c) The Fiscal Agent has duly authorized (i) the execution and delivery of this Project Loan Agreement and the other Financing Documents to which it is a party, (ii) the performance by the Fiscal Agent of its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, and (iii) the actions of the Fiscal Agent contemplated by this Project Loan Agreement and the other Financing Documents to which it is a party.

(d) Each of the Financing Documents to which the Fiscal Agent is a party has been duly executed and delivered by the Fiscal Agent and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding obligation of the Fiscal Agent, enforceable against the Fiscal Agent in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(e) The Fiscal Agent has complied with the provisions of law which are prerequisites to the consummation of the transactions on the part of the Fiscal Agent described or contemplated in the Financing Documents to which it is a party.

(f) No approval, permit, consent, authorization or order of any court, governmental agency or public board or body not already obtained is required to be obtained by the Fiscal

Agent as a prerequisite to (i) the execution and delivery of this Project Loan Agreement and the other Financing Documents to which the Fiscal Agent is a party, (ii) the authentication or delivery of the Governmental Note, (iii) the performance by the Fiscal Agent of its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, or (iv) the consummation of the transactions contemplated by this Project Loan Agreement and the other Financing Documents to which the Fiscal Agent is a party. The Fiscal Agent makes no representation or warranty relating to compliance with the Trust Indenture Act of 1939, as amended, or any federal or state securities laws.

Section 2.04 *Arbitrage and Rebate Fund Calculations.* The Borrower will, on a timely basis, provide the Governmental Lender with all necessary information and, with respect to the Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Exemption Agreement) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable the Governmental Lender to comply with all arbitrage and rebate requirements of the Code. To that end, the Borrower covenants and agrees to make such payments to the Fiscal Agent as are required of it under the Tax Exemption Agreement. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Funding Loan Agreement and the Project Loan Agreement.

The Borrower covenants that, notwithstanding any other provision of this Project Loan Agreement or any other instrument, the Borrower will take no action, nor shall it direct the Fiscal Agent to take any action, to invest or use Gross Proceeds of the Governmental Note or the Project Note, the Funding Loan Agreement or the Project Loan Agreement that would cause the Governmental Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Code. In addition, the Borrower covenants and agrees to comply with the requirements of Section 148(f) of the Code as it may be applicable to the Governmental Note or the proceeds derived from the sale of the Governmental Note. No provision of this Project Loan Agreement shall be construed to impose upon the Fiscal Agent any obligation or responsibility for compliance with Section 148 of the Code or the Regulations promulgated thereunder.

Section 2.05 *Tax Covenant of the Borrower.* The Borrower covenants that it shall not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the excludability of the interest on the Governmental Note from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the Tax Exemption Agreement. In the event of a conflict between the terms and requirements of this Section 2.05 and the Tax Exemption Agreement, the terms and requirements of the Tax Exemption Agreement shall control.

ARTICLE III

THE PROJECT LOAN

Section 3.01 *Conditions to Funding the Project Loan.* On the Conversion Date, the Governmental Lender shall cause the proceeds of the Funding Loan to be deposited with the

Fiscal Agent to be used in accordance with the Indenture. The execution and delivery of this Project Loan Agreement shall be subject to the conditions set forth in Section 2.10 of the Funding Loan Agreement.

(a) The Borrower shall have executed and delivered to the Governmental Lender the Project Note and the Governmental Lender shall have endorsed the Project Note to the Fiscal Agent;

(b) The Security Instrument and the Assignment, with only such changes therein as shall be approved in writing by Funding Lender Representative, shall have been executed and delivered by the Borrower and the Governmental Lender, respectively, and delivered to the title company for recording in the appropriate office for officially recording real estate documents in the jurisdiction in which the Project is located (the “**Recorder’s Office**”);

(c) All other Financing Documents not listed above shall have been executed and delivered by all parties thereto and delivered to the Fiscal Agent, provided that this condition will be deemed met upon release of the opinion of Bond Counsel referenced in Section 2.10(b) of the Funding Loan Agreement; and

(d) The Borrower shall have delivered to the Fiscal Agent, the Governmental Lender, the Funding Lender Representative and the Servicer a certificate confirming, as of the Conversion Date, the matters set forth in Section 2.02 hereof and an opinion of its counsel or other counsel satisfactory to the Fiscal Agent, the Governmental Lender, Bond Counsel, the Funding Lender Representative, Freddie Mac and the Servicer.

Section 3.02 Terms of the Project Loan; Servicing.

(a) The Project Loan shall (i) be evidenced by the Project Note; (ii) be secured by the Security Instrument; (iii) be in the original principal amount of \$[ACTUAL PROJECT LOAN AMOUNT]; (iv) bear interest as provided in the Project Note; (v) provide for principal and interest payments in accordance with the Project Note; and (vi) be subject to optional and mandatory prepayment at the times, in the manner and on the terms, and have such other terms and provisions, as provided herein and in the Project Note.

(b) The Funding Lender Representative may appoint a Servicer to service the Loans for all or a portion of the term of the Loans. The initial Servicer of the Loans is Jones Lang LaSalle Multifamily, LLC, who shall service the Loans pursuant to the terms of the Commitment and the Guide. The Funding Lender Representative may remove a Servicer or appoint a replacement Servicer, in its discretion, by written notice provided to the Governmental Lender, the Fiscal Agent and the Borrower. Any successor Servicer shall signify its acceptance of the duties and obligations imposed upon it by the Funding Loan Agreement and this Project Loan Agreement by executing such instrument(s) as shall be acceptable to the Funding Lender Representative, a copy of which shall be provided to the parties hereto.

(c) During any period that the Servicer services the Loans, the Borrower shall make all payments in connection with the Project Loan to the Servicer, and the Servicer will (i) retain

the allocable portion of the monthly Servicing Fee (if any) for its own account, (ii) remit to the Fiscal Agent to be paid by the Fiscal Agent to the holder of the Governmental Note all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together, with any other amounts due to the Funding Lender by no later than 1:00 p.m. Eastern Time the Business Day prior to the applicable Project Loan Payment Date, (iii) remit to the Fiscal Agent the Ordinary Fiscal Agent's Fees and Expenses, together with any other amounts due to the Fiscal Agent, and (iv) remit to the Fiscal Agent to be paid by the Fiscal Agent to the Governmental Lender the Governmental Lender Fees, together with any other amounts due to the Governmental Lender. During a period in which there is no Servicer, all notices to be sent to the Servicer shall be sent to the Funding Lender Representative (to the extent not already provided) and all amounts to be paid to the Servicer by the Borrower shall be paid directly to the Fiscal Agent (unless otherwise directed by the Funding Lender Representative). Following receipt of (i) any payment of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, or any other amount due to the Funding Lender, the Fiscal Agent promptly will remit such amounts to the Funding Lender (provided the Fiscal Agent receives such payment as described in clause (ii) above), and (ii) any portion of the Governmental Lender Fees or any other amount due to the Governmental Lender, the Fiscal Agent promptly will remit such amounts to the Governmental Lender.

(d) The Governmental Lender, the Fiscal Agent and the Borrower hereby acknowledge and agree that (i) the Funding Lender Representative has appointed the Servicer to service and administer the Project Loan, (ii) the selection or removal of any Servicer is in the sole and absolute discretion of the Funding Lender Representative; (iii) none of the Governmental Lender, the Fiscal Agent or the Borrower shall terminate or attempt to terminate any Servicer as the servicer for the Project Loan or appoint or attempt to appoint a substitute servicer for the Project Loan, (iv) the Guide is subject to amendment without the consent of the Fiscal Agent, the Governmental Lender or the Borrower; and (v) none of the Fiscal Agent, the Governmental Lender or the Borrower shall have any rights under, or be a third party beneficiary of, the Guide.

Section 3.03 Initial Deposits. On the Conversion Date, proceeds of the purchase of the Funding Loan by the Initial Funding Lender shall be deposited and applied by the Fiscal Agent in accordance with the Indenture, and the Borrower will deposit with the Servicer the Initial Debt Service Deposit.

The Borrower shall cause the payment of such costs of closing the Loans to be made on its behalf as such amounts become due.

Section 3.04 Assignment to Fiscal Agent. The parties hereto acknowledge, and the Borrower consents to, the assignment by the Governmental Lender to the Fiscal Agent pursuant to the Funding Loan Agreement of all of the Governmental Lender's right, title and interest in this Project Loan Agreement (excluding the Unassigned Rights), the Project Loan, the Project Note, the Security Instrument and the Revenues as security for the payment of the principal of, premium, if any, and interest on the Governmental Note and the payment of any other amounts due under the Financing Documents.

Section 3.05 *Investment of Funds.* Except as otherwise provided in the Funding Loan Agreement, any money held as a part of any fund or account established under the Funding Loan Agreement shall be invested or reinvested by the Fiscal Agent in Qualified Investments in accordance with Section 4.08 of the Funding Loan Agreement.

Section 3.06 *Damage; Destruction and Eminent Domain.* If, prior to payment in full of the Project Loan, the Project or any portion thereof is destroyed or damaged in whole or in part by fire or other casualty, or title to, or the temporary use of, the Project or any portion thereof shall have been taken by the exercise of the power of eminent domain, and the Governmental Lender, the Borrower, the Fiscal Agent or the Servicer receives Casualty Proceeds from insurance or any condemnation award in connection therewith, such Casualty Proceeds shall be utilized as provided in the Project Loan Documents and the Funding Loan Agreement.

Section 3.07 *Enforcement of Financing Documents.* The Fiscal Agent or the Funding Lender Representative may enforce and take all reasonable steps, actions and the proceedings necessary for the enforcement of all terms, covenants and conditions of the Funding Loan Agreement and the other Financing Documents as and to the extent set forth herein and therein.

ARTICLE IV

LOAN PAYMENTS

Section 4.01 *Payments Under the Project Note; Independent Obligation of Borrower.*

(a) **Payment Obligations.** The Borrower agrees to repay the Project Loan on each Project Loan Payment Date as provided in the Project Note, and in all instances at the times and in the amounts necessary to enable the Fiscal Agent, on behalf of the Governmental Lender, or the Servicer, to pay all amounts payable with respect to the Funding Loan, when due, whether at maturity or upon prepayment (with premium, if applicable), acceleration or otherwise. To ensure such timely payment, the Servicer shall collect from the Borrower, and the Borrower shall provide to the Servicer the foregoing payments at least two (2) Business Days prior to each respective Project Loan Payment Date.

The obligation of the Borrower to make the payments set forth in this Article IV shall be an independent obligation of the Borrower, separate from its obligation to make payments under the Project Note, provided that in all events payments made by the Borrower under and pursuant to the Project Note shall be credited simultaneously against the Borrower's obligations hereunder on a dollar for dollar basis. If for any reason the Project Note or any provision of the Project Note shall be held invalid or unenforceable against the Borrower by any court of competent jurisdiction, the Project Note or such provision of the Project Note shall be deemed to be the obligation of the Borrower pursuant to this Project Loan Agreement to the full extent permitted by law and such holding shall not invalidate or render unenforceable any of the provisions of this Article IV and shall not serve to discharge any of the Borrower's payment obligations hereunder or eliminate the credit against such obligations to the extent of payments made under the Project Note.

(b) **Obligations Unconditional; No Set-Off.** The obligation of the Borrower to repay the Project Loan, to perform all of its obligations under the Project Loan Documents, to provide indemnification pursuant to Section 6.01 hereof, to pay costs, expenses and charges pursuant to Section 4.02 hereof and to make any and all other payments required by this Project Loan Agreement, the Funding Loan Agreement or any other documents contemplated by this Project Loan Agreement or by the Project Loan Documents shall, subject to the limitations set forth in Section 4.06 hereof, be absolute and unconditional, and shall be paid or performed without notice or demand (except as otherwise provided in said documents), and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Borrower's title to the Project or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Borrower's use thereof, the eviction or constructive eviction of the Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in the Governmental Lender's legal organization or status, or any default of the Governmental Lender or the Fiscal Agent hereunder or under any other Financing Document, and regardless of the invalidity of any action of the Governmental Lender or the invalidity of any portion of this Project Loan Agreement.

(c) **Payments from Borrower to Fiscal Agent or Servicer.** Each payment by the Borrower hereunder or under the Project Note shall be made in immediately available funds to the Servicer on each Project Loan Payment Date or such other date when such payment is due; provided, however, such Project Loan Payment shall be made directly to the Fiscal Agent if there is no Servicer or if the Borrower is so directed in writing by the Funding Lender Representative. Each such payment shall be made to the Fiscal Agent or the Servicer, as applicable, by deposit to such account as the Fiscal Agent or the Servicer may designate by written notice to the Borrower. Whenever any Project Loan Payment or any other payment under this Project Loan Agreement or under the Project Note shall be stated to be due on a day that is not a Business Day, such payment shall be made on the first Business Day immediately thereafter.

Section 4.02 Additional Payments Under the Project Note and this Project Loan Agreement.

(a) In addition to the payments set forth in Section 4.01 hereof, payments to be made by the Borrower under the Project Note include certain money to be paid in respect of, among others, the Fee Component, the Servicing Fee, and amounts required to be deposited pursuant to the Continuing Covenant Agreement and the other Project Loan Documents, as set forth in subsection (b) of this Section 4.02. To the extent that any portion of the Fee Component, the Servicing Fee, and amounts required to be deposited pursuant to the Continuing Covenant Agreement and the other Project Loan Documents remain due and owing at any time, such amounts remaining due and owing shall be payable from money on deposit in the Administration Fund as provided in Section 4.06 of the Funding Loan Agreement or from other money of the Borrower, to the extent that money in the Administration Fund is insufficient for such purposes.

All other fees and expenses shall be payable from money of the Borrower as provided in subsection (b) of this Section 4.02.

(b) In addition to the funding of the initial deposits required of the Borrower described in Section 3.03, the Borrower shall pay (or cause to be paid by the Servicer or the Fiscal Agent (to the extent paid from money on deposit in the Administration Fund or the Cost of Issuance Fund, as applicable)), in consideration of the funding of the Project Loan, the following fees, expenses and other money payable in connection with the Loans:

(i) On the Conversion Date, from money deposited by the Borrower with the Fiscal Agent, to Freddie Mac, all fees and expenses, including third party and out of pocket expenses of Freddie Mac (including but not limited to the fees and expenses of counsel to Freddie Mac) in connection with the Loans.

(ii) On the Conversion Date, from money deposited by the Borrower with the Fiscal Agent, to the Governmental Lender, all fees and expenses, including all third party and out of pocket expenses of the Governmental Lender (including but not limited to the fees and expenses of Bond Counsel) in connection with the Loans and the issuance of the Governmental Note.

(iii) On the Conversion Date, from money deposited by the Borrower with the Fiscal Agent, to the Servicer, all fees and expenses, including all third party and out of pocket expenses of the Servicer (including but not limited to the fees and expenses of counsel to the Servicer, if any) in connection with the Loans.

(iv) On the Conversion Date, from money deposited by the Borrower with the Fiscal Agent, to the Fiscal Agent, all fees and expenses, including all third party and out of pocket expenses of the Fiscal Agent (including but not limited to the fees and expenses of counsel to the Fiscal Agent) in connection with the Loans and the issuance of the Governmental Note.

(v) To the Fiscal Agent, the Ordinary Fiscal Agent's Fees and Expenses and the Extraordinary Fiscal Agent's Fees and Expenses when due from time to time.

(vi) To Fiscal Agent to be paid by Fiscal Agent to the Governmental Lender, the Governmental Lender Fees when due and any extraordinary expenses not covered by the Governmental Lender Fees the Governmental Lender may incur in connection with the Financing Documents or the Project from time to time.

(vii) To the Rebate Analyst, the reasonable fees and expenses of such Rebate Analyst in connection with the computations relating to arbitrage rebate required under the Funding Loan Agreement and this Project Loan Agreement when due from time to time.

(viii) To the Funding Lender Representative, any amount due and owing the Funding Lender Representative from time to time but unpaid under the Continuing Covenant Agreement.

(ix) To the Servicer, the amount of any portion of the Servicing Fee remaining unpaid and any fees, costs and expenses of the Servicer as provided in the Continuing Covenant Agreement.

(x) To the Servicer, the amounts required to be deposited in respect of reserves and impounds required under the Continuing Covenant Agreement and the other Project Loan Documents.

(xi) If the Fiscal Agent is collecting and remitting loan payments under the Funding Loan Agreement, to the Fiscal Agent, within two (2) Business Days of receipt by the Borrower from the Fiscal Agent of a notice of deficiency in the Administration Fund as provided in Section 4.06 of the Funding Loan Agreement, the amount of any such deficiency in the Administration Fund.

Section 4.03 *Payments to Rebate Fund.* The Borrower shall pay when due to the Fiscal Agent at the Principal Office of the Fiscal Agent any amount required to be deposited in the Rebate Fund in accordance with the Tax Exemption Agreement.

Section 4.04 *Prepayment.*

(a) **Optional Prepayment of the Project Loan.** The Borrower shall have the option to prepay the Project Loan in whole, together with all accrued and unpaid interest thereon, as provided in the Project Note.

(b) **Mandatory Prepayment of the Project Loan.** The Borrower shall be required to pay all or a portion of the outstanding principal balance of the Project Loan, together with accrued interest thereon, and together with any Prepayment Premium due under the Project Note, as provided in the Project Note.

(c) **Defeasance of the Funding Loan.** In addition, prior to the Window Period, the Borrower may cause a defeasance of the Funding Loan resulting in a release of the Pledged Security by satisfying the conditions set forth hereunder and in Article IX of the Funding Loan Agreement. In connection therewith, the Borrower will give written notice (a “**Defeasance Notice**”) to the Funding Lender Representative, the Servicer, the Governmental Lender and the Fiscal Agent of the date the Borrower desires to defease the Funding Loan (the “**Defeasance Date**”). The Defeasance Date may not be more than 60 calendar days, nor less than 30 calendar days, after the delivery of the Defeasance Notice. In connection with the delivery of the Defeasance Notice, the Borrower shall cause to be paid to the Funding Lender Representative the Defeasance Fee set forth in the Continuing Covenant Agreement. In addition to, and not in limitation of any other provisions of this Project Loan Agreement, the Borrower shall pay all fees, costs and expenses in connection with any defeasance whether or not such defeasance occurs. Following such defeasance in accordance with the terms and conditions hereof and the Funding Loan Agreement, the Project Loan shall be deemed paid in full, and the Borrower shall be entitled to the release of the Security Instrument, the Pledged Security and other security provided by it for the Project Loan, subject to the terms and conditions hereof and the other Financing Documents.

Section 4.05 *Borrower's Obligations Upon Prepayment.* In the event of any prepayment, the Borrower will timely pay, or cause to be paid through the Servicer, who shall remit to the Fiscal Agent, an amount equal to the principal amount of the Funding Loan or portion thereof called for prepayment, together with interest accrued to the prepayment date and premium, if any. In addition, the Borrower will timely pay all fees, costs and expenses associated with any prepayment of the Funding Loan.

Section 4.06 *Limits on Personal Liability.*

(a) Except as otherwise set forth in the Project Note and subsection 4.06(b) below, the obligations of the Borrower under this Project Loan Agreement and the other Financing Documents are non-recourse liabilities of the Borrower which shall be enforced only against the Project and other property of the Borrower encumbered by the Financing Documents and not personally against the Borrower or any partner and/or member of the Borrower or any successor or assign of the Borrower. However, nothing in this Section 4.06 shall limit the right of the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative to proceed against the Borrower to recover any fees owing to any of them or any actual out-of-pocket expenses (including but not limited to actual out-of-pocket attorneys' fees incurred by any of them) incurred by any of them in connection with the enforcement of any rights under this Project Loan Agreement or the other Financing Documents. Nothing in this Section 4.06 shall limit any right that the Servicer or the Funding Lender Representative may have to enforce the Project Note, the Security Instrument, or any other Financing Document in accordance with their terms.

(b) Notwithstanding anything contained in any other provision of this Project Loan Agreement to the contrary (but subject to the provisions of Section 7.06 hereof), the following obligations of the Borrower shall be and remain the joint and several full recourse obligations of the Borrower and each of the Borrower's general partners and/or managing members: (i) the Borrower's obligations to the Governmental Lender and the Fiscal Agent under subsections (b)(ii), (b)(iv), (b)(v), and (b)(vi) of Section 4.02 hereof; (ii) the Borrower's obligations under Sections 2.05 and 6.01 of this Project Loan Agreement; (iii) the Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Funding Loan and fees and expenses of the Rebate Analyst as provided in Sections 2.04 and 4.03 hereof and in the Tax Exemption Agreement; and (iv) the Borrower's obligation to pay legal fees and expenses under Section 7.04 hereof. At no time shall the Borrower's limited partners have any liability under the Financing Documents.

ARTICLE V

SPECIAL COVENANTS OF BORROWER

Section 5.01 *Performance of Obligations.* The Borrower shall keep and faithfully perform all of its covenants and undertakings contained herein and in the Financing Documents, including, without limitation, its obligations to make all payments set forth herein and therein in the amounts, at the times and in the manner set forth herein and therein.

Section 5.02 *Compliance With Applicable Laws.* All work performed in connection with the Project shall be performed in strict compliance with all applicable federal, state, county and municipal laws, ordinances, rules and regulations now in force or that may be enacted hereafter.

Section 5.03 *Funding Loan Agreement Provisions.* The execution of this Project Loan Agreement shall constitute conclusive evidence of approval of the Funding Loan Agreement by the Borrower. Whenever the Funding Loan Agreement by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Funding Loan Agreement, and the Borrower shall carry out and perform all of its obligations under the Funding Loan Agreement as fully as if the Borrower were a party to the Funding Loan Agreement.

Section 5.04 *Reserved.*

Section 5.05 *Borrower to Maintain Its Existence; Certification of No Default.*

(a) The Borrower agrees to maintain its existence and maintain its current legal status with authority to own and operate the Project.

(b) In addition to performing all other similar requirements under the Financing Documents to which the Borrower is a party, the Borrower shall, within 30 days after the end of each calendar year, render to the Fiscal Agent a certificate executed by an Authorized Officer of the Borrower to the effect that the Borrower is not, as of the date of such certificate, in default of any of its covenants, agreements, representations or warranties under any of the Financing Documents to which the Borrower is a party and that, to the best of the Borrower's knowledge, after reasonable investigation, there has occurred no default or Event of Default (as such terms are defined in each respective Financing Document) under any of the Financing Documents.

Section 5.06 *Borrower to Remain Qualified in State and Appoint Agent.* The Borrower will remain duly qualified to transact business in the State and will maintain an agent in the State on whom service of process may be made in connection with any actions against the Borrower.

Section 5.07 *Sale or Other Transfer of Project.* The Borrower may convey and transfer the Project only upon strict compliance with the provisions of the Financing Documents, and upon receipt of the prior written consent of the Governmental Lender and the Funding Lender Representative.

Section 5.08 *Right to Perform Borrower's Obligations.* In the event the Borrower fails to perform any of its obligations under this Project Loan Agreement, the Governmental Lender, the Fiscal Agent, the Servicer and/or the Funding Lender Representative, after giving requisite notice, if any, and subject to Section 5.05 of the Funding Loan Agreement, may, but shall be under no obligation to, perform such obligation and pay all costs related thereto, and all such costs so advanced shall become an additional obligation of the Borrower hereunder, payable on

demand and if not paid on demand with interest thereon at the default rate of interest payable under the Project Loan Documents.

Section 5.09 *Notice of Certain Events.* The Borrower shall promptly advise the Governmental Lender, the Fiscal Agent, the Funding Lender Representative and the Servicer in writing of the occurrence of any Event of Default hereunder or any event which, with the passage of time or service of notice or both, would constitute an Event of Default, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.10 *Survival of Covenants.* The provisions of Sections 2.04, 4.02, 4.03, 6.01 and 7.04 hereof shall survive the expiration or earlier termination of this Project Loan Agreement and, with regard to the Fiscal Agent, the resignation or removal of the Fiscal Agent.

Section 5.11 *Access to Project; Records.* Subject to reasonable written notice and the rights of tenants at the Project, the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, and the respective duly authorized agents of each, shall have the right (but not any duty or obligation) at all reasonable times and during normal business hours: (a) to enter the Project and any other location containing the records relating to the Borrower, the Project, the Loans and the Borrower's compliance with the terms and conditions of the Financing Documents and if not available at the Project or other location containing the records, the Borrower shall deliver such records to the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative; (b) to inspect and audit any and all of the Borrower's records or accounts pertaining to the Borrower, the Project, the Loans and the Borrower's compliance with the terms and conditions of the Financing Documents; and (c) to require the Borrower, at the Borrower's sole expense, (i) to furnish such documents to the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, as the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative, as the case may be, from time to time, deems reasonably necessary in order to determine that the provisions of the Financing Documents have been complied with and (ii) to make copies of any records that the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative or the respective duly authorized agents of each, may reasonably require. The Borrower shall make available to the Governmental Lender, the Fiscal Agent, the Servicer and the Funding Lender Representative, such information concerning the Project, the Security Instrument and the Financing Documents as any of them may reasonably request.

Section 5.12 *Tax Regulatory Agreement.* The covenants of the Borrower in the Tax Regulatory Agreement shall be deemed to constitute covenants of the Borrower running with the land and an equitable servitude for the benefit of the Governmental Lender and the Funding Lender and shall be binding upon any owners of the Project until such time as such restrictions expire as provided in the Tax Regulatory Agreement. The Borrower covenants to file of record the Tax Regulatory Agreement and such other documents, and to take such other steps as are necessary in order to assure that the restrictions contained in the Tax Regulatory Agreement will, subject to the terms of the Tax Regulatory Agreement, be binding upon all owners of the Project. The Borrower covenants to include such restrictions or a reference to such restrictions in any documents transferring any interest in the Project to another to the end that such transferee has

notice of, and is bound by, the Tax Regulatory Agreement. Subject to the provisions of Section 7.06 of this Project Loan Agreement, the Governmental Lender and the Fiscal Agent shall have the right to seek specific performance of or injunctive relief to enforce the requirements of any covenants of the Borrower contained in the Tax Regulatory Agreement.

Section 5.13 *Damage, Destruction and Condemnation.* If prior to full payment of the Funding Loan (or provision for payment of the Funding Loan in accordance with the provisions of the Funding Loan Agreement) the Project or any portion of it is destroyed (in whole or in part) or is damaged by fire or other casualty, or title to, or the temporary use of, the Project or any portion of it shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, or shall be transferred pursuant to an agreement or settlement in lieu of eminent domain proceedings, the Borrower shall nevertheless be obligated to continue to pay the amounts specified in this Project Loan Agreement and in the Project Note to the extent the Project Loan is not prepaid in full in accordance with the terms of the Project Loan Documents.

Section 5.14 *Filing of Financing Statements.* The Borrower shall file or record or cause to be filed or recorded on or prior to the Conversion Date all UCC financing statements that are required to be filed or recorded in order fully to protect and preserve the security interests relating to the priority of the Project Loan, the Funding Loan, the Pledged Security and the Security Instrument, and the rights and powers of the Governmental Lender, the Fiscal Agent and the Funding Lender in connection with such security interests and provide copies of all such filed UCC financing statements to the Fiscal Agent. The Borrower shall cooperate with the Fiscal Agent in connection with the filing of any continuation statements for the purpose of continuing without lapse the effectiveness of such financing statements.

ARTICLE VI

INDEMNIFICATION

Section 6.01 *Indemnification.*

(a) **Indemnification of the Governmental Lender.**

(i) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE GOVERNMENTAL LENDER AND ITS GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS PROJECT LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,

ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS PROJECT LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS PROJECT LOAN AGREEMENT, OR (III) THE PROJECT OR ANY PART THEREOF, OR (IV) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL NOTE, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE GOVERNMENTAL LENDER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE; PROVIDED, HOWEVER, THAT THE GOVERNMENTAL LENDER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(ii) IT IS THE INTENTION OF THE PARTIES HERETO THAT THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS PROJECT LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN CONNECTION WITH THE ISSUANCE OF THE GOVERNMENTAL NOTE, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS PROJECT LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS PROJECT LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS PROJECT LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS PROJECT LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND

DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE GOVERNMENTAL LENDER OR ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM THE GOVERNMENTAL LENDER THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE GOVERNMENTAL LENDER AND THE BORROWER SHALL PAY THE GOVERNMENTAL LENDER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE GOVERNMENTAL LENDER; PROVIDED HOWEVER, THAT THE GOVERNMENTAL LENDER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

(iii) NOTWITHSTANDING ANY PROVISION OF THIS PROJECT LOAN AGREEMENT TO THE CONTRARY, THE GOVERNMENTAL LENDER SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE GOVERNMENTAL LENDER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

(iv) In case any action or proceeding is brought against the Governmental Lender or any of its governing board members, officers, directors, officials, employees, agents, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel.

(v) Notwithstanding anything else in this Project Loan Agreement to the contrary, except as otherwise provided in Section 6.01(a)(iii), the Borrower shall be responsible for the fees, costs and expenses of counsel to the Governmental Lender and

Fiscal Agent at all times; provided that the Governmental Lender maintains control of the selection of its counsel at all times.

(b) **Indemnified Losses for Fiscal Agent, Servicer and Funding Lender.**

(1) To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Fiscal Agent, the Servicer, the Funding Lender and each of their respective officers, governing commissioners, members, directors, officials, employees, attorneys and agents (collectively, the “**Indemnified Parties**” and **individually** an “**Indemnified Party**”), against any and all losses, damages (including, but not limited to, consequential and punitive damages), claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise (collectively, “**Losses**”), to the extent arising, directly or indirectly, out of or based upon or in any way relating to:

(A) any breach by the Borrower of its obligations under the Financing Documents or the execution, amendment, restructuring or enforcement thereof, or in connection with transactions contemplated thereby, including the issuance, sale, transfer or resale of the Governmental Note;

(B) any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Project Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, construction or equipping of, the Project or any part thereof;

(C) any accident, injury to, or death of persons or loss of or damage to property occurring in, on or about the Project or any part thereof;

(D) any lien (other than liens permitted under the Continuing Covenant Agreement) or charge upon payments by the Borrower to the Servicer hereunder, or any Taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project (other than income and similar taxes on fees received or earned in connection therewith);

(E) any violation of any environmental law, rule or regulation with respect to, or the release of any Hazardous Materials from, the Project or any part thereof;

(F) [Reserved];

(G) the enforcement of, or any action taken by the Fiscal Agent or the Funding Lender Representative related to remedies under this Project Loan Agreement, the Funding Loan Agreement or any other Financing Document;

(H) any untrue statement of a material fact or alleged untrue statement of a material fact by the Borrower contained in any offering statement or document for the Governmental Note or any of the Financing Documents to which the Borrower is a party, or any omission or alleged omission by the Borrower of a material fact from any offering statement or document for the Governmental Note necessary to be stated therein in order to make the statements made therein by the Borrower, in the light of the circumstances under which they were made, not misleading;

(I) any declaration of taxability of interest on the Governmental Note (other than to a substantial user or related party) or allegations (or regulatory inquiry) that interest on the Governmental Note is includable in gross income for federal income tax purposes;

(J) any audit or inquiry by the Internal Revenue Service with respect to the Project and/or the tax-exempt status of the Governmental Note; or

(K) the Fiscal Agent's acceptance or administration of the trust of the Funding Loan Agreement, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Governmental Note to which it is a party;

except (A) in the case of the foregoing indemnification of the Fiscal Agent, or any of its respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the negligence, unlawful acts or willful misconduct of such Indemnified Party; or (B) in the case of the foregoing indemnification of the Servicer or the Funding Lender or any of their respective officers, commissioners, members, directors, officials, employees, attorneys and agents, to the extent such Losses are caused by the gross negligence or willful misconduct of the Servicer or the Funding Lender or any of their respective officers, commissioners, members, directors, officials, employees, attorneys and agents.

(2) **Procedures.** In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from such Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected or approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that such Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement; provided, however, the failure to give such notice shall not affect the indemnification obligations of the Borrower hereunder, except (other than with respect to the Governmental Lender) to the extent the Borrower

shall have been prejudiced by such failure and such failure could not be mitigated or remedied and arose directly from the negligence or willful misconduct of the Indemnified Party. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may employ separate counsel at the expense of the Borrower only if, in such Indemnified Party's good faith judgment, a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

(3) **Borrower to Remain Obligated.** Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Project Loan Agreement, the Security Instrument and the Tax Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer unless (i) such subsequent owner assumed in writing at the time of such transfer all obligations of the Borrower under this Section 6.01 (including obligations under this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer) and (ii) any such transfer is in compliance with the requirements of the Financing Documents.

(c) **Survival.** The provisions of this Section 6.01 shall survive the termination of this Project Loan Agreement and the repayment of the Governmental Note and the Project Loan.

Section 6.02 *Limitation With Respect to the Funding Lender.* Notwithstanding anything in this Project Loan Agreement to the contrary, in the event that the Funding Lender (or its nominee) shall become the owner of the Project as a result of a foreclosure or a deed in lieu of foreclosure, or comparable conversion of the Project Loan, the Funding Lender (or its nominee) shall not be liable for any breach or default of any prior owner of the Project under this Project Loan Agreement and shall only be responsible for defaults and obligations incurred or occurring during the period that the Funding Lender (or its nominee) is the owner of the Project. Accordingly, during any period that the Funding Lender (or its nominee) owns the Project and that this Article VI is applicable to the Funding Lender (or its nominee), the Funding Lender's (or its nominee's) obligations under this Article VI shall be limited to acts and omissions of the Funding Lender (or its nominee) occurring during the period of the Funding Lender's (or its nominee's) ownership of the Project.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01 *Events of Default.* The following shall be "Events of Default" under this Project Loan Agreement, and the term "Event of Default" shall mean, whenever it is used in this Project Loan Agreement, one or all of the following events:

(a) Any representation or warranty made by the Borrower in the Financing Documents or any certificate, statement, data or information furnished by the Borrower in connection therewith or included by the Borrower in its application to the Governmental Lender for assistance proves at any time to have been incorrect when made in any material respect;

(b) Failure by the Borrower to pay any amounts due under this Project Loan Agreement, the Project Note or the Security Instrument at the times and in the amounts required by this Project Loan Agreement, the Project Note and the Security Instrument, as applicable, subject to any applicable notice, grace and cure periods expressly provided for therein;

(c) The Borrower shall fail to observe or perform any other term, covenant, condition or agreement (after taking into account any applicable cure period) set forth in this Project Loan Agreement, which failure continues for a period of 30 days after notice of such failure by the Governmental Lender, the Fiscal Agent or the Funding Lender Representative to the Borrower (unless such default cannot with due diligence be cured within 30 days but can be cured within a reasonable period and will not, in the Funding Lender Representative's sole discretion, adversely affect the Funding Lender or result in impairment of this Project Loan Agreement or any other Financing Document, in which case no Event of Default shall be deemed to exist so long as Borrower shall have commenced to cure the default or Event of Default within 30 days after receipt of notice, and thereafter diligently and continuously prosecutes such cure to completion); provided, however, no such notice or grace periods shall apply in the case of any such failure which could, in the Funding Lender Representative's judgment, absent immediate exercise by the Funding Lender Representative of a right or remedy under this Project Loan Agreement, result in harm to the Funding Lender, impairment of this Project Loan Agreement or any other Financing Document;

(d) The occurrence of an event of default under the Continuing Covenant Agreement or the Security Instrument (after taking into account any applicable cure period thereunder) shall at the discretion of the Funding Lender Representative constitute an Event of Default under this Project Loan Agreement but only if the Fiscal Agent is provided written notice by the Funding Lender Representative that an Event of Default has occurred under such Financing Document and the Fiscal Agent is instructed by the Funding Lender Representative that such default constitutes an Event of Default hereunder. The occurrence of an Event of Default hereunder shall in the discretion of the Funding Lender Representative constitute a default under the other Financing Documents.

To the extent Borrower has a cure right with respect to any default or Event of Default hereunder, the Borrower's limited partners may exercise such cure right on behalf of the Borrower and such cure may be accepted or rejected on the same basis as if made or tendered by the Borrower. The Borrower represents and warrants that the Borrower's limited partners are authorized to so act on behalf of the Borrower.

Nothing contained in this Section 7.01 is intended to amend or modify any of the provisions of the Financing Documents or, except with respect to this Project Loan Agreement, to bind the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender

Representative to any notice and cure periods other than as expressly set forth in the Financing Documents.

Section 7.02 Remedies on Default. Subject to Section 7.06 hereof, whenever any Event of Default hereunder shall have occurred and be continuing, the Funding Lender may (or the Fiscal Agent at the written direction of the Funding Lender, shall), take any one or more of the following remedial steps:

(a) The Funding Lender may (or the Fiscal Agent at the written direction of the Funding Lender, shall) take such action, without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Project Loan to be immediately due and payable (including, without limitation, declaring the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Project Note to be immediately due and payable).

(b) The Funding Lender may (or the Fiscal Agent at the written direction of the Funding Lender, shall) without being required to give any notice (other than to the Governmental Lender or the Fiscal Agent, as applicable), except as provided herein, pursue all remedies of a creditor under the laws of the State, as supplemented and amended, or any other applicable laws.

(c) The Funding Lender may (or the Fiscal Agent at the written direction of the Funding Lender, shall) take whatever action at law or in equity may appear necessary or desirable to collect the payments under this Project Loan Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Project Loan Agreement.

In addition, subject to Section 7.06 hereof, the Governmental Lender and the Fiscal Agent may pursue remedies with respect to the Unassigned Rights.

Any amounts collected pursuant to Article IV hereof and any other amounts which would be applicable to payment of principal of and interest and any premium on the Funding Loan collected pursuant to action taken under this Section 7.02 shall be applied in accordance with the provisions of the Funding Loan Agreement.

Section 7.03 No Remedy Exclusive. Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available against the Borrower hereunder or under the Financing Documents or otherwise at law or in equity may be exercised by the Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender), at any time and from time to time, whether or not the Funding Lender has accelerated the Project Loan, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Financing Documents. No remedy conferred upon or reserved to the Funding Lender or the Fiscal Agent by this Project 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 this Project Loan Agreement 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 Event of Default shall impair any such right or power or shall 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 Funding Lender (or the Fiscal Agent at the written direction of the Funding Lender) 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 expressly required by this Project Loan Agreement.

Section 7.04 *Agreement to Pay Attorneys' Fees and Expenses.* In the event the Borrower shall default under any of the provisions of this Project Loan Agreement and the Governmental Lender, the Fiscal Agent, the Servicer or the Funding Lender Representative shall employ attorneys or incur other expenses for the collection of loan payments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in this Project Loan Agreement or in the Project Note, the Borrower shall on written demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred.

Section 7.05 *No Additional Waiver Implied by One Waiver.* In the event any agreement contained in this Project Loan Agreement shall be breached by any party and thereafter waived by the other parties, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.06 *Control of Proceedings.*

(a) If an Event of Default has occurred and is continuing, notwithstanding anything to the contrary herein, the Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Project Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Project Loan Agreement. In addition, the Funding Lender Representative shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Financing Documents with or without the involvement of the Fiscal Agent or the Governmental Lender. In no event shall the exercise of any of the foregoing rights result in an acceleration of the Project Loan without the express direction of the Funding Lender Representative.

(b) The Governmental Lender and the Fiscal Agent covenant that they will not, without the prior written consent of the Funding Lender Representative, take any of the following actions:

- (i) prosecute any action with respect to a lien on the Project; or
- (ii) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Project Loan; or

(iii) interfere with or attempt to influence the exercise by the Funding Lender Representative of any of its rights under the Financing Documents upon the occurrence of any event of default by the Borrower under the Financing Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Project Loan or the Funding Loan.

(c) Notwithstanding Sections 7.06(a) and 7.06(b) hereof, the Governmental Lender or the Fiscal Agent may:

(i) specifically enforce the tax covenants of the Borrower specified in Section 2.05 hereof or in the Tax Exemption Agreement or seek injunctive relief against acts which may be in violation thereof; and

(ii) specifically enforce the Tax Regulatory Agreement or seek injunctive relief against acts which may be in violation of the Tax Regulatory Agreement or are otherwise inconsistent with the operation of the Project in accordance with applicable requirements of the Code and State law (but in neither the case of subsection (c)(i) above or this subsection (c)(ii) may the Governmental Lender or the Fiscal Agent seek any form of monetary damages from the Borrower in connection with such enforcement).

In addition, notwithstanding Section 7.06(a) and 7.06(b) hereof, the Governmental Lender and the Fiscal Agent may seek specific performance of the other Unassigned Rights (provided no monetary damages are sought), and nothing herein shall be construed to limit the rights of the Governmental Lender, the Fiscal Agent or any indemnified party related to the Governmental Lender or the Fiscal Agent under Sections 6.01 and 6.02 hereof (each, a "Related Indemnified Party") to enforce their respective rights against the Borrower under Sections 4.02, 4.03, 6.01 and 7.04 hereof, provided that no obligation of the Borrower to the Governmental Lender, the Fiscal Agent or any Related Indemnified Party under such sections shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Governmental Lender, the Fiscal Agent or any Related Indemnified Party, and all such obligations are and shall be subordinate in priority, in right to payment and in all other respects to all other obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Financing Documents (except for the Fiscal Agent's right to receive payment of reasonable fees and expenses pursuant to Section 6.05(a) of the Funding Loan Agreement after an event of default with respect to the Funding Loan, which reasonable fees and expenses of the Fiscal Agent shall be payable as provided thereunder). Accordingly, none of the Governmental Lender, the Fiscal Agent or any Related Indemnified Party shall have the right to enforce any monetary obligation arising under such sections other than directly against the Borrower, without recourse to the Project. In addition, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Section 7.07 Assumption of Obligations. In the event that the Fiscal Agent or the Funding Lender or their respective assignee or designee shall become the legal or beneficial

owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Project Loan Agreement, the Project Note, the Tax Regulatory Agreement, and any other Financing Documents to which the Borrower is a party or with respect to which it is a third-party beneficiary. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Notices.

(a) Whenever in this Project Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth in Section 11.04 of the Funding Loan Agreement or as required or permitted by this Project Loan Agreement by Electronic Notice. The Governmental Lender, the Fiscal Agent, the Funding Lender Representative, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Funding Lender Representative and a duplicate copy of each notice or other communication given hereunder by any party to the Funding Lender Representative shall be given to the Servicer. In addition, a duplicate copy of each notice or other communication given hereunder to the Borrower shall be given to the Investor Limited Partner and the Special Limited Partner.

The Fiscal Agent agrees to accept and act upon Electronic Notice of written instructions and/or directions pursuant to this Project Loan Agreement, subject to the conditions set forth in Section 11.04 of the Funding Loan Agreement.

(b) The Fiscal Agent shall provide to the Funding Lender Representative and the Servicer (i) prompt notice of the occurrence of any Event of Default hereunder and (ii) any written information or other communication received by the Fiscal Agent hereunder within ten

(10) Business Days of receiving a written request from the Funding Lender Representative for any such information or other communication.

Section 8.02 *Concerning Successors and Assigns.* All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the financing herein contemplated and shall continue in full force and effect so long as the obligations hereunder are outstanding. Whenever in this Project Loan Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Project Loan Agreement shall bind its successors and assigns and inure to the benefit of the successors and assigns of the Governmental Lender, the Fiscal Agent, the Servicer, the Funding Lender and the Funding Lender Representative, as applicable.

Section 8.03 *Governing Law.* This Project Loan Agreement and the Exhibits attached hereto shall be construed in accordance with and governed by the internal laws of the State and, where applicable, the laws of the United States of America.

Section 8.04 *Modifications in Writing.* Modification or the waiver of any provisions of this Project Loan Agreement or consent to any departure by the parties therefrom, shall in no event be effective unless the same shall be in writing approved by the parties hereto and shall require the prior written consent of the Funding Lender Representative and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Borrower in any case shall entitle it to any other or further notice or demand in the same circumstances.

Section 8.05 *Further Assurances and Corrective Instruments.* The Governmental Lender, the Fiscal Agent and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required (including such supplements or further instruments requested by the Funding Lender Representative) for correcting any inadequate or incorrect description of the performance of this Project Loan Agreement.

Section 8.06 *Captions.* The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Project Loan Agreement.

Section 8.07 *Severability.* The invalidity or unenforceability of any provision of this Project Loan Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

Section 8.08 *Counterparts.* This Project Loan Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 8.09 *Amounts Remaining in Loan Payment Fund or Other Funds.* It is agreed by the parties hereto that any amounts remaining in the Loan Payment Fund or other funds and accounts established under the Funding Loan Agreement upon expiration or sooner termination of the term hereof and the repayment in full of the Project Loan and all other amounts owing under the Project Loan Documents, shall be paid in accordance with the Funding Loan Agreement.

Section 8.10 *Effective Date and Term.* This Project Loan Agreement shall become effective upon its execution and delivery by the parties hereto, shall be effective and remain in full force from the date hereof, and, subject to the provisions hereof, shall expire on such date as the Funding Loan Agreement shall terminate.

Section 8.11 *Cross References.* Any reference in this Project Loan Agreement to an "Exhibit," an "Article," a "Section," a "Subsection" or a "Paragraph" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit attached to this Project Loan Agreement, an article of this Project Loan Agreement, a section of this Project Loan Agreement, a subsection of the section of this Project Loan Agreement in which the reference appears and a paragraph of the subsection within this Project Loan Agreement in which the reference appears. All exhibits attached to or referred to in this Project Loan Agreement are incorporated by reference into this Project Loan Agreement.

Section 8.12 *Funding Lender Representative and Servicer as Third-Party Beneficiaries.* The parties hereto agree and acknowledge that the Funding Lender Representative and the Servicer are third party beneficiaries of this Project Loan Agreement.

Section 8.13 *Reserved.*

Section 8.14 *Non-Liability of Governmental Lender.* The Governmental Lender shall not be obligated to pay the principal (or Prepayment Premium) of or interest on the Funding Loan, except from Revenues and other money and assets received by the Fiscal Agent on behalf of the Governmental Lender pursuant to this Project Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, nor the faith and credit of the Governmental Lender or any member is pledged to the payment of the principal (or prepayment premium) or interest on the Funding Loan. The Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Project Loan Agreement, the Funding Loan or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower under this Project Loan Agreement.

The Borrower hereby acknowledges that the Governmental Lender's sole source of money to repay the Funding Loan will be provided by the payments made by the Borrower pursuant to this Project Loan Agreement, together with investment income on certain funds and accounts held by the Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or prepayment premium) and interest on the Funding Loan as the same shall become due (whether by maturity, prepayment, acceleration or otherwise), then upon notice from the Fiscal Agent, the

Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or prepayment premium) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Fiscal Agent, the Borrower, the Governmental Lender or any third party, subject to any right of reimbursement from the Fiscal Agent, the Governmental Lender or any such third party, as the case may be, therefor.

Section 8.15 *No Liability of Officers.* No recourse under or upon any obligation, covenant, or agreement or in the Governmental Note, or under any judgment obtained against the Governmental Lender, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, director, commissioner, employee, agent or officer, as such, past, present, or future, of the Governmental Lender, either directly or through the Governmental Lender, or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, of any sum that may be due and unpaid by the Governmental Lender upon the Funding Loan. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director, commissioner, employee, agent or officer, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to the Governmental Lender or any receiver thereof, or for or to the Funding Lender, of any sum that may remain due and unpaid upon the Funding Loan, is hereby expressly waived and released as a condition of and consideration for the execution of this Project Loan Agreement and the issuance of the Governmental Note.

Section 8.16 *Capacity of the Fiscal Agent.* The Fiscal Agent is entering into this Project Loan Agreement solely in its capacity as Fiscal Agent and shall be entitled to the rights, protections, limitations from liability and immunities afforded it as Fiscal Agent under the Funding Loan Agreement. The Fiscal Agent shall be responsible only for the duties of the Fiscal Agent expressly set forth herein and in the Funding Loan Agreement.

Section 8.17 *Reliance.* The representations, covenants, agreements and warranties set forth in this Project Loan Agreement may be relied upon by the Governmental Lender, the Fiscal Agent, Bond Counsel, the Servicer, the Funding Lender and the Funding Lender Representative. In performing their duties and obligations under this Project Loan Agreement and under the Funding Loan Agreement, the Governmental Lender and the Fiscal Agent may rely upon statements and certificates of the Borrower, upon certificates of tenants believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Borrower pertaining to occupancy of the Project. In addition, the Governmental Lender and the Fiscal Agent may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender or the Fiscal Agent under this Project Loan Agreement and under the Funding Loan Agreement in good faith and in conformity with the opinion of such counsel. It is expressly understood and agreed by the parties to this Project Loan Agreement (other than the Governmental Lender) that:

(a) the Governmental Lender may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Fiscal Agent, the Funding Lender or the Borrower as to the existence of a fact or state of affairs required under this Project Loan Agreement to be noticed by the Governmental Lender;

(b) the Governmental Lender shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Fiscal Agent, the Funding Lender Representative, the Servicer or the Borrower, as applicable; and

(c) none of the provisions of this Project Loan Agreement shall require the Governmental Lender or the Fiscal Agent to expend or risk its own funds (apart from the proceeds of Funding Loan issued under the Funding Loan Agreement) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Project Loan Agreement, unless it shall first have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Project Loan Agreement as of the date first set forth above.

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

By: _____
Chair

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Fiscal Agent**

By: _____
Name: _____
Title: _____

BORROWER:

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

LOAN AGREEMENT

Between

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

and

SCOTT STREET LOFTS, LP,
as Borrower

Dated as of June 1, 2020

Relating to:

Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020

The interest of the Texas Department of Housing and Community Affairs (the “*Issuer*”) in this Loan Agreement has been assigned (except for “*Unassigned Rights of the Issuer*” defined in the Indenture) pursuant to the Trust Indenture, dated as of the date hereof (the “*Indenture*”), between the Issuer and Wilmington Trust, National Association, a national banking association, as trustee (the “*Trustee*”), and is subject to the security interest of the Trustee thereunder.

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- Exhibit C – Form of Completion Certificate

LOAN AGREEMENT

THIS LOAN AGREEMENT (“*Agreement*” or “*Loan Agreement*”) is entered into as of June 1, 2020, between the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “*Issuer*”), a public and official agency of the State of Texas, and SCOTT STREET LOFTS, LP., a Texas limited partnership (the “*Borrower*”).

WITNESSETH:

WHEREAS, the Issuer is authorized by the provisions of Chapter 2306, Texas Government Code, as amended (the “*Act*”), to issue one or more series of its revenue bonds (including notes) and to loan the proceeds thereof to finance the acquisition, equipping and rehabilitation of multifamily housing developments for use as rental housing that persons and families of low, very low and extremely low income and families of moderate income and persons with special needs can afford; and

WHEREAS, the Borrower has requested the Issuer to issue its Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “*Notes*”), the proceeds of which will be utilized to make a loan to the Borrower (the “*Loan*”) to finance a portion of the costs of the acquisition, construction and equipping of an approximately 123-unit multifamily housing residential rental development for seniors to be known as Scott Street Lofts and to be located in Houston, Texas (the “*Project*”); and

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to finance the acquisition, rehabilitation, construction and equipping of the Project and the payment of certain costs of issuance by issuing the Notes, pursuant to a Trust Indenture dated as of June 1, 2020 (the “*Indenture*”), between the Issuer and Wilmington Trust, National Association, a national banking association, organized and existing under the laws of the United States of America, as trustee (the “*Trustee*”); and

WHEREAS, the Loan will be evidenced by this Agreement and a promissory note (the “*Borrower Note*”), from the Borrower to the Issuer in the form of *Exhibit B* hereto; and

WHEREAS, the Federal Home Loan Mortgage Corporation, a shareholder-owned government sponsored enterprise (“*Freddie Mac*”), has entered into a forward commitment with Jones Lang LaSalle Incorporated (the “*Freddie Mac Seller/Service*”) dated [_____], 2020 (the “*Freddie Mac Commitment*”), whereby Freddie Mac has committed, subject to the satisfaction on or before the Outside Forward Commitment Maturity Date of the Conditions to Conversion set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment, to facilitate the financing of the Project in the Permanent Phase; and

WHEREAS, if the Conditions to Conversion are satisfied on or before the Outside Forward Commitment Maturity Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Notes shall be subject to mandatory tender in accordance with Section 3.02 of the Indenture, (ii) the purchase price of the Notes shall be paid with amounts on deposit in the Collateral Fund (and other Preference Proof Moneys under the Indenture), (iii) a

portion of the principal amount of the Notes shall be cancelled such that the principal amount outstanding equals the Actual Project Loan Amount (as determined by Freddie Mac at such time), (iv) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement) which shall be purchased by the Freddie Mac Seller/Servicer, (v) the Funding Loan Agreement attached to the Indenture as *Exhibit D* and the Project Loan Agreement attached to the Indenture as *Exhibit E* shall be delivered by the respective parties and become effective and shall amend and restate the Indenture and this Loan Agreement, respectively, in their entirety, and (vi) the Lender Loan shall be paid in full with funds in the Lender Loan Prepayment Fund representing funds in the Collateral Fund in excess of the amount required to pay purchase price of the Notes pursuant to Section 2.13(b) of the Indenture and funds transferred from the Borrower, and all security related to the Lender Loan shall be released or assigned to the Freddie Mac Seller/Servicer; and

WHEREAS, if the Conditions to Conversion are not satisfied on or before the Outside Forward Commitment Maturity Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligation with respect to the purchase of the Governmental Note; and

WHEREAS, in order to assure compliance with Sections 103 and 142 through 150 of the Code, the Issuer, the Borrower and the Trustee have entered into the Tax Agreement and the Regulatory Agreement, each of which sets forth various certifications, representations, and covenants relating to the Federal Tax Status of the Notes; and

WHEREAS, the parties hereto, intending to be legally bound hereby, and for and in consideration of the premises and the mutual covenants hereinafter contained, do hereby covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS

Section 1.01. **Definitions.** All capitalized, undefined terms used herein shall have the same meanings ascribed thereto in the Indenture.

Section 1.02. **Uses of Phrases.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words “Note,” “Noteholder,” “Holder,” “Owner” and “Person” shall include the plural as well as the singular number. Any percentage of Notes, specified herein for any purpose, is to be figured on the unpaid principal amount thereof then Outstanding. All references herein to specific sections of the Code refer to such sections of the Code and all successor or replacement provisions thereto.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.01. Representations, Covenants and Warranties of the Issuer. The Issuer represents, covenants and warrants that:

(a) The Issuer is a public and official agency of the State. Under the provisions of the Act and the resolution adopted by the Issuer on [April 23], 2020, the Issuer is authorized to enter into the Issuer Documents and to carry out its obligations thereunder. By proper action of its governing body, the Issuer has been duly authorized to execute and deliver the Issuer Documents and to issue and sell the Notes.

(b) The Issuer covenants that it will not pledge the amounts derived from this Agreement other than as contemplated by the Indenture.

(c) The Issuer hereby finds and determines that financing the Project by the issuance of the Notes will further the public purposes of the Act.

(d) No member of the governing body of the Issuer, nor any other officer or employee of the Issuer, has any interest, financial, employment or otherwise, in the Borrower, the Project or in the transactions contemplated hereby.

(e) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or body, that (i) affects or questions the existence or the title to office of any member of the governing body of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any of the Issuer Documents, or the issuance, execution or delivery of the Notes; (iii) affects or questions the validity or enforceability of any of the Issuer Documents or the Notes; (iv) questions the exclusion from gross income for federal income taxation of interest on the Notes; or (v) questions the power or authority of the Issuer to perform its obligations under any of the Issuer Documents or the Notes or to carry out the transactions contemplated by any of the Issuer Documents or the Notes.

(f) The Issuer makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the sale of the Notes, or as to the correctness, completeness or accuracy of such statements.

(g) The Issuer will not take any action inconsistent with its expectations stated in the Tax Agreement and will comply with the covenants and requirements stated therein and incorporated by reference herein.

Section 2.02. Representations, Covenants and Warranties of the Borrower. The Borrower represents, covenants and warrants that:

(a) *Good Standing; Single Purpose Covenants.* The Borrower (i) is a limited partnership duly organized and existing in good standing under the laws of the State of Texas, (ii) has the power to own its property and to carry on its business as now being conducted and as contemplated by this Agreement and the Tax Agreement and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned by it therein or in which the transaction of its business makes such qualification necessary, including, but not limited to, the State. The Borrower's business and purpose shall consist solely of the acquisition, ownership, construction, development, operation and management of the Project and such other lawful activities as are incidental, necessary or appropriate thereto. The Borrower shall not incur any indebtedness other than indebtedness related to the Project and normal trade accounts payable in the ordinary course of the Borrower's business. The Borrower shall not assume or guaranty any other Person's indebtedness or obligations. The Borrower shall not dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey, transfer or lease its property and assets substantially as an entirety to any entity. The Borrower shall not institute or consent to any bankruptcy, insolvency or reorganization proceedings with respect to it, consent to the appointment of a receiver or similar official with respect to it, make any assignment for the benefit of its creditors or admit in writing its inability to pay its debts generally as they become due. The Borrower shall: maintain books and records and bank accounts separate from those of any other Person; conduct its business in its own name and use separate stationery, invoices and checks; maintain its assets in such a manner that it is not costly or difficult to segregate and identify such assets; observe all organizational formalities and hold itself out to creditors and the public as a legal entity separate and distinct from any other entity; prepare separate tax returns and financial statements, or if part of a consolidated group, then be shown thereon as a separate member of such group; allocate and charge fairly and reasonably any common employee or overhead shared with affiliates; and transact all business with affiliates on an arm's length basis and pursuant to enforceable agreements. The Borrower shall not commingle its assets or funds with those of any other Person.

(b) *Authority.* The Borrower has full power and authority to (i) execute and deliver the Documents to which it is a party and (ii) incur the obligations provided for herein and therein, all of which have been duly authorized by all proper and necessary corporate action. All consents or approvals of any public authority which are required as a condition to the validity of the Documents to which the Borrower is a party have been obtained.

(c) *Binding Agreements.* The Borrower Documents have been properly executed by a duly authorized officer of Mark-Dana Corporation, as the managing member of Scott Street Lofts Advisors, LLC, the general partner of the Borrower, and constitute valid and legally binding obligations of the Borrower, and are fully enforceable against the Borrower in accordance with their respective terms, subject to bankruptcy, insolvency or other laws affecting creditors' rights generally, and with respect to certain remedies which require, or may require, enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose.

(d) *Litigation.* There is no litigation or proceeding pending or, to the knowledge of the Borrower, threatened in writing against the Borrower before any court or administrative agency which, if determined adversely to the Borrower, will materially adversely affect the Borrower or the Project, or the authority of the Borrower to enter into or perform under the Borrower

Documents or which in any way would adversely affect the validity or enforceability of the Notes or the Documents.

(e) *Conflicts; Defaults.* There is (i) no provision of the Borrower's organizational documents, or resolutions of the Borrower and no provision of any existing mortgage, indenture, contract or agreement binding on the Borrower affecting any of the Borrower's property and (ii) to the Borrower's knowledge, no provision of law or order of court binding upon the Borrower or affecting any of the Borrower's property, in each case which would conflict with or in any way prevent the execution, delivery, or performance of the terms of the Borrower Documents and the other financing documents and regulatory agreements to be entered into at closing in connection with this transaction, or which would be in default or violated as a result of such execution, delivery or performance. The Borrower is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party.

(f) *Title to Project, Liens and Encumbrances.* The Borrower is the fee simple owner of the Project, including the real property on which the Project is situated, free and clear of all liens or encumbrances other than those encumbrances set forth on Schedule B of Title Commitment File No. CTT19702730 issued by Chicago Title Insurance Company (together with the liens and encumbrances evidenced by the Lender Loan Documents or relating to the City of Houston Loan, the "*Permitted Encumbrances*"). There exist no liens, encumbrances or other charges against the Project (including without limitation statutory and other liens of mechanics, workers, contractors, subcontractors, suppliers, taxing authorities and others), except Permitted Encumbrances. The Borrower is the sole borrower under the Loan.

(g) *Indenture.* The Borrower understands that the Issuer will, pursuant to the Indenture and as security for the payment of the principal of and the interest on the Notes, assign and pledge to the Trustee, and create a security interest in favor of the Trustee in certain of its rights, title and interest in and to this Agreement (including all payments hereunder) reserving, however, the Unassigned Rights; and the Borrower hereby agrees and consents to such assignment and pledge. The Borrower acknowledges that it has received a copy of the Indenture for its examination and review. By its execution of this Agreement and for and in consideration of the issuance of the Notes by the Issuer, the Borrower acknowledges that it has approved, has agreed to and is bound by, the applicable provisions of the Indenture, and agrees that whenever the Indenture by its terms imposes any duty or obligation on the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Indenture, and the Borrower agrees to carry out and perform its duties and obligations thereunder. The Borrower agrees that the Trustee shall be entitled to enforce and to benefit from the terms and conditions of this Agreement that relate to it notwithstanding the fact that it is not a signatory hereto.

(h) *Events Affecting Tax Exemption.* The Borrower has not taken or permitted to be taken any action that would adversely affect the excludability of interest on the Notes from gross income for federal income tax purposes, and the Borrower has never been advised that the interest is or will be subject to inclusion in gross income. As of the Closing Date, the Borrower is in compliance with all requirements contained in the Tax Agreement, and the representations set forth in the Tax Agreement pertaining to the Borrower and the Project are true and accurate in all material respects. Notwithstanding the above, if the Borrower becomes aware of any situation,

event or condition that would result in the interest on the Notes being included in gross income for federal income tax purposes, the Borrower promptly shall give written notice thereof to the Issuer and the Trustee.

(i) *Compliance with Laws and Documents.* The Project is of the type authorized and permitted by the Act and will, from the Closing Date forward, be operated in compliance with the provisions of the Act and the provisions of the Code applicable thereto with respect to multifamily rental housing and/or qualified residential rental facilities. The Borrower will use due diligence to cause the Project to be operated in accordance with the Act and all other applicable laws, rulings, regulations and ordinances of any applicable Governmental Authority and the departments, agencies and political subdivisions thereof. The Borrower has obtained or will cause to be obtained all requisite approvals of the Issuer and of any applicable Governmental Authority or other federal and local governmental bodies required for the operation of the Project. The Project is located wholly within the boundaries of the Issuer's jurisdiction.

Compliance by the Borrower with the provisions of the Note Documents and the Borrower Documents will not involve, to the extent applicable, any prohibited transaction within the meaning of the Employee Retirement Income Security Act of 1974, as amended (sometimes referred to in this subparagraph 2.02(i) as "ERISA"), or Section 4975 of the Code. No "employee pension benefit plans", that are subject to Title IV of ERISA (sometimes referred to in this subparagraph 2.02(i) as "Plans"), maintained by the Borrower, nor any trust created thereunder, have incurred any "accumulated funding deficiency" as defined in Section 302 of ERISA, to the extent applicable and the present value of all benefits vested under all Plans, if any, did not exceed, as of the last annual valuation date, the value of the assets of the Plans allocable to such vested benefits.

The Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis that satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code, and pursuant to leases that comply with all applicable laws.

The Borrower shall, through the term of this Agreement and at no expense to the Issuer, promptly comply or cause compliance with all applicable laws, ordinances, orders, rules, regulations and requirements of duly constituted public authorities which may be applicable to the Project or to the repair and alteration thereof, or to the use or manner of use of the Project, including, but not limited to, the Americans with Disabilities Act, all federal, State and local environmental, health and safety laws, rules, regulations and orders applicable to or pertaining to the Project and Federal Worker Adjustment and Retraining Notification Act.

(j) *No Material Misstatements.* The representations and warranties of the Borrower contained in the Borrower Documents (including, without limitation, any information furnished by the Borrower in connection with the preparation of any materials related to the issuance or delivery of the Notes on the Closing Date), contain no material misstatement of fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. The representations and warranties of the Borrower and the statements, information and descriptions contained in the Borrower's closing certificates, as of the Closing Date, are true, correct and complete in all material respects, do not contain any untrue statement or misleading statement of material fact, and do not omit to

state a material fact necessary to make the certifications, representations, warranties, statements, information and descriptions contained therein, in light of the circumstances under which they were made, not misleading. The estimates and assumptions contained in this Agreement and in any certificate of the Borrower delivered as of the Closing Date are reasonable and based on the most accurate information available to the Borrower.

(k) The information used in the preparation of the financial statements of the Borrower, the Borrower Documents and any other written statement furnished by the Borrower to the Issuer (including the descriptions and information contained in the Official Statement relating to (i) the Borrower and the Project, (ii) the operations and financial and other affairs of the Borrower, (iii) the application by the Borrower of the proceeds to be received by it from the Loan and (iv) the participation by the Borrower in the transactions contemplated in this Loan Agreement and in the Official Statement, including, without limitation, the information relating to the Borrower in the Official Statement under the caption “Certain Noteholders’ Risks”), do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein not misleading. There is no fact that the Borrower has not disclosed to the Issuer in writing that materially adversely affects or, so far as the Borrower can now foresee, will materially adversely affect the financial condition of the Borrower, the ability of the Borrower to own and operate the Project or the Borrower’s ability to make payments on the Borrower Note when and as the same become due and payable.

(l) *Interest of Member or Agent of the Issuer.* To the knowledge of the Borrower, no member of the governing body of the Issuer or other agent of the Issuer has been or is in any manner interested, directly or indirectly, in that person’s own name or in the name of any other Persons, in the loan of the Note proceeds, the Notes, the Documents, the Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Documents. There (i) is no completed, pending or threatened bankruptcy, reorganization, receivership, insolvency or like proceeding, whether voluntary or involuntary, affecting the Project or the Borrower and (ii) has been no assertion or exercise of jurisdiction over the Project or the Borrower by any court empowered to exercise bankruptcy powers.

(m) *Tax Returns.* The Borrower will timely file all tax returns for the Borrower (which may include extensions of the deadline to file such tax returns), and pay or cause to be paid when due all taxes imposed on their operations, assets, income or properties. No claims with respect to any taxes have been assessed upon the Borrower and remain unpaid.

(n) *No Reliance on the Issuer.* The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Issuer in any manner.

(o) *Fees.* The Borrower shall pay all fees as provided under the Borrower Note and in this Agreement, when due and payable without demand pursuant to Section 4.03 hereof, which fees shall be paid to the Trustee for deposit in the Expense Fund.

(p) *Name of Borrower.* The Borrower filed its Certificate of Formation with the State of Texas under the name of Scott Street Lofts, LP.

(q) *Governmental Requirements.* To the Borrower's knowledge, no violation of any Governmental Requirement exists with respect to the Project, the Borrower, or any other asset of the Borrower, the Project conforms in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of Governmental Authorities having jurisdiction over the Project, all necessary utilities are or will be available to the Project, and the Borrower has obtained or will obtain all requisite zoning approvals necessary with respect to the Project.

(r) *Condemnation.* No condemnation, eminent domain or similar proceeding is pending, or to the knowledge of the Borrower, threatened in writing, with respect to the Project or any portion thereof.

(s) *Governmental Approvals.* The Borrower has obtained, or will obtain, and there are currently in full force and effect, or will be in full force and effect, all consents, and permits, licenses, accreditations, certifications and other approvals (governmental or otherwise) that:

(i) would constitute a condition precedent to, or the absence of which would materially adversely affect, the enforceability of and the performance by the Borrower of its obligations hereunder; and

(ii) are necessary for the acquisition, rehabilitation, construction, equipping, financing and operation of the Project.

(t) *No Cease and Desist.* The Borrower is not presently under any cease or desist order or other orders of a similar nature, temporary or permanent, of any federal or state authority which would have the effect of preventing or hindering performance of its duties hereunder, nor are there any proceedings presently in progress or to its knowledge contemplated which would, if successful, lead to the issuance of any such order.

(u) *No Intent of Sale of Project.* The Borrower intends to hold the Project for its own account and has no current plans to sell and has not entered into any agreement to sell any of the Project.

(v) *Notification of Default.* The Borrower agrees to immediately notify the Trustee and the Issuer in writing of any Default, or any event which with notice or the passage of time would constitute a Default.

(w) *Maintenance of Insurance.* The Borrower will promptly cause to be paid all premiums for insurance policies required to be maintained for the Project. The Borrower shall, at all times during the term of the Loan, maintain at its sole cost and expense, for the mutual benefit of the Borrower, the Lender and the Trustee, all of the insurance specified in Section 4.1(d) of the

Credit Support and Funding Agreement dated [_____], 2020, by and between the Borrower and the Lender, as required by the Lender and applicable law, and in such amounts and with such maximum deductibles as the Lender may require, as those requirements may change.

(x) *Lease or Use of Project.* The Borrower hereby represents that there are no leases or agreements to lease all or any part of the Project now in effect except for leases to residential tenants in compliance with the Regulatory Agreement.

(y) *Non-Discrimination.* The Borrower has not and shall not discriminate on the basis of race, creed, religion, color, sex, marital status, age (but only as it applies to the employment or application for employment of Persons for the operation and management of the Project) or national origin in the lease, use, or occupancy of the Project or in connection with the employment or application for employment of Persons for the operation and management of the Project.

ARTICLE III

CONSTRUCTION OF THE PROJECT; ISSUANCE OF THE NOTES

Section 3.01. **Agreement for Construction of the Project.** (a) The Borrower agrees to make or cause to be made all contracts and do all things necessary for the acquisition, construction and equipping of the Project. The Borrower further agrees that it will acquire and construct the Project substantially in accordance with approved Plans and Specifications with all reasonable dispatch and use its best efforts to cause acquisition, construction and equipping of the Project to be completed by the Completion Date, or as soon thereafter as may be practicable, delays caused by force majeure as defined in Section 7.01 hereof only excepted; but if for any reason such acquisition, construction and equipping is not completed by said Completion Date, there shall be no resulting liability on the part of the Borrower or the Issuer and no diminution in or postponement of the payments required in Section 4.02 hereof to be paid by the Borrower.

(a) The Borrower shall cause the Project to be maintained in good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) and shall not remove, demolish or materially alter the improvements to the Project (except for the performance of the construction work comprising the Project or removal of aging or obsolete equipment or furnishings in the normal course of business). After completion of repairs, no structural or other material defect or damages to the Project will exist, whether latent or otherwise.

Section 3.02. **Agreement to Issue, Sell and Deliver the Notes; Deposit of Note Proceeds.** In order to provide funds for the payment of the Costs of the Project, the Issuer, concurrently with the execution of this Agreement, will issue, sell and deliver the Notes and deposit the proceeds thereof with the Trustee, which amounts shall be immediately deposited into the Project Fund.

Section 3.03. **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 in the manner consistent with the Tax Agreement. The Trustee shall 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 Exhibit B.

Section 3.04. **Furnishing Documents to the Trustee.** The Borrower agrees to cause such Requisitions to be directed to the Trustee as may be necessary to effect payments out of the Project Fund in accordance with Section 3.03 hereof.

Section 3.05. **Establishment of Completion Date.** The Borrower shall evidence completion of the Project and the actual date of completion to the Issuer and the Trustee by an executed Completion Certificate substantially in the form attached hereto as Exhibit C, which Completion Certificate shall be furnished by the Borrower to the Issuer and the Trustee within 30 days of the date set forth in paragraph (a) of the Completion Certificate.

Section 3.06. **Borrower Required to Pay in Event Project Fund Insufficient.** In the event the moneys in the Project Fund available for payment of the Costs of the Project are not sufficient to pay the Costs of the Project in full, the Borrower agrees to complete the Project and to pay that portion of the Costs of the Project in excess of the moneys available therefor 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 3.06, which may be from revenue derived from the Project, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Notes, nor shall the Borrower be entitled to any diminution of the amounts payable under this Agreement. Notwithstanding the foregoing, the terms, conditions and covenants of this Section 3.06 do not in any way affect the ability of the Issuer to pursue its rights and remedies under the Documents.

ARTICLE IV

LOAN PROVISIONS

Section 4.01. **Loan of Proceeds.** The Issuer agrees, upon the terms and conditions contained in this Agreement and the Indenture, to lend to the Borrower the proceeds received by the Issuer from the sale of the Notes. Such proceeds shall be disbursed to or on behalf of the Borrower as provided in Section 3.03 hereof.

Section 4.02. **Amounts Payable.**

(a) On or prior to the Closing Date, the Borrower shall have delivered or caused to be delivered the Capitalized Interest Deposit to the Trustee for deposit to the Capitalized Interest Account of the Project Fund.

(b) The Borrower hereby covenants and agrees to repay the Loan on or before any date that any payment of interest or principal is required to be made in respect of the Notes pursuant to the Indenture, until the principal of and interest on the Notes shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, in immediately available funds, a sum which, together with any other moneys available for such payment in the

Capitalized Interest Account of the Note Fund, the Project Fund and the Collateral Fund, will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or acceleration or otherwise) and interest on the Notes as provided in the Indenture. Deposits into the Note Fund for payments by the Trustee of principal and interest on the Notes from amounts in the Capitalized Interest Account of the Note Fund, the Project Fund or the Collateral Fund shall be credited simultaneously against the Borrower's obligation to pay principal and interest on the Loan.

(c) It is understood and agreed that all payments of principal and interest payable by the Borrower under subsection (b) of this Section 4.02 are assigned by the Issuer in accordance with the terms of the Indenture to the Trustee for the benefit of the Holders of the Notes (excluding amounts on deposit in the Rebate Fund and the Expense Fund). The Borrower consents to such assignment.

(d) In the event the Borrower should fail to make any of the payments required in this Section 4.02, the item or installment so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower agrees to pay the same with interest thereon, to the extent permitted by law, from the date when such payment was due, at the rate of interest borne by the Notes.

Section 4.03. **Fees and Expenses.** The Borrower agrees to pay, when due, the Issuer's Fees, the Trustee's Fee and the Rebate Analyst Fee and any and all other costs or expenses at any time incurred by the Issuer, the Trustee, the Dissemination Agent or the Rebate Analyst (including the reasonable fees and expenses of their counsel actually incurred) in connection with the issuance, sale and delivery of the Notes and the performance of their duties in connection with the transactions contemplated hereby, including, without limitation, all costs of recording and filing. Specifically, and without limiting the foregoing, the Borrower agrees to pay to and indemnify any Issuer Indemnified Party (as defined below), the Trustee or any payee designated by the Issuer, within thirty (30) days after receipt of request for payment thereof, all reasonable expenses of the Issuer and the Trustee actually incurred and related to the Project and the financing thereof that are not paid from the funds held under the Indenture, including, without limitation, reasonable legal fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Notes or in connection with questions or other matters arising under such documents.

The obligations of the Borrower under this Section 4.03 shall survive the termination of this Loan Agreement and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents.

Section 4.04. **Obligations of the Borrower Unconditional.** The obligations of the Borrower to make the payments required under this Agreement, and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any right of notice, setoff, recoupment or counterclaim it might otherwise have against the Issuer, the Trustee or any other Person. Subject to termination as provided herein, the Borrower (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for under this Agreement, (ii) will perform and observe all of its other agreements contained in this Agreement and the other Documents and (iii) will not terminate this

Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, or change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Agreement, whether express or implied, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture, whether express or implied.

Section 4.05. **Mortgage Loan to Borrower.** Contemporaneous with the issuance of the Notes, the Borrower shall proceed with obtaining the Lender Loan from the Lender. In particular, the Borrower will promptly take all necessary actions on its part to close the Lender Loan.

The Lender will, from time to time, deliver Lender Collateral Deposits to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse an equal amount of Note proceeds from the Project Fund as approved by the Lender in connection with a completed and fully executed Requisition, in substantially the form attached to the Indenture as Exhibit B.

Section 4.06. **Prepayment.** The Loan is subject to optional prepayment in part by the Borrower according to the same terms and conditions of the redemption of the Notes set forth in Section 3.01 of the Indenture.

ARTICLE V

SPECIAL COVENANTS

Section 5.01. **No Warranty of Condition or Suitability by the Issuer.** The Borrower recognizes, acknowledges and agrees that the Issuer makes no warranty or representation, express or implied or otherwise, with respect to the development or the location, use, description, design, merchantability, condition, workmanship, or fitness, suitability or use for any particular purpose, condition or durability thereof. The Borrower further recognizes that the Issuer makes no representations or warranties of any kind as to the Borrower's title to the Project or ownership thereof or otherwise, it being agreed that all risks incident thereto are to be borne by the Borrower. In the event of any defect or deficiency of any nature in the Project or any fixture or other item constituting a portion thereof, whether patent or latent, the Issuer shall have no responsibility or liability with respect thereto. These provisions have been negotiated and are intended to be a complete exclusion and negation of any warranties or representations by the Issuer, express or implied, with respect to the Project or any fixture or other item constituting a portion thereof, whether arising pursuant to the Uniform Commercial Code of the State of Texas or another law now or hereafter in effect or otherwise.

Section 5.02. **Access to the Project.** The Borrower agrees that the Issuer, the Trustee and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect the Project and the construction thereof at all reasonable times upon reasonable notice. The Issuer, the Trustee and their duly authorized agents shall also be permitted, at all reasonable times and upon reasonable notice, to examine the books, accounts, contracts,

documents, and other papers of the Borrower with respect to the Project which shall all be maintained by the Borrower in reasonable condition and for audit.

Section 5.03. **Further Assurances and Corrective Instruments.** The Borrower agrees that it will, and will request the Issuer to, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

Section 5.04. **Issuer and Borrower Representatives.** Whenever under the provisions of this Agreement the approval of the Issuer or the Borrower is required or the Issuer or the Borrower is required to take some action at the request of the other, such approval or such request shall be given in writing both for the Issuer by an authorized representative of the Issuer and for the Borrower by a Borrower Representative. The Trustee shall be authorized to act on any such approval or request pursuant to the Indenture.

Section 5.05. **Financing Statements.** The Borrower shall file, or shall cause to be filed, and shall deliver copies to the Trustee of, any and all financing statements, or any amendments thereof or continuation statements thereto, to perfect the security interests granted in the Indenture, in the manner prescribed in the Indenture. The Borrower shall pay all costs of filing such instruments and any fees and expenses (including reasonable attorneys' fees) associated therewith.

Section 5.06. **Allocation and Use of Proceeds to Eligible Costs.** Notwithstanding anything to the contrary set forth in any of the documents evidencing or securing the Notes, all of the Note proceeds shall, for federal income tax purposes, be (1) allocated on a pro rata basis to each building in the Project and the land on which it is located, and (2) used exclusively to pay costs of acquisition, rehabilitation, construction and equipping of the Project which are includable in the aggregate basis of any building and the land on which the building is located ("*Eligible Costs*") in a manner such that each building satisfies the requirement of Section 42(h)(4)(B) of the Code. Accordingly, none of the proceeds of the Notes will be deemed to have been used to pay any of the Costs of Issuance for the Notes or to fund any reserve account other than the Project Fund or an account to be used to pay Eligible Costs.

Section 5.07. **Restriction on Plans and Specifications.** The Borrower will not cause, permit or suffer to exist any material deviations from the Plans and Specifications and will not approve or consent to any construction change directive without the prior approval of the Lender and the Investor Limited Partner, to the extent such approval is required by the terms of the Lender Loan Documents and/or the Partnership Agreement, as applicable.

Section 5.08. **Requisitions.** (a) Beginning on the Closing Date, the Borrower may complete, execute and deliver to the Trustee a Requisition for disbursement of amounts on deposit in the Project Fund to the Borrower to pay Costs of the Project. Each Requisition shall be signed on behalf of the Borrower and shall be in the form set forth on Exhibit B to the Indenture. Each Requisition for amounts on deposit in the Project Fund shall state: (1) the number of the Requisition, (2) the amount to be disbursed and the sources of such disbursement, (3) that each obligation described therein is a Cost of the Project, has been properly incurred and has not been the basis for any previous disbursement and (4) that the expenditure of such disbursement when

added to all previous disbursements will result in (i) no more than 5% of the Net Proceeds of the Notes will have been used for costs that are not Qualified Project Costs; (ii) less than 25% of the Net Proceeds of the Notes will have been used for the cost of acquiring land; and (iii) not more than 2% of the Net Proceeds of the Notes will have been used for Costs of Issuance. The Borrower shall submit the Requisitions to the Trustee for payment. Approved Requisitions may be submitted to the Trustee by e-mail or fax.

(a) The amounts deposited into the Project Fund may be disbursed by the Trustee only in accordance with Section 6.02 of the Indenture, including delivery of a written Requisition of the Borrower satisfying the requirements of this Section 5.08 and Section 6.02 of the Indenture.

(b) On the Closing Date, the Borrower shall complete, execute and deliver to the Trustee a Requisition for disbursement of amounts on deposit in the Cost of Issuance Fund to pay Costs of Issuance. Each Requisition shall be signed on behalf of the Borrower, and shall be in the form set forth on Exhibit C to the Indenture.

Section 5.09. **Covenant with Noteholders.** The Issuer and the Borrower agree that this Agreement is executed and delivered in part to induce the purchase by others of the Notes and, accordingly, all covenants and agreements of the Issuer and the Borrower contained in this Agreement are hereby declared to be for the benefit of the Trustee and the Holders of the Notes from time to time. Notwithstanding the foregoing, the Noteholder's rights to enforce this provision of this Agreement are governed by the terms of the Indenture.

Section 5.10. **Covenant to Provide Ongoing Disclosure.** The Borrower shall enter into a written undertaking for the benefit of the Holders to provide for the continuing disclosure of information about the Notes, the Borrower and other matters as may be required to cause compliance with Rule 15c2-12 of the Securities and Exchange Commission (the "*Rule*"). Failure of the Borrower to comply with the Rule shall not be a default under the Indenture, this Loan Agreement or any of the other Note Documents; *provided, however*, the Borrower acknowledges that the Issuer, the Trustee or any Noteholder shall be entitled to bring an action for specific performance to cause the Borrower to comply with the covenant set forth in this Section 5.10.

Section 5.11. **Borrower Receipt of Insurance or Condemnation Proceeds.** In the event the Borrower receives any proceeds of insurance or any condemnation awards with respect to the Project from a party other than the Trustee, the Borrower shall promptly upon receipt remit all such insurance proceeds or condemnation awards to the Lender for deposit and application in accordance with applicable Lender Loan Documents.

Section 5.12. **Compliance with Texas Government Code.** The Borrower hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent any of this Loan Agreement is a contract for goods or services, will not boycott Israel during the term of this Loan Agreement, the Regulatory Agreement and the Tax Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with

a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Borrower understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Borrower and exists to make a profit.

To the extent this Project Loan Agreement is a contract for goods or services, the Borrower represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Borrower and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Borrower understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Borrower and exists to make a profit.

Section 5.13. **Indenture.** The provisions of the Indenture concerning the Notes and other matters therein are an integral part of the terms and conditions of the Loan, and this Agreement shall constitute conclusive evidence of approval of the Indenture by the Borrower to the extent it relates to the Borrower. Additionally, the Borrower agrees that, whenever the Indenture by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Indenture, and the Borrower agrees to carry out and perform all of its obligations under the Indenture as fully as if the Borrower were a party to the Indenture.

Section 5.14. **Financial Information.** The Borrower agrees that it will have the books and records of the Borrower audited annually by an independent certified public accountant as soon as practicable after the close of each fiscal year of the Borrower, and will furnish to the Trustee within 120 days after the end of each such fiscal year commencing in the fiscal year in which the Completion Certificate is delivered a copy of the audit report certified by such accountant and prepared in accordance with generally accepted accounting principles, which report shall include calculations of the availability of funds for distributions and disclose the amount of distributions to partners of the Borrower for the preceding year. The Borrower and the Issuer acknowledge that the Trustee shall have no obligations under this Section 5.14 other than to receive such statements and, if requested, to furnish such statements to Noteholders.

Section 5.15. **Tax Credit Requirement.** The Issuer, the Trustee and the Borrower each acknowledge that the Borrower intends to cause the Project to satisfy the requirements necessary for low-income housing tax credit (“*Tax Credit*”) pursuant to Section 42 of the Code. In the event that any of the restrictions described in this Agreement conflict with any Tax Credit requirements

imposed by Section 42 of the Code, the Issuer, the Trustee and the Borrower each agree that the more restrictive requirements shall control, provided that failure to comply with any such more restrictive Tax Credit requirements shall not constitute a default or Event of Default under this Agreement.

Section 5.16. **Brokers and Financial Advisors.** The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with this Loan, other than those disclosed to the Issuer and the Lender and whose fees shall be paid by the Borrower pursuant to a separate agreement. The Borrower and the Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in a way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 5.16 shall survive the expiration and termination of this Agreement and the repayment of the Borrower Obligations.

Section 5.17. **Trial by Jury.** The Borrower hereby agrees not to elect a trial by jury of any issue triable of right by a jury, and waives any right to trial by jury fully to the extent that any such right shall hereafter exist with regard to the Documents, or any claim, counterclaim or other action arising in connection therewith. This waiver of right to trial by jury is given knowingly and voluntarily by the Borrower, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. The Trustee is hereby authorized to file a copy of this paragraph in any proceeding as conclusive evidence of this waiver by the Borrower. This Section 5.17 in no way affects the right of the Issuer to elect a trial by jury.

Section 5.18. **Issuer, Trustee and Lender Not in Control; No Partnership.** None of the covenants or other provisions contain in this Loan Agreement shall, or shall be deemed to, give the Issuer, the Trustee or the Lender the right or power to exercise control over the affairs or management of the Borrower (other than the Issuer acting in its capacity as the sole member of the General Partner), the power of the Issuer, the Trustee and the Lender being limited to the rights to exercise the remedies referred to in the Documents. The relationship between the Borrower and the Issuer, the Trustee, the Lender and the Noteholders is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Documents is intended, nor shall be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Issuer, the Trustee, the Lender or any Noteholder or to create an equity interest in the Project in the Issuer, the Trustee, the Lender or any Noteholder, except with respect to the Issuer in its capacity as the sole member of the General Partner. Neither the Issuer, the Trustee, the Lender nor any Noteholder undertakes or assumes any responsibility or duty to the Borrower or to any other Person with respect to the Project, except as expressly provided in the Documents; and notwithstanding any other provision of the Documents: (1) the Issuer, the Trustee and the Noteholders are not, and shall not be construed as, a partner, joint venture, alter ego, manager, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members or partners and the Issuer, the Trustee and the Noteholders do not intend to ever assume such status except with respect to the Issuer in its capacity as the sole member of the General Partner; (2) the Issuer, the Trustee and the Noteholders shall in no event be liable for any of the Borrower Obligations, expenses or losses incurred or sustained by the Borrower; and (3) the Issuer, the Trustee and the Noteholders shall not be deemed responsible for or a participant in any acts, omissions or decision to the Borrower or its

stockholders, members or partners. The Issuer, the Trustee the Noteholders and the Borrower disclaim any intention to create a partnership, joint venture, agency or common interest in profits or income between the Issuer, the Trustee, the Noteholders and the Borrower or to create an equity interest in the Project in favor of the Issuer, the Trustee or the Noteholders, or any sharing of liabilities, losses, costs or expenses, except with respect to the Issuer in its capacity as the sole member of the General Partner.

Section 5.19. **Regulatory Agreement.** In order to maintain the excludability of interest on the Notes from gross income for federal income tax purposes and to assure compliance with the Act and other laws of the State, and certain additional requirements of the Issuer, the Borrower has, concurrently with or before the execution and delivery of the Notes, executed and delivered and will cause the Regulatory Agreement to be recorded in the official records of Harris County, Texas. The Borrower covenants to observe and perform its obligations under the Regulatory Agreement and will cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code, and pursuant to leases that comply with all applicable laws and the Regulatory Agreement. The Project, when constructed, will meet the requirements of this Agreement and the Regulatory Agreement and any applicable requirements of the Act and the Code.

The Borrower covenants to file, or cause to be filed, of record the Regulatory Agreement and such other documents and take such other steps as are necessary in order to assure that the restrictions contained in the Regulatory Agreement will, subject to the terms of the Regulatory Agreement, be binding upon all owners of the Project. The Borrower covenants to include such restrictions or a reference to such restrictions in any documents transferring any interest in the Project to another to the end that such transferee has notice of, and is bound by, such restrictions.

Section 5.20. **Borrower's Obligations Upon Tender of Notes.**

If on the Mandatory Tender Date a sufficient amount is not available in the Collateral Fund, the Capitalized Interest Account of the Note Fund, or the Project Fund as provided in Section 3.02(c) of the Indenture for the purpose of paying the purchase price of the Notes, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, Preference Proof Moneys equal to the amount by which the principal amount of all Notes tendered, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to Section 3.02(c) of the Indenture.

Section 5.21. **Tax Matters.**

(a) *Representations and Covenants.* The Borrower represents, warrants and covenants as follows:

(i) The Borrower will not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the Federal Tax Status of the Notes. Without limiting the generality of the foregoing, the Borrower covenants that it will comply with the instructions and requirements of the Tax Agreement, which is incorporated herein as if set forth fully herein.

(ii) The Borrower will, on a timely basis, provide the Issuer with all necessary information and, with respect to the Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Agreement) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable the Issuer to comply with all arbitrage and rebate requirements of the Code. To that end, the Borrower covenants and agrees to make such payments to the Trustee as are required of it under the Tax Agreement. The obligation of the Borrower to make such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture and this Agreement.

(iii) Neither the Borrower nor any "related party," within the meaning of Section 1.150-1(b) of the Regulations, to the Borrower shall be permitted to purchase any Notes in an amount related to the Loan.

(b) *Continuing Compliance.* The requirements stated in this Section 5.21 will survive the defeasance and discharge of the Notes for as long as such matters are relevant to the Federal Tax Status of the Notes.

ARTICLE VI

RESTRICTION ON TRANSFER; ASSIGNMENT, SELLING, LEASING; INDEMNIFICATION

Section 6.01. **Restriction on Transfer.** (a) In the event the Borrower intends to sell, lease (except to the tenants who will occupy units in the Project), sublease or otherwise materially encumber the whole of or any part of the Project or sell, assign or otherwise, except as otherwise provided herein, transfer any interest in the Borrower (a "*transfer*"), it shall (i) apply to the Issuer for consent to transfer, *provided* that consent of the Issuer shall not be unreasonably withheld, conditioned or delayed with respect to any transfer which is subject to the approval of the Issuer pursuant to this Section 6.01 and (ii) comply with the provisions of the Regulatory Agreement restricting any such transfer.

(b) In addition, in connection with a proposed transfer, the Borrower and any transferee shall comply with all applicable provisions of the laws and regulations of the State in effect at that time regarding notice to tenants, and tenants' rights generally, including, specifically, the right of first refusal, or any successor legislation thereto. The transferee shall expressly assume the Borrower's duties and obligations under this Agreement and any other Documents to which the Borrower is a party in writing simultaneously with any approved transfer as set forth in this Section 6.01. The Borrower shall make available to the Trustee and the Issuer copies of any documents reflecting an amendment to interests in the Borrower or other organizational documents relating to the sale or other transfer of assets of the Borrower.

(c) Except for Permitted Encumbrances as provided for in Section 2.02(f) hereof or as otherwise provided for herein, the Borrower will not, directly or indirectly, by operation of law or otherwise, sell, assign, grant a deed of trust, pledge, hypothecate, transfer or otherwise dispose of the Project or any interest in the Project, and will not encumber, alienate, hypothecate, grant a

security interest in or grant any other ownership or control interest whatsoever in the Project, in the leases or in the rents, issues and profits therefrom.

(d) Except as otherwise provided for herein, no interest in the Borrower and no ownership interest in the General Partner may be sold, conveyed, transferred, assigned, pledged or otherwise transferred, in whole or in part, directly or indirectly, by operation of law or otherwise.

(e) Notwithstanding anything to the contrary contained in the subsections above or otherwise in the Borrower Documents, each of the following transactions are hereby deemed to be expressly permitted hereunder and shall not require any further consent of the Issuer unless otherwise required pursuant to the Regulatory Agreement:

(i) The transfer by the Investor Limited Partner of all or any portion of its interest in the Borrower;

(ii) The pledge and encumbrance of the interests in the Borrower of the Investor Limited Partner to or for the benefit of any financial institution which enables the Investor Limited Partner to make its capital contributions to the Borrower and any subsequent realization by any such lender upon the interests of the Investor Limited Partner in the Borrower;

(iii) the removal of the General Partner in accordance with the Partnership Agreement and the temporary replacement thereof with the Investor Limited Partner or any of its affiliates;

(iv) The creation of a condominium regime for the Project;

(v) Issuance of interests in the Borrower to the Investor Limited Partner equal to ____% of the profits, losses, credits, distributions and other interests in the Borrower; or

(vi) (A) a change in ownership among relatives of David Mangus Koogler and David Mark Koogler, or (B) a change in ownership, control or management of the Borrower and/or Mark-Dana Corporation to trusts for estate planning purposes, provided that David Mangus Koogler and/or David Mark Koogler or trusts controlled by David Mangus Koogler or David Mark Koogler remains in control of Mark-Dana Corporation and the Borrower.

(f) The Borrower will not become a party to any merger or consolidation, or agree to effect any asset acquisition or stock acquisition.

(g) The Borrower will not convert the ownership of the Project into cooperative housing corporation form of ownership other than a limited equity cooperative that is a qualified cooperative housing corporation as defined in Section 143(k)(9) of the Code.

(h) The Borrower will not seek the dissolution or winding up, in whole or in part, of the Borrower or voluntarily file, or consent to the filing of, a petition for bankruptcy, reorganization, or assignment for the benefit of creditors or similar proceedings.

(i) The Borrower will not enter into any arrangement, directly or indirectly, whereby the Borrower shall sell or transfer any property owned by it in order then or thereafter to lease such property or lease other property that the Borrower intends to use for substantially the same purpose as the property being sold or transferred without the prior written consent of the Issuer in its sole and absolute discretion.

(j) The Borrower will not take any action that would adversely affect the Federal Tax Status of the Notes nor omit or fail to take any action required to maintain the Federal Tax Status of the Notes.

(k) This Agreement may not be sold, transferred or otherwise disposed of by the Borrower without the prior written consent of the Issuer (which consent shall be within the reasonable discretion of the Issuer), subject to each of the following conditions:

(i) No such assignment will relieve the Borrower from primary liability for any of its obligations hereunder (unless the Issuer agrees in writing to release the Borrower) and in the event of any such assignment, the Borrower will continue to remain primarily liable for payment of its obligations hereunder and for performance and observance of the other covenants and agreements on its part herein provided.

(ii) No such assignment will, in the opinion of Bond Counsel (all such expenses related to such opinion shall be paid by the Borrower), adversely affect the Federal Tax Status of the Notes.

(iii) The assignee will assume in writing the obligations of the Borrower hereunder and under the Regulatory Agreement to the extent of the interest assigned in a form acceptable to the Issuer (the “*Assumption Agreement*”).

(iv) Prior to any such assignment, the Borrower will, furnish or cause to be furnished to the Issuer and the Trustee an executed original of the Assumption Agreement.

Section 6.02. **Indemnification by Borrower.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE ISSUER, THE TRUSTEE AND THEIR RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS LOAN AGREEMENT, OR (III) THE PROJECT OR ANY PART THEREOF, OR (IV) ANY

VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE NOTES, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE ISSUER, THE TRUSTEE, OR ANY OF THEIR RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE ISSUER, THE TRUSTEE OR ANY OF THEIR RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE, AND PROVIDE COMPETENT COUNSEL REASONABLY SATISFACTORY TO SUCH PARTY; PROVIDED, HOWEVER, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HEREUNDER IN CONNECTION WITH THE ISSUANCE OF THE NOTES, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE ISSUER OR ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM THE ISSUER THE BORROWER SHALL DEFEND THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT

COUNSEL SATISFACTORY TO THE ISSUER AND THE BORROWER SHALL PAY THE ISSUER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE ISSUER; PROVIDED, HOWEVER, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

NOTWITHSTANDING ANY PROVISION OF THIS LOAN AGREEMENT TO THE CONTRARY, THE ISSUER SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE ISSUER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE ISSUER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

The Borrower agrees to indemnify the Trustee or any predecessor Trustee for and to hold it harmless against all liabilities, claims, costs and expenses incurred without negligence or misconduct on the part of the Trustee, or any Person acting on behalf of Trustee, as determined by a court of competent jurisdiction, on account of any action taken or omitted to be taken by the Trustee in accordance with the terms of the Notes or the other Documents arising out of or in connection with the administration of the trusts hereunder or any action taken at the request of or with the consent of the Borrower, including the reasonable costs and expenses of the Trustee in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under the Notes or the other Documents.

In case any action or proceeding is brought against the Issuer or the Trustee, or any of their respective governing board members, directors, officers, commissioners, directors, officials, employees, agents, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all reasonable expenses; provided, however, the failure to give such notice shall not relieve the Borrower from its obligation to indemnify the Trustee as provided herein. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel.

Notwithstanding anything else in this Loan Agreement to the contrary, the Borrower shall be responsible for the fees, costs and expenses of counsel to the Issuer and Trustee at all times arising from the indemnification obligations of Borrower pursuant to this Section; provided that the Issuer maintains control of the selection of its counsel at all times.

The provisions of this Section shall survive the termination of this Loan Agreement and the repayment of the Notes and the Loan.

Notwithstanding any provisions herein to the contrary, the Borrower shall not indemnify the Trustee for the Trustee's, or any Person's acting on behalf of the Trustee, own negligence or misconduct.

Section 6.03. **The Issuer to Grant Security Interest to Trustee.** The parties hereto agree that pursuant to the Indenture, the Issuer shall assign to the Trustee, in order to secure payment of the Notes, all of the Issuer's right, title and interest in and to this Agreement and the Borrower Note, except for Unassigned Rights of the Issuer. The Issuer retains the right to enforce any or all of the Unassigned Rights, and may take independent action to so enforce such Unassigned Rights.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. **Defaults Defined.** The following shall be "Defaults" under this Agreement and the term "Default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

(a) failure by the Borrower to pay any amount required to be paid under subsection (b) of Section 4.02 or Section 4.03 hereof;

(b) failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed herein other than as referred to in subsection (a) of this Section 7.01 or failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Regulatory Agreement or the Tax Agreement, 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 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 sixty (60) day period and will thereafter be diligently prosecuted to completion and the failure will be remedied thereby;

(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; or

(d) the occurrence and continuance of an Event of Default under the Indenture.

The provisions of subsection (b) of this Section 7.01 are subject to the following limitation: if by reason of force majeure it is impossible for the Borrower in whole or in part, despite its commercially reasonable efforts, to carry out any of its agreements contained herein (other than its obligations contained in Article IV hereof), the Borrower shall not be deemed in Default, and no Event of Default shall be deemed to have occurred, 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 herein shall mean, without limitation, the following: acts of God; 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; epidemics; pandemics (including, without limitation, COVID-19), quarantines; or explosions; not reasonably within the control of the Borrower. The Borrower agrees, however, to use its commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreement.

Section 7.02. **Remedies on Default.** A copy of any notice of default provided to Borrower under any of the Borrower Documents shall also be provided to the Investor Limited Partner and the Lender. Whenever any Default referred to in Section 7.01 hereof shall have happened and be continuing beyond the expiration of any applicable notice or cure period, the Trustee, or the Issuer (in the event the Trustee fails to act), may 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 this Agreement, the Borrower Note, the Tax Agreement, the Regulatory Agreement or any other Document in the event of default thereunder that is continuing beyond all applicable notice, grace, and cure periods. Any amounts collected pursuant to action taken under this Section 7.02 shall be paid into the Collateral Fund.

Section 7.03. **No Remedy Exclusive.** Subject to Section 10.01 of the Indenture, no remedy herein conferred upon or reserved to the Issuer or the Trustee 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 this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power nor shall it be construed to be a waiver thereof, but any such right or 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 VII, it shall not be necessary to give any notice, other than such notice as may be required in this Article VII. Such rights and remedies as are given the Issuer hereunder shall also extend to the Trustee, and the Trustee and the Holders of the Notes, subject to the provisions of the Indenture, including, but not limited to the Unassigned Rights of the Issuer, shall be entitled to the benefit of all covenants and agreements herein contained.

Section 7.04. **No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this 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 hereunder.

Section 7.05. **Right to Cure.** Notwithstanding anything to the contrary herein or otherwise in the Borrower Documents, if the Borrower shall, for whatever reason, at any time fail to pay any amount or perform any act which it is obligated to pay or perform under any of the Borrower Documents and, as a result, a default or event of default occurs or may occur thereunder, the Investor Limited Partner shall have the right to perform such act or pay such amount on behalf of the Borrower and thereby cure or prevent such default or event of default, provided such default or event of default is cured within any applicable cure period or grace period provided to the

Borrower herein or otherwise in the Borrower Documents. Any cure of any event of default by the Investor Limited Partner under the Borrower Documents shall be deemed a cure by Borrower thereunder.

Section 7.06. **No Interference or Impairment of Lender Loan**. Notwithstanding anything herein to the contrary, none of the Issuer, the Trustee nor any other Person shall:

(a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Lender Loan; or

(b) interfere with or attempt to interfere with or influence the exercise by the Lender of any of its rights under the Lender Loan, including, without limitation, the Lender remedial rights under the Lender Loan upon the occurrence of an event of default by the Borrower under the Lender Loan.

The foregoing prohibitions and limitations shall not be construed to affect the ability or rights of the Trustee to take any actions permitted under the Indenture or to affect the Unassigned Rights of the Issuer or to limit the rights of the Issuer to enforce its rights against the Borrower under the indemnification provisions of this Agreement so long as it does not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Notwithstanding anything in this Agreement to the contrary, any right of the Issuer or the Trustee to take any action at law or in equity to enforce the obligations, covenants and agreements of the Borrower under this Agreement which includes any claim for indemnification, damages or any other monetary obligation sought to be enforced shall be subject and subordinate in all respects to the repayment in full of all amounts due under the Lender Loan Documents.

No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligation of any prior Borrower unless specifically assumed in writing by a subsequent Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations shall be personal to the Person who was the Borrower at the time the default or breach was alleged to have occurred and such Person shall remain liable for any and all damages occasioned by the default or breach even after such Person ceases to be the Borrower with regards the Project.

Promptly upon determining that an Event of Default of this Agreement has occurred, the Issuer or the Trustee shall, by notice in writing to the Lender, inform the Lender that such Event of Default has occurred, the nature of such Event of Default and that such Event of Default has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such Event of Default, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Lender Loan or to foreclose on the Lender Mortgage.

ARTICLE VIII

HAZARDOUS MATERIALS

Section 8.01. Reserved.

Section 8.02. **Compliance Regarding Hazardous Substances.** Borrower has complied, will comply, and will use commercially reasonable efforts to cause all tenants and any other Persons who may come upon the Project to comply, with all federal, state and local laws, regulations and ordinances governing or applicable to Hazardous Materials, including those requiring disclosures to prospective and actual buyers or tenants of all or any portion of the Project. The Borrower will not install or allow to be installed any aboveground or additional underground storage tanks on the Project without the prior written approval of the Issuer. The Borrower must comply with the reasonable recommendations of any qualified environmental engineer or other expert engaged by the Borrower, the Issuer or the Investor Limited Partner with respect to the Project.

Section 8.03. **Notices Regarding Hazardous Substances.** The Borrower must promptly notify the Investor Limited Partner and the Issuer in writing (i) if it has actual knowledge that there may be any Hazardous Materials in or around any part of the Project, any improvements constructed on the Project, or the soil, groundwater or soil vapor on or under the Project at a level of concentration that results in the Hazardous Materials being subject to regulation, control, removal or restriction by any governmental agency under any law, regulation or ordinance, or that the Borrower or the Project may be subject to any threatened or pending investigation by any governmental agency under any law, regulation or ordinance pertaining to any Hazardous Materials, and (ii) of any claim made or threatened in writing by any Person, other than a governmental agency, against the Borrower arising out of or resulting from any Hazardous Substance being present or released in, on or around any part of the Project, any improvements constructed on the Project or the soil, groundwater or soil vapor on or under the Project (any of the matters described in clauses (i) and (ii) above is a “*Hazardous Materials Claim*”).

Section 8.04. **Remedial Work.** The Borrower must promptly undertake any and all remedial work (“*Remedial Work*”) in response to Hazardous Materials Claims to the extent required by governmental agency or agencies involved, or to comply with the reasonable recommendations set forth in any written environmental assessment report prepared by a third party engineer retained by the Investor Limited Partner or the Issuer, if such standard requires a higher degree of remediation, and in all events to minimize any impairment to Trustee’s security under the Loan Documents. All Remedial Work must be conducted (i) in a diligent and timely fashion by licensed contractors acting under the supervision of a consulting environmental engineer; (ii) pursuant to a detailed written plan for the Remedial Work approved by all public or private agencies or Persons with a legal or contractual right to such approval; (iii) with insurance coverage pertaining to liabilities arising out of the Remedial Work as is then customarily maintained with respect to such activities; and (iv) only following receipt of any required permits, licenses or approvals. The selection of the Remedial Work contractors and consulting environmental engineer, the contracts entered into with such parties, any disclosures to or agreements with any public or private agencies or parties relating to Remedial Work and the written plan for the Remedial Work (and any changes thereto) is subject to the prior written

approval of the Investor Limited Partner and the Issuer, which approval may not be unreasonably withheld or delayed.

Section 8.05. **Indemnity Regarding Hazardous Substances.** THE BORROWER HEREBY INDEMNIFIES, DEFENDS AND HOLDS THE ISSUER AND ITS GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES AND THE TRUSTEE AND ITS DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES (THE ISSUER, THE TRUSTEE AND SUCH REPRESENTATIVES, COLLECTIVELY, THE “*INDEMNIFIED PARTIES*”) HARMLESS FROM AND AGAINST ANY AND ALL COSTS DIRECTLY OR INDIRECTLY ARISING OUT OF OR RESULTING FROM ANY HAZARDOUS MATERIALS BEING PRESENT OR RELEASED IN, ON OR AROUND ANY PART OF THE PROJECT, OR IN THE SOIL, GROUNDWATER OR SOIL VAPOR ON OR UNDER THE PROJECT (COLLECTIVELY, “*INDEMNIFIED COSTS*”), ARISING OUT OF OR AS A RESULT OF EVENTS PRIOR TO THE LATER OF THE FULL AND FINAL PAYMENT OF THE NOTES OR BEFORE THE DATE OF A TRANSFER OF THE PROJECT, AS APPLICABLE, INCLUDING:

(i) ANY CLAIM FOR SUCH INDEMNIFIED COSTS ASSERTED AGAINST ANY INDEMNIFIED PARTY BY ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY, INCLUDING THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND ALL OF THE ENVIRONMENTAL REGULATORY AUTHORITIES OF THE STATE, AND INCLUDING ANY CLAIM THAT ANY INDEMNIFIED PARTY IS LIABLE FOR ANY SUCH INDEMNIFIED COSTS AS AN “OWNER” OR “OPERATOR” OF THE PROJECT UNDER ANY LAW RELATING TO HAZARDOUS MATERIALS; AND

(ii) ANY CLAIM FOR SUCH INDEMNIFIED COSTS ASSERTED AGAINST ANY INDEMNIFIED PARTY BY ANY PERSON OTHER THAN A GOVERNMENTAL AGENCY, INCLUDING (I) ANY PERSON WHO MAY PURCHASE OR LEASE ALL OR ANY PORTION OF THE PROJECT FROM BORROWER, FROM ANY INDEMNIFIED PARTY OR FROM ANY OTHER PURCHASER OR LESSEE, (II) ANY PERSON WHO MAY AT ANY TIME HAVE ANY INTEREST IN ALL OR ANY PORTION OF THE PROJECT, (III) ANY PERSON WHO MAY AT ANY TIME BE RESPONSIBLE FOR ANY CLEANUP COSTS OR OTHER INDEMNIFIED PARTY RELATING TO THE PROJECT, AND (IV) ANY PERSON CLAIMING TO HAVE BEEN INJURED IN ANY WAY AS A RESULT OF EXPOSURE TO ANY HAZARDOUS MATERIALS; AND

(iii) ANY INDEMNIFIED COSTS INCURRED BY ANY INDEMNIFIED PARTY IN THE EXERCISE BY THE INDEMNIFIED PARTY OF ITS RIGHTS AND REMEDIES UNDER THIS LOAN AGREEMENT; AND

(iv) ANY INDEMNIFIED COSTS INCURRED BY ANY INDEMNIFIED PARTY AS A RESULT OF CURRENTLY EXISTING CONDITIONS IN, ON OR AROUND THE PROJECT, WHETHER KNOWN OR UNKNOWN BY THE BORROWER OR THE INDEMNIFIED PARTY AT THE TIME THIS LOAN AGREEMENT IS EXECUTED, OR ATTRIBUTABLE TO THE ACTS OR OMISSIONS

OF THE BORROWER, ANY OF THE BORROWER'S TENANTS, OR ANY OTHER PERSON IN, ON OR AROUND THE PROJECT WITH THE CONSENT OR UNDER THE DIRECTION OF THE BORROWER; AND

(v) ANY INDEMNIFIED COSTS INCURRED BY ANY INDEMNIFIED PARTY AS A RESULT OF THE DEPOSIT, STORAGE, DISPOSAL, BURIAL, DUMPING, INJECTING, SPILLING, LEAKING, OR OTHER PLACEMENT OR RELEASE IN ON OR FROM THE PROJECT OF HAZARDOUS MATERIALS OR THE VIOLATION OR ALLEGED VIOLATION OF ANY HAZARDOUS MATERIALS LAW OR OFFICIAL INTERPRETATION THEREOF IN CONNECTION WITH THE PROJECT OR THE LAND ON WHICH IT IS LOCATED.

THE OBLIGATIONS OF THE BORROWER UNDER THIS SECTION 8.05 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND THE RESIGNATION OR REMOVAL OF THE TRUSTEE.

Section 8.06. **Defense of Indemnified Parties.** UPON DEMAND BY ANY INDEMNIFIED PARTY, THE BORROWER MUST DEFEND ANY INVESTIGATION, ACTION OR PROCEEDING INVOLVING ANY INDEMNIFIED COSTS THAT IS BROUGHT OR COMMENCED AGAINST ANY INDEMNIFIED PARTY, WHETHER ALONE OR TOGETHER WITH BORROWER OR ANY OTHER PERSON, ALL AT THE BORROWER'S OWN COST AND BY COUNSEL APPROVED BY THE INDEMNIFIED PARTY. IN THE ALTERNATIVE, ANY INDEMNIFIED PARTY MAY ELECT TO CONDUCT ITS OWN DEFENSE AT THE BORROWER'S EXPENSE.

ARTICLE IX

MISCELLANEOUS

Section 9.01. **Term of Agreement.** This Agreement shall remain in full force and effect from the date hereof until such time as all of the Notes and all amounts payable hereunder and under the Indenture shall have been fully paid or provision made for such payments, whichever is later, *provided*, that the provisions of Sections 5.21 and 6.02 and Article VIII hereof shall survive termination of this Agreement.

Section 9.02. **Notices; Publication of Notice.** (a) All notices, advice, certifications or other communications hereunder between the Issuer and the Borrower shall be sufficiently given and shall be deemed given when delivered by hand or overnight courier or transmitted by electronic means (including, without limitation, e-mail and facsimile transmission), or three (3) business days after being mailed by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address. The Issuer, the Borrower or the Investor Limited Partner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, advice, certifications or other communications shall be sent. Notices to Persons other than the Issuer, the Borrower or the Investor Limited Partner (such as, for example, notices to owners of Notes) shall be governed by the other applicable provisions of the Indenture.

(a) Whenever the Issuer or the Borrower is required or permitted to give or publish notice of any event or occurrence under this Agreement, such notice shall be given or published in such manner and by such means as the Issuer or the Borrower, as the case may be, shall determine to be appropriate. Such publication may be by (but is not limited to) any of the following means: (1) publication in one or more newspapers or trade journals selected by the Issuer or the Borrower, as the case may be; (2) publication by or through one or more financial information reporting services; (3) delivery to the Municipal Securities Rulemaking Board's EMMA System or any successor repository or entity fulfilling a substantially similar or like role; or (4) by mailing a copy of such notice by first class mail, postage prepaid, to the Person entitled to receive the notice at such Person's address as shown on the records of the Issuer or the Borrower.

Section 9.03. **Nonrecourse Liability of Borrower.** From and after the date of this Agreement, (i) the liability of the Borrower under this Agreement shall be limited to the Trust Estate, and such amounts as may be invested in accordance with Section 7.01 of the Indenture, and the Issuer and the Trustee shall look exclusively thereto or to such other security as may from time to time be given or have been given for payment of the Notes, and any judgment rendered against the Borrower under this Agreement shall be limited to the Project and moneys derived from the operation of the Project, and any other security so given for satisfaction thereof; and (ii) no deficiency or other personal judgment shall be sought or rendered against the Borrower or any of its partners, or any of their respective successors, transferees or assigns, in any action or proceeding arising out of this Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding; *provided, however,* that nothing herein shall limit the Issuer's or the Trustee's ability to exercise any right or remedy with respect to any property pledged or granted to the Issuer or any trustee under this Agreement, or both, or to exercise any right against the Borrower, on account of any claim for fraud or deceit, and against any other Person on account of any claim for fraud or deceit. Notwithstanding anything herein to the contrary, nothing in this Section 9.03 shall limit the rights of indemnification against the Borrower pursuant to Sections 4.03, 6.02, 8.05 and 8.06 hereof. Furthermore, notwithstanding anything to the contrary, the Borrower shall be fully liable for: (1) amounts payable to the Issuer constituting Unassigned Rights of the Issuer, (2) any amount due and owing as a result of any calculation or determination which may be required in connection with the Notes for the purpose of complying with Section 148 of the Code (including rebate liability) or any applicable Treasury regulation, (3) payment of the Issuer's Fees, the Trustee's Fee and the Rebate Analyst's Fee and (4) the indemnification and the payment obligations to the Issuer under Sections 4.03, 6.02, 8.05 and 8.06 hereof.

The limit on the Borrower's liability set forth in this Section 9.03 shall not, however, be construed, and is not intended to in any way, constitute a release, in whole or in part, of the indebtedness evidenced by this Agreement or a release, in whole or in part, or an impairment of the security interest, or in case of any default or enforcing any other right of the Issuer under this Agreement or to alter, limit or affect the liability of any Person who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Borrower under this Agreement.

The provisions of this Section 9.03 shall survive the termination of this Agreement.

Section 9.04. **No Pecuniary Liability of the Issuer; Issuer May Rely.** (a) All obligations of the Issuer incurred under this Agreement, the Regulatory Agreement, the Tax

Agreement and the Indenture shall be limited obligations of the Issuer, payable solely and only from Note proceeds, Revenues and other amounts derived by the Issuer from the Trust Estate. NO GOVERNING BOARD MEMBER, OFFICER, AGENT, EMPLOYEE, OR ATTORNEY OR MEMBER OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THIS AGREEMENT ON BEHALF OF THE ISSUER, SHALL BE LIABLE PERSONALLY UNDER THIS AGREEMENT OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE NOTES. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE NOTES, OR FOR ANY CLAIM BASED ON THE NOTES, OR OTHERWISE IN RESPECT OF THE NOTES, OR BASED ON OR IN RESPECT OF THIS AGREEMENT OR ANY AMENDMENT TO THIS AGREEMENT, AGAINST ANY GOVERNING BOARD MEMBER, OFFICER, AGENT, EMPLOYEE, ATTORNEY OR MEMBER OF THE ISSUER, OR ANY SUCCESSOR WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS AGREEMENT AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE NOTES, EXPRESSLY WAIVED AND RELEASED.

(b) It is expressly understood and agreed by the parties to this Agreement that:

(i) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, any Noteholder or the Borrower as to the existence of a fact or state of affairs required under this Agreement to be noticed by the Issuer;

(ii) the Issuer shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Borrower or such other appropriate party; and

(iii) none of the provisions of this Agreement shall require the Issuer to expend or risk its own funds (apart from the proceeds of Notes issued under the Indenture) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Agreement unless it first shall have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

(c) No provision, representation, covenant or agreement contained in this Agreement or in the Indenture, the Notes, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability (except to the extent of any loan repayments, revenues and receipts derived by the Issuer pursuant to this Agreement and other moneys held pursuant to the Indenture, other than in the Rebate Fund and the Expense Fund). No provision hereof shall be construed to impose a charge against the general credit of the Issuer, the State or any other political subdivision or public body of the State, the taxing powers of the foregoing, within the meaning of any constitutional provision or statutory limitation, or any personal or pecuniary liability upon any governing board member, officer, agent or employee of the Issuer.

(d) All covenants, obligations and agreements of the Issuer contained in this Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future governing board member, officer, agent or employee of the

Issuer in other than his official capacity, and no official executing the Notes shall be liable personally on the Notes or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement or in the Indenture. No provision, covenant or agreement contained in this Agreement, the Indenture or the Notes, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Agreement or in any Note or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in any agreement, instrument, or certificate executed in connection with the Project or the issuance and sale of the Notes, against any member of the governing body of the Issuer, its officers, counsel, financial advisor, or agents, as such, in his or her individual capacity, past, present, or future, or of any successor thereto, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any member of the governing board, officers, counsel, financial advisors, or agents, as such, in his or her individual capacity, past, present, or future, of the Issuer or of any successor thereto, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Trustee or the Borrower to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such governing board member, officer, counsel, financial advisor, or agent, is, by the execution of the Notes, this Agreement, and the Indenture, and as a condition of, and as part of the consideration for, the execution of the Notes, this Agreement, and the Indenture, expressly waived and released.

Section 9.05. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower, the Trustee, the Holders of Notes and their respective successors and assigns.

Section 9.06. **Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.07. **Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining on deposit under the Indenture upon expiration or earlier termination of this Agreement, as provided in this Agreement, shall be used to pay the fees and expenses of the Trustee and the Issuer in accordance with the Indenture and any balance thereafter shall be paid to the Borrower pursuant to the provisions of the Indenture.

Section 9.08. **Amendments, Changes and Modifications.** Subsequent to the issuance of the Notes and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise herein expressly provided, this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee, in accordance with the provisions of the Indenture. Pursuant to Section 12.07 of the Indenture, on the Conversion Date and upon the execution and delivery of the Funding Loan Agreement, the Governmental Note and the Project Loan Agreement, this Agreement and the Notes shall be deemed amended, restated and superseded in full by the terms of the Project Loan Agreement.

Section 9.09. **Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.10. **Applicable Law.** This Loan Agreement shall be governed exclusively by and construed in accordance with the internal laws of the State of Texas without regard to conflicts of laws principles, except to the extent that the laws of the United States of America may prevail.

Section 9.11. **Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

Section 9.12. **Lender Loan Documents Independent.** Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Agreement, the Indenture or the other Borrower Documents will not serve as a basis for default on the Lender Loan, the underlying mortgage or any of the other Lender Loan Documents.

To the extent not otherwise set forth above in this Section 9.12, the provisions of Section 13.09 of the Indenture are incorporated herein by reference to the same extent as if set forth herein in full.

Section 9.13. **Conversion of Borrower Loan.** The Issuer and the Borrower acknowledge and agree that the Borrower Loan is subject to Conversion as provided in Section 2.13 of the Indenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Agreement to be executed in their respective official names and attested by their duly authorized officers, all as of the date first above written.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
[_____] , Chair

BORROWER:

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

Exhibit A

Project Description

The Borrower plans to use the proceeds of the Loan for the purpose of financing a portion of the costs of the acquisition, construction and equipping by the Borrower of an approximately 123-unit multifamily housing facility and related facilities for seniors to be known as Scott Street Lofts and to be located at 1320 Scott Street, Houston, Texas 77003.

Exhibit B

Form of Promissory Note

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS NOTE, THIS NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH REFERRED TO HEREIN.

\$_[_____]

[June __], 2020

FOR VALUE RECEIVED, Scott Street Lofts, LP, a limited partnership duly formed and validly existing under the laws of the State of Texas (the "*Borrower*"), by this promissory note hereby promises to pay to the order of the Texas Department of Housing and Community Affairs (the "*Issuer*") the principal sum of [_____] Dollars, together with interest on the unpaid principal amount hereof, from the Closing Date (as defined in the Indenture referenced below) until paid in full, at a rate per annum equal to the rate of interest borne by the Notes. All such payments of principal and interest shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America at the designated corporate trust office (initially, in Dallas, Texas) of Wilmington Trust, National Association, a national banking association duly organized and validly existing under the laws of the United States, or its successor as trustee under the Indenture.

The principal and interest shall be payable on the dates that principal and interest on the Notes are payable, as provided in the Indenture and the Agreement.

This promissory note is the "Note" referred to in the Loan Agreement, dated as of June 1, 2020 (as the same may be amended, modified or supplemented from time to time, the "*Agreement*"), between the Borrower and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

This Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to Wilmington Trust, National Association, as trustee (the "*Trustee*") under the Trust Indenture dated as of June 1, 2020 (as the same may be amended, modified or supplemented from time to time, the "*Indenture*"), between the Issuer and the Trustee, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of the Issuer's Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the "*Notes*"), issued by the Issuer pursuant to the Indenture. All the terms, conditions and provisions of the Indenture and the Notes are hereby incorporated as a part of this Note.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay reasonable costs of collection and reasonable attorneys' fees in case of default on this Note.

This Note shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to conflict of laws principles.

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

ENDORSEMENT

Pay to the order of Wilmington Trust, National Association, a national banking association, without recourse, as Trustee under the Indenture referred to in the Borrower Note, as security for the Notes issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Borrower Note.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
[_____] , Chair

Dated: [June ____], 2020

Exhibit C

Form of Completion Certificate

\$[_____]
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020

COMPLETION CERTIFICATE

Pursuant to Section 3.05 of the Loan Agreement dated as of June 1, 2020 (the “*Project Loan Agreement*”) between the Texas Department of Housing and Community Affairs (the “*Issuer*”) and Scott Street Lofts, LP, a Texas limited partnership (the “*Borrower*”), relating to the captioned Notes, the Borrower hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Loan Agreement or the Tax Exemption Agreement):

(a) The Project was substantially completed and available and suitable for use as multifamily housing on _____, 202__ (the “*Completion Date*”).

(b) The acquisition, construction, equipping and improvement of the Project has been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar Governmental Requirements.

(c) The costs of the Project financed with the loan from the Issuer were \$_____.

(d) The applicable Governmental Authority having jurisdiction over the Project has issued certificates of occupancy with respect to each building in the Project.

(e) The proceeds of the Notes were used in accordance with the requirements of the Tax Exemption Agreement, including the requirement that at least 95% of the proceeds of the Bonds be expended for Qualified Project Costs and no more than 2% of the proceeds of the Bonds be expended for Costs of Issuance. The Project will be operated in accordance with the terms of the Tax Exemption Agreement and the Regulatory Agreement.

(f) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

EXECUTED on behalf of the Borrower as of the ____ day of _____, 20__.

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

REGULATORY AND LAND USE RESTRICTION AGREEMENT

Among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer,

WILMINGTON TRUST, NATIONAL ASSOCIATION,
a national banking association,
as Trustee,

and

SCOTT STREET LOFTS, LP,
a Texas limited partnership,
as Borrower

Dated as of June 1, 2020

Relating to

\$_[]
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020)

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REGULATORY AND LAND USE RESTRICTION AGREEMENT

THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT (as amended, modified or supplemented from time to time, this “Agreement” or this “Regulatory Agreement”) dated as of June 1, 2020, is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Issuer”), a public and official agency of the State of Texas (the “State”), **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as trustee under the hereinafter defined Indenture (together with any successor trustee under the Indenture described below and their respective successors and assigns, and including in its capacity as the fiscal agent under the Funding Loan Agreement described below, the “Trustee”) and **SCOTT STREET LOFTS, LP**, a Texas limited partnership (together with its permitted successors and assigns, the “Borrower”).

RECITALS

WHEREAS, pursuant to the Act (as hereinafter defined), the Issuer is authorized to issue bonds (including notes) and to use the proceeds thereof to provide monies to aid in financing the acquisition, construction and equipping of residential rental property for dwelling units in the State; and

WHEREAS, the Borrower has requested the assistance of the Issuer in connection with the financing of a multifamily residential rental housing development located on the real property described in Exhibit A hereto (the “Development Site”) and described in Exhibit B-1 hereto (the “Development Facilities”) and, together with the Development Site, the “Development”), and, as a condition to such assistance, the Borrower has agreed to enter into this Regulatory Agreement, setting forth certain restrictions with respect to the Development; and

WHEREAS, the Issuer has determined to provide funds in connection with the financing of the Restricted Units (as defined herein) in the Development by issuing its Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”) in the original principal amount of \$[_____], and loaning the proceeds of the Notes to the Borrower, upon the terms and conditions set forth in the Loan Agreement (as hereinafter defined); and

WHEREAS, in order for interest on the Notes to be excluded from gross income for federal income tax purposes under the Code (as defined herein) and the Regulations (as defined herein) and rulings with respect to the Code, and in order to comply with the Act, the use and operation of the Development must be restricted in certain respects; and

WHEREAS, the Issuer, the Trustee and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction, equipping and operation of the Development and in order to ensure that the Development will be acquired, constructed, used and operated in accordance with the Code and the Act.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Issuer, the Trustee and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. In addition to terms defined above, capitalized terms have the respective meanings assigned to them in this Section 1 or as elsewhere defined in this Regulatory Agreement, in the Indenture, the Loan Agreement or in the Tax Agreement (each as defined herein), unless the context in which they are used clearly requires otherwise:

“**Act**” means Chapter 2306, Texas Government Code, as amended from time to time.

“**Agreement**” or “**Regulatory Agreement**” means this Regulatory and Land Use Restriction Agreement, as it may be amended from time to time.

“**Annual Income**” means the anticipated annual income of a person (together with the anticipated annual income of all persons that intend to reside with such person in one Unit) calculated pursuant to Section 8 of the Housing Act, as required by Section 142(d) of the Code.

“**Available Unit**” means a Restricted Unit (except for any Unit reserved for any resident manager, security personnel or maintenance personnel that is reasonably required for the Development) that has been leased at least once after becoming available for occupancy; provided that (a) a residential unit that is unoccupied on the later of (i) the date the Development is acquired by the Borrower or (ii) the Closing Date is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after the renovations are completed.

“**Bond Counsel**” means counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes and that is appointed by the Issuer, and initially means Bracewell LLP.

“**Borrower Note**” has the meaning set forth in the Indenture.

“**Closing Date**” means the date upon which the Notes are issued and delivered in exchange for the proceeds representing the purchase price of the Notes paid by the original purchaser thereof.

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

“**Compliance Monitoring Rules**” means the rules published by the Issuer in Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code.

“**Continuing Covenant Agreement**” has the meaning set forth in the Funding Loan Agreement.

“**Conversion Date**” has the meaning set forth in the Indenture.

“**Development**” means the Development Facilities and the Development Site.

“**Development Amenities**” means the amenities for which the Development was awarded points by the Issuer, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program application scoring process, as more fully set forth in Exhibit B-2 hereto.

“**Development Facilities**” means the multifamily housing structures and related buildings and other improvements to be constructed on the Development Site as more fully set forth in Exhibit B-1 hereto, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Development.

“Development Site” means the parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances appertaining thereunto.

“Eligible Tenants” means (a) individuals and families of low, very low and extremely low income, (b) families of moderate income (in each case in the foregoing clauses (a) and (b) as such terms are defined by the Issuer under the Act), and (c) Persons with Special Needs, in each case, with an Annual Income not in excess of 140% of the area median income; provided that all Low-Income Tenants are Eligible Tenants.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that, under existing law, such action or omission does not adversely affect the Federal Tax Status of the Notes (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Notes or other customary exceptions acceptable to the recipient(s) thereof).

“Financing Documents” has the meaning set forth in the Funding Loan Agreement.

“Funding Lender” has the meaning set forth in the Funding Loan Agreement.

“Funding Loan Agreement” has the meaning set forth in the Indenture.

“Housing Act” means the United States Housing Act of 1937, as amended, or a successor thereto.

“HUD” means the United States Department of Housing and Urban Development or its successors.

“Indenture” means Trust Indenture of even date herewith between the Issuer and the Trustee, relating to the issuance of the Notes, and any indenture supplemental thereto, including the Funding Loan Agreement on and after the Conversion Date.

“Loan” means the loan of the proceeds of the Notes made by the Issuer to the Borrower pursuant to the Loan Agreement, and as evidenced by the Borrower Note.

“Loan Agreement” means the Loan Agreement of even date herewith between the Issuer and the Borrower, as it may be amended, modified, supplemented or restated from time to time to the extent permitted by the Indenture, including the Project Loan Agreement on and after the Conversion Date.

“Loan Documents” means (i) prior to the Conversion Date, the Note Documents, and (ii) on and after the Conversion Date, the Financing Documents.

“Low-Income Tenant” means a tenant whose Annual Income is 60% or less of the Multifamily Tax Subsidy Program Income Limit, as determined under Sections 142(d)(2)(B) and (D) of the Code and in accordance with this Regulatory Agreement. If all the occupants of a Unit are students (as defined for the purposes of Section 152(f)(2) of the Code) no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants will not qualify as Low-Income Tenants unless such students meet the qualifications under Section 42(i)(3)(D) of the Code.

“Low-Income Unit” means a Restricted Unit that is included as a Unit satisfying the requirements of the Set Aside.

“**Multifamily Tax Subsidy Program Income Limit**” (or successor term) means the income limits provided by HUD pursuant to Section 142(d) of the Code.

“**Nonhousing Facilities**” means Development Facilities that constitute buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities, such as administrative, community, and recreational facilities.

“**Note Documents**” has the meaning set forth in the Indenture.

“**Notes**” means the Issuer’s Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020.

“**Official Intent Date**” means September 5, 2019.

“**Organizational Documents**” means the [Amended and Restated Limited Partnership Agreement] of the Borrower dated as of [_____], 2020, as the same may be amended, modified, supplemented or restated from time to time.

“**Persons with Special Needs**” means persons who (a) are considered to be individuals having a disability under State or federal law, (b) are elderly, meaning 62 years of age or more or of an age specified by the applicable federal program, (c) are designated by the governing board of the Issuer as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or (d) are legally responsible for caring for an individual described by clauses (a), (b) or (c) above and meet the income guidelines established by the governing board of the Issuer.

“**Project Loan Agreement**” has the meaning set forth in the Indenture.

“**Qualified Project Period**” means, with respect to the Development, the period beginning on the first day on which 10% of the Units are occupied and ending on the latest of (a) the date that is 15 years after the date on which 50% of the Units are occupied, (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Development is outstanding for federal income tax purposes, or (c) the date on which any assistance provided with respect to the Development under Section 8 of the Housing Act terminates.

“**Regulations**” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“**Related Person**” has the meaning set forth in Section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under Sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“**Replacement Reserve**” means the [Reserve for Replacement] account required to be established by the [Continuing Covenant Agreement].

“**Restricted Unit**” means any one of the 98 Units located in the Development, which are described as “affordable units” in Exhibit B-1 hereto.

“**Security Instrument**” means (i) prior to the Conversion Date, the Lender Mortgage, and (ii) on and after the Conversion Date, the Security Instrument (as defined in the Funding Loan Agreement).

“**Set Aside**” means the requirement that at least 40% of the Available Units be occupied or set aside for occupancy at all times by Low-Income Tenants.

“**State Conversion Date**” means the date of the first amortization payment on the note relating to the Loan.

“**State Reserve Period**” means, with respect to the Development, the period beginning on the State Conversion Date and ending on the earliest of the following dates: (a) the date of any involuntary change in ownership of the Development; (b) the date on which the Borrower suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored; (c) the date on which the Development is demolished; (d) the date on which the Development ceases to be used as multifamily rental property; or (e) the end of the State Restrictive Period.

“**State Restrictive Period**” means, with respect to the Development, the period beginning on the first day on which the Borrower takes legal possession of the Development and ending on the latest of (a) the date that is 35 years after the first day of the State Restrictive Period, (b) the first date on which no tax-exempt private activity bond issued with respect to the Development is outstanding for federal income tax purposes, and (c) the date on which any assistance provided with respect to the Development from the federal government terminates.

“**Tax Agreement**” means the Tax Exemption Certificate and Agreement of even date herewith among the Issuer, the Trustee and the Borrower, as in effect on the Closing Date and as it may thereafter be amended or supplemented or restated in accordance with its terms.

“**Tenant Income Certification**” means a certification form available on the Issuer’s website at the time of submission used to certify income and other matters executed by the household members of each Restricted Unit in the Development.

“**Unit**” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation located within the Development; provided that, a unit will not fail to be treated as a Unit merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code).

“**Unit Status Report**” means the certified residential rental housing program compliance report with respect to the Development to be filed by the Borrower with the Issuer electronically through the filing system available on the Issuer’s website in the form available on the Issuer’s website at the time of submission of the report or in such other form as the Issuer may reasonably prescribe in writing to the Borrower pursuant to Section 4(e) hereof.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender include each other gender, and words of the singular number include the plural number, and vice versa. This Regulatory Agreement and all the terms and provisions hereof are to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms are to be determined by reference to this Section 1, notwithstanding any contrary definition in the

preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and do not in any way modify or restrict any of the terms or provisions hereof and are not to be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent arises.

Section 1A. Acquisition, Construction and Equipping of the Development. The Borrower hereby represents, covenants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Issuer or the Trustee or both, including specifically the representations and expectations set forth in the Tax Agreement, are true and correct in all material respects as and when made.

(b) The Borrower will submit to the Issuer and the Trustee evidence of construction completion as required in the Loan Agreement and within 30 days of completion in the format prescribed by the Issuer as required pursuant to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code. The Borrower further agrees to cause the architect of record to submit a certification that the Development was built in compliance with all applicable laws and the engineer of record (if applicable) must submit a certification that the Development was built in compliance with design requirements.

(c) The Borrower will take or not fail to take, as is applicable, all actions necessary to cause the proceeds of the Notes to be applied in a manner consistent with the requirements of the Indenture, the Loan Agreement, the Tax Agreement and this Regulatory Agreement. The Borrower acknowledges that such requirements have been designed for the purpose of ensuring compliance with the provisions of the Act or the Code applicable to the Borrower and the Development.

(d) The Borrower is a qualified "housing sponsor" as defined in the Act.

(e) The Borrower will not seek an exemption from ad valorem taxation for the Development without prior written notice to the Issuer.

Section 2. Tax-Exempt Status of the Notes. The Borrower will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Notes from gross income for federal income tax purposes (subject to any exceptions contained in the opinion delivered upon the original issuance of the Notes). With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that prior to the final maturity of the Notes, unless it has received and filed with the Issuer and Trustee a Favorable Opinion of Bond Counsel:

(a) That the Development will be owned, managed and operated as a "qualified residential rental project" within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Borrower covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Development will be comprised of residential Units and facilities functionally related and subordinate thereto in accordance with Section 142(d) of the Code;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which

are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Development will be functionally related and subordinate to the Units comprising the Development and will be of a character and size that is commensurate with the character and size of the Development;

(iv) that at no time during the Qualified Project Period will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than six months (unless the Unit serves as a single room occupancy unit or transitional housing for the homeless (as described in Section 42(i)(3)(B) of the Code), in which case such lease may be on a month-to-month basis) or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Development will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Development will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Development tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Development, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time during the Qualified Project Period will any Unit in any building or structure in the Development that contains fewer than five Units be occupied by the Borrower;

(viii) that each Restricted Unit will be rented or available for rental on a continuous basis to Eligible Tenants (subject to the limitations and exceptions contained in this Regulatory Agreement, the Tax Agreement and the Loan Agreement) at all times during the longer of (A) the remaining term of the Notes or (B) the Qualified Project Period, that the Borrower will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs, Low-Income Tenants, seniors and other Eligible Tenants as provided herein, and that at no time will any portion of the Development be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that the Development will meet the Set Aside. For the purposes of this Section 2(a)(ix), a vacant Unit that was most recently occupied by a Low-Income Tenant is treated as rented and occupied by a Low-Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low-Income Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant

Income Certification, such tenant's Annual Income increases to exceed the qualifying limit for Low-Income Tenants; provided, however, that, should a Low-Income Tenant's Annual 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 and such Low-Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low-Income Tenant;

(x) that the Borrower will obtain, complete and maintain on file Tenant Income Certifications and supporting documentation from each Low Income Tenant, including (A) a Tenant Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the Development and (B) thereafter, annual Tenant Income Certifications obtained on or before the anniversary of such Low Income Tenant's occupancy of the Unit, and in no event less than once in every 12-month period following each Low Income Tenant's occupancy of a Unit; provided that the requirement for annual recertification will not apply for any year in which no Unit in the Development is occupied by a new resident whose income exceeds the applicable income limit. The Borrower will obtain such additional information as may be required in the future 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 hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Borrower will make a diligent and good-faith effort to determine that the income information provided by an applicant in a Tenant Income Certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Borrower will document income and assets in accordance with HUD Handbook 4350.3 and the Issuer's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Borrower will submit to the Secretary of the Treasury, with a copy provided to the Issuer, 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 Development continues to meet the requirements of Section 142(d) of the Code; and

(xii) that the Borrower will prepare and submit the Unit Status Report in the form available on the Issuer's website at the time of such submission to the Issuer (via the electronic filing system available on the Issuer's website in accordance with Section 4(e) hereof). The Borrower will retain all documentation required by this Section 2(a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Borrower will maintain complete and accurate records pertaining to the Low-Income Units and will permit, at all reasonable times during normal business hours and upon reasonable prior written notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Issuer, the Trustee, the Funding Lender, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect and photocopy the books and records of the Borrower pertaining to the Development, including those records pertaining to the occupancy of the

Low-Income Units. The Borrower will retain all records maintained in accordance with this Section 2 until the date that is three years after the end of the Qualified Project Period.

(c) That the Borrower will provide to the Trustee and the Issuer a certificate in the form attached hereto as Exhibit E certifying (i) within 90 days thereof, the date on which 10% of the Units are occupied; and (ii) within 90 days thereof, the date on which 50% of the Units are occupied.

(d) That the Borrower will prepare and submit to the Issuer and the Trustee, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form; however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in this Regulatory Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Issuer and the Trustee may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Borrower in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Borrower, and which is required to be noticed, represented or certified by the Borrower hereunder or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Notes.

Section 3. Modification of Tax and State Restrictive Covenants. The Borrower, the Trustee and the Issuer hereby agree as follows:

(a) During the Qualified Project Period and the State Restrictive Period, to the extent any amendments to the Act or the Code, in the written opinion of Bond Counsel filed with the Issuer, the Trustee, the Funding Lender and the Borrower, are required by the terms thereof to be applied to the, and impose requirements upon, the ownership or operation of the Development that are more restrictive than those imposed by this Regulatory Agreement, this Regulatory Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements to be effective for the duration of such more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as is necessary to document such automatic amendment hereof. In addition, this Regulatory Agreement will be amended to the extent required by, and in accordance with, the Loan Agreement.

(b) During the Qualified Project Period and the State Restrictive Period, to the extent that the Act, the Code, or any amendments thereto, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Development less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Trustee and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All costs, including fees and out-of-pocket expenses actually incurred by the Issuer and the Trustee, in connection with compliance with the requirements of this Section will be paid by the Borrower and its successors in interest.

Section 4. Housing Development During the State Restrictive Period. The Issuer and the Borrower hereby recognize and declare their understanding and intent that the Development is to be owned, managed and operated as a "housing development," as such term is defined in Section 2306.004(13) of the

Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Issuer until the expiration of the State Restrictive Period.

To the same end, the Borrower hereby represents, covenants and agrees as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Development, to assure that 100% of the Restricted Units are reserved for Eligible Tenants;

(b) to assure that the provisions of Sections 2(a)(viii) and 2(a)(ix) hereof continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant of a Restricted Unit in the Development (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant's initial occupancy of a Restricted Unit in the Development, and, if required as described in Section 2(a)(x) hereof, at least annually thereafter in the manner as described in Section 2(a)(x) hereof, and to maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant of a Restricted Unit in the Development (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Restricted Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Issuer to the Borrower from time to time that (i) such lease is subordinate to the Security Instrument and this Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of this Regulatory Agreement and the Loan Agreement are substantial and material obligations of tenancy in the Development, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Borrower, the Trustee and the Issuer, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;

(e) to cause to be prepared and submitted to the Issuer (via the electronic filing system available on the Issuer's website) by the tenth calendar day of each January, April, July and October or other schedule as determined by the Issuer with written notice to the Borrower, a certified quarterly Unit Status Report in a form available on the Issuer's website at the time of submission or in such other form as the Issuer may reasonably prescribe in writing to the Borrower with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable prior written notice to permit any duly authorized representative of the Issuer, the Funding Lender or the Trustee to inspect the books and records of the Borrower pertaining to the Development or the incomes of Development tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Issuer's requirements;

(g) that the Borrower is qualified to be a "housing sponsor" as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Issuer's website) the Annual Owner's Compliance Report to the

Issuer in the form available on the Issuer's website at the time of submission by April 30 of each year, commencing April 30, 2022;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached hereto as Exhibit C in the manner provided in such Exhibit, or from any additional supportive services added to the Issuer's rules at any future date as agreed to in writing by the Issuer in accordance with Title 10, Part 1, Chapter 10, Subchapter E, Section 10.405 of the Texas Administrative Code. The Borrower must maintain documentation satisfactory to the Issuer of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Issuer upon request. The Borrower must provide the social services throughout the State Restrictive Period;

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code and other Issuer rules regarding affirmative marketing and written policies and procedures, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD's Uniform Physical Condition Standards and to provide regular maintenance to keep the Development sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Issuer must first provide notice of any default or breach to the Borrower, and the Borrower will have 30 days following receipt of such notice to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Development pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Borrower is not a party to and will not enter into a contract for the Development with, a housing developer that (i) is on the Issuer's debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Borrower has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Borrower's participation in contracts with the agency and the amount of financial assistance awarded to the Borrower by the agency;

(m) to cooperate fully with the Issuer with respect to its compliance and oversight requirements and to cause the manager of the Development to so comply;

(n) to ensure that Units intended to satisfy the Set Aside under Section 2(a)(ix) hereof will be distributed evenly throughout the Development and will include a reasonably proportionate amount of each type of Unit available in the Development;

(o) to ensure that the Development conforms to the federal Fair Housing Act;

(p) the Development meets the requirements of the Housing for Older Persons Act under the Fair Housing Act and receives no funding that requires leasing to persons other than the elderly and is therefore considered by the Issuer to have a federal elderly limitation; and

(q) the Nonhousing Facilities are necessary, convenient, or desirable appurtenances for the Restricted Units.

Section 4.A. Repairs and Maintenance Required by State Law. The Borrower will maintain the Replacement Reserve required by and created pursuant to the Continuing Covenant Agreement or a similar account for the longer of: (a) the period of time required pursuant to the Continuing Covenant Agreement, or (b) the State Reserve Period as required by Section 2306.186 of the Texas Government Code.

Section 4.B. Development Amenities. The Borrower hereby represents, covenants and agrees that the Development will include the Development Amenities as described in Exhibit B-2 attached hereto.

Section 5. [Reserved]

Section 6. Persons With Special Needs. The Borrower represents, covenants and warrants that during the State Restrictive Period, it will make at least 5% of the Restricted Units within the Development available for occupancy by Persons with Special Needs.

Section 7. Consideration. The Issuer has issued the Notes to provide funds to make the Loan to finance the portion of the Development constituting the Restricted Units, all for the purpose, among others, of inducing the Borrower to acquire, construct, equip and operate the Development. In consideration of the issuance of the Notes by the Issuer, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Development can be put on the terms and conditions set forth herein.

Section 8. Reliance. The Issuer, the Trustee and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all Persons interested in the legality and validity of the Notes, and in the excludability from gross income for purposes of federal income taxation of interest on the Notes. In performing their duties and obligations hereunder, the Issuer, the Borrower and the Trustee may rely upon statements and certificates of the Low-Income Tenants or Eligible Tenants and the Issuer and the Trustee may rely upon statements and certifications by the Borrower and upon audits of the books and records of the Borrower pertaining to the Development. In addition, the Issuer, the Borrower and the Trustee may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by the Issuer, the Borrower or the Trustee hereunder in good faith and in conformity with such opinion. In determining whether any default by the Borrower exists under this Regulatory Agreement, the Trustee is not required to conduct any investigation into or review of the operations or records of the Borrower and may rely on any written report, notice or certificate delivered to the Trustee by any Person retained to review the Borrower's compliance with this Regulatory Agreement or by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it has actual knowledge that the report, notice or certificate is erroneous or misleading.

Section 9. Development in Harris County. The Borrower hereby represents that the Development is located entirely within Harris County, Texas.

Section 10. Sale or Transfer of the Development or Change in General Partner.

(a) The Borrower covenants and agrees not to sell, transfer or otherwise dispose of the Development prior to the expiration of the Qualified Project Period (other than pursuant to the lease of Units to tenants), without (i) providing 30 days prior written notice to the Issuer, (ii) complying with any applicable provisions of this Regulatory Agreement, the Loan Agreement, the Tax Agreement and other Loan Documents and (iii) obtaining the prior written consent of the Issuer. Such consent of the Issuer will not be unreasonably withheld and will be given if the following conditions to the sale or other disposition are met or waived in writing by the Issuer: (A) there is delivered to the Trustee and the Issuer a written opinion of independent legal counsel reasonably satisfactory to the Trustee and the Issuer, addressed to the Trustee and the Issuer,

concluding that the transferee has duly assumed all of the rights and obligations of the Borrower under this Regulatory Agreement, the Loan Agreement, the Tax Agreement and the other Loan Documents and that each of the documents executed by the transferee in connection therewith has been duly authorized, executed and delivered by the transferee and is a valid and enforceable obligation of the transferee, subject to customary qualifications, (B) the Issuer receives a Favorable Opinion of Bond Counsel, with a copy to the Trustee and the Borrower, which opinion will be furnished at the expense of the Borrower or the transferee, (C) the Issuer receives an assumption fee equal to 0.25% of the principal balance of the Notes Outstanding at the time of such transfer, (D) the proposed purchaser or assignee executes any document requested by the Issuer with respect to assuming the obligations of the Borrower under this Regulatory Agreement, the Loan Agreement, the Tax Agreement and the other Loan Documents, and (E) the Issuer has performed a previous participation review on the proposed purchaser or assignee or any affiliated party, the results of which are satisfactory to the Issuer in accordance with Title 10, Part 1, Chapter 1, Subchapter C, Section 1.301, Texas Administrative Code, and the Issuer does not further have any reason to believe the proposed purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements and instruments binding on such proposed purchaser or assignee relating to the Development, including but not limited to this Regulatory Agreement, the Loan Agreement, the Tax Agreement, the Security Instrument and other Loan Documents. The foregoing provisions do not apply to transfer by foreclosure or deed in lieu of foreclosure or other similar involuntary transfers, but such provisions apply to any transfer subsequent to such involuntary transfers. Notwithstanding anything to the contrary contained herein, the following shall be permitted and shall not require the prior written approval of Issuer or Trustee, provided that written notice thereof has been provided to the Issuer, (a) the transfer by Investor Limited Partner of its non-Controlling interest in Borrower in accordance with the terms of Borrower's Organizational Documents, (b) the removal of the general partner of Borrower in accordance with the Organizational Documents and the temporary replacement thereof with Investor Limited Partner or any of its affiliates, (c) the transfer of ownership interests in Investor Limited Partner, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of Investor Limited Partner in Borrower to Borrower's general partner or any of its affiliates, and (e) any amendment to the Organizational Documents to memorialize the transfers or removal described above. For the purposes of the preceding sentence, "Control" or "Controlling" has the meaning given to such term in Title 10, Part 1, Subchapter A, Section 11.1, Texas Administrative Code. The Borrower hereby expressly stipulates and agrees that any sale, transfer or other disposition of the Development in violation of this subsection will be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Upon any sale, transfer or other disposition of the Development in compliance with this Regulatory Agreement, the Borrower so selling, transferring or otherwise disposing of the Development will have no further liability for obligations under the Loan Agreement, this Regulatory Agreement, the Tax Agreement or any other Loan Document arising after the date of such disposition. The foregoing notwithstanding, the duties of the Borrower as set forth in the Loan Agreement, this Regulatory Agreement, the Tax Agreement or any other Loan Document with respect to matters arising prior to the date of such sale, transfer or other disposition will not terminate upon the sale, transfer or other disposition of the Development.

(b) No transfer of the Development will release the Borrower from its obligations under this Regulatory Agreement arising prior to the date of such transfer, but any such transfer in accordance with this Regulatory Agreement will relieve the Borrower of further liability for obligations under this Regulatory Agreement arising after the date of such transfer.

(c) Except as set forth in Section 10(a) above, the Borrower will not change its general partner by transfer, sale or otherwise without the prior written consent of the Issuer, which consent will not be unreasonably withheld. A change in the Borrower's general partner includes any transfer of any controlling ownership interest in the general partner other than by death or incapacity.

Section 11. Term. This Regulatory Agreement and all and each of the provisions hereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section, will terminate in its entirety at the end of the State Restrictive Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Notes, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements set forth herein will terminate, without the requirement of any consent by the Issuer or the Trustee, and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Closing Date which prevents the Issuer or the Trustee from enforcing the provisions hereof, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Notes are retired in full or amounts received as a consequence of such event are used to provide a "qualified residential rental project" that meets the requirements of the Code and State law including, but not limited to, the provisions set forth in Sections 1A through 6, 10, 11 and 12 of this Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any Related Person obtains an ownership interest in the Development for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee and the Borrower upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments are not necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Issuer and the Trustee incurred in connection with the termination of this Regulatory Agreement will be paid by the Borrower and its successors in interest.

Section 12. Covenants to Run With the Land. The Borrower hereby subjects the Development (including the Development Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Issuer, the Trustee and the Borrower hereby declare that the covenants, reservations and restrictions set forth herein are covenants running with the land and will pass to and be binding upon the Borrower's successors in title to the Development; provided, however, that upon the termination of this Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof prior to the termination of this Regulatory Agreement will 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 instrument.

No breach of any of the provisions of this Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Development or any portion thereof.

Section 13. Burden and Benefit. The Issuer, the Trustee and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Development is rendered less valuable thereby. The Issuer, the Trustee and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Development by Low-Income Tenants and Eligible Tenants and by furthering the public purposes for which the Notes were issued.

Section 14. Uniformity; Common Plan. The covenants, reservations and restrictions hereof will apply uniformly to the Restricted Units in order to establish and carry out a common plan for the use, development and improvement of the Development Site.

Section 15. Default; Enforcement by the Trustee and Issuer. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured by the Borrower for a period of 60 days after written notice thereof has been given by the Issuer or the Trustee to the Borrower and the Investor Limited Partner at the Notice Addresses set forth in the Indenture, then the Trustee, acting on its own behalf or on behalf of the Issuer and after being indemnified as provided in the Indenture, will declare an "Event of Default" to have occurred hereunder; provided, however, that, if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default will not constitute an Event of Default hereunder and will not be declared an Event of Default so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) the Borrower delivers to the Issuer and the Trustee a Favorable Opinion of Bond Counsel. The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be cure by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

During the existence of an Event of Default hereunder, the Trustee or the Issuer, each subject to being indemnified as provided in the Indenture and the Loan Agreement with respect to the costs and expenses of any proceeding, may, at its option, take any one or more of the following steps:

- (a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or the Trustee hereunder;
- (b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Development during regular business hours following reasonable prior written notice; and
- (c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Issuer and the Trustee may obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder. In addition, if the Issuer succeeds in an action for specific performance of an obligation, covenant or agreement of the Borrower contained herein, it is entitled to the relief provided in Section 16(b) hereof to the extent provided in that provision.

All rights and remedies herein given or granted are cumulative, nonexclusive and in addition to any and all rights and remedies that the parties may have or may be given by reason of any law, statute, ordinance, document or otherwise. Notwithstanding the availability of the remedy of specific performance provided for in this Section, promptly upon determining that a violation of this Regulatory Agreement has occurred, the Issuer will to the extent that it has actual knowledge thereof, by notice in writing, use its best efforts to inform the Trustee and the Borrower (provided that the failure to notify will not adversely affect the Issuer's or the Trustee's rights under this Regulatory Agreement) that a violation of this Regulatory Agreement has occurred.

It is specifically declared that this Regulatory Agreement or obligations hereunder may not be enforced by tenants or prospective tenants of the Development (except as described in Section 16 below) or, except as specifically provided in the Indenture, by the owners of the Notes.

Section 16. Enforcement of Certain Provisions by Tenants and other Private Parties.

(a) During the existence of an Event of Default hereunder with respect to Sections 4(i) and 4(j) hereof only, a tenant of the Development or any private party may, at its option by mandamus or other suit, including injunctive relief, require the Borrower to perform its obligations and covenants under Sections 4(i) and 4(j) hereof.

(b) If the Issuer, a tenant of the Development, or any private party brings an action to enforce the obligations and covenants of the Borrower under Sections 4(i) and 4(j) hereof, such party has the right to recover attorney's fees directly from the Borrower, without recourse to the Development, if such party is successful in an action seeking enforcement of the obligations and covenants of the Borrower hereunder. This is the only monetary relief a tenant of the Development or other private parties may receive under this Regulatory Agreement and any such recovery is subject to the provisions set forth in Section 15 above.

Section 17. The Trustee. The Trustee will act only as specifically provided herein and in the Indenture and the Tax Agreement. Subject to the right of the Trustee to be indemnified as provided in the Indenture and Loan Agreement, the Trustee agrees to act as the agent of and on behalf of the Issuer when requested in writing by the Issuer to do so, and any act required to be performed by the Issuer as herein provided will be deemed taken if such act is performed by the Trustee. The Trustee is entering into this Regulatory Agreement solely in its capacity as Trustee under the Indenture and as Fiscal Agent under the Funding Loan Agreement, and the duties, powers, rights and obligations of the Trustee in acting hereunder will be subject to the provisions of the Indenture and the Tax Agreement, all of which are incorporated by reference herein. The incorporated provisions of the Indenture and Tax Agreement are intended to survive the retirement of the Notes, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture and the Tax Agreement.

Subject to the Trustee's rights under the Indenture, the Trustee will, at the direction of the Issuer, take reasonable actions to enforce compliance by the Borrower with the terms of this Regulatory Agreement. The Trustee may rely on certificates and reports delivered to the Trustee by the Borrower

without independent investigation and the Trustee's responsibility to review and monitor compliance hereunder will not extend beyond the Trustee's receipt of the certificates, reports, and other documents required to be submitted to the Trustee by the Borrower pursuant to this Regulatory Agreement.

The Trustee may resign or be removed only as provided in Sections 11.11 and 11.12, respectively, of the Indenture. Such resignation or removal will not be effective until a successor Trustee satisfying the requirements of the Indenture is appointed and has accepted its appointment. The Trustee's right to indemnification provided in the Financing Agreement will survive the resignation or removal of the Trustee and the termination of this Regulatory Agreement.

Upon discharge of the Indenture, the Borrower will pay to the Trustee a fee, in an amount mutually agreed upon by the Borrower and the Trustee at the time of such discharge, for the performance of the Trustee's duties under this Regulatory Agreement through the date upon which the Notes are to be paid in full. After the date upon which the Notes have been paid in full, the Trustee shall no longer have any duties or responsibilities under this Regulatory Agreement and all references to the Trustee in this Regulatory Agreement shall be deemed references to the Issuer.

Section 18. Recording and Filing. The Borrower will cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of Harris County, Texas and in such other places as the Issuer or the Trustee may reasonably request. A file-stamped copy of this Regulatory Agreement and all amendments and supplements thereto will be delivered to the Trustee. The Borrower will pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement is subject to and subordinate to all matters of record as of the date hereof.

Section 19. Reimbursement of Expenses. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Indenture and the Tax Agreement, throughout the term of this Regulatory Agreement, the Borrower will continue to pay to the Issuer and the Trustee all fees and reimbursement for all expenses actually incurred thereby required to be paid to the Issuer and the Trustee by the Borrower pursuant to the Loan Agreement and the Tax Agreement.

Section 20. Governing Law. This Regulatory Agreement is governed by the laws of the State of Texas. The Trustee's rights, duties, powers and obligations hereunder are governed in their entirety by the terms and provisions of this Regulatory Agreement, the Loan Agreement, the Indenture and the Tax Agreement.

Section 21. Amendments. Subject to the provisions of Section 3 hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto (except that after discharge of the Indenture, consent of the Trustee will not be required), or their successors in title, and duly recorded in the real property records of Harris County, Texas, and only upon receipt by the Issuer (with a copy to the Trustee and the Borrower) of a Favorable Opinion of Bond Counsel and an opinion of Bond Counsel that such action is not contrary to the provisions of the Act.

Section 22. Notices. Any notice required to be given hereunder to the Issuer, the Trustee, the Borrower and the Investor Limited Partner will be given in the manner and to the address (or facsimile numbers) set forth in the Indenture.

Section 23. Severability. If any provision of this Regulatory Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof will not in any way be affected or impaired thereby.

Section 24. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which constitute one and the same instrument, and each of which is deemed to be an original.

Section 25. Authorization to Act for Issuer. To the extent allowed by law, the Issuer hereby authorizes the Borrower to take on behalf of the Issuer all actions required or permitted to be taken by it hereunder, or under the Indenture, the Loan Agreement and the Tax Agreement and to make on behalf of the Issuer all elections and determinations required or permitted to be made by the Issuer hereunder or under the Indenture, the Loan Agreement and the Tax Agreement. In addition, the Issuer hereby authorizes the Borrower to exercise, on behalf of the Issuer, any election with respect to the Notes pursuant to the Code or the Regulations, and the Issuer agrees to cooperate with the Borrower and execute any form of statement required by the Code or the Regulations to perfect any such election.

Section 26. Subordination and Incorporation of Freddie Mac Rider. Effective on the Conversion Date, the provisions of the Freddie Mac Rider attached to this Regulatory Agreement as Exhibit D (the “Freddie Mac Rider”) are incorporated into this Regulatory Agreement by this reference as if fully set forth in this Section 26. Notwithstanding anything contained herein or in the Freddie Mac Rider, in no event shall the provisions of the Freddie Mac Rider be construed to contravene State law.

IN WITNESS WHEREOF, the Issuer, the Trustee and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**, as Governmental Lender

By: _____
Name: James B. "Beau" Eccles
Title: Secretary to Board

(SEAL)

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2020 by James B. "Beau" Eccles, Secretary to the Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

**WILMINGTON TRUST,
NATIONAL ASSOCIATION,**
as Trustee

By: _____
Charles Hicks
Vice President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

On this the _____ day of _____, 2020 personally appeared Charles Hicks, a Vice President of Wilmington Trust, National Association, a national banking association, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

On this the _____ day of _____, 2020, personally appeared David Mark Koogler, President of Mark-Dana Corporation, a Virginia corporation, the managing member of Scott Street Lofts Advisors, LLC, a Texas limited liability company, the general partner of Scott Street Lofts, LP, a Texas limited partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

EXHIBIT A
PROPERTY DESCRIPTION

[TO COME FROM BORROWER]

EXHIBIT B-1

DESCRIPTION OF DEVELOPMENT

Borrower: Scott Street Lofts, LP, a Texas limited partnership

Development: The Development is an approximately 123-unit multifamily community for seniors (consisting of 98 affordable units and 25 market rate units as noted below) to be known as Scott Street Lofts and to be located at 1320 Scott Street, Houston, Texas 77003. It consists of three (3) residential apartment buildings with approximately 106,848 net rentable square feet. The unit mix will consist of:

63	one-bedroom/one-bath units
60	two-bedroom/two-bath units
123	Total Units

NOTE – The 123 total units are comprised of:

- 98 affordable units (48 1B/1BA and 50 2B/2BA); and
- 25 market rate units (15 1B/1BA and 10 2B/2BA).

Unit sizes will range from approximately 716 square feet to approximately 1,029 square feet.

EXHIBIT B-2

DEVELOPMENT AMENITIES

“Development Amenities” means the amenities for which the Development was awarded points by the Issuer, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program pre-application scoring process.

Development Common Amenities must include at least fourteen (14) points selected from the following list which are grouped primarily for organizational purposes. The Borrower is not required to select a specific number of amenities from each section. The Borrower may change, from time to time, the amenities offered; however, the overall points must remain the same. The tenant must be provided written notice of the elections made by the Borrower.

(i) Community Space for Resident Supportive Services

(I) Except in Applications where more than 10% of the units in the proposed Development are Supportive Housing SRO Units, an Application may qualify to receive half of the points required under 10 TAC §11.101(b)(5)(A)(i)-(vi) by electing to provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site. To receive the points the Applicant must commit to all of items (-a-) through (-c-) of this subclause.

(-a-) Space and Design. The educational space for the HQ Pre-K program must be provided on the Development Site and must be a suitable and appropriately designed space for educating children that an independent school district or open-enrollment charter school can utilize to establish and operate a HQ Pre-K program. This space includes at a minimum a bathroom and large closet in the classroom space; appropriate design considerations made for the safety and security of the students; including limited and secure ingress and egress to the classroom space; and satisfaction of the requirements of all applicable building codes for school facilities. The Applicant must provide in the Application a copy of the current school facility code requirements applicable to the Development Site and Borrower and Architect certifications that they understand the associated space and design requirements reflected in those code requirements. The Application must also include acknowledgement by all lenders, equity providers and partners that the Application includes election of these points.

(-b-) Educational Provider. The Applicant must enter into an agreement, addressing all items as described in subitems (-1-) through (-5-) below, and provide evidence of such agreement to the Department on or before submission of the Cost Certification . Lack of evidence of such agreement by the deadline will be cause for rescission of the Carryover Agreement.

(-1-) The agreement must be between the Borrower and any one of the following: a school district; open-enrollment charter school; or Education Service Center. Private schools and private childcare providers, whether nonprofit or for profit, are not eligible parties, unless the private school or private childcare provider has entered into a partnership with a school district or open-enrollment charter school to provide a HQ Pre-K program in accordance with Texas Education Code Chapter 29, Subchapter E-1.

(-2-) The agreement must reflect that at the Development Site the educational provider will provide a HQ Pre-K program, in accordance with Texas Education Code Chapter 29, Subchapter E-1, at no cost to residents of the proposed Development and that is available for general public use, meaning students other than those residing at the Development may attend.

(-3-) Such agreement must reflect a provision that the option to operate the HQ Pre-K program in the space at the Development Site will continue to be made available to the school or provider until such time as the school or provider wishes to withdraw from the location. This provision will not limit the Borrower's right to terminate the agreement for good cause.

(-4-) Such agreement must set forth the responsibility of each party regarding payment of costs to use the space, utility charges, insurance costs, damage to the space or any other part of the Development, and any other costs that may arise as the result of the operation of the HQ Pre-K program.

(-5-) The agreement must include provision for annual renewal, unless terminated under the provisions of item (-c-).

(-c-) If an education provider who has entered into an agreement becomes defunct or elects to withdraw from the agreement and provision of services at the location, as provided for in subitem (-b-)(-3-) of this subclause, the Borrower must notify the Texas Commissioner of Education at least 30 days prior to ending the agreement to seek out any other eligible parties listed in subitem (-b-)(-1-) of this subclause above. If another interested open-enrollment charter school or school district is identified by the Texas Commissioner of Education or the Borrower, the Borrower must enter into a subsequent agreement with the interested open-enrollment charter school or school district and continue to offer HQ Pre-K services. If another interested provider cannot be identified, and the withdrawing provider certifies to the Department that their reason for ending the agreement is not due to actions of the Borrower, the Borrower will not be considered to be in violation of its commitment to the Department. If the Borrower is not able to find a provider, they must notify the Commissioner annually of the availability of the space.

(II) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for children and selected by the Borrower. The room(s) devoted to meeting this requirement must equal 15 square feet times the total number of Units, but need not exceed 2,000 square feet in total. This space must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets and/or cabinetry (4 points);

(III) Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for adults and selected by the Borrower. The room(s) devoted to meeting this requirement must equal 10 square feet times the total number of Units, but need not exceed 1,000 square feet in total. This space must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets and/or cabinetry (2 points);

(IV) Service provider office in addition to leasing offices (1 point);

(ii) Safety

- (I) Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (1 point);
- (II) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);
- (III) Twenty-four hour, seven days a week monitored camera/security system in each building. Monitoring may be on-site or off-site (2 points);
- (IV) Twenty-four hour, seven days a week recorded camera / security system in each building (1 point);
- (V) The provision of a courtesy patrol service that, at a minimum, answers after-hour resident phone calls regarding noise and crime concerns or apartment rules violations and that can dispatch to the apartment community a courtesy patrol officer in a timely manner (3 points);

(iii) Health/ Fitness / Play

- (I) Accessible walking/jogging path, equivalent to the perimeter of the Development or a length that reasonably achieves the same result, separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);
- (II) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 40 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (1 point);
- (III) Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every 20 Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control and allow for after-hours access. (2 points);
- (IV) One Children's Playscape Equipped for five to 12 year olds, or one Tot Lot (2 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, and provide shade and ultraviolet protection. This item can only be selected if clause (V) of this subparagraph is not selected; or
- (V) Two Children's Playscapes Equipped for five to 12 year olds, two Tot Lots, or one of each (4 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, and provide shade and ultraviolet protection. This item can only be selected if clause (IV) of this subparagraph is not selected;
- (VI) Horseshoe pit; putting green; shuffleboard court; pool table; or ping pong table in a dedicated location accessible to all residents to play such games (1 point);
- (VII) Swimming pool (3 points);
- (VIII) Splash pad/water feature play area (1 point);
- (IX) Sport Court or field (including, but not limited to, Tennis, Basketball, Volleyball, Soccer or Baseball Field) (2 points);

(iv) Design / Landscaping

- (I) Full perimeter fencing that includes parking areas and all amenities (excludes guest or general public parking areas) (2 points);
 - (II) Enclosed community sun porch or covered community porch/patio (1 point);
 - (III) Dog Park area that is fully enclosed (the perimeter fencing may be used for part of the enclosure) and intended for tenant owned dogs to run off leash (requires that the Development allow dogs) (1 point);
 - (IV) Shaded rooftop or structural viewing deck of at least 500 square feet (2 points);
 - (V) Porte-cochere (1 point);
 - (VI) Lighted pathways along all accessible routes (1 point);
 - (VII) a resident-run community garden with annual soil preparation and mulch provided by the Borrower and access to water (which may be subject to local water usage restrictions) (1 point);
- (v) Community Resources
- (I) Gazebo or covered pavilion w/sitting area (seating must be provided) (1 point);
 - (II) Community laundry room with at least one washer and dryer for every 40 Units (2 points);
 - (III) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point). Grill must be permanently installed (no portable grills);
 - (IV) Business center with workstations and seating internet access, 1 printer and at least one scanner which may be integrated with the printer, and either 2 desktop computers or laptops available to check-out upon request (2 points);
 - (V) Furnished Community room (2 points);
 - (VI) Library with an accessible sitting area (separate from the community room) (1 point);
 - (VII) Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
 - (VIII) Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
 - (IX) Community Theater Room equipped with a 52 inch or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to residents; and seating (3 points);
 - (X) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the clubhouse and/or community building (1 point);
 - (XI) High-speed Wi-Fi of 10 Mbps download speed or more with coverage throughout the Development (2 points);
 - (XII) Bicycle parking that allows for, at a minimum, one bicycle for every five Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);
 - (XIII) Package Lockers. Automated Package Lockers provided at a location within the complex that can be accessed by residents 24/7 and at no charge to the resident. To qualify, there would need to be at least one locker for every eight residential units (2 points);
 - (XIV) Recycling Service (includes providing a storage location and service for pick-up) (1 point);

(XV) Community car vacuum station (1 point).

Unit, Development Construction and Energy and Water Efficiency Features. The Development must include at least nine (9) points selected from the following list. At least two (2) points must be selected from clause (iii) Energy and Water Efficiency Features. The development must maintain the points associated with those amenities by maintaining the amenity selected or providing substitute amenities with equal or higher point values.

(i) Unit Features

(I) Covered entries (0.5 point);

(II) Nine foot ceilings in living room and all Bedrooms (at minimum) (1 point);

(III) Microwave ovens (0.5 point);

(IV) Self-cleaning or continuous cleaning ovens (0.5 point);

(V) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to Bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the Property site (0.5 point);

(VI) Covered patios or covered balconies (0.5 point);

(VII) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);

(VIII) Built-in (recessed into the wall) shelving unit (0.5 point);

(IX) Breakfast Bar (a space, generally between the kitchen and dining area, that includes an area for seating although actual seating such as bar stools does not have to be provided) (0.5 point);

(X) Walk-in closet in at least one Bedroom (0.5 point);

(XI) 48" upper kitchen cabinets (1 point);

(XII) Kitchen island (0.5 points);

(XIII) Kitchen pantry with shelving (may include the washer/dryer unit for Rehabilitation Developments only) (0.5 point);

(XIV) Natural stone or quartz countertops in kitchen and bath (1 point);

(XV) Double vanity in at least one bathroom (0.5 point); and

(XVI) Hard floor surfaces in over 50% of unit NRA (0.5 point).

(ii) Development Construction Features

(I) Covered parking (may be garages or carports, attached or freestanding) and include at least one covered space per Unit (1.5 points);

(II) Thirty year roof (0.5 point);

(III) Greater than 30% stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious and metal siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points);

(IV) Electric Vehicle Charging Station (0.5 points);

(V) An Impact Isolation Class (IIC) rating of at least 55 and a Sound Transmission Class (STC) rating of 60 or higher in all Units, as certified by the architect or engineer of record (3 points); and

(VI) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Four (4) points may be selected from only one of the categories described in items (-a-) through (-d-) of this subclause. If the Development involves scattered sites, there must be green building features incorporated into each site in order to qualify for these points.

(-a-) Enterprise Green Communities. The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(-b-) Leadership in Energy and Environmental Design (LEED). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

(-c-) ICC/ASHRAE - 700 National Green Building Standard (NGBS). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NGBS Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

(-d-) 2018 International Green Construction Code.

(iii) Energy and Water Efficiency Features

(I) Energy-Star or equivalently rated refrigerator with icemaker (0.5 point);

(II) Energy-Star or equivalently rated laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);

(III) Recessed LED lighting or LED lighting fixtures in kitchen and living areas (1 point);

(IV) Energy-Star or equivalently rated ceiling fans in all Bedrooms (0.5 point);

(V) EPA WaterSense or equivalent qualified toilets in all bathrooms (0.5 point);

(VI) EPA WaterSense or equivalent qualified showerheads and faucets in all bathrooms (0.5 point);

(VII) 15 SEER HVAC, or in Region 13, an efficient evaporative cooling system. For Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided, (1 point);

(VIII) 16 SEER HVAC, for New Construction or Rehabilitation (1.5 points); and

(IX) A rainwater harvesting/collection system and/or locally approved greywater collection system (0.5 points).

EXHIBIT C

TENANT SUPPORTIVE SERVICES

The tenant supportive services to be provided must include at least eight (8) points selected from the following list which are grouped primarily for organizational purposes. The Borrower is not required to select a specific number of services from each section. The Borrower may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. Should the Department's rules in subsequent years provide difference services than those listed below, the Borrower may be allowed to select services listed therein as provided in 10 TAC §10.405(a)(2). The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Borrower.

(A) Transportation Supportive Services

- (i) shuttle, at least three days a week, to a grocery store and pharmacy and/or a major, big-box retailer that includes a grocery store and pharmacy, OR a daily shuttle, during the school year, to and from nearby schools not served by a school bus system for children who live at the Development (3.5 points);
- (ii) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);

(B) Children Supportive Services

- (i) provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site meeting the requirements of 10 TAC §11.101(b)(5)(C)(i)(I). (Half of the points required under 10 TAC §11.101(b)(7));
- (ii) twelve hours of weekly, organized, on-site services provided to K-12 children by a dedicated service coordinator or third-party entity. Services include after-school and summer care and tutoring, recreational activities, character building programs, mentee opportunities, test preparation, and similar activities that promote the betterment and growth of children and young adults (3.5 points);

(C) Adult Supportive Services

- (i) four hours of weekly, organized, on-site classes provided to an adult audience by persons skilled or trained in the subject matter being presented, such as English as a second language classes, computer training, financial literacy courses, health education courses, certification courses, GED preparation classes, resume and interview preparatory classes, general presentations about community services and resources, and any other course, class, or presentation that may equip residents with new skills that they may wish to develop (3.5 points);
- (ii) annual income tax preparation (offered by an income tax prep service) or IRS-certified VITA (Volunteer Income Tax Assistance) program (offered by a qualified individual) that also emphasizes how to claim the Earned Income Tax Credit (1 point);
- (iii) contracted career training and placement partnerships with local worksource offices, culinary programs, or vocational counseling services; may include resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant services, maintenance, landscaping, or food and beverage operation (2 points);
- (iv) external partnerships for provision of weekly substance abuse meetings at the Development Site (1 point);

(D) Health Supportive Services

- (i) food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank (2 points);
- (ii) annual health fair provided by a health care professional (1 point);
- (iii) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);
- (iv) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(E) Community Supportive Services

- (i) partnership with local law enforcement and/or local first responders to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.) (2 points);
- (ii) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);
- (iii) twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (1 point);
- (iv) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.) (1 point);
- (v) specific service coordination services offered by a qualified Owner or Developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (3 points);
- (vi) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);
- (vii) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);
- (viii) a part-time resident services coordinator with a dedicated office space at the Development or a contract with a third-party to provide the equivalent of 15 hours or more of weekly resident supportive services at the Development (2 points);
- (ix) provision, by either the Borrower or a community partner, of an education tuition- or savings-match program or scholarships to residents who may attend college (2 points).

EXHIBIT D

FREDDIE MAC RIDER

This Freddie Mac Rider (the “Rider”) is attached to and forms a part of the Regulatory and Land Use Restriction Agreement (the “Regulatory Agreement”), dated as of June 1, 2020, by and among the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “Governmental Lender”), WILMINGTON TRUST, NATIONAL ASSOCIATION, as fiscal agent (together with any successor in such capacity, the “Fiscal Agent”), and SCOTT STREET LOFTS, LP (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the “Borrower”).

1. Definitions. Terms used in this Rider as defined terms shall have the meanings given those terms in the Regulatory Agreement and the Funding Loan Agreement. In addition, the following terms shall have the following meanings:

“**Freddie Mac**” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States.

“**Funding Lender**” means the holder of the Governmental Note, initially Jones Lang LaSalle Incorporated, and on the Freddie Mac Purchase Date, Freddie Mac, and any successors or assigns thereof.

“**Funding Loan Agreement**” means the Funding Loan Agreement relating to the Governmental Note, among the Governmental Lender, the Initial Funding Lender set forth therein and the Fiscal Agent, as such Funding Loan Agreement may from time to time be amended or supplemented.

“**Governmental Note**” means the Governmental Lender’s Multifamily Housing Revenue Note (Scott Street Lofts) Series 2020, delivered by the Governmental Lender pursuant to the Funding Loan Agreement.

“**Project Loan**” means the loan to the Borrower pursuant to the Project Loan Documents, which Project Loan is to be assigned to the Fiscal Agent.

“**Project Loan Agreement**” means the Project Loan Agreement relating to the Governmental Note, among the Borrower, the Governmental Lender and the Fiscal Agent, as such Project Loan Agreement may from time to time be amended or supplemented.

“**Project Loan Documents**” means the Security Instrument, the Project Note, the Project Loan Agreement, the Regulatory Agreement, the Assignment, the Continuing Covenant Agreement, any Subordination Agreement(s) and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Project Loan or any portion thereof.

“**Project Note**” means the Project Note, including applicable addenda, to be executed by the Borrower in favor of the Governmental Lender, evidencing the Borrower’s financial obligations under the Project Loan, and to be endorsed by the Governmental Lender, without recourse, to the order of the Fiscal Agent, as the same may be amended, modified, supplemented or restated from time to time.

“Security Instrument” means the Amended and Restated Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, together with all riders thereto, securing the Project Note, to be executed by the Borrower with respect to the Project, as it may be amended, modified, supplemented or restated from time to time.

“Servicer” means Jones Lang LaSalle Incorporated, or any successor Servicer selected by Freddie Mac.

2. Applicability. The provisions of this Rider shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. Indemnification. Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in the Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither the Funding Lender nor any successor in interest to the Funding Lender will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to Freddie Mac, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan. The Borrower shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to the Funding Lender. The Funding Lender shall indemnify the Governmental Lender following acquisition of the Project by the Funding Lender, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan, during, and only during, any ensuing period that the Funding Lender owns and operates the Project, provided that the Funding Lender’s liability shall be strictly limited to acts and omissions of the Funding Lender occurring during the period of ownership and operation of the Project by the Funding Lender. The Funding Lender shall have no indemnification obligations with respect to the Governmental Note or the Project Loan Documents. The Borrower shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to the Funding Lender.

4. Sale or Transfer. Restrictions on sale or transfer of the Project or of any interest in the Borrower, Governmental Lender and/or Fiscal Agent consents, transferee 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 Funding Lender or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Security Instrument or any of the other Project Loan Documents that requires the Borrower to obtain the consent of the Funding Lender as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Borrower, excluding transfers permitted by the Security Instrument. No covenant obligating the Borrower to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to the Funding Lender upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan by the Funding Lender, or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan.

5. Enforcement. Notwithstanding anything contained in the Regulatory Agreement to the contrary: (i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Project Loan Documents, except as may be otherwise specified in the Project Loan Documents; and (ii) the occurrence of an event of default under the Regulatory Agreement shall not impair, defeat or render invalid the lien of the Security

Instrument. No Person other than the Funding Lender shall have the right to (a) declare the principal balance of the Project Note to be immediately due and payable or (b) commence foreclosure or other like action with respect to the Security Instrument. The Governmental Lender and the Fiscal Agent acknowledge and agree that the exercise of any rights and remedies under the Regulatory Agreement is subject to the provisions of the Project Loan Documents.

6. Notice of Violations. Promptly upon determining that a violation of the Regulatory Agreement has occurred, the Governmental Lender or the Fiscal Agent shall, by notice in writing to the Borrower, the Servicer and the Funding Lender, inform the Borrower, the Servicer and the Funding Lender that such violation has occurred, the nature of the violation and that the violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such violation, neither the Governmental Lender nor the Fiscal Agent shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Project Loan, to enforce the Project Note or to foreclose on the Security Instrument.

7. Amendments. The Regulatory Agreement shall not be amended without the prior written consent of the Funding Lender.

8. Fees; Penalties. The Funding Lender shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Borrower or any subsequent owner of the Project prior to the date of acquisition of the Project by the Funding Lender, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan.

9. Subordination. The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sec 1A, 2, 3, 4 and 11, are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Project Loan Documents.

10. Third-Party Beneficiary. The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of the Funding Lender and are entered into for the benefit of various parties, including the Funding Lender. The Funding Lender shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Governmental Lender and/or the Fiscal Agent, or to cause the Governmental Lender or the Fiscal Agent to enforce, the terms of the Regulatory Agreement. In addition, the Funding Lender is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

11. Notices. Copies of all notices under the Regulatory Agreement shall be sent to the Servicer at the address set forth below or to such other address as the Servicer may from time to time designate:

[_____]
[_____]
[_____]
Attention: [_____]
Telephone: [_____]

Any notice to be given to Freddie Mac shall be sent to Freddie Mac at the address set forth below or to such other address as Freddie Mac may from time to time designate:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4P
McLean, Virginia 22102
Attention: Multifamily Operations - Loan Accounting
Email: mfla@freddiemac.com
Telephone: (703) 714-4177

with a copy to:

Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive, MS 210
McLean, Virginia 22102
Attention: Managing Associate General Counsel –
Multifamily Legal Division
Email: joshua_schonfeld@freddiemac.com
Telephone: (703) 903-2000

EXHIBIT E



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*
Leslie Bingham, *Vice Chair*
Paul A. Braden, *Member*
Asusena Reséndiz, *Member*
Sharon Thomason, *Member*
Leo Vasquez, *Member*

**Multi Family Mortgage Revenue Bond
Qualified Project Period**

The Texas Department of Housing and Community Affairs require the information in Sections A and B below to compute the Qualified Project Period for Mortgage Revenue Bond properties. Please complete the form as the appropriate dates are identified. Upload this form in TDHCA's Compliance Monitoring Tracking System (CMTS) to the attention of Sussette Kenney immediately after the property reaches the 50% Occupancy Date.

Section A

Property Name	
Address	
Contact Name	
Contact Phone #	

Section B

Initial Bond Closing Date	
Date First Unit Occupied	
10% Occupancy Date	
50% Occupancy Date	
50% Occupancy Date + 15 years	

Signature _____ Date _____

Printed Name _____ Title _____



PROMISSORY NOTE

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS NOTE, THIS NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH REFERRED TO HEREIN.

\$_[_____]

[June ____], 2020

FOR VALUE RECEIVED, Scott Street Lofts, LP, a limited partnership duly formed and validly existing under the laws of the State of Texas (the "*Borrower*"), by this promissory note hereby promises to pay to the order of the Texas Department of Housing and Community Affairs (the "*Issuer*") the principal sum of [_____] Dollars, together with interest on the unpaid principal amount hereof, from the Closing Date (as defined in the Indenture referenced below) until paid in full, at a rate per annum equal to the rate of interest borne by the Notes. All such payments of principal and interest shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America at the designated corporate trust office (initially, in Dallas, Texas) of Wilmington Trust, National Association, a national banking association duly organized and validly existing under the laws of the United States, or its successor as trustee under the Indenture.

The principal and interest shall be payable on the dates that principal and interest on the Notes are payable, as provided in the Indenture and the Agreement.

This promissory note is the "Note" referred to in the Loan Agreement, dated as of June 1, 2020 (as the same may be amended, modified or supplemented from time to time, the "*Agreement*"), between the Borrower and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

This Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to Wilmington Trust, National Association, as trustee (the "*Trustee*") under the Trust Indenture dated as of June 1, 2020 (as the same may be amended, modified or supplemented from time to time, the "*Indenture*"), between the Issuer and the Trustee, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of the Issuer's Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the "*Notes*"), issued by the Issuer pursuant to the Indenture. All the terms, conditions and provisions of the Indenture and the Notes are hereby incorporated as a part of this Note.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay reasonable costs of collection and reasonable attorneys' fees in case of default on this Note.

This Note shall be governed by, and construed in accordance with, the laws of the State of Texas, without regard to conflict of laws principles.

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

ENDORSEMENT

Pay to the order of Wilmington Trust, National Association, a national banking association, without recourse, as Trustee under the Indenture referred to in the Borrower Note, as security for the Notes issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Borrower Note.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
[_____], Chair

Dated: [June ____], 2020

Freddie Mac Loan Number (Permanent): 503253057
Property Name: Scott Street Lofts

AMENDED AND RESTATED PROJECT NOTE – TEL (Forward)

FIXED RATE

(Revised 9-30-2019)

US \$[CONVERSION AMOUNT]

[CONVERSION DATE]

FOR VALUE RECEIVED, the undersigned, SCOTT STREET LOFTS, LP, a Texas limited partnership (together with such party's or parties' successors and assigns, the "**Borrower**"), jointly and severally (if more than one), promises to pay to the order of WILMINGTON TRUST, National Association, a national banking association (the "**Fiscal Agent**"), and its assigns, the principal sum of [_____] (US \$[CONVERSION AMOUNT]), plus premium, if any, and interest thereon and to pay the other amounts owing from time to time hereunder, all as set forth below.

This Amended and Restated Project Note (this "**Project Note**") amends and restates in its entirety that certain Project Note dated [CLOSING DATE], 2020 (the "**Original Project Note**") executed by the Borrower in favor of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "**Governmental Lender**") in the original principal amount of \$[ORIGINAL AMOUNT], which Original Note was endorsed to the Fiscal Agent to secure the obligations of the Governmental Lender with respect to the Funding Loan (as defined herein). This Project Note is being delivered pursuant to that certain Project Loan Agreement dated as of [CLOSING MONTH] 1, 2020 among the Governmental Lender, the Fiscal Agent and Borrower (together with any and all amendments, modifications, supplements and restatements, the "**Project Loan Agreement**") pursuant to which the Governmental Lender made a mortgage loan in the original principal amount \$[ORIGINAL AMOUNT] (of which \$[CONVERSION AMOUNT] is outstanding as of the date of this Project Note) to Borrower (the "**Project Loan**"), and this Project Note is entitled to the benefits of the Project Loan Agreement and is subject to the terms, conditions and provisions thereof. The Project Loan was funded from the separate loan (the "**Funding Loan**") incurred by the Governmental Lender pursuant to the Funding Loan Agreement dated as of [CLOSING MONTH] 1, 2020 (the "**Funding Loan Agreement**") by and among Zions Bancorporation, N.A., dba Amegy Bank, a [_____] , as Initial Funding Lender, as the Initial Funding Lender, the Governmental Lender and the Fiscal Agent, which Funding Loan has been assigned to Jones Lang Lasalle Multifamily LLC, a Delaware limited liability company (the "**Funding Lender**") as of the date hereof. This Project Note shall be deemed to be fully advanced as of the Closing Date.

1. Defined Terms.

- (a) As used in this Project Note:

Amended and Restated Project Note – TEL (Forward)
Fixed Rate

“**Base Recourse**” means a portion of the Indebtedness equal to [____]% of the original principal balance of this Project Note.

“**Business Day**” means any day other than (a) a Saturday or a Sunday, or (b) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Fiscal Agent is located are authorized or obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

“**Closing Date**” means the date hereof, which is the Conversion Date (as such term is defined in the Funding Loan Agreement).

“**Default Rate**” means an annual interest rate equal to 4 percentage points above the Interest Rate. However, at no time will the Default Rate exceed the Maximum Interest Rate.

“**First Project Loan Payment Date**” means the first day of the first calendar month following the Closing Date.

“**Holder**” means the holder from time to time of this Project Note.

“**Indebtedness**” means the principal of, premium, if any, and interest on or any other amounts due at any time under this Project Note or the Project Loan Agreement.

“**Interest Rate**” means the annual interest rate of [____]%.

“**Lockout Period**” means the period from and including the date of this Project Note until but not including [_____] 1, 20[____].

“**Maximum Interest Rate**” means the rate of interest which results in the maximum amount of interest allowed by applicable law.

“**Prepayment Premium Period**” means the period from and including the date of this Project Note until but not including the first day of the Window Period.

“**Project Loan Payment Date**” is defined in Section 2 of this Project Note.

“**Property Jurisdiction**” means the State of Texas.

“**Scheduled Maturity Date**” means [_____] 1, 20[____].

“**Security Instrument**” means the amended and restated multifamily mortgage, deed to secure debt or deed of trust effective as of the effective date of this Project Note from Borrower to or for the benefit of the Fiscal Agent and its assigns and securing this Project Note, as amended, modified or supplemented from time to time.

“**Window Period**” means the 3 consecutive calendar month period immediately prior to the Scheduled Maturity Date. If the first day of the Window Period falls on a day which is not a Business Day, then with respect to payments made under Section 10, the “Window Period” will begin on the Business Day immediately preceding the scheduled first day of the Window Period.

“**Yield Maintenance Period**” means the period from and including the date of this Project Note until but not including [_____] 1, 20[___].

(b) Other capitalized terms used but not defined in this Project Note shall have the meanings given to such terms in the Project Loan Agreement, the Funding Loan Agreement or the Continuing Covenant Agreement.

2. Payments of Principal and Interest. Borrower shall pay on the first calendar day of each month commencing on the First Project Loan Payment Date, interest at the Interest Rate on the outstanding principal balance of this Project Note, and shall also pay interest on this Project Note at the Interest Rate in the event of an optional or mandatory prepayment or acceleration of all or a part of the Project Loan pursuant to this Project Note or the Project Loan Agreement, in an amount equal to the accrued and unpaid interest to the date of prepayment on the portion of this Project Note subject to prepayment (each such date for payment a “**Project Loan Payment Date**”). Interest under this Project Note will be computed, payable and allocated on the basis of a 360-day year and the actual number of days elapsed.

Borrower shall pay the outstanding principal of this Project Note in full on the Scheduled Maturity Date and in monthly installments on each date set forth on the Project Loan Amortization Schedule attached as Schedule 1 to this Project Note in an amount equal to the corresponding amounts set forth thereon, or at such earlier times and in such amounts as may be required in the event of an optional or mandatory prepayment or acceleration of the Project Loan pursuant to this Project Note or the Project Loan Agreement.

In addition to the foregoing, Borrower shall make payments hereunder in respect of the Project Loan at such times and in such amounts as are sufficient to pay, when due (whether at stated maturity, upon prepayment before maturity, upon acceleration of stated maturity or otherwise), the principal of and premium, if any, and interest on the Funding Loan at any time outstanding. To ensure timely payment, Servicer shall collect from Borrower, and Borrower shall provide to Servicer, the foregoing payments two (2) Business Days prior to the respective Project Loan Payment Date; provided, unless the Closing Date is the first day of a calendar month, Servicer shall collect from Borrower and Borrower shall provide to Servicer on the Closing Date, interest for the period beginning on the Closing Date and ending on and including the last day of such calendar month. Except as provided in this paragraph and in Section 10, accrued interest will be payable in arrears.

Any regularly scheduled monthly installment of principal and interest payable pursuant to this Section 2 that is received by Holder before the date on which it is due will be deemed to have been received on the due date for the purpose of calculating interest due.

3. Payment of Fees and Expenses; Other Required Payments. Borrower shall also pay fees and expenses under Section 4.02 of the Project Loan Agreement, rebate amounts under Sections 2.04 and 4.03 of the Project Loan Agreement and indemnification amounts under Section 6.01 of the Project Loan Agreement and Section 10.02 of the Continuing Covenant Agreement, as well as any other amounts owed by the Borrower under the Financing Documents, when due and in accordance with the terms and provisions set forth therein.

4. Manner of Payment; Deficiencies. All payments under this Project Note shall be made in lawful currency of the United States and in immediately available funds as provided for herein and in the Project Loan Agreement. In the event of any deficiency in the funds available under the Funding Loan Agreement for payment of the principal of, premium, if any, or interest on the Funding Loan when due, Borrower shall immediately pay the amount of the deficiency to the Fiscal Agent upon notice of the deficiency from the Governmental Lender, Servicer or the Fiscal Agent. Borrower shall be obligated to pay the deficiency regardless of the reason for the deficiency, including any deficiency resulting from any shortfall in payments made or to be made by Borrower under this Project Note, any loss due to a default under any investment held by the Fiscal Agent, a change in value of any such investment or otherwise.

5. Application of Partial Payments. If at any time Holder receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Holder may apply the amount received to amounts then due and payable in any manner and in any order determined by Holder, in Holder's discretion. Borrower agrees that neither Holder's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Holder's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

6. Security. The Indebtedness is secured by, among other things, the Security Instrument. Reference is made to the Security Instrument and the Project Loan Agreement for other rights of Holder with respect to collateral for the Indebtedness.

7. Acceleration. If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, any prepayment premium payable under Section 10 of this Project Note, and all other amounts payable under this Project Note and any other Financing Document, shall at once become due and payable, at the option of Holder, without any prior Notice to Borrower (except if notice is required by applicable law, then after such notice). Holder may exercise this option to accelerate regardless of any prior forbearance. For purposes of exercising such option, Holder will calculate the prepayment premium as if prepayment occurred on the date of acceleration. If prepayment occurs thereafter, Holder will recalculate the prepayment premium as of the actual prepayment date.

8. Default Rate. So long as (a) any monthly installment under this Project Note remains past due, or (b) any other Event of Default has occurred and is continuing, interest under this Project Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at the lesser of the Default Rate or the Maximum Interest Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Scheduled Maturity Date, the

unpaid principal balance and all accrued interest shall bear interest from the Scheduled Maturity Date at the lesser of the Default Rate or the Maximum Interest Rate. Borrower also acknowledges that its failure to make timely payments will cause Holder to incur additional expenses in servicing and processing the Project Loan, that, during the time that any monthly installment under this Project Note is delinquent, Holder will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Holder's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Project Note is delinquent or any other Event of Default has occurred and is continuing, Holder's risk of nonpayment of this Project Note will be materially increased and Holder is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Project Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Project Note, of the additional costs and expenses Holder will incur by reason of Borrower's delinquent payment and the additional compensation Holder is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

9. Limits on Personal Liability.

(a) Except as otherwise provided in this Section 9, none of Borrower, SPE Equity Owner, or any member or limited partner of Borrower will have any personal liability under this Project Note, the Project Loan Agreement or any other Financing Document for the repayment of the Indebtedness or for the performance of or compliance with any other obligations of Borrower under the Financing Documents, and Holder's only recourse for the satisfaction of the Indebtedness and the performance of such obligations will be Holder's exercise of its rights and remedies with respect to the Project and to any other collateral held by Holder as security for the Indebtedness. This limitation on Borrower's liability will not limit or impair Holder's enforcement of its rights against any Guarantor of the Indebtedness or any Guarantor of any other obligations of Borrower.

(b) Borrower will be personally liable to Holder for the amount of the Base Recourse, plus any other amounts for which Borrower has personal liability under this Section 9.

(c) In addition to the Base Recourse, Borrower will be personally liable to Holder for the repayment of a further portion of the Indebtedness equal to any loss or damage suffered by Holder as a result of the occurrence of any of the following events:

(i) Borrower fails to pay to Holder upon demand after an Event of Default all Rents to which Holder is entitled under Section 3 of the Security Instrument and the amount of all security deposits collected by Borrower from tenants then in residence. However, Borrower will not be personally liable for any failure described in this Section 9(c)(i) if Borrower is unable to pay to Holder all Rents and security deposits as required by the Security Instrument because of a valid order issued in, or an automatic stay applicable because of, a bankruptcy, receivership, or similar judicial proceeding.

(ii) Borrower fails to apply all Insurance proceeds and Condemnation proceeds as required by the Continuing Covenant Agreement. However, Borrower will not be personally liable for any failure described in this Section 9(c)(ii) if Borrower is unable to apply Insurance or Condemnation proceeds as required by the Continuing Covenant Agreement because of a valid order issued in, or an automatic stay applicable because of, a bankruptcy, receivership, or similar judicial proceeding.

(iii) Either of the following occurs:

(A) Borrower fails to deliver the statements, schedules and reports required by Section 6.07 of the Continuing Covenant Agreement and Holder exercises its right to audit those statements, schedules and reports.

(B) An Event of Default has occurred and is continuing, and Borrower fails to deliver all books and records relating to the Mortgaged Property or its operation in accordance with the provisions of Section 6.07 of the Continuing Covenant Agreement.

(iv) Borrower fails to pay when due in accordance with the terms of the Continuing Covenant Agreement the amount of any item below marked “Deferred”; provided however, that if no item is marked “Deferred”, this Section 9(c)(iv) will be of no force or effect.

Property Insurance premiums or other Insurance premiums,

Taxes or payments in lieu of taxes (PILOT)

Water and sewer charges (that could become a lien on the Mortgaged Property)

Ground Rents

Assessments or other charges (that could become a lien on the Mortgaged Property)

(v) Borrower engages in any willful act of material waste of the Mortgaged Property.

(vi) Borrower fails to comply with any provision of Section 6.13(a)(iii) through (xxvi) of the Continuing Covenant Agreement or any SPE Equity Owner fails to comply with any provision of Section 6.13(b)(iii) through (v) of the Continuing Covenant Agreement (subject to possible full recourse liability as set forth in Section 9(f)(ii)).

(vii) Any of the following Transfers occurs:

(A) Any Person that is not an Affiliate creates a mechanic’s lien or other involuntary lien or encumbrance against the Mortgaged Property and

Borrower has not complied with the provisions of the Continuing Covenant Agreement.

(B) A Transfer of property by devise, descent or operation of law occurs upon the death of a natural person and such Transfer does not meet the requirements set forth in the Continuing Covenant Agreement.

(C) Borrower grants an easement that does not meet the requirements set forth in the Continuing Covenant Agreement.

(D) Borrower executes a Lease that does not meet the requirements set forth in the Continuing Covenant Agreement.

(viii) [Reserved.]

(ix) through (xx) are Reserved.

(xxi) Borrower or any officer, director, partner, member or employee of Borrower makes an unintentional written material misrepresentation in connection with (1) the application for or creation of the Indebtedness or (2) any action or consent of Holder; provided that the assumption will be that any written material misrepresentation was intentional and the burden of proof will be on Borrower to prove that there was no intent.

(xxii) through (xxxiv) are Reserved.

(d) In addition to the Base Recourse, Borrower will be personally liable to Holder for all of the following:

(i) Borrower will be personally liable for the performance of all of Borrower's obligations under Sections 6.12, 10.02(b) 10.02(e) of the Continuing Covenant Agreement.

(ii) Borrower will be personally liable for the costs of any audit under Section 6.07 of the Continuing Covenant Agreement.

(iii) Borrower will be personally liable for any costs and expenses incurred by Holder in connection with the collection of any amount for which Borrower is personally liable under this Section 9, including Attorneys' Fees and Costs and the costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability.

(iv) through (viii) are reserved.

(ix) Borrower will be personally liable for any fees, costs, or expenses incurred by Holder in connection with Borrower's termination of any agreement for the provision of services to or in connection with the Mortgaged Property, including cable, internet, garbage collection, landscaping, security, and cleaning.

(x) Reserved.

(xi) Reserved.

(e) All payments made by Borrower with respect to the Indebtedness and all amounts received by Holder from the enforcement of its rights under the Project Loan Agreement and the other Financing Documents will be applied first to the portion of the Indebtedness for which Borrower has no personal liability.

(f) Notwithstanding the Base Recourse, Borrower will become personally liable to Holder for the repayment of all of the Indebtedness upon the occurrence of any of the following Events of Default:

(i) Borrower fails to comply with Section 6.13(a)(i) or (ii) of the Continuing Covenant Agreement or any SPE Equity Owner fails to comply with Section 6.13(b)(i) or (ii) of the Continuing Covenant Agreement.

(ii) Borrower fails to comply with any provision of Section 6.13(a)(iii) through (xxvi) of the Continuing Covenant Agreement or any SPE Equity Owner fails to comply with any provision of Section 6.13(b)(iii) through (v) of the Continuing Covenant Agreement and a court of competent jurisdiction holds or determines that such failure or combination of failures is the basis, in whole or in part, for the substantive consolidation of the assets and liabilities of Borrower or any SPE Equity Owner with the assets and liabilities of a debtor pursuant to Title 11 of the Bankruptcy Code.

(iii) A Transfer that is an Event of Default under Section 7.01 of the Continuing Covenant Agreement occurs, other than a Transfer set forth in Section 9(c)(vii) above (for which Borrower will have personal liability for Holder's loss or damage); provided, however, that Borrower will not have any personal liability for a Transfer consisting solely of the involuntary removal or involuntary withdrawal of a general partner in a limited partnership or a manager in a limited liability company.

(iv) There was fraud or intentional written material misrepresentation by Borrower or any officer, director, partner, member or employee of Borrower in connection with (1) the application for or creation of the Indebtedness, (2) on-going financial or other reporting requirements or information required by the Loan Documents, or (3) any action or consent of Holder.

(v) Borrower or any SPE Equity Owner voluntarily files for bankruptcy protection under the Bankruptcy Code.

(vi) Borrower or any SPE Equity Owner voluntarily becomes subject to any reorganization, receivership, insolvency proceeding, or other similar proceeding pursuant to any other federal or state law affecting debtor and creditor rights.

(vii) The Mortgaged Property or any part of the Mortgaged Property becomes an asset in a voluntary bankruptcy or becomes subject to any voluntary reorganization, receivership, insolvency proceeding, or other similar voluntary proceeding pursuant to any other federal or state law affecting debtor and creditor rights.

(viii) An order of relief is entered against Borrower or any SPE Equity Owner pursuant to the Bankruptcy Code or other federal or state law affecting debtor and creditor rights in any involuntary bankruptcy proceeding initiated or joined in by a Related Party.

(ix) An involuntary bankruptcy or other involuntary insolvency proceeding is commenced against Borrower or any SPE Equity Owner (by a party other than Holder) but only if Borrower or such SPE Equity Owner has failed to use commercially reasonable efforts to dismiss such proceeding or has consented to such proceeding. “Commercially reasonable efforts” will not require any direct or indirect interest holders in Borrower or any SPE Equity Owner to contribute or cause the contribution of additional capital to Borrower or any SPE Equity Owner.

(x) through (xiii) are Reserved.

(xiv) In the event that any of the interest payable on the Funding Loan is deemed included in any Funding Lender’s (other than a Funding Lender who is a “substantial user” of the Project or a “related person” with respect thereto, each as defined in Section 147(a) of the Internal Revenue Code of 1986) gross income for federal income tax purposes as a result of any action or failure to act by Borrower or any person or entity acting on behalf of Borrower (including, but not limited to, the manager of the Mortgaged Property).

(g) For purposes of Sections 9(f) and (h), the term “**Related Party**” will include all of the following:

(i) Borrower, any Guarantor or any SPE Equity Owner.

(ii) Any Person that holds, directly or indirectly, any ownership interest (including any shareholder, member or partner) in Borrower, any Guarantor or any SPE Equity Owner or any Person that has a right to manage Borrower, any Guarantor or any SPE Equity Owner.

(iii) Any Person in which Borrower, any Guarantor or any SPE Equity Owner has any ownership interest (direct or indirect) or right to manage.

(iv) Any Person in which any partner, shareholder or member of Borrower, any Guarantor or any SPE Equity Owner has an ownership interest or right to manage.

(v) Any Person in which any Person holding an interest in Borrower, any Guarantor or any SPE Equity Owner also has any ownership interest.

(vi) Any creditor (as defined in the Bankruptcy Code) of Borrower that is related by blood, marriage or adoption to Borrower, any Guarantor or any SPE Equity Owner.

(vii) Any creditor (as defined in the Bankruptcy Code) of Borrower that is related to any partner, shareholder or member of, or any other Person holding an interest in, Borrower, any Guarantor or any SPE Equity Owner.

(h) If Borrower, any Guarantor, any SPE Equity Owner or any Related Party has solicited creditors to initiate or participate in any proceeding referred to in Section 9(f), regardless of whether any of the creditors solicited actually initiates or participates in the proceeding, then such proceeding will be considered as having been initiated by a Related Party.

(i) In addition to the Base Recourse, Borrower will be personally liable for the following obligations under the Project Loan Agreement:

(i) Borrower's obligations to the Governmental Lender and the Fiscal Agent under subsections (b)(ii), (b)(iv), (b)(v), and (b)(vi) of Section 4.02 of the Project Loan Agreement;

(ii) Borrower's tax and indemnification obligations under Sections 2.05 and 6.01 of the Project Loan Agreement;

(iii) Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Funding Loan and fees and expenses of the Rebate Analyst as provided in Sections 2.04 and 4.03 of the Project Loan Agreement and the Tax Certificate; and

(iv) Borrower's obligation to pay legal fees and such expenses under Section 7.04 of the Project Loan Agreement.

(j) To the extent that Borrower has personal liability under this Section 9, Holder may, to the fullest extent permitted by applicable law, exercise its rights against Borrower personally without regard to whether Holder has exercised any rights against the Mortgaged Property or any other security, or pursued any rights against any Guarantor, or pursued any other rights available to Holder under this Project Note, the Project Loan Agreement, any other Financing Document, or applicable law. To the fullest extent permitted by applicable law, in any action to enforce Borrower's personal liability under this Section 9, Borrower waives any right to set off the value of the Mortgaged Property against such personal liability.

10. Voluntary and Involuntary Prepayments During the Prepayment Premium Period; Prepayment Premium.

(a) Any receipt by Holder of principal due under this Project Note prior to the Scheduled Maturity Date, other than principal required to be paid in monthly installments pursuant to the Project Loan Amortization Schedule, constitutes a prepayment of principal under this Project Note. Without limiting the foregoing, any application by Holder, prior to the

Scheduled Maturity Date, of any proceeds of collateral or other security to the repayment of any portion of the unpaid principal balance of this Project Note constitutes a prepayment under this Project Note.

(b) This Project Note, together with accrued interest hereon, and together with prepayment premium (to the extent provided in Section 10(c) below), is subject to mandatory prepayment on any Business Day, in whole or in part as indicated below, at the earliest practicable date upon the occurrence of any of the following:

(i) the application of any Insurance proceeds or Condemnation award to the prepayment of the Project Loan as required under the Continuing Covenant Agreement; or

(ii) in whole, upon the occurrence of a Determination of Taxability; or

(iii) in part, on the Interest Payment Date next following the completion of the rehabilitation of the Project, to the extent amounts remaining in the Project Account of the Project Loan Fund are transferred to the Loan Prepayment Fund pursuant to the Funding Loan Agreement to pay down the Funding Loan; or

(iv) [Intentionally Omitted].

(c) Borrower may not voluntarily prepay any portion of the principal balance of this Project Note during the Lockout Period. Except as provided in Section 10(d), a prepayment premium will be due and payable by Borrower in connection with any prepayment of principal under this Project Note during the Prepayment Premium Period. The prepayment premium will be computed as follows:

(i) For any prepayment made during the Yield Maintenance Period, the prepayment premium will be whichever is the greater of Sections 10(c)(i)(A) and (B) below:

(A) 1.0% of the amount of principal being prepaid; or

(B) the product obtained by multiplying:

(1) the amount of principal being prepaid or accelerated,
by

(2) the excess (if any) of the Monthly Project Note Rate over the Assumed Reinvestment Rate,
by

(3) the Present Value Factor.

For purposes of Section 10(c)(i)(B), the following definitions will apply:

Monthly Project Note Rate: 1/12 of the Interest Rate, expressed as a decimal calculated to 5 digits.

Prepayment Date: in the case of a voluntary prepayment, the date on which the prepayment is made; in the case of the application by Holder of collateral or security to a portion of the principal balance, the date of such application.

Assumed Reinvestment Rate: 1/12 of the yield rate expressed as a decimal to 2 digits, as of the close of the trading session which is 5 Business Days before the Prepayment Date, found among the Daily Treasury Yield Curve Rates, commonly known as Constant Maturity Treasury (“CMT”) rates, with a maturity equal to the remaining Yield Maintenance Period, as reported on the U.S. Department of the Treasury website. If no published CMT maturity matches the remaining Yield Maintenance Period, Holder will interpolate as a decimal to 2 digits the yield rate between (a) the CMT with a maturity closest to, but shorter than, the remaining Yield Maintenance Period, and (b) the CMT with a maturity closest to, but longer than, the remaining Yield Maintenance Period, as follows:

$$\left[\left(\frac{B-A}{D-C} \right) \times (E-C) \right] + A$$

A = yield rate for the CMT with a maturity shorter than the remaining Yield Maintenance Period

B = yield rate for the CMT with a maturity longer than the remaining Yield Maintenance Period

C = number of months to maturity for the CMT maturity shorter than the remaining Yield Maintenance Period

D = number of months to maturity for the CMT maturity longer than the remaining Yield Maintenance Period

E = number of months remaining in the Yield Maintenance Period

In the event the U.S. Department of the Treasury ceases publication of the CMT rates, the Assumed Reinvestment Rate will equal the yield rate on the first U.S. Treasury security which is not callable or indexed to inflation and which matures after the expiration of the Yield Maintenance Period.

The Assumed Reinvestment Rate may be a positive number, a negative number or zero.

If the Assumed Reinvestment Rate is a positive number or a negative number, Holder will calculate the prepayment premium using such positive number or negative number, as appropriate, as the Assumed Reinvestment Rate in 10(c)(i)(B)(2) and in the calculation of the Present Value Factor.

If the Assumed Reinvestment Rate is zero, Holder will calculate the prepayment premium twice as set forth in (I) and (II) below and will average the results to determine the actual prepayment premium.

- (I) Holder will calculate the prepayment premium using an Assumed Reinvestment Rate of one basis point (+0.01%) in Section 10(c)(i)(B)(2) and in the calculation of the Present Value Factor.
- (II) Holder will calculate the prepayment premium using an Assumed Reinvestment Rate of negative one basis point (-0.01%) in Section 10(c)(i)(B)(2) and in the calculation of the Present Value Factor.

Present Value Factor: the factor that discounts to present value the costs resulting to Holder from the difference in interest rates during the months remaining in the Yield Maintenance Period, using the Assumed Reinvestment Rate as the discount rate, with monthly compounding, expressed numerically as follows:

$$\frac{I - \left(\frac{I}{I + ARR} \right)^n}{ARR}$$

n = the number of months remaining in Yield Maintenance Period; provided, however, if a prepayment occurs on a Scheduled Project Loan Payment Date, then the number of months remaining in the Yield Maintenance Period will be calculated beginning with the month in which such prepayment occurs and if such prepayment occurs on a Business Day other than a Scheduled Project Loan Payment Date (as defined below), then the number of months remaining in the Yield Maintenance Period will be calculated beginning with the month immediately following the date of such prepayment.

ARR = Assumed Reinvestment Rate

- (ii) For any prepayment made after the expiration of the Yield Maintenance Period but during the remainder of the Prepayment Premium Period, the

prepayment premium will be 1.0% of the amount of principal being prepaid.

(d) Notwithstanding any other provision of this Section 10, no prepayment premium will be payable with respect to (i) any scheduled principal payment in accordance with the Project Loan Amortization Schedule, (ii) any prepayment made during the Window Period, (iii) any mandatory prepayment occurring under Section 10(b)(i) hereof as a result of the application of any Insurance proceeds or Condemnation award under the Continuing Covenant Agreement; or (iv) any prepayment under Section 10(b)(iii) hereof following the completion of the rehabilitation of the Project, to the extent amounts remaining in the Project Account of the Project Loan Fund are transferred to the Loan Prepayment Fund pursuant to Section 4.02(e) Funding Loan Agreement.

(e) After the expiration of the Lockout Period, Borrower may voluntarily prepay all of the unpaid principal balance of this Project Note on the first day of a calendar month (a “Scheduled Project Loan Payment Date”) so long as Borrower designates the date for such prepayment in a written notice from Borrower to Holder given at least 30 days prior to the date of such prepayment. If a Scheduled Project Loan Payment Date falls on a day which is not a Business Day, then with respect to payments made under this Section 10 only, (A) the term “Scheduled Project Loan Payment Date” will mean the Business Day immediately preceding the Scheduled Project Loan Payment Date and (B) the calculation of any required prepayment premium will be made as if the prepayment had actually been made on the Scheduled Project Loan Payment Date.

(f) Notwithstanding Section 10(e) above, after the expiration of the Lockout Period, Borrower may voluntarily prepay all of the unpaid principal balance of this Project Note on a Business Day other than a Scheduled Project Loan Payment Date if Borrower provides Holder with the written notice set forth in Section 10(d) and meets the other requirements set forth in this Section 10(f). Borrower acknowledges that Holder has agreed that Borrower may prepay principal on a Business Day other than a Scheduled Project Loan Payment Date only because Holder will deem any prepayment received by Holder on any day other than a Project Loan Payment Date to have been received on the Scheduled Project Loan Payment Date immediately following such prepayment and Borrower will be responsible for all interest and any required prepayment premium that would have been due if the prepayment had actually been made on the Scheduled Project Loan Payment Date immediately following such prepayment.

(g) Unless otherwise expressly provided in the Financing Documents, Borrower may not voluntarily prepay less than all of the unpaid principal balance of this Project Note. In order to voluntarily prepay all of the principal of this Project Note, Borrower must also pay to Holder, together with the amount of principal being prepaid, (i) all accrued and unpaid interest due under this Project Note, (ii) all other fees and amounts due under the Financing Documents at the time of such prepayment, plus (iii) any prepayment premium calculated pursuant to Section 10(c).

(h) Unless Holder agrees otherwise in writing, a permitted or required prepayment of less than the unpaid principal balance of this Project Note will not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments.

(i) Borrower recognizes that any prepayment of any of the unpaid principal balance of this Project Note, whether voluntary or involuntary or resulting from an Event of Default by Borrower, will result in Holder's incurring loss, including reinvestment loss, additional expense and frustration or impairment of Holder's ability to meet its commitments to third parties. Borrower agrees to pay to Holder upon demand damages for the detriment caused by any prepayment, and agrees that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower therefore acknowledges and agrees that the formula for calculating prepayment premiums set forth in Section 10(c) of this Project Note represents a reasonable estimate of the damages Holder will incur because of a prepayment. Borrower further acknowledges that the lockout and prepayment premium provisions of this Project Note are a material part of the consideration for the Loan, and that the terms of this Project Note are in other respects more favorable to Borrower as a result of Borrower's voluntary agreement to the prepayment premium provisions.

(j) Reserved.

(k) Reserved.

(l) Reserved.

11. Costs and Expenses. To the fullest extent allowed by applicable law, Borrower must pay all expenses and costs, including Attorneys' Fees and Costs incurred by Holder as a result of any default under this Project Note or in connection with efforts to collect any amount due under this Project Note, or to enforce the provisions of any of the other Financing Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding. Borrower acknowledges and agrees that, in connection with each request by Borrower under this Project Note or any Financing Document, Borrower must pay all reasonable Attorneys' Fees and Costs and expenses incurred by Holder, regardless of whether the matter is approved, denied or withdrawn.

12. Forbearance. Any forbearance by Holder in exercising any right or remedy under this Project Note, the Project Loan Agreement, or any other Financing Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Holder of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Holder's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Holder of any security for Borrower's obligations under this Project Note shall not constitute an election by Holder of remedies so as to preclude the exercise of any other right or remedy available to Holder.

13. Waivers. Borrower and all endorsers and Guarantors of this Project Note and all other third-party obligors waive presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace and diligence in collecting the Indebtedness.

14. Loan Charges. Neither this Project Note nor any of the other Financing Documents will be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate greater than the Maximum Interest Rate. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Financing Document, whether considered separately or together with other charges provided for in any other Financing Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Holder in excess of the permitted amounts will be applied by Holder to reduce the unpaid principal balance of this Project Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, will be deemed to be allocated and spread ratably over the stated term of this Project Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Project Note.

15. Commercial Purpose. Borrower represents that Borrower is incurring the Indebtedness solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family, household, or agricultural purposes.

16. Counting of Days. Any reference in this Project Note to a period of “days” means calendar days, not Business Days, except where otherwise specifically provided.

17. Governing Law. This Project Note shall be governed by the law of the Property Jurisdiction.

18. Captions. The captions of the Sections of this Project Note are for convenience only and shall be disregarded in construing this Project Note.

19. Address for Payment; Notices; Written Modifications.

(a) All payments due under this Project Note shall be payable at the principal office designated by the Servicer, or such other place as may be designated by written notice to Borrower from or on behalf of Holder.

(b) All Notices, demands, and other communications required or permitted to be given pursuant to this Project Note will be given in accordance with Section 8.01 of the Project Loan Agreement.

(c) Any modification or amendment to this Project Note will be ineffective unless in writing and signed by the party sought to be charged with such modification or amendment; provided, however, in the event of a Transfer under the terms of the Continuing Covenant Agreement that requires Funding Lender’s consent, any or some or all of the Modifications to Multifamily Project Note set forth in Exhibit A to this Project Note may be modified or rendered

void by Funding Lender at Funding Lender’s option, by Notice to Borrower and the transferee, as a condition of Funding Lender’s consent.

20. Consent to Jurisdiction and Venue. Borrower agrees that any controversy arising under or in relation to this Project Note shall be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have jurisdiction over all controversies which shall arise under or in relation to this Project Note. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Project Note is intended to limit any right that Holder may have to bring any suit, action, or proceeding relating to matters arising under this Project Note in any court of any other jurisdiction.

21. WAIVER OF TRIAL BY JURY. BORROWER AND HOLDER EACH (a) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS HOLDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (b) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

22. [Reserved].

23. Assignment. Borrower acknowledges that this Project Note is being assigned by the Governmental Lender to the Fiscal Agent as security for the Funding Loan.

24. State-Specific Provisions. State-specific provisions, if any, are included on Schedule 2 to this Project Note.

25. Attached Riders. The following Riders are attached to this Project Note:

Name of Rider	Date Revised
Regulatory Agreement Default Recourse	9/30/2019
Recycled Borrower and/or Recycled SPE Equity Owner	9/30/2019
Tax Credit Properties	9/30/2019

26. Attached Schedules and Exhibits. The following Schedules and Exhibits, if marked with an “X” in the space provided, are attached to this Project Note:

[X] Schedule 1 Project Loan Amortization Schedule

Schedule 2 State Specific Provisions for Project Note

Exhibit A Modifications to Project Note

27. Reserved.

28. Reserved.

29. Reserved.

30. Reserved.

31. Reserved.

[Signature page follows]

IN WITNESS WHEREOF, and in consideration of Governmental Lender's agreement to lend Borrower the principal amount set forth above, Borrower has signed and delivered this Project Note under seal or has caused this Project Note to be signed and delivered under seal by its duly authorized representative.

SCOTT STREET LOFTS, L.P., a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

Borrower's Employer ID No.

The holder of the Original Project Note agrees to the modified terms set forth in this Amended and Restated Project Note.

WILMINGTON TRUST, NATIONAL
ASSOCIATION, a national banking association

By: _____
Name: _____
Title: _____

Schedule 1

Project Loan Amortization Schedule

[TO BE ATTACHED ON CONVERSION DATE]

SCHEDULE 2

STATE SPECIFIC PROVISIONS FOR PROJECT NOTE

Property Jurisdiction	State-Specific Provision(s)
Texas	<p>Section 16 is deleted and replaced with the following:</p> <p>16. Loan Charges (Texas Only). Borrower and Governmental Lender intend at all times to comply with the law of the State of Texas governing the Maximum Interest Rate or the maximum amount of interest payable on or in connection with this Project Note and the Indebtedness (or applicable United States federal law to the extent that it permits Governmental Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount payable under this Project Note or under any other Financing Document, or contracted for, charged, taken, reserved, or received with respect to the Indebtedness, or as a result of acceleration of the maturity of this Project Note, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by any applicable law, then Borrower and Governmental Lender expressly intend that all excess amounts collected by Governmental Lender will be applied to reduce the unpaid principal balance of this Project Note (or, if this Project Note has been or would thereby be paid in full, will be refunded to Borrower), and the provisions of this Project Note, the Project Loan Agreement and any other Financing Documents immediately will be deemed reformed and the amounts thereafter collectible under this Project Note or any other Financing Document reduced, without the necessity of the execution of any new documents, so as to comply with any applicable law, but so as to permit the recovery of the fullest amount otherwise payable under this Project Note or any other Financing Document. The right to accelerate the Maturity Date of this Project Note does not include the right to accelerate any interest, which has not otherwise accrued on the date of such acceleration, and Governmental Lender does not intend to collect any unearned interest in the event of</p>

Property Jurisdiction	State-Specific Provision(s)
	<p>acceleration. All sums paid or agreed to be paid to Governmental Lender for the use, forbearance, or detention of the Indebtedness will, to the extent permitted by any applicable law, be amortized, prorated, allocated and spread throughout the full term of the Indebtedness until payment in full so that the rate or amount of interest on account of the Indebtedness does not exceed the applicable usury ceiling. Notwithstanding any provision contained in this Project Note, the Project Loan Agreement or any other Financing Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of this Project Note, the total amount of interest that Borrower is obligated to pay and Governmental Lender is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Project Loan Agreement or other Financing Documents (such as for the payment of Taxes, Insurance premiums and similar expenses or costs).</p>

RIDERS

RIDER TO PROJECT NOTE - TEL

REGULATORY AGREEMENT DEFAULT RECOURSE

(Revised 9-30-2019)

The following changes are made to the Project Note which precedes this Rider:

A. Section 9(c)(xiii) is restated as follows:

- (xiii) A default, event of default, or breach (however such terms may be defined in the Regulatory Agreement) occurs after the expiration of any applicable notice and/or cure periods under the Regulatory Agreement.

RIDER TO PROJECT NOTE – TEL
RECYCLED BORROWER AND/OR RECYCLED SPE EQUITY OWNER

(Revised 9-30-2019)

The following changes are made to the Project Note which precedes this Rider:

A. Section 9(c)(ix) is restated as follows:

- (ix) Any of the Underwriting Representations or Separateness Representations set forth in Sections 5.40(a) and (b) [IF THERE IS AN SPE EQUITY OWNER: or Sections 5.41(a) and (b)] of the Continuing Covenant Agreement are false or misleading in any material respect.

RIDER TO PROJECT NOTE - TEL
TAX CREDIT PROPERTIES

(Revised 9-30-2019)

The following changes are made to the Project Note which precedes this Rider:

A. Section 9(c)(xiv) is restated as follows:

- (xiv) A default, event of default, or breach (however such terms may be defined in the Tax Credit Regulatory Agreement) occurs after the expiration of any applicable notice and/or cure periods under the Tax Credit Regulatory Agreement.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SUBORDINATE
MULTIFAMILY DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING

from

SCOTT STREET LOFTS, LP,
Grantor,

to

CHARLES HICKS,
Trustee,

for the benefit of
WILMINGTON TRUST, NATIONAL ASSOCIATION

and

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
together, Grantee

Dated as of June 1, 2020

Relating to:

\$_[]
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes (Scott Street Lofts)
Series 2020

THIS SECURITY INSTRUMENT IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS AND IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF GRANTOR AS "DEBTOR" AND GRANTEE AS "SECURED PARTY." THIS INSTRUMENT SHALL ALSO BE EFFECTIVE FROM THE DATE OF ITS RECORDING AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS CONSTITUTING PART OF THE PROPERTY WHICH ARE OR ARE TO BECOME FIXTURES

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**SUBORDINATE
MULTIFAMILY DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING**

This SUBORDINATE MULTIFAMILY DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING, dated as of June 1, 2020 (as the same may be amended, modified or supplemented from time to time, this “**Deed of Trust**”), by SCOTT STREET LOFTS, LP, a Texas limited partnership (together with its successors and assigns, “**Grantor**”), having its principal office at 15950 N. Dallas Parkway, Suite 300, Dallas, Texas 75248, to Charles Hicks and his successors and assigns (the “**Trustee**”), for the benefit of WILMINGTON TRUST, NATIONAL ASSOCIATION, as trustee (together with any successor trustee under the Indenture described below and their respective successors and assigns, the “**Bond Trustee**”), a national banking association organized and existing under the laws of the United States of America, having offices at 15950 North Dallas Parkway, Suite 550, Dallas, Texas 75248 and TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Issuer**” and, together with the Bond Trustee, the “**Grantee**”), a public and official agency of the State of Texas having offices at 221 East 11th Street, Austin, Texas 78701.

W I T N E S S E T H:

WHEREAS, the Issuer is authorized by the provisions of Chapter 2306, Texas Government Code, as amended (the “**Act**”), to issue one or more series of its revenue bonds and loan the proceeds thereof to finance residential rental housing facilities for individuals and families of low, very low and extremely low income and families of moderate income; and

WHEREAS, by proceedings adopted pursuant to and in accordance with the provisions of the Act, the Issuer has authorized the issuance of its Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020, in the original aggregate principal amount of \$[_____] (the “**Notes**”) pursuant to an Indenture of Trust between the Issuer and the Bond Trustee dated as of the date hereof (and any indenture supplemental thereto, including the Funding Loan Agreement on and after the Conversion Date (as defined in the Indenture), the “**Indenture**”); and

WHEREAS, Grantor proposes to borrow an amount equal to the aggregate principal amount of the Notes (the “**Loan Amount**”) from the Issuer pursuant to that certain Loan Agreement dated as of June 1, 2020 by and among the Issuer and the Grantor (as the same may be amended, modified, supplemented or restated from time to time to the extent permitted by the Indenture, including the Project Loan Agreement on and after the Conversion Date, the “**Loan Agreement**”); and

WHEREAS, Grantor has executed and delivered to the Issuer, and the Issuer has assigned to the Bond Trustee that certain promissory note dated the Closing Date (as the same may be amended, modified or supplemented from time to time, the “**Borrower Note**”), which evidences the portion of the Loan Amount corresponding to the aggregate principal amount of the Notes (the “**Loan**”) being \$[_____] and being made pursuant to the Loan Agreement; and

WHEREAS, the proceeds of the Loan will be utilized by Grantor to pay the costs of acquiring, equipping and rehabilitating a multifamily rental housing development known as Scott Street Lofts (the “**Development**”); and

WHEREAS, the Borrower Note provides that the Loan matures on the final maturity date of the Notes, being [_____] 1, 20[____] (the “**Maturity Date**”), upon which date all of the outstanding and unpaid principal and interest under the Borrower Note will be due and payable; and

WHEREAS, the Issuer requires that this Deed of Trust be executed and delivered as a condition to making the Loan and as security for the Grantor’s obligations under the Loan Agreement pursuant to Section 4.01 of the Loan Agreement (the “**Borrower Note Payments**”).

GRANTING CLAUSES

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, in order to secure the payment of the Indebtedness (as hereinafter defined), and any other sums payable under the Financing Documents (as hereinafter defined); and to secure the performance and observance of all other provisions of the Financing Documents, Grantor hereby grants, bargains, sells, warrants, conveys, assigns, sets over and confirms to Trustee, in trust for the benefit of Grantee, with power of sale, and grants to Grantee a security interest and lien in, all of the following (all of which is hereinafter collectively referred to as the “**Mortgaged Property**”):

I. All of the real property located in Harris County, Texas and more fully described on Exhibit A attached hereto (the “**Land**”) including all and singular, the easements, rights, privileges, tenements, hereditaments and appurtenances (including air rights) thereunto belonging or in any way appertaining thereto, and the reversion and the remainder thereof; and all of the estate, right, title, interest, claim or demand of Grantor therein and in and to any land lying in the bed of any street, road or avenue, open or proposed, thereof, either at law or in equity, in possession or expectancy, now or hereafter acquired and in all strips and gores therein or adjoining thereto, the air space and right to use said air space thereinabove and all rights of ingress and egress by motor vehicles to parking facilities thereon or therein;

II. All (i) buildings and other improvements and additions thereto now erected or hereafter constructed or placed upon the Land or any part thereof (the “**Improvements**”); (ii) the name or names, if any, as may now or hereafter be used for each Improvement or otherwise in connection with the Land, and the books and records and good will associated therewith, and all licenses, permits, and approvals in connection with the construction and operation of the Improvements; and (iii) refrigerators, dishwashers, air conditioners, microwave ovens, washers, dryers, exercise equipment, lawn care equipment, pool equipment and furniture, devices, apparatus, interior improvements, appurtenances, heating, electrical, mechanical, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and elevator equipment and systems, stoves, ranges, vacuum cleaning systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, pipes, appliances, fittings, fixtures, equipment and building materials of every kind and nature whatsoever now or

hereafter attached to or placed in or upon the Land or the Improvements, or any part thereof, or used or procured for use in connection with the operation of the Land or the Improvements or any business conducted thereon (except for fixtures and personal property that are at any time the property of Space Tenants, as hereinafter defined), all of the foregoing items set forth in this clause (iii), except as aforesaid, hereinafter collectively called the “**Equipment**”;

III. All screens, awnings, shades, blinds, curtains, draperies, carpets, rugs, furniture, furnishings, decorations, chattels and other personal property now or hereafter in, on or at said Land (except for trade fixtures, furniture and furnishings that are at any time the property of Space Tenants), all of the foregoing, except as aforesaid, hereinafter collectively called the “**Furnishings**”;

IV. All unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained, or caused to be obtained, by Grantor and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Property or any part thereof into cash or liquidated claims, including, without limitation, proceeds of casualty insurance, title insurance or any other insurance maintained on the Land, the Improvements, the Equipment or the Furnishings or any part of any thereof (collectively, “**Proceeds**”) and all awards and other compensation (collectively “**Awards**”) heretofore and hereafter made to the present and all subsequent owners of the Land, the Improvements, the Equipment or the Furnishings or any part of any thereof by any governmental or other lawful authorities for the taking by eminent domain, condemnation or otherwise, of all or any part thereof or any easement or other right therein, including Awards for any change of grade of streets, all of which Proceeds and Awards are hereby assigned to Grantee;

V. If applicable pursuant to Section 4.1 hereof, all of the rents, issues, income, receipts, revenues, benefits and profits of the Mortgaged Property (collectively, the “**Rents**”), including all leases, subleases, occupancy agreements, licenses, franchises and appurtenances now or hereafter entered into covering any part of the Mortgaged Property, including all interest of Grantor as landlord in and to any of the same, including, without limitation, the interest of Grantor in and to all cash, promissory notes and securities deposited thereunder and the right to receive and collect the Rents and any other sums payable thereunder, all of which are hereby assigned to Grantee;

VI. All rights under any easement or related agreements and all royalties and rights appertaining to the use and enjoyment of the Land, including, without limitation, alley, vault, drainage, mineral, ditch, reservoir, water, oil and gas rights, if any, together with any and all other rights, privileges and interests appurtenant thereto or used in connection with the Land or the Improvements, whether existing now or hereafter acquired;

VII. All construction contracts, subcontracts, architectural agreements, labor, material and payment bonds, guarantees and warranties, plans and specifications, and permits and approvals relating to the construction of the Improvements, whether now or hereafter existing;

VIII. All books, records and good will associated with the Land and the Improvements, all logos, trademarks and tradenames used in connection with the Land and Improvements, all management contracts now in effect or hereafter entered into, and all extensions, renewals and

replacements thereof, and all permits, licenses and approvals for the operation of the Improvements;

IX. Upon foreclosure under this Deed of Trust, all tax credits or abatement certificates under Federal, State or local law arising out of or related to the Mortgaged Property and all of the Grantor's title and interest in and to any instrument, document or agreement relating thereto, including, without limitation, any regulatory agreement relating to the leasing of individual units comprising the Mortgaged Property; and

X. All extensions, improvements, betterments, substitutions and replacements of, and all additions and appurtenances to, the Land, the Improvements, the Equipment and the Furnishings, hereafter acquired by or released to Grantor or constructed, assembled or placed on the Land, and all conversions of the security constituted thereby immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by Grantor, shall become subject to the lien of this Deed of Trust as fully and completely, and with the same effect, as though now owned by Grantor and specifically described herein.

TO HAVE AND TO HOLD the Mortgaged Property, together with all rights, hereditaments and appurtenances in any wise appertaining or belonging thereto, unto Trustee, its substitutes or its successors and assigns, forever for the uses set forth herein, and Grantor hereby binds itself and its successors and assigns to warrant and forever defend the Mortgaged Property unto Trustee, its substitutes or successors and assigns, against the claim or claims of all Persons claiming or to claim the same or any part thereof.

ARTICLE I

CERTAIN DEFINITIONS

In addition to other definitions contained herein, the following terms shall have the meanings set forth below, unless the context of this Deed of Trust otherwise requires. All other capitalized terms used herein which are defined in either the Indenture or the Loan Agreement, and not defined herein, shall have the respective meanings ascribed thereto in the Indenture or Loan Agreement, unless otherwise expressly provided or unless the context otherwise requires.

- (a) "Conversion Date" shall have the meaning ascribed to such term in the Indenture.
- (b) "Default Rate" shall mean a per annum rate of interest equal to the lower of (a) 12% per annum, or (b) the Maximum Amount.
- (c) "Development" shall have the meaning ascribed to such term in the recitals to this Deed of Trust.
- (d) "Due and Payable" shall mean (i) when used with reference to the Indebtedness, or when referring to any and all other sums secured by this Deed of Trust, due and payable, whether at the monthly or other date of payment as specified in the Loan Agreement or other Financing Documents, and (ii) when used with reference to Impositions, the last day upon which

any such charge may be paid without penalty or interest and without becoming a lien upon the Mortgaged Property.

(e) “Environmental Laws” shall mean and include each and every federal, state or local statute, regulation or ordinance or any judicial or administrative decree, policy, guidance or decision, whether now existing or hereafter enacted, promulgated or issued, governing or relating to the protection of the environment, natural resources and human health and safety, with respect to any Hazardous Substances (as hereinafter defined), Environmentally Sensitive Areas (as hereinafter defined), drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water run-off, waste emissions, wells or radon.

(f) “Environmentally Sensitive Area” shall mean (i) a wetland or other “water of the United States” for purposes of the Clean Water Act or other similar area regulated under any State Environmental Law, (ii) a floodplain or other flood hazard area as defined pursuant to any applicable State Environmental Law, (iii) a portion of the coastal zone for purposes of the Federal Coastal Zone Management Act, or (iv) any other area, development of which is specifically restricted under applicable Environmental Laws by reason of its physical characteristics or prior use.

(g) “Event of Default” shall mean each of the events and circumstances described as such in Section 6.1 hereof.

(h) “Financing Documents” shall mean this Deed of Trust, the Loan Agreement, and the Regulatory Agreement.

(i) “Governmental Authority” means any federal, state, county, municipal or local government or any department, commission, board, legislature or office thereof, having or claiming jurisdiction over the Mortgaged Property.

(j) “Hazardous Substances” shall mean each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law, including, without limitation, asbestos, asbestos-containing materials, poly-chlorinated biphenyls, urea foam formaldehyde insulation, radon and lead-based paint.

(k) “Impositions” shall mean all duties, taxes, water and sewer rents, rates and charges, assessments (including, but not limited to, all assessments for public improvement or benefit), charges for public utilities, excises, levies, licenses and permit fees and other charges, ordinary or extraordinary, whether foreseen or unforeseen, of any kind and nature, whatsoever, which prior to or during the term of this Deed of Trust will have been or may be laid, levied, assessed or imposed upon or become due and payable out of or in respect of, or become a lien on, the Mortgaged Property or any part thereof or appurtenances thereto, or which are levied or assessed against the rent and income received by Grantor from the Space Leases (as hereinafter defined) by virtue of any present or future law, order or ordinance of the United States of America or of any state, county or local government or of any department, office of bureau thereof or of any other Governmental Authority.

(l) “Indebtedness” shall mean and include all payments, sums, charges, obligations and liabilities of Grantor due or to become due at any time under the Loan Agreement, and all other sums, charges, obligations and liabilities of Grantor due or to become due at any time to Grantee under this Deed of Trust, or any other Financing Document.

(m) “Land” shall mean that certain parcel of land more particularly described in Exhibit A annexed hereto and incorporated herein, including all and singular, the easements, rights, privileges, tenements, hereditaments and appurtenances (including air rights) thereunto belonging or in any way appertaining thereto, and the reversion and the remainder thereof; and all of the estate, right, title, interest, claim or demand of Grantor therein and in and to any land lying in the bed of any street, road or avenue, open or proposed, thereof, either at law or in equity, in possession or expectancy, now or hereafter acquired and in all strips and gores therein or adjoining thereto, the air space and right to use said air space thereinabove and all rights of ingress and egress by motor vehicles to parking facilities thereon or therein.

(n) “Lender Loan” shall have the meaning set forth in the Indenture.

(o) “Maximum Amount” shall mean the maximum amount permitted to be charged under applicable usury laws or other applicable laws relating to the payment of interest from time to time in effect including, without limitation, Chapter 1204 of the Texas Government Code.

(p) “Permitted Encumbrances” shall mean, collectively, the mortgages on the Development securing the Lender Loan, as defined in the Indenture (collectively, the “**First Mortgage**”), the Regulatory Agreement, those liens, easements, rights of way, covenants, restrictions, encumbrances and other matters affecting title to the Mortgaged Property set forth in Schedule B of the mortgagee policy of title insurance insuring this Deed of Trust (or commitment to issue such policy in existence as of the date of this Deed of Trust) and any other liens, easements, rights of way, covenants, restrictions, encumbrances and other matters affecting title to the Mortgaged Property approved in writing by the Grantee.

(q) “Person” shall mean any natural person, firm, partnership, association, corporation, trust, or public body.

(r) “Space Lease” shall mean any lease, sublease, license, concession agreement or any other form of agreement, however denominated, granting the right to use and occupy the Mortgaged Property, or any portion thereof, and all renewals, extensions, modifications, amendments and other agreements affecting the same.

(s) “Space Tenant” shall mean the tenant or other user or occupant of part or all of the Mortgaged Property under any Space Lease.

(t) “Spill” shall mean any release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, or discarding, burying, abandoning, or disposing into the environment.

(u) “State” shall mean the state in which the Land is located.

(v) "Threat of Spill" shall mean a substantial likelihood of a Spill which requires action to prevent or mitigate damage to the environment which may result from such Spill.

ARTICLE II

PARTICULAR COVENANTS OF GRANTOR

Grantor covenants and agrees as follows:

SECTION 2.1. Payment of Indebtedness. Grantor shall duly and punctually pay to Issuer and/or to Bond Trustee, as applicable, as and when Due and Payable, the Indebtedness.

SECTION 2.2. Warranty of Title. Grantor warrants that (a) it is the lawful owner of fee title to the Land; (b) it has good, marketable, insurable and indefeasible fee simple title to the Land and to the remainder of the Mortgaged Property; (c) the Mortgaged Property is free and clear of all deeds of trust, deeds to secure debt, mortgages, liens, charges and encumbrances whatsoever except for the Permitted Encumbrances; (d) except as provided in Section 4.1 hereof, Grantor has not heretofore assigned the Rents; (e) it will maintain and preserve the lien and priority of this Deed of Trust until the Indebtedness has been paid in full and all other obligations owing to Grantee by Grantor in connection with the Loan have been satisfied; (f) it has good right and lawful authority to mortgage and assign the Mortgaged Property as provided in and by this Deed of Trust; and (g) except for the Permitted Encumbrances, it will warrant and defend the same against any and all claims and demands whatsoever.

SECTION 2.3. No Defaults. Grantor represents and warrants that no Event of Default or event which, with the giving of notice or passage of time, would constitute an Event of Default exists under the provisions of this Deed of Trust or the other Financing Documents or in the performance of any of the terms, covenants, conditions or warranties hereof or thereof on the part of Grantor to be performed or observed.

SECTION 2.4. To Pay Impositions. Grantor will pay or cause to be paid as and when due and payable all Impositions levied upon the Mortgaged Property or any part thereof and, within fifteen (15) days after the payment thereof, will deliver to Grantee receipts evidencing the payment or bonding of all such Impositions. Notwithstanding the foregoing, if by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance thereof), Grantor shall have the right, provided that no Event of Default shall then exist under this Deed of Trust or any other of the Financing Documents, to exercise such option and to cause to be paid or to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments, as they fall due, and before any fine, penalty, further interest or cost may be added thereto.

SECTION 2.5. To Maintain Priority of Lien. Grantor will maintain this Deed of Trust as a valid lien on the Mortgaged Property, and Grantor will not, directly or indirectly, create or suffer or permit to be created, or to stand against the Mortgaged Property or any portion thereof, or against the Rents therefrom and will promptly discharge, any lien or charge whatsoever other than the Permitted Encumbrances, whether prior to, upon a parity with, or junior to the lien of this Deed of Trust; provided, however, that nothing herein contained shall require Grantor to pay

or cause to be paid any Imposition prior to the time the same shall become due and payable. Grantor will keep and maintain the Mortgaged Property, and every part thereof, free from all liens of Persons supplying labor and materials in connection with the construction, alteration, repair, improvement or replacement of the Improvements, the Equipment or the Furnishings. If any such liens shall be filed against the Mortgaged Property, or any part thereof, Grantor shall immediately release or discharge the same of record, by payment, bonding or otherwise, or otherwise provide security satisfactory to Grantee in Grantee's sole discretion, within fifteen (15) days after the filing thereof. In the event that Grantor fails to make payment of or bond over, such liens, Grantee may make payment thereof, and any amounts paid by Grantee as a result thereof, together with interest thereon at the Default Rate from the date of payment by Grantee, shall be immediately due and payable by Grantor to Grantee and until paid, shall be added to and become a part of the Indebtedness, and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust. Grantor shall deliver to Grantee, upon request, all receipts or other satisfactory evidence of the payment of taxes, assessments, charges, claims, liens or any other item which, if unpaid, may cause any such lien to be filed against the Mortgaged Property.

SECTION 2.6. To Pay Recording Fees, Taxes and Other Charges. Grantor will pay all filing, registration or recording fees, and all costs and expenses of Grantee, including without limitation, reasonable attorneys' fees actually incurred and disbursements, title insurance premiums, search fees and survey costs, incident to or in connection with the preparation, execution, delivery or acknowledgment of this Deed of Trust, any supplement hereto, any security instrument with respect to any collateral relating to the Loan and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Borrower Note, this Deed of Trust, any supplement hereto, any security instrument with respect to any collateral relating to the Loan, the other Financing Documents, or any instrument of further assurance.

SECTION 2.7. Maintenance of Mortgaged Property; Covenants Against Waste; Inspection by Grantee. Grantor will not commit or permit waste on the Mortgaged Property and will keep and maintain at its own expense the Improvements, the Equipment and the Furnishings in a condition and state of repair such that each of the same shall meet or surpass the requirements of any applicable Governmental Authority and customary standards in the general area set by buildings of similar type, age and function for attractiveness of appearance, cleanliness and general soundness of condition, but in any event consistent with multifamily housing projects of a similar type and purpose. Grantor shall do all such further maintenance and repair work as may be required under the Space Leases and applicable law. Grantor will neither do nor permit to be done anything to the Mortgaged Property that may impair the value thereof or which may violate any covenant, condition or restriction affecting the same, or any part thereof, or permit any change therein or in the condition or use thereof which could increase the danger of fire or other hazard arising out of the construction or operation thereof. The Improvements shall not be removed or demolished (except for tenant improvements), without the prior written consent of Grantee. The Equipment and Furnishings shall not be removed without the prior written consent of the Grantee, except where appropriate replacements free of superior title, liens or claims are immediately made having a value at least equal to the value of the items

removed. Grantee and its authorized employees and agents, may enter and inspect the Mortgaged Property at any time upon advance notice during usual business hours, and Grantor shall, within fifteen (15) business days after demand by Grantee (or immediately upon demand in case of emergency), commence such repairs, replacements, renewals or additions, or perform such items of maintenance, to the Mortgaged Property as the Grantee may, in its sole reasonable discretion, require in order to cause the Mortgaged Property to comply with the above standards, shall diligently make the same and shall complete the same as promptly as practicable.

SECTION 2.8. After-Acquired Property. All right, title and interest of Grantor in and to all improvements, betterments, renewals, substitutes and replacements of, and all additions, accessions and appurtenances to, the Mortgaged Property hereafter acquired, constructed, assembled or placed by Grantor on the Land, and all conversions of the security constituted thereby, immediately upon such acquisition, construction, assembly, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance or assignment or other act of Grantor, shall become subject to the lien of this Deed of Trust as fully and completely, and with the same effect, as though now owned by Grantor and specifically described in the Granting Clauses hereof, but at any time and at all times Grantor, on demand, will execute, acknowledge and deliver to Grantee any and all such further assurances, mortgages, conveyances or assignments thereof as Grantee may require in its sole discretion for the purpose of expressly and specifically subjecting the same to the liens and security interests of this Deed of Trust.

SECTION 2.9. Further Assurances. Grantor shall, at its sole cost and without expense to Grantee, on demand, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Grantee shall from time to time require in its sole discretion for better assuring, conveying, assigning, transferring, confirming and perfecting unto Grantee the property and rights hereby conveyed, mortgaged or assigned or intended now or hereafter so to be, or which Grantor may be or may hereafter become bound to convey, mortgage or assign to Grantee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering or recording this Deed of Trust.

SECTION 2.10. Status of Grantor. Grantor shall not without the prior written consent of Grantee: (a) change its name; (b) change its state of organization through dissolution, merger, transfer of assets or otherwise; or (c) change its type of organization through conversion, reorganization or otherwise.

SECTION 2.11. Recorded Instruments. Grantor will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Mortgaged Property. Grantor shall do or cause to be done all things required to preserve intact and unimpaired and to renew any and all rights-of-way, easements, grants, appurtenances, privileges, licenses, franchises and other interests and rights in favor of or constituting any portion of the Mortgaged Property. Other than Permitted Encumbrances, Grantor will not, without the prior written consent of the Grantee, initiate, join in or consent to any private restrictive covenant or other public or private restriction as to the use of the Mortgaged Property other than the Extended Low-Income Housing Commitment described in Section 8.6 hereof. Grantor shall, however, and shall cause all Space Tenants to, comply with all

lawful restrictive covenants and zoning ordinances and other public or private restrictions affecting the Mortgaged Property and other laws and ordinances of any Governmental Authority affecting the Mortgaged Property.

SECTION 2.12. Environmental Provisions. Grantor hereby represents, warrants and covenants that:

2.12.1. Except as set forth in the Phase I report prepared by Partner Engineering and Science, Inc. and dated [REDACTED], (a) no condition, activity or conduct exists on or in connection with the Mortgaged Property which constitutes a violation of any Environmental Laws; (b) there has been no Spill or Threat of Spill of any Hazardous Substances on, upon, into or from the Mortgaged Property nor, to Grantor's knowledge, a Spill which, through soil or groundwater migration, could reasonably be expected to come to be located on the Mortgaged Property; (c) there are no existing or closed underground or aboveground storage tanks on the Mortgaged Property; (d) there are no existing or closed sanitary landfills, solid waste disposal sites, or hazardous waste treatment, storage or disposal facilities on or affecting the Land; (e) no notice has been issued to Grantor by any agency, authority, or unit of government that Grantor has been identified as a potentially responsible party under any Environmental Laws; (f) no portion of the Mortgaged Property constitutes an Environmentally Sensitive Area; (g) there exists no investigation, action, proceeding, or claim by any Governmental Authority or by any third party which could result in any liability, penalty, sanction, or judgment under any Environmental Laws with respect to any condition, use or operation of the Mortgaged Property; (h) there has been no claim by any party that any use, operation, or condition of the Mortgaged Property has caused any nuisance or any other liability or adverse condition on any other property; and (i) Grantor need not obtain any permit or approval for any part of the Development and need not notify any federal, state or local governmental authority having jurisdiction of the Development regarding any part of the Development pursuant to any Environmental Laws.

2.12.2. Grantor shall: (a) comply with and cause all activities at the Mortgaged Property to comply with all Environmental Laws; (b) not store or dispose of (except in compliance with all Environmental Laws pertaining thereto), nor Spill or allow the Spill of any Hazardous Substances on the Property; (c) neither directly nor indirectly transport or arrange for the transport of any Hazardous Substances (except in compliance with all Environmental Laws pertaining thereto); (d) neither install nor permit to be installed any temporary or permanent tanks for storage of any liquid or gas above or below ground except after obtaining written permission from the Grantee to do so and in compliance with Environmental Laws; and (e) comply with all terms and conditions of all permits, authorizations, approvals, waivers, judgments or decrees or notices from Governmental Authorities issued or sent pursuant to Environmental Laws.

2.12.3. Grantor, promptly upon the written request of Grantee from time to time (but no more frequently than once per calendar year) shall provide Grantee, at Grantor's sole cost and expense, with an environmental site assessment or environmental audit report, or an update of such an assessment or report, all in scope, form and content reasonably satisfactory to the Grantee.

2.12.4. In the event of any Spill or Threat of Spill affecting the Mortgaged Property, whether or not the same originates or emanates from the Mortgaged Property or any contiguous real estate, or if Grantor or the Mortgaged Property otherwise shall fail to comply with any of the requirements of Environmental Laws, Grantee may at its election, but without the obligation so to do, give such notices, cause such work to be performed at the Mortgaged Property and take any and all other actions as Grantee shall reasonably deem necessary or advisable in order to remedy said Spill or the conditions constituting a Threat of Spill or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the Default Rate from the date of payment by Grantee, shall be immediately due and payable by Grantor to Grantee and until paid shall be added to and become a part of the Indebtedness and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust.

2.12.5. Grantor covenants and agrees to conduct representative radon sampling in the Improvements on the Land following construction and/or rehabilitation of the Development to determine whether indoor radon levels are below the United States Environmental Protection Agency's recommended threshold of 4.0pCi/L. In the event that said radon sampling results reveal indoor radon levels in excess of 4.0pCi/L, Grantor covenants and agrees to implement radon mitigation techniques to reduce or prevent the build-up or migration of radon in the Improvements on the Land. In the event that radon mitigation is required to be implemented, Grantor further covenants and agrees to conduct radon sampling in the Improvements on the Land following such implementation to confirm that the radon mitigation techniques have succeeded in reducing or preventing the build-up of radon in the Improvements on the Land to below the United States Environmental Protection Agency's recommended threshold of 4.0pCi/L. In the event that such radon sampling results reveal that levels of radon in the Improvements on the Land are still in excess of the above-referenced United States Environmental Protection Agency threshold, Grantor covenants and agrees to undertake any additional measures necessary to reduce radon levels in the Improvements on the Land and bring the Mortgaged Property into compliance with applicable Environmental Laws.

2.12.6. The Grantor shall comply with the Environmental Laws and regulations with respect to on-site wetlands, including, but not limited to obtaining, complying with and maintaining any wetland permits, wetland permit requirements, development restrictions, setback and/buffers, habitat protection and mitigation requirements.

2.12.7. The Grantor shall handle any subsurface contamination encountered at the Land during the course of rehabilitation in accordance with a site-specific Health and Safety Plan developed in accordance with Environmental Laws and other applicable federal, state and local laws, rules and regulations, and any such contamination shall be remediated and disposed of in accordance with Environmental Laws and other applicable federal, state and local laws, rules and regulations.

SECTION 2.13. Mold Coverage. In the event that Grantor is covered by a commercial general liability insurance policy which contains an exclusion for loss or damage caused by mold, dangerous fungi, bacterial or microbial matter, contamination or pathogenic organisms that reproduce through the release of spores or the splitting of cells (collectively, "**Mold**") or a

property insurance policy which contains an exclusion for loss or damage caused by Mold, in connection with another covered peril (e.g., Mold in connection with water damage caused by a storm or fire), Grantor shall demonstrate to the satisfaction of Grantee that such insurance without the aforementioned exclusions is not available at ordinary and customary insurance rates and either: (i) Grantor shall demonstrate to the satisfaction of Grantee that the potential risk for loss or damage caused by Mold, fungus, moisture, microbial contamination or pathogenic organisms at the Mortgaged Property is minimal because of precautionary measures or techniques to be utilized in the construction or rehabilitation of the Improvements, including without limitation, the use of vapor barriers or other liners to limit the growth and reproduction of Mold; or (ii) Grantor shall implement a moisture management and control program (the “**Moisture Management Program**”) for the Improvements at the Mortgaged Property to prevent the occurrence of Mold, at, on or under the Mortgaged Property, which Moisture Management Program shall include, at a minimum: (a) periodic inspections of the Improvements at the Mortgaged Property for Mold, (b) removing or cleaning up any Mold in a manner consistent with best industry practices and utilizing an experienced remediation contractor acceptable to and approved by Grantee, and (c) in the event that the Mold identified at the Improvements at the Mortgaged Property cannot be removed or cleaned from any impacted building materials (e.g., porous materials such as carpeting, certain types of ceiling materials, etc.) and/or equipment, removing all such impacted building materials and/or equipment from the Mortgaged Property, all in accordance with the procedures set forth in the United States Environmental Protection Agency’s (“**EPA**”) guide entitled “Mold Remediation in Schools and Commercial Buildings”, EPA No. 402-K-01-001, dated March 2001, and in a manner consistent with best industry practices and utilizing an experienced remediation contractor acceptable to and approved by Grantee. Grantor further covenants and agrees that, in connection with any mold remediation undertaken by or on behalf of Grantor hereunder, the source (e.g., leaking pipe, water damage, water infiltration, etc.) of any Mold at the Improvements at the Mortgaged Property shall be promptly identified and corrected to prevent the occurrence or re-occurrence of any Mold.

ARTICLE III

CASUALTY AND CONDEMNATION

SECTION 3.1. Net Proceeds.

3.1.1. If any of the Improvements, Equipment or Furnishings shall be damaged or destroyed, in whole or part, by fire or other casualty, Grantor shall give prompt notice thereof to Grantee. The Grantee are hereby authorized and empowered by Grantor, to settle, adjust or compromise in a commercially reasonable manner any and all claims for loss, damage or destruction under any policy of insurance.

3.1.2. Subject to the provisions of the Lender Loan Documents, any Proceeds received as payment for any loss under any insurance policies required to be maintained by Grantor in accordance with this Section shall be paid over to the Bond Trustee for deposit into the appropriate fund under the Indenture. For the purposes of this Deed of Trust, “**Net Proceeds**” shall mean any Proceeds actually received by the Bond Trustee as payment for any loss, less all costs and expenses, including, without limitation, all reasonable architects’,

attorneys', engineers' and other consultants' and professionals' fees actually incurred and disbursements incurred by Grantee or Grantor in connection with the casualty in question. Subject to the conditions set forth in Section 3.3 hereof, Grantee shall cause such Net Proceeds either to be (a) applied to the redemption of the Notes, (b) applied to the costs to repair, rebuild or replace the damaged Improvements, Equipment or Furnishings that were subject to the applicable casualty upon such terms and conditions as the Grantee shall determine in its sole discretion, or (c) released to Grantor upon such terms and conditions as the Grantee may determine in its sole discretion and accompanied by an opinion of Bond Counsel to the effect that such release does not affect the excludability of interest on the Notes from gross income for federal income tax purposes and is not in contravention of State law.

3.1.3. In the event of the happening of any casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen (including any casualty for which insurance was not obtainable), resulting in damage to or destruction of the Mortgaged Property or any part thereof, if Grantee elects to apply any Net Proceeds received by it in connection with such casualty towards the restoration of the Mortgaged Property (as provided in Section 3.3 hereof), Grantor shall promptly, whether or not the Net Proceeds, if any, shall be sufficient for the purpose, commence and diligently continue to restore, repair and rebuild the Mortgaged Property as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

SECTION 3.2. Net Awards.

3.2.1. Grantor shall promptly notify Grantee if Grantor shall become aware of the threat or institution of any proceeding or negotiations for the taking of the Mortgaged Property, or any part thereof, whether for permanent or temporary use and occupancy in condemnation or by the exercise of the power of eminent domain or by agreement of interested parties in lieu of such condemnation (all the foregoing herein called a "**taking**"); and shall keep Grantee currently advised, in detail, as to the status of such proceedings or negotiations and will promptly give to Grantee copies of all notices, pleadings, judgments, determinations and other papers received or delivered by Grantor therein. Grantee shall have the right to appear and participate therein and may be represented by counsel of its choice. Grantor will not, without the Grantee's prior written consent, enter into any agreement for the taking of the Mortgaged Property, or any part thereof, with anyone authorized to acquire the same by eminent domain or in condemnation.

3.2.2. In the event of any such taking and subject to the terms of the Lender Loan Documents, the awards payable in connection therewith are hereby assigned to Grantee and shall be paid to Bond Trustee for deposit into the appropriate fund under the Indenture. For the purposes of this Deed of Trust, "**Net Awards**" shall mean any awards actually received by Bond Trustee less all costs and expenses, including, without limitation, all reasonable architects', attorneys', engineers' and other consultants' and professionals' fees actually incurred and disbursements incurred by Grantee or Grantor in connection with the taking in question. Subject to the conditions set forth in Section 3.3, Grantee shall cause such Net Awards either to be (a) applied to the redemption of the Notes, (b) applied to the costs to repair, rebuild or replace the Improvements, Equipment or Furnishings that were subject to the taking, upon such terms and conditions as the Grantee shall determine in its sole discretion, or (c) released to Grantor upon

such terms and conditions as the Grantee may determine in its sole reasonable discretion and accompanied by an opinion of Bond Counsel to the effect that such release does not affect the excludability of interest on the Notes from gross income for federal income tax purposes and is not in contravention of State law.

3.2.3. In the event of the happening of any permanent taking, provided that Grantee elects to apply any Net Awards received by it in connection with such taking towards the restoration of the Mortgaged Property (as provided in Section 3.3 hereof), Grantor shall promptly, whether or not the Net Awards, if any, shall be sufficient for the purpose, commence and diligently continue to restore, repair and rebuild the portion of the Mortgaged Property not subject to the taking as nearly as possible to its value, condition and character immediately prior to such taking.

SECTION 3.3. Application of Net Proceeds and Net Awards. Notwithstanding any provision hereof to the contrary, in the event the Improvements, Equipment or Furnishings are damaged or destroyed by fire or other casualty or in the event of a temporary or partial taking in condemnation of a portion of the Land or Improvements, then the Grantee shall make the Net Awards or Net Proceeds, as the case may be, payable in connection therewith available, at intervals and in amounts in accordance with the provisions of the Indenture and the Loan Agreement, to pay for or to reimburse Grantor for costs and expenses actually incurred by Grantor in the repair and restoration of the Mortgaged Property or to be released to Grantor, provided each of the following conditions is fully satisfied:

- (a) the Net Awards or Net Proceeds, as the case may be, are paid to Grantee and deposited into the appropriate fund under the Indenture;
- (b) if restoration is contemplated, any plans, specifications, construction contracts, architect's agreements and all other material agreements relating to the restoration shall be approved by the Grantee in writing;
- (c) if restoration is contemplated, the Net Awards or Net Proceeds, as the case may be, are in the judgment of the Grantee sufficient to complete the restoration, or, in the event of an insufficiency, Grantor deposits into the appropriate account under the Indenture cash in an amount equal to the insufficiency;
- (d) no Event of Default under the Notes, the Indenture or the Financing Documents shall have occurred and be continuing;
- (e) if restoration is contemplated, the Grantee determines, in its sole reasonable discretion, that the Improvements, Equipment and Furnishings are capable of being fully restored by the earlier of (i) the date which is 12 months from the occurrence of the loss or damage and (ii) the Maturity Date;
- (f) if restoration is contemplated a release of lien with respect to all restoration work theretofore performed is delivered to Grantee from all contractors and materialmen;

(g) Grantee shall receive an official search or a certificate of title from a title insurance company acceptable to it showing that there has not been filed any vendor's, mechanic's, laborer's or materialman's statutory or other lien affecting the Mortgaged Property which has not been bonded or satisfied and discharged of record, except such as will be discharged upon payment of the amount then requested to be disbursed;

(h) upon completion of restoration or upon release of Net Proceeds or Net Awards, the Development will be in compliance with the Regulatory Agreement; and

(i) Grantor shall deliver to Grantee, an Opinion of Bond Counsel (as defined in the Indenture) to the effect that restoration of the Development with the Net Awards or Net Proceeds or the release of Net Awards or Net Proceeds to Grantor, as the case may be, will not adversely affect the exclusion from gross income of interest on the Notes for purposes of federal income taxation.

Upon completion of the restoration, as certified by an inspecting engineer selected by the Grantee, any excess Net Awards or Net Proceeds, as the case may be, and accrued interest thereon (if any) shall be, at the option of the Grantee, (a) disbursed to Grantor or (b) applied to the redemption of Notes; provided, however, that any excess Net Awards or Net Proceeds shall be applied to the redemption of Notes unless Grantor shall deliver to Grantee an Opinion of Bond Counsel (as defined in the Indenture) to the effect that the alternative proposed application of such Net Proceeds or Net Awards will not adversely affect the exclusion from gross income of interest on the Notes for purposes of federal income taxation.

ARTICLE IV

ASSIGNMENT OF SPACE LEASES AND RENT

SECTION 4.1. Assignment of Space Leases and Rents. Contemporaneously with the execution of this Deed of Trust, Grantor has assigned its interests in the Space Leases and Rents to the Lender in the First Mortgage to secure the payment of the Lender Loan. In the event of the payment of the Lender Loan and release of the First Mortgage without the release of this Deed of Trust, Grantor hereby grants, conveys, assigns, transfers and sets over to Grantee to be effective as of the date of the release of the First Mortgage, the Space Leases now or hereafter entered into by Grantor with respect to all or any part of the Mortgaged Property, and all renewals, extensions, subleases or assignments thereof and all other occupancy agreements (written or oral), by concession, license or otherwise, together with all of the Rents and proceeds arising therefrom and from the Mortgaged Property pursuant to and in accordance with the provisions of Chapter 64 of the Texas Property Code.

ARTICLE V

SECURITY AGREEMENT UNDER UNIFORM COMMERCIAL CODE

SECTION 5.1. Security Agreement. It is the intent of the parties hereto that this Deed of Trust shall constitute a Security Agreement within the meaning of the Uniform Commercial Code of the State (the "UCC") with respect to so much of the Mortgaged Property as is

considered or as shall be determined to be of the type in which a security interest can be created under Article 9 of the UCC, together with all replacements thereof, substitutions therefor or additions thereto (the “**Collateral**”), and that a security interest shall attach thereto for the benefit of Grantee to secure the Indebtedness and all other sums and charges which may become due hereunder or under the Financing Documents. Grantor hereby authorizes Grantee to file financing and continuation statements and amendments thereto with respect to the Collateral without the signature of Grantor, if same is lawful; otherwise Grantor agrees to execute such financing and continuation statements and amendments thereto as Grantee may request. If there shall exist an Event of Default under this Deed of Trust, Grantee, pursuant to the appropriate provisions of the UCC, shall have the option of proceeding as to both real and personal property in accordance with its rights to both real and personal property, in which event the default provisions of the UCC shall not apply. The parties agree that, in the event Grantee shall elect to proceed with respect to the Collateral separately from the real property, unless a greater period shall then be mandated by the UCC, five (5) days’ notice of the sale of the Collateral shall be reasonable notice. The expenses of retaking, holding, preparing for sale, selling and the like incurred by Grantee shall be assessed against Grantor and shall include, but shall not be limited to, reasonable attorneys’ fees, disbursements and other legal expenses incurred by Grantee. Grantor agrees that it will not remove or permit to be removed from the Mortgaged Property any of the Collateral without the prior written consent of Grantee, unless appropriate replacements free of superior title, liens or claims are immediately made having a value at least equal to the value of the items removed. All replacements, renewals and additions to the Collateral shall be and become immediately subject to the security interest of this Deed of Trust and the provisions of this Article. Grantor warrants and represents that all Collateral now is, and that replacements thereof, substitutions therefor or additions thereto, unless Grantee otherwise consents in writing, shall be free and clear of liens, encumbrances or security interests of others created after the date hereof other than Permitted Encumbrances.

From the date of its recording, this Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all goods constituting part of the Collateral which are or are to become fixtures related to the real estate described herein. For this purpose, the following information is set forth:

A. Name and Address of Debtor:

Scott Street Lofts, LP

Attention: _____

Telephone: _____

B. Name and Address of Secured Party:

Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248
Attn: Charles Hicks

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701
Attn: Director of Multifamily Bonds

C. This document covers goods which are or are to become fixtures.

D. State of Debtor's Organization and Organizational Identification No.:
State: Texas
I.D. No.: _____

E. This filing is made in connection with a public finance transaction as described in Sections 9.515(b) and 9.102(a)(68) of the UCC.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.1. Events of Default Defined. The entire amount of the Indebtedness shall become due, at the option of Grantee, subject to any prepayment premium or penalty provided for in the Loan Agreement, if any, upon the happening of any of the following events (each, individually, an “**Event of Default**” and collectively, “**Events of Default**”):

6.1.1. if Grantor shall fail or neglect to comply with or otherwise perform, keep or observe any term, provision, condition, covenant, warranty or representation contained in this Deed of Trust that is required to be complied with or otherwise performed, kept or observed by Grantor beyond any notice, grace or cure period expressly provided in this Deed of Trust; or

6.1.2. if an “Event of Default” as defined in any of the Financing Documents shall have occurred.

Grantee hereby agrees that any cure of a default or an Event of Default hereunder or under any of the other Financing Documents made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Grantor, and shall be accepted or rejected by the Grantee on the same basis as if made or tendered by the Grantor.

SECTION 6.2. Remedies. Upon the occurrence of any Event of Default hereunder, Grantee may, without notice, presentment, demand or protest, notice of intent to accelerate, or notice of acceleration, all of which are hereby expressly waived by Grantor to the extent permitted by applicable law, take such action as Grantee deems advisable, to protect and enforce its rights in and to the Mortgaged Property, including, but without limiting the generality of the foregoing, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such manner as Grantee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Grantee hereunder, under the other Financing Documents, or at law or in equity:

6.2.1. declare the entire amount of the Indebtedness, together with all accrued and unpaid interest thereon, to be immediately due and payable, and upon such declaration such

amounts shall become and be immediately due and payable, anything in this Deed of Trust or the other Financing Documents to the contrary notwithstanding;

6.2.2. after such proceedings as may be required by any applicable law or ordinance and subject to the provisions of Section 8.7 hereof regarding the subordination of this Deed of Trust to the First Mortgage, either in person, or by its agents or attorneys, or by a court-appointed receiver, enter into and upon all or any part of the Mortgaged Property and each and every part thereof and exclude Grantor, its agents and servants wholly therefrom; and having and holding the same, use, operate, manage and control the Mortgaged Property and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or the receiver; and upon every such entry, Grantee, at the expense of the Mortgaged Property, from time to time, either by purchase repairs or construction, may maintain and restore the Mortgaged Property and, likewise, may make all necessary or proper repairs, renewals and replacements and such alterations, betterments, additions and improvement thereto and thereon as it may deem advisable; and in every such case Grantee shall have the right to manage and operate the Mortgaged Property and to carry on the business thereof and exercise all rights and powers of Grantor as Grantor's attorney-in-fact, or otherwise as it shall deem best; and Grantee shall be entitled to collect and receive all Rents and after deducting the expenses of conducting the business thereof and all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for Impositions, insurance and prior or other proper charges upon the Mortgaged Property or any part thereof, as well as just and reasonable compensation for the services of Grantee and for all attorneys, counsel, agents, clerks, servants and other employees or professionals engaged or employed by it, Grantee shall apply the moneys arising as aforesaid, first to the payment of the Indebtedness, whether or not then matured; next, to the payment of any other sums required to be paid by Grantor under this Deed of Trust; and the balance, if any, shall be turned over to Grantor or such other Person as may be lawfully entitled thereto; or

6.2.3. with or without entry, personally or by its agents or attorneys insofar as applicable:

(a) foreclose this Deed of Trust in accordance with the laws of the State and the provisions hereof, for the entire Indebtedness or for any portion of the Indebtedness or any other sums secured hereby which are then due and payable, subject to the continuing lien of this Deed of Trust for the balance of the Indebtedness not then due, and for such purposes Grantor grants to Trustee for the benefit of Grantee a continuing power of sale of the Mortgaged Property; or

(b) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in this Deed of Trust or any other Financing Document, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Grantee shall elect.

SECTION 6.3. Foreclosure; No Marshaling of Assets; One Tract; Appointment of Receiver.

6.3.1. Grantee may foreclose this Deed of Trust either by judicial action or by non-judicial foreclosure through the Trustee. In the case of a foreclosure sale, all of the Mortgaged Property may be sold in one parcel, notwithstanding that the proceeds of such sale exceed or may exceed the Indebtedness. Moreover, Grantee shall not be required to proceed hereunder before proceeding against any other security, shall not be required to proceed against other security before proceeding hereunder, and shall not be precluded from proceeding against any or all of any security in any order or at the same time. In the event that this Deed of Trust is foreclosed, Grantor hereby waives and releases any right to have the Mortgaged Property or any part thereof marshaled, and Grantor and Grantee have jointly agreed that the Mortgaged Property is one project and one tract for all purposes legal, economic and all other. Grantor for itself, its successors and assigns irrevocably waives any right it may have in the event of foreclosure to request that the Mortgaged Property be sold as separate tracts pursuant to any applicable law or statute.

6.3.2. Grantee, in any action to foreclose this Deed of Trust or otherwise upon the occurrence and during the continuance of an Event of Default, shall be entitled (and, to the extent permitted under the laws of the State, without notice, without regard to the adequacy of any security for the Indebtedness and without regard to the solvency of any Person liable for the payment thereof) to the appointment of a receiver of the Mortgaged Property and the Rents, if the assignment of Rents pursuant to Section 4.1 hereof is then effective.

6.3.3. Grantor agrees, to the full extent that it may lawfully do so, that in any foreclosure or other action brought by Grantee hereunder, it will not at any time insist upon or plead or in any way take advantage of any appraisal, valuation, stay, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent, hinder or delay the enforcement of the provisions of this Deed of Trust or any right or remedies Grantee may have hereunder or by law.

6.3.4. If Grantor shall default hereunder and Grantee shall elect to accelerate the Indebtedness, Grantor, within five (5) days after demand, will pay over to Grantee, or any receiver appointed in connection with the foreclosure of this Deed of Trust, any and all amounts then held as security deposits under all Space Leases if the assignment of Space Leases pursuant to Section 4.1 hereof is then effective.

6.3.5. Upon the acceleration of the Indebtedness or upon an Event of Default under the Borrower Note or Event of Default hereunder, and in addition to all other rights of Grantee provided herein or by law, Grantor shall, on demand of Grantee, surrender possession of the Mortgaged Property to Grantee; and Grantor hereby consents that Grantee may exercise any or all of the rights specified herein. Grantor hereby irrevocably appoints Grantee attorney-in-fact, which appointment shall be coupled with an interest, of Grantor for such purposes. In the event that Grantor is an occupant of the Mortgaged Property, it agrees to vacate and surrender the possession of that portion of the Mortgaged Property which it occupies to Grantee immediately upon the acceleration of the Indebtedness or any Event of Default hereunder; and if Grantor remains in possession, such possession shall be as tenant of Grantee, and Grantor shall

pay monthly, in advance, to Grantee or to any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of any portion of the Mortgaged Property occupied by Grantor, and upon the failure of Grantor to make any such payment, Grantor may be evicted by summary proceedings or otherwise. In case of the appointment of a receiver of the Rents, the covenants of this subsection may be enforced by such receiver.

6.3.6. GRANTOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY.

SECTION 6.4. Remedies Cumulative; No Waiver; Etc.

6.4.1. No remedy herein conferred upon or reserved to Grantee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Grantee to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or any acquiescence therein; and every power and remedy given by this Deed of Trust to Grantee may be exercised from time to time as often as may be deemed expedient by Grantee. Nothing in this Deed of Trust or in any other Financing Document shall affect the obligation of Grantor to perform its obligations under the Financing Documents.

6.4.2. A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof, of any Financing Document shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Deed of Trust and of the other Financing Documents shall survive and continue to remain in full force and effect; and no waiver shall be effective unless in writing, dated and signed by Grantee.

6.4.3. Grantor hereby waives and renounces all homestead and similar exemption rights with respect to the Mortgaged Property provided for by the Constitution and the laws of the United States and the State as against the collection of the Indebtedness, or any part thereof, or the Financing Documents; and Grantor agrees that where, by the terms of this Deed of Trust or the other Financing Documents secured hereby, a day is named or a time fixed for the payment of any sum of money or the performance of any agreement, the day and time stated enters into the consideration and is of the essence of the whole agreement between Grantor and Grantee.

SECTION 6.5. No Merger. It is the intention of the parties hereto that if Grantee shall at any time hereafter acquire title to all or any portion of the Mortgaged Property, then and until the Indebtedness has been paid in full, the interest of Grantee hereunder and the lien of this Deed of Trust shall not merge or become merged in or with the estate and interest of Grantee as the holder and owner of title to all or any portion of the Mortgaged Property and that, until such payment, the estate of Grantee in the Mortgaged Property and the lien of this Deed of Trust and the interest of Grantee hereunder shall continue in full force and effect to the same extent as if Grantee had not acquired title to all or any portion of the Mortgaged Property. If, however, Grantee shall consent in writing to such merger or such merger shall nevertheless occur without its consent, then this Deed of Trust shall attach to and cover and be a lien upon the fee title or

any other estate, title or interest in the premises demised under the leasehold estate acquired by the fee owner and the same shall be considered as granted, released, assigned, transferred, pledged, and set over to Grantee and the lien hereof spread to cover such estate with the same force and effect as though specifically herein granted, released, assigned, transferred, pledged, set over and spread.

ARTICLE VII

PROVISIONS OF GENERAL APPLICATION

SECTION 7.1. Modifications. No change, amendment, modification, cancellation or discharge hereof, or of any part hereof, shall be valid unless in writing, dated and signed by the party against whom such change, amendment, modification, cancellation or discharge is sought to be enforced.

SECTION 7.2. Notices. Except for notices of foreclosure that shall be sent as required by law, all notices, demands, requests, consents, approvals, certificates or other communications hereunder (hereinafter collectively called the “**Notices**”) shall be sufficiently given if given in accordance with the provisions of Section 9.01 of the Loan Agreement.

SECTION 7.3. Grantee’s Rights to Perform Grantor’s Covenants. If Grantor shall fail to pay or cause payment to be made to Grantee in accordance with the terms of this Deed of Trust, or to perform or observe any other term, covenant, condition or obligation required to be performed or observed by Grantor under this Deed of Trust or any other Financing Document, without limiting any other provision of this Deed of Trust, and without waiving or releasing Grantor from any obligation or default hereunder, without notice to Grantor, Grantee (or any receiver of the Mortgaged Property) shall have the right, but not the obligation, to make any such payment, or to perform any other act or take any appropriate action, including, without limitation, entry on the Mortgaged Property and performance of work thereat, as it, in its sole discretion, may deem necessary to cause such other term, covenant, condition or obligation to be performed or observed on behalf of Grantor or to protect the security of this Deed of Trust. All monies expended by Grantee in exercising its rights under this Section (including, but not limited to, legal expenses and disbursements), together with interest thereon at the Default Rate from the date of each such expenditure, shall be paid by Grantor to Grantee forthwith upon demand by Grantee, secured by this Deed of Trust and added to and deemed part of the Indebtedness with the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust.

If Grantor fails to maintain any insurance which is required by any of the Financing Documents, Grantee may obtain the same, but must secure the insurance only in its own name and may insure only its interest in the Mortgaged Property, and in connection with Grantee securing any such insurance, the following notice is given and delivered pursuant to §307.052 of the Texas Finance Code:

NOTICE:

(A) GRANTOR IS REQUIRED TO: (i) KEEP THE PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNT EQUAL TO GRANTOR'S INDEBTEDNESS TO GRANTEE; (ii) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER; AND (iii) NAME THE GRANTEE AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF LOSS;

(B) GRANTOR MUST, IF REQUIRED BY GRANTEE, DELIVER TO GRANTEE A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF THE PREMIUMS; AND

(C) IF GRANTOR FAILS TO MEET ANY REQUIREMENT LISTED IN CLAUSE (A) OR (B) ABOVE, GRANTEE MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF GRANTOR AT GRANTOR'S EXPENSE.

SECTION 7.4. Additional Sums Payable by Grantor. All sums which, by the terms of this Deed of Trust or the other Financing Documents secured hereby, or by the instruments executed and delivered by Grantor to Grantee as additional security for this Deed of Trust and the other Financing Documents, are payable by Grantor to Grantee shall, together with the interest thereon provided for herein or in the other Financing Documents, be secured by this Deed of Trust and added to and deemed part of the Indebtedness and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust, whether or not the provision which obligates Grantor to make any such payment to Grantee specifically so states.

SECTION 7.5. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of this Deed of Trust or the construction of any provision hereof.

SECTION 7.6. Successors and Assigns. The covenants and agreements contained in this Deed of Trust shall run with the land and bind Grantor, the heirs, executors, administrators, principals, legal representatives, successors and assigns of Grantor and each Person constituting Grantor and all subsequent owners, encumbrancers and Space Tenants of the Mortgaged Property, or any part thereof, and shall inure to the benefit of Grantee, its successors and assigns and all subsequent beneficial owners of this Deed of Trust.

SECTION 7.7. Gender and Number. Wherever the context of this Deed of Trust so requires, the neuter gender includes the masculine or feminine gender and the singular number includes the plural.

SECTION 7.8. Severability. In case any one or more of the provisions contained in this instrument shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, but this

Deed of Trust shall be construed as if such invalid, illegal or unenforceable provision had never been included.

SECTION 7.9. Subrogation. Should the proceeds of the Loan be used directly or indirectly to pay off, discharge, or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then Grantee shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority of all of the same.

SECTION 7.10. Incorporation of the Financing Documents. This Deed of Trust has been executed and delivered to secure the Indebtedness pursuant to the Financing Documents, the provisions of which, including, but not limited to, any usury saving provisions in the Loan Agreement, as the same may be amended, modified or supplemented from time to time, are incorporated herein by reference with the same force and effect as if herein fully set forth.

SECTION 7.11. Controlling Law. This Deed of Trust shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas.

ARTICLE VIII

SPECIAL PROVISIONS

SECTION 8.1. Foreclosure—Power of Sale. Grantee may request Trustee to proceed with foreclosure under the power of sale which is hereby conferred, such foreclosure to be accomplished in accordance with the following provisions:

8.1.1. Trustee is hereby authorized and empowered, and it shall be Trustee's special duty, upon such request of Grantee, to sell the Mortgaged Property, or any part thereof, at public auction to the highest bidder for cash, with or without having taken possession of same. Any such sale (including notice thereof) shall comply with the applicable requirements, at the time of the sale, of Chapter 51 of the Texas Property Code, as amended, or, if and to the extent the statutes within said Chapter 51 are not then in force, with the applicable requirements, at the time of the sale, of the successor statute or statutes, if any, governing sales of Texas real property under powers of sale conferred by deeds of trust. If there is no statute in force at the time of the sale governing sales of Texas real property under powers of sale conferred by deeds of trust, such sale shall comply with applicable law, at the time of the sale, governing sales of Texas real property under powers of sale conferred by deeds of trust.

8.1.2. Subject to any applicable requirements at the time of sale governing sales of Texas real property under the powers of sale conferred by deeds of trust, at any time during the bidding, the Trustee may require a bidding party (A) to disclose its full name, state and city of residence, occupation, and specific business office location, and the name and address of the principal the bidding party is representing (if applicable), and (B) to demonstrate reasonable evidence of the bidding party's financial ability (or, if applicable, the financial ability of the principal of such bidding party), as a condition to the bidding party submitting bids at the foreclosure sale. If any such bidding party (the "**Questioned Bidder**") declines to comply with the Trustee's requirement in this regard, or if such Questioned Bidder does respond but the

Trustee deems the information or the evidence of the financial ability of the Questioned Bidder (or, if applicable, the principal of such bidding party) to be inadequate, then the Trustee may continue the bidding with reservation; and in such event (1) the Trustee shall be authorized to caution the Questioned Bidder concerning the legal obligations to be incurred in submitting bids, and (2) if the Questioned Bidder is not the highest bidder at the sale, or if having been the highest bidder the Questioned Bidder fails to deliver the cash purchase price payment promptly to the Trustee, all bids by the Questioned Bidder shall be null and void. The Trustee may determine that a credit bid is in the best interest of Grantor and Grantee, and elect to sell the Mortgaged Property for credit or for a combination of cash and credit; provided, however, (i) the Trustee shall have no obligation to accept any bid except an all cash bid and (ii) the Trustee shall be required to accept the highest bid. In the event the Trustee requires a cash bid and cash is not delivered within a reasonable time after conclusion of the bidding process, as specified by the Trustee, but in no event later than 3:45 p.m. local time on the day of sale, then said contingent sale shall be null and void, the bidding process may be recommenced provided that it is recommenced within the time frame set forth in the Notice of Sale given pursuant to Section 51.002 of the Texas Property Code, and any subsequent bids or sale shall be made as if no prior bids were made or accepted.

8.1.3. In addition to the rights and powers of sale granted under the preceding provisions of this subsection, if an Event of Default shall have occurred hereunder, Grantee may at once or at any time thereafter while an Event of Default is continuing, without declaring the entire Indebtedness to be due and payable, orally or in writing direct Trustee to enforce this trust and to sell the Mortgaged Property subject to such unmatured Indebtedness and to the rights, powers, liens, security interests, and assignments securing or providing recourse for payment of such unmatured Indebtedness, in the same manner, all as provided in the preceding provisions of this subsection. Sales made without acceleration of the unmatured balance of the Indebtedness may be made hereunder whenever an Event of Default shall have occurred and be continuing hereunder, without exhausting the power of sale granted hereby, and without affecting in any way the power of sale granted under this subsection, the unmatured balance of the Indebtedness or the rights, powers, liens, security interests, and assignments securing or providing recourse for payment of the Indebtedness.

8.1.4. Sale of a part of the Mortgaged Property shall not exhaust the power of sale, but sales may be made from time to time until the Indebtedness is paid in full. It is intended by each of the foregoing provisions of this subsection that Trustee may, after any request or direction by Grantee, sell not only the Land and the Improvements, but also the Equipment and Furnishings and other interests constituting a part of the Mortgaged Property or any part thereof, along with the Land and the Improvements or any part thereof, as a unit and as a part of a single sale, or may sell at any time or from time to time any part or parts of the Mortgaged Property separately from the remainder of the Mortgaged Property. It shall not be necessary to have present or to exhibit at any sale any of the Mortgaged Property.

8.1.5. After any sale under this subsection, Trustee shall make good and sufficient deeds, assignments, and other conveyances to the purchaser or purchasers thereunder in the name of Grantor, conveying the Mortgaged Property or any part thereof so sold to the purchaser or purchasers with general warranty of title by Grantor. It is agreed that in any deeds, assignments or other conveyances given by Trustee, any and all statements of fact or other

recitals therein made as to the identity of Grantee, the occurrence or existence of any Event of Default, the notice of intention to accelerate, or acceleration of, the maturity of the Indebtedness, the request to sell, notice of sale, time, place, terms and manner of sale, and receipt, distribution, and application of the money realized therefrom, the due and proper appointment of a substitute Trustee, and without being limited by the foregoing, any other act or thing having been duly done by or on behalf of Grantee or by or on behalf of Trustee, shall be taken by all courts of law and equity as prima facie evidence that such statements or recitals state true, correct, and complete facts and are without further question to be so accepted, and Grantor does hereby ratify and confirm any and all acts that Trustee may lawfully do in the premises by virtue hereof.

8.1.6. The following shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale in proceedings governed by Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time): (i) the Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Property for cash promptly (but no later than twelve (12) months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value of the Mortgaged Property, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Property, tax proration, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in (ii) and/or (iii) above), and other maintenance, operational and ownership expenses; and (v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Property must be given by persons having at least five (5) years' experience in appraising property similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the Mortgaged Property taking into consideration the factors set forth above.

SECTION 8.2. Non-Recourse. The monetary obligations of the Grantor under this Deed of Trust shall be non-recourse to the Grantor to the extent provided in Section 5.11 of the Loan Agreement.

SECTION 8.3. Concerning the Trustee.

8.3.1. Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in, or defend any action, suit, or other proceeding in connection therewith where, in Trustee's opinion, such action would be likely to involve Trustee in expense or liability, unless requested so to do by a written instrument signed by Grantee and unless Trustee is tendered security and indemnity satisfactory to Trustee against any and all cost, expense, and liability arising therefrom and if such request is made and such security and indemnity is tendered, the Trustee shall act in accordance with Grantee's request. Trustee shall not be responsible for the execution, acknowledgment, or validity of the Financing Documents, or for the proper authorization thereof, or for the sufficiency of the lien

and security interest purported to be created hereby, and Trustee makes no representation in respect thereof or in respect of the rights, remedies, and recourses of Grantee.

8.3.2. With the approval of Grantee, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Grantee) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Financing Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys in fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney in fact, if selected with reasonable care and approved by the Grantee, or for any error of judgment or act done by Trustee in good faith and in accordance with the terms hereof, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith or failure to act in accordance with the terms hereof, and (iv) any and all other lawful action as Grantee may instruct Trustee to take to protect or enforce Grantee's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Mortgaged Property for debts contracted for or liability or damages incurred in the management or operation of the Mortgaged Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, out-of-pocket expenses reasonably incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered. Grantor will, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and save Trustee harmless against, any and all liability and expenses which may be incurred by Trustee in the performance of Trustee's duties.

8.3.3. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

8.3.4. Trustee may resign by the giving of notice of such resignation in writing or verbally to Grantee. If Trustee shall die, resign, or become disqualified from acting in the execution of this trust, or if, for any reason, Grantee shall prefer to appoint a substitute Trustee or multiple substitute Trustees, or successive substitute Trustees or successive multiple substitute Trustees, to act instead of the aforementioned Trustee, Grantee shall have full power to appoint a substitute Trustee (or, if preferred, multiple substitute Trustees) in succession who shall succeed (and if multiple substitute Trustees are appointed, each of such multiple substitute Trustees shall succeed) to all the estates, rights, powers, and duties of the aforementioned Trustee. Such appointment may be executed by any authorized agent of Grantee, and if such Grantee be a corporation and such appointment be executed in its behalf by any officer of such corporation, such appointment shall be conclusively presumed to be executed with authority and shall be

valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Grantor hereby ratifies and confirms any and all acts which the aforementioned Trustee, or Trustee's successor or successors in this trust, shall do lawfully by virtue hereof. If multiple substitute Trustees are appointed, each of such multiple substitute Trustees shall be empowered and authorized to act alone without the necessity of the joinder of the other multiple substitute Trustees, whenever any action or undertaking of such substitute Trustees is requested or required under or pursuant to this Deed of Trust or applicable law.

8.3.5. Should any deed, conveyance, or instrument of any nature be required from Grantor by any Trustee or substitute Trustee to more fully and certainly vest in and confirm to the Trustee or substitute Trustee such estates, rights, powers, and duties, then, upon request by the Trustee or substitute Trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Grantor.

8.3.6. Any substitute Trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Grantee or of the substitute Trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute Trustee so appointed in the Trustee's place.

8.3.7. By accepting or approving anything required to be observed, performed, or fulfilled or to be given to Trustee or Grantee pursuant to the Financing Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, neither Trustee nor Grantee shall be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness, or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by Trustee or Grantee.

SECTION 8.4. Indemnity. GRANTOR SHALL INDEMNIFY, DEFEND, PROTECT AND HOLD HARMLESS GRANTEE AND TRUSTEE, THEIR RESPECTIVE PARENTS, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST AND DOES HEREBY RELEASE GRANTEE AND TRUSTEE FROM ANY AND ALL LIABILITY, DAMAGE, LOSS, COST, OR EXPENSE (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES), ACTION, PROCEEDING, CLAIM OR DISPUTE INCURRED OR SUFFERED BY THE FOREGOING PARTIES SO INDEMNIFIED WHETHER OR NOT AS THE RESULT OF THE NEGLIGENCE OR GROSS NEGLIGENCE (BUT NOT THE WILLFUL MISCONDUCT, FRAUD OR BAD FAITH) OF ANY PARTY SO INDEMNIFIED, WHETHER VOLUNTARILY OR INVOLUNTARILY INCURRED OR SUFFERED, IN RESPECT OF THE FOLLOWING:

(i) ANY LITIGATION CONCERNING THIS DEED OF TRUST, THE OTHER FINANCING DOCUMENTS OR THE MORTGAGED PROPERTY, OR ANY INTEREST OF GRANTOR OR GRANTEE THEREIN, OR THE RIGHT OF OCCUPANCY THEREOF BY GRANTOR OR GRANTEE, WHETHER OR NOT ANY SUCH LITIGATION IS PROSECUTED TO A FINAL, NON APPEALABLE JUDGMENT;

(ii) ANY DISPUTE, INCLUDING DISPUTES AS TO THE DISBURSEMENT OF PROCEEDS OF THE NOTE NOT YET DISBURSED, AMONG OR BETWEEN ANY OF THE CONSTITUENT PARTIES OR OTHER PARTNERS OR VENTURERS OF GRANTOR IF GRANTOR IS A GENERAL OR LIMITED PARTNERSHIP, OR AMONG OR BETWEEN ANY EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS OR MANAGERS OF GRANTOR IF GRANTOR IS A CORPORATION OR LIMITED LIABILITY COMPANY, OR AMONG OR BETWEEN ANY MEMBERS, TRUSTEES OR OTHER RESPONSIBLE PARTIES IF GRANTOR IS AN ASSOCIATION, TRUST OR OTHER ENTITY;

(iii) ANY ACTION TAKEN OR NOT TAKEN BY GRANTEE OR TRUSTEE WHICH IS ALLOWED OR PERMITTED UNDER THIS DEED OF TRUST OR ANY OF THE OTHER FINANCING DOCUMENTS RELATING TO GRANTOR, THE MORTGAGED PROPERTY, ANY CONSTITUENT PARTIES OR OTHERWISE IN CONNECTION WITH THE FINANCING DOCUMENTS, INCLUDING WITHOUT LIMITATION, THE PROTECTION OR ENFORCEMENT OF ANY LIEN, SECURITY INTEREST OR OTHER RIGHT, REMEDY OR RECOURSE CREATED OR AFFORDED BY THIS DEED OF TRUST OR THE OTHER FINANCING DOCUMENTS;

(iv) ANY ACTION BROUGHT BY GRANTEE OR TRUSTEE AGAINST GRANTOR UNDER THIS DEED OF TRUST OR THE OTHER FINANCING DOCUMENTS, WHETHER OR NOT SUCH ACTION IS PROSECUTED TO A FINAL, NON APPEALABLE JUDGMENT; AND

(v) ANY AND ALL LOSS, DAMAGE, COSTS, EXPENSE, ACTION, CAUSES OF ACTION, OR LIABILITY (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS) DIRECTLY OR INDIRECTLY ARISING FROM OR ATTRIBUTABLE TO THE USE, GENERATION, MANUFACTURE, PRODUCTION, STORAGE, RELEASE, THREATENED RELEASE, DISCHARGE, DISPOSAL, OR PRESENCE OF A HAZARDOUS SUBSTANCE ON, IN, UNDER OR ABOUT THE MORTGAGED PROPERTY, WHETHER KNOWN OR UNKNOWN AT THE TIME OF THE EXECUTION HEREOF, INCLUDING WITHOUT LIMITATION (A) ALL FORESEEABLE CONSEQUENTIAL DAMAGES OF ANY SUCH USE, GENERATION, MANUFACTURE, PRODUCTION, STORAGE, RELEASE, THREATENED RELEASE, DISCHARGE, DISPOSAL, OR PRESENCE, AND (B) THE COSTS OF ANY REQUIRED OR NECESSARY ENVIRONMENTAL INVESTIGATION OR MONITORING, ANY REPAIR, CLEANUP, OR DETOXIFICATION OF THE MORTGAGED PROPERTY, AND THE

PREPARATION AND IMPLEMENTATION OF ANY CLOSURE, REMEDIAL, OR OTHER REQUIRED PLANS.

GRANTEE AND/OR TRUSTEE MAY EMPLOY AN ATTORNEY OR ATTORNEYS TO PROTECT OR ENFORCE ITS RIGHTS, REMEDIES AND RECOURSES UNDER THIS DEED OF TRUST AND THE OTHER FINANCING DOCUMENTS, AND TO ADVISE AND DEFEND GRANTEE AND/OR TRUSTEE WITH RESPECT TO ANY SUCH ACTIONS AND OTHER MATTERS. GRANTOR SHALL REIMBURSE GRANTEE AND/OR TRUSTEE FOR THEIR RESPECTIVE REASONABLE ATTORNEYS' FEES AND EXPENSES (INCLUDING EXPENSES AND COSTS FOR EXPERTS) IMMEDIATELY UPON RECEIPT OF A WRITTEN DEMAND THEREFOR, WHETHER ON A MONTHLY OR OTHER TIME INTERVAL, AND WHETHER OR NOT AN ACTION IS ACTUALLY COMMENCED OR CONCLUDED. ALL OTHER REIMBURSEMENT AND INDEMNITY OBLIGATIONS HEREUNDER SHALL BECOME DUE AND PAYABLE WHEN ACTUALLY INCURRED BY GRANTEE AND/OR TRUSTEE. ANY PAYMENTS NOT MADE WITHIN TEN (10) DAYS AFTER WRITTEN DEMAND THEREFOR SHALL BEAR INTEREST AT THE DEFAULT RATE FROM THE DATE OF SUCH DEMAND UNTIL FULLY PAID. THE PROVISIONS OF THIS SECTION 8.4 SHALL SURVIVE REPAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF THE OBLIGATIONS, THE RELEASE OF THE LIEN OF THIS DEED OF TRUST, ANY FORECLOSURE (OR ACTION IN LIEU OF FORECLOSURE), THE TRANSFER BY GRANTOR OF ANY OR ALL OF ITS RIGHT, TITLE AND INTEREST IN OR TO THE PROPERTY AND THE EXERCISE BY GRANTEE OF ANY AND ALL REMEDIES SET FORTH HEREIN OR IN THE OTHER FINANCING DOCUMENTS.

SECTION 8.5. Purpose of Loan. This Deed of Trust is given pursuant to the Financing Documents and secures Grantor's obligations to pay the Indebtedness as described herein and as advanced under the Financing Documents, to pay the costs of acquiring, constructing, improving and equipping the Development, among other purposes set forth in the Financing Documents.

SECTION 8.6. Extended Low-Income Housing Commitment. The Grantor and Grantee agree that the lien of this Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "**Extended Use Agreement**") recorded against the Mortgaged Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Mortgaged Property by instrument in lieu of foreclosure or comparable conversion of the Loan, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code. The Grantor acknowledges and agrees that any default, Event of Default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an Event of Default under this Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees, incurred by the Grantee as a result of an Event of Default by the Grantor and any amounts paid to cure any default under the Extended Use Agreement, shall be an obligation of the Grantor and become a part of the Indebtedness secured by this Deed of Trust.

SECTION 8.7. Subordination and Standstill. The liens and security interests hereby granted and conveyed by Grantor to Grantee against the Mortgaged Property are subordinate to the First Mortgage and shall remain subordinate to the First Mortgage regardless of the frequency or manner of renewal, extension, change or alteration of the First Mortgage or the Lender Loan secured by the First Mortgage; and provided further that the Grantee will not pursue any remedies hereunder until the Lender Loan is paid in full. By its acceptance of this Deed of Trust, the Grantee agrees to the subordination of this Deed of Trust to the First Mortgage and to the foregoing provisions and to the provisions of that certain Subordination Agreement dated as of the date hereof among [REDACTED], Grantor and Grantee.

SECTION 8.8. Entire Agreement. THIS INSTRUMENT, AND THE OTHER FINANCING DOCUMENTS CONTAIN THE FINAL, ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND ALL PRIOR AGREEMENTS, WHETHER WRITTEN OR ORAL, RELATIVE HERETO AND THERETO WHICH ARE NOT CONTAINED HEREIN OR THEREIN ARE SUPERSEDED AND TERMINATED HEREBY, AND THIS INSTRUMENT, AND THE OTHER FINANCING DOCUMENTS MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMOUNT THE PARTIES HERETO.

[Signature Page Follows]

IN WITNESS WHEREOF, the Grantor has duly executed this Deed of Trust as of the day and year first above written.

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this the _____ day of _____ 2020, personally appeared David Mark Koogler, President of Mark Dana Corporation, a Virginia corporation, the managing member of Scott Street Lofts Advisors, LLC, a Texas limited liability company, the general partner of **SCOTT STREET LOFTS, LP**, a Texas limited partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

Notary Public, State of _____
Notary's Name (Printed): _____

Notary Seal:

EXHIBIT A

LEGAL DESCRIPTION

[TO COME FROM BORROWER]

**AFTER RECORDING
RETURN TO:**

Elizabeth Bowes
Bracewell LLP
111 Congress Avenue
Austin, Texas 78701

ASSIGNMENT OF SECURITY INSTRUMENT

This Assignment of Deed of Trust Documents (“Assignment”) is dated as of [June] 1, 2020 from the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “Assignor”), to WILMINGTON TRUST, NATIONAL ASSOCIATION, as Trustee (the “Assignee”) under the Trust Indenture (said Trust Indenture, and any indenture supplemental thereto, including the Funding Loan Agreement on and after the Conversion Date, is herein referred to as the “Indenture”) dated as of [June] 1, 2020, by and among the Assignor as Issuer and the Assignee as Trustee.

RECITALS

SCOTT STREET LOFTS, LP, a Texas limited partnership (the “Owner”), as Borrower, has:

(i) entered into with the Assignor and Assignee a Loan Agreement dated as of [June] 1, 2020 (said Loan Agreement as it may be amended, modified, supplemented or restated from time to time to the extent permitted by the Indenture, including the Project Loan Agreement on and after the Conversion Date, is herein referred to as the “Loan Agreement”), evidencing indebtedness in the aggregate principal amount of \$18,000,000 (the “Loan”);

(ii) executed and delivered to the Assignor the Promissory Note dated as of [June] 1, 2020 (said Note together with all further supplements and amendments thereto is herein referred to as the “Borrower Note”) in the principal amount of \$18,000,000 and made to the order of the Assignor as Payee, further evidencing the Loan; and

(iii) executed and delivered to the Assignor the Subordinate Multifamily Deed of Trust, Security Agreement, and Fixture Filing dated as of [June] 1, 2020 made to a mortgage trustee for the benefit of the Assignor, securing the Borrower Note, and to be recorded in the Deed Records of Harris County, Texas, and relating to the real estate described in **Exhibit A** hereto.

The documents identified in (i), (ii), and (iii) above, together with all financing and continuation statements to perfect the liens and security interests granted thereby, are collectively referred to herein as the “Deed of Trust Documents.”

The Assignor desires to assign and transfer to the Assignee all its right, title and interest in and to the Deed of Trust Documents, excluding the Unassigned Rights, and the Assignee desires to acquire Assignor’s right, title and interest as aforesaid under the Deed of Trust Documents in accordance with the terms hereof. The Assignee is joining in the execution of this Assignment in order to evidence its acceptance hereof.

The Owner is joining in the execution of this Assignment in order to evidence its consent hereto and in order to agree that the Deed of Trust Documents shall be effective to secure the obligations of the Owner to the Assignee as more fully set forth therein and herein.

AGREEMENT

For and in consideration of the premises, the sum of \$10.00, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Definitions. All words and phrases defined in the Indenture have the same meanings in this Assignment, which definitions are incorporated herein by reference, unless a different definition is set forth in this Assignment.

Section 2. Assignment. The Assignor assigns, sets over and transfers to the Assignee all the right, title and interest of the Assignor in, to and under the Deed of Trust Documents, excluding any Unassigned Rights, and Assignee accepts such assignment and assumes Assignor's obligations under the Deed of Trust Documents. This Assignment is made and shall be without recourse, warranty or representation of the Assignor.

Section 3. Miscellaneous. In case any one or more of the provisions contained in this Assignment are invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein will not be affected or impaired thereby.

This Assignment may be executed in any number of counterparts, each executed counterpart constituting an original, but all counterparts together constituting only one instrument.

It is the intention of the parties hereto that this Assignment and the rights and obligations of the parties hereunder shall be governed, construed and enforced in accordance with the laws of the State of Texas, without reference to the conflicts of laws principles of the State of Texas.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the undersigned have executed this Assignment of Deed of Trust Documents as of the date first above written.

ASSIGNOR:

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS, as Governmental Lender

By: _____

Name: James B. "Beau" Eccles

Title: Secretary to the Board

Address: P.O. Box 13941
Austin, Texas 78711-3941

Attention: Director of Multifamily Bonds

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by James B. "Beau" Eccles, Secretary to the Board of Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

Notary Public's Signature

(PERSONALIZED SEAL)

The undersigned, being the Owner referred to in the foregoing Assignment of Deed of Trust Documents, hereby acknowledges receipt and acceptance thereof and consents and agrees to the assignment made therein and to the terms and provisions thereof.

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____

David Mark Koogler

President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

On this the _____ day of _____, 2020, personally appeared David Mark Koogler, President of Mark-Dana Corporation, a Virginia corporation, the managing member of Scott Street Lofts Advisors, LLC, a Texas limited liability company, the general partner of Scott Street Lofts, LP, a Texas limited partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public Signature

My Commission expires: _____

(Personalized Seal)

EXHIBIT "A"

[TO COME FROM BORROWER]

NOTE PURCHASE AGREEMENT

\$18,000,000

**Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020**

_____, 2020

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

Scott Street Lofts, LP
c/o Mark-Dana Corporation
26302 Oak Ridge Dr., Suite 100
Spring, Texas 77380

Ladies and Gentlemen:

RBC Capital Markets, LLC (the “Purchaser”), on its own behalf and not as your fiduciary or agent for you, and in its capacity as underwriter of the Notes (as hereinafter defined), offers to enter into the following agreement (the “Note Purchase Agreement” or “Purchase Contract”) with the Texas Department of Housing and Community Affairs (the “Issuer”) and Scott Street Lofts, LP, a Texas limited partnership (the “Borrower”), which, upon acceptance of this offer, will be binding upon the Issuer, the Borrower and the Purchaser. This offer is made subject to the Issuer’s and the Borrower’s acceptance on or before 5:00 p.m., Central time, today; if this offer is not timely accepted, it will thereafter be subject to withdrawal by the Purchaser upon written notice delivered to the Issuer and the Borrower at any time prior to the acceptance hereof by the Issuer and the Borrower. If and when accepted by the Issuer and the Borrower in writing, this Note Purchase Agreement shall constitute the agreement of the Purchaser to purchase the Notes on the terms and subject to the conditions herein set forth.

The above-captioned notes are referred to herein as the “Notes.” Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture (as such term is hereinafter defined) or the Note Loan Agreement. The Indenture, the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Remarketing Agreement and this Note Purchase Agreement, to the extent related to the Issuer, are hereinafter collectively referred to as the “Issuer Documents.” The Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement and this Note Purchase Agreement, to the extent related to the Borrower, are hereinafter collectively referred to as the “Borrower Documents.” The Indenture, the Note Loan Agreement, the Tax Agreement, the Continuing Disclosure Agreement and the Regulatory Agreement, to the extent related to the Trustee, are hereinafter collectively referred to as the “Trustee Documents.”

Section 1. Purchase and Sale of the Notes.

Subject to the terms and conditions and in reliance on the representations and warranties herein set forth, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell to the Purchaser on the Closing Date (as such term is hereinafter defined), all (but not less than all) of the Notes for a purchase price of 100% of the principal amount of the Notes. Inasmuch as this purchase and sale represents a negotiated transaction, the Issuer understands, and hereby confirms, that the Purchaser is

not acting as a fiduciary of the Issuer or the Borrower, but rather is acting solely in its capacity as Purchaser.

The Notes will be subject to mandatory tender no earlier than July 1, 2022 and no later than July 1, 2023, will mature on July 1, 2040 and bear interest at ___% per annum for the first Interest Period and thereafter at the Index Interest Rate for each subsequent Interest Period to the Mandatory Tender Date. The Borrower agrees to pay the Purchaser \$_____ (which does not include Purchaser's Counsel fee) in connection with the purchase of the Notes (the "Underwriting Fee") in addition to the other expenses stipulated in Section 8 herein (together with the Underwriting Fee, the "Fees"). The Fees are payable on the Closing Date. Payment of the Fees is solely the obligation of the Borrower.

The Notes shall be as described in, and shall be issued pursuant to, a Trust Indenture, dated as of June 1, 2020 (the "Indenture"), between the Issuer and Wilmington Trust, National Association, as trustee (the "Trustee"). The Notes shall be issued pursuant to a resolution adopted by the Issuer on [May 21], 2020 (the "Resolution") and the provisions of Chapter 2306, Texas Government Code, as amended (the "Act").

The proceeds of the Notes will be used by the Issuer to provide funding for a loan (the "Loan") to the Borrower. The Loan will be evidenced by a Promissory Note (the "Note"). The Issuer and the Borrower will enter into a Loan Agreement (the "Note Loan Agreement") and the Issuer, the Borrower and the Trustee will enter into a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") and a Tax Exemption Certificate and Agreement (the "Tax Agreement"), in each case regarding the operation of the Project. The Notes will be secured by collateral held under the Indenture. The disbursement of any Note proceeds pursuant to the Indenture and the Note Loan Agreement will be conditioned upon, among other things, the prior deposit of an equal amount of funds by Zions Bancorporation, N.A. doing business as Amegy Bank (the "Lender") pursuant to the Indenture.

It shall be a condition (a) to the obligations of the Issuer to sell and deliver the Notes to the Purchaser, and (b) to the obligations of the Purchaser with respect to the Notes, to purchase and accept delivery of and to pay for the Notes, that the entire aggregate principal amount of the Notes to be sold and delivered by the Issuer in accordance with this Section 1 shall be sold and delivered simultaneously by the Issuer and be purchased, accepted and paid for simultaneously by the Purchaser.

Section 2. Official Statement.

(a) The Issuer (to the extent of the provisions referred to in Section 2(d)(i) hereof) and the Borrower each hereby (a) confirms its authorization or ratification of the use by the Underwriter of the Preliminary Official Statement dated _____, 2020, relating to the Notes (the "Preliminary Official Statement") in the marketing of the Notes and (b) authorizes the Underwriter to prepare, use and distribute (at the sole expense of the Borrower) the Official Statement dated _____, 2020, relating to the Notes (the "Official Statement") in final form in connection with the offering and sale of the Notes.

(b) The Issuer (to the extent of the provisions referred to in Section 2(d)(i) hereof) and the Borrower each agrees to the extent required and permitted by applicable law to cooperate (at the sole cost and expense of the Borrower) with the Underwriter so as to enable the Underwriter to comply with the requirements of Rule 15c2-12 ("Rule 15c2-12") under the Securities Exchange Act of 1934, as amended (the "1934 Act"), and any other rules of the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), in connection with the offer and sale of the Notes.

(c) The Issuer and the Borrower hereby make the following representations in subsection (i) and (ii) respectively:

(i) The Issuer hereby certifies and agrees that the information in the Preliminary Official Statement and the Official Statement under the captions “THE ISSUER” and “NO LITIGATION – The Issuer” has been “deemed final” by the Issuer as of its date, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

(ii) The Borrower hereby certifies and agrees that the Preliminary Official Statement has been “deemed final” by the Borrower as of its date, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

(d) The Issuer and the Borrower hereby make the following representations in subsection (i) and (ii), respectively:

(i) The Issuer hereby represents that the information in the Preliminary Official Statement and the Official Statement under the captions “THE ISSUER” and “NO LITIGATION – The Issuer” is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. The Issuer has not participated in the preparation of the Preliminary Official Statement and the Official Statement and makes no representations with respect thereto except as expressly set forth in the preceding sentence, and assumes no responsibility with respect to the sufficiency, accuracy, or completeness of any of the information contained in the Preliminary Official Statement and the Official Statement or any other document used in connection with the offer and sale of the Notes. The Underwriter acknowledges that the Issuer has made no independent investigation and has furnished no information contained in the Preliminary Official Statement and the Official Statement, except the information contained under the captions “THE ISSUER” and “NO LITIGATION – The Issuer.”

(ii) The information in the Preliminary Official Statement, as of its date and the date hereof, and the Official Statement, as of its date and the Closing Date (including any supplements and amendments to the Preliminary Official Statement and the Official Statement) under the captions “ESTIMATED SOURCES AND USES OF FUNDS,” “THE PROJECT AND THE PARTICIPANTS,” “CERTAIN BONDHOLDERS’ RISKS” (but only with respect to those risks that expressly relate to the Borrower, the Project and the private participants) and “NO LITIGATION – The Borrower” did not, does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(e) The Borrower will, at the sole expense of the Borrower, supply to the Underwriter the Official Statement, in such quantity as may be requested by the Underwriter no later than the earlier of (i) seven (7) business days after the date of this Purchase Contract or (ii) one (1) business day prior to the Closing Date, in order to permit the Underwriter to comply with Rule 15c2-12, and the applicable rules of the MSRB, with respect to distribution of the Official Statement.

(f) During the period commencing on the date of this Purchase Contract and ending on the earlier of (a) 90 days from the End of the Underwriting Period or (b) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days following the End of the Underwriting Period (the “Update Period”), if any event shall occur which would cause the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, and in the judgment of the Underwriter or the Issuer, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Issuer (only to the extent of the provisions referred to in Section 2(d)(i) hereof) and the Borrower will, at the sole expense of the Borrower, prepare or cooperate in the preparation of such supplement or amendment to the Official Statement in a form approved by the Underwriter and furnish or cooperate in the furnishing to the Underwriter (at the sole expense of the Borrower) a reasonable number of copies of an amendment of, or a supplement to, the Official Statement so that, as supplemented or amended, it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. If the Official Statement is so supplemented or amended prior to the Closing, the approval by the Underwriter of a supplement or amendment to the Official Statement shall not preclude the Underwriter from thereafter terminating this Purchase Contract in accordance with the provisions of Section 12(c) hereof to the extent that such termination does not stem directly from the event pursuant to which the Official Statement was so supplemented or amended. The “End of the Underwriting Period” means the later of the delivery of the Notes by the Issuer to the Underwriter or when the Underwriter no longer retains (directly or as a syndicate member) an unsold balance of the Notes for sale to the public ; provided, that the “End of the Underwriting Period” shall be deemed to be the Closing Date, unless the Underwriter otherwise notifies the Issuer and the Borrower in writing prior to such date that there is an unsold balance of the Notes, in which case the End of the Underwriting Period shall be deemed to be extended for up to 30 days. The deemed End of the Underwriting Period may be extended for two additional periods of up to 30 days each upon receipt of an additional written notification from the Underwriter containing the same information as required in the initial written notice.

(g) If, during the Update Period, the Issuer becomes aware of any event relating to the information concerning the Issuer under the captions “THE ISSUER” and “LITIGATION – The Issuer” of the Official Statement which would cause such portions of the Official Statement to contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Issuer will promptly notify the Underwriter of such event.

(h) The Issuer shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Issuer, of which the Issuer has actual knowledge, seeking to prohibit, restrain or otherwise affect the use of the Official Statements in connection with the offering, sale or distribution of the Notes.

(i) If, during the Update Period, the Borrower becomes aware of any event which would cause the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Borrower will promptly notify the Underwriter and the Issuer of such event.

(i) The Borrower shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Borrower, of which they receive written

or actual notice, seeking to prohibit, restrain or otherwise affect the use of the Official Statement in connection with the offering, sale or distribution of the Bond.

(j) The Borrower represents and warrants to the Underwriter and the Issuer that neither the Borrower nor any affiliates thereof are in default under any undertakings with respect to continuing disclosure requirements designed to comply with Rule 15c2-12 in connection with any issue of municipal securities.

Section 3. Representations and Warranties of the Issuer.

The Issuer represents and warrants as of the date hereof to the Purchaser and the Borrower as follows:

(a) By its execution hereof, the Issuer represents and warrants to, and agrees with the Purchaser that it is and will be on the Closing Date an official and public agency of the State of Texas (the "State") and has, and at the Closing Date will have, full legal right, power and authority (i) to enter into this Purchase Contract; (ii) to adopt the Resolution and cause the delivery of the Notes to the Purchaser pursuant to the Resolution and the Indenture as provided herein; (iii) to loan the proceeds of the Notes to the Borrower for the purpose set forth in the Official Statement; and (iv) to carry out and consummate the transactions contemplated by the Official Statement and the Issuer Documents.

(b) The Issuer, with respect to the Notes, will at the Closing Date be in compliance in all material respects with the Issuer Documents and the relevant laws of the State;

(c) (i) At or prior to the Closing, the Issuer will have taken all action required to be taken by it to authorize the issuance and sale of the Notes and the performance of its obligations hereunder; (ii) the Issuer has, and at the date of the Closing will have, full legal right, power and authority to enter into this Purchase Contract and the Issuer Documents, each as described in the Official Statement, and, at the Closing Date, will have full legal right, power and authority to deliver the Notes to the Purchaser and to perform its obligations hereunder as provided in this Purchase Contract, the Notes and the Issuer Documents, and all other documents to be executed by the Issuer in accordance with the issuance of the Notes, and to carry out and effectuate the transactions contemplated by this Purchase Contract, the Official Statement, and the Issuer Documents (iii) as of the Closing, the execution and delivery of, and the performance by the Issuer of the obligations contained in the Notes, this Purchase Contract (as of the date hereof) and the Issuer Documents shall have been duly authorized, and when executed this Purchase Contract, and the Issuer Documents (assuming the due authorization, execution and delivery by the other parties thereto) will constitute valid and legally binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors' rights generally and the application of equitable principles where equitable remedies are sought and limitations on the enforcement of judgments against public bodies; (iv) the Issuer has duly authorized the consummation by it of all transactions contemplated by this Purchase Contract; and (v) the Issuer Documents have been duly and validly authorized by the Issuer and will be at Closing in full force and effect;

(d) Between the date hereof and the Closing, the Issuer will not, without notifying the Purchaser in writing, issue any bonds, notes or other obligations for borrowed money on behalf of the Borrower except for such borrowings as may be described in or contemplated by the Official Statement;

(e) To the best of its knowledge, no further consent, approval, authorization or order of, or filing, registration or declaration with, any court or governmental agency or body which shall not have been obtained on or prior to Closing is required for the issuance, delivery or sale of the Notes, or the consummation of the other transactions effected or contemplated herein or hereby except for such actions as may be necessary to be taken to qualify the Notes for offer and sale under the Blue Sky or other securities laws and regulations of such states and jurisdictions of the United States as the Purchaser shall designate;

(f) The Issuer, with respect to the Notes, is not in material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject; and the adoption of the Resolution and the execution and delivery of this Purchase Contract, the Notes, the other Issuer Documents and all other documents to be executed by the Issuer in connection with the issuance of the Notes, and compliance with the provisions of each thereof do not conflict with or constitute a material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree, or any loan agreement, note, resolution, certificate, agreement or other instrument to which the Issuer is a party or is otherwise subject;

(g) The Notes, when delivered and sold to the Purchaser as provided herein, will have been duly authorized and executed and will constitute validly issued and binding limited obligations of the Issuer in conformity with, and entitled to the benefit and security of, the Act, the Resolution and the Issuer Documents;

(h) The Issuer will take no action after the date hereof which would cause the Notes not to conform in all material respects to the description thereof contained in the Official Statement;

(i) The Notes, the Resolution and the Issuer Documents, shall conform to the descriptions thereof contained in the Official Statement;

(j) To the knowledge of the Issuer, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or threatened against the Issuer in any way:

(i) Affecting the organization of the Issuer, or the legal or corporate existence of the Issuer, or the title of the members of the Issuer to their respective offices, or any powers of the Issuer under the laws of the State pursuant to which the Issuer was created;

(ii) Seeking to prohibit, restrain or enjoin the issuance, sale or delivery of the Notes or the collection of revenues from the Borrower derived from payments under the Note Loan Agreement, or the pledge thereof;

(iii) Contesting or affecting the validity or enforceability of the Notes or the Issuer Documents;

(iv) Contesting the power of the Issuer to enter into, execute and deliver the Issuer Documents or to consummate the transactions contemplated by such documents and the Preliminary Official Statement and the Official Statement;

(v) Contesting in any way the completeness or accuracy of the Preliminary Official Statement and the Official Statement or any amendment or supplement thereto (nor to the actual knowledge of the Issuer, is there any basis therefor); or

(vi) Wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Issuer Documents, the financial position or condition of the Issuer or the exclusion from gross income for federal income tax purposes of the interest on the Notes;

(k) Any certificate relating to the issuance and delivery of the Notes signed by an authorized member or officer of the Issuer and delivered to the Purchaser or Trustee at or prior to the Closing Date shall be deemed a representation and warranty by the Issuer in connection with this Purchase Contract to the Purchaser or the Trustee as to the statements made therein; and

(l) The Issuer agrees that all representations, warranties and covenants made by it herein, and in certificates, agreements or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have been relied upon by the Purchaser.

Section 4. Representations, Warranties and Agreements of the Borrower.

The Borrower represents, warrants and agrees with the Purchaser as follows:

(a) The Borrower is duly organized and existing as a limited partnership under the laws of the State, has full legal right, power and authority to own its properties and to conduct its business as described in the Official Statement and to enter into and to carry out and consummate the transactions contemplated by the Borrower Documents and the Official Statement, and is duly qualified to do such business and is in good standing wherever such qualification and/or standing are required, including the State.

(b) By all necessary action, the Borrower has duly authorized and adopted the Borrower Documents and approved the execution and delivery of the Borrower Documents, and the performance by the Borrower of the obligations in connection with the issuance of the Notes on its part contained in the Borrower Documents and the consummation by it of all other transactions contemplated by the Indenture, the Official Statement and the Borrower Documents in connection with the issuance of the Notes.

(c) On the Closing Date, the Borrower Documents will constitute the valid, legal and binding obligations of the Borrower (assuming due authorization, execution and delivery by the respective other parties thereto, where necessary), enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability affecting the enforcement of creditors' rights and to general principles of equity, regardless of whether such enforceability is considered in equity or in law.

(d) As of the date hereof, the Borrower is not in any material respect in violation of, breach of or default under any applicable law of the State or of any state in which the Borrower is authorized to do business or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, which violation or breach of or default would have a material adverse effect upon the transactions

contemplated by this Note Purchase Agreement, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Borrower Documents, and compliance with the provisions on the Borrower's part contained therein, do not and will not conflict with or constitute on the part of the Borrower a violation or breach of or default under any law of the State or of any state in which the Borrower is authorized to do business or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound which violation, breach or default would have a material adverse effect upon the transactions contemplated by this Note Purchase Agreement, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or under the terms of any such law, regulation or instrument, except as provided by the Notes or the Borrower Documents.

(e) All consents, approvals, authorizations, and orders of or filings or registrations with any governmental authority, board, agency or commission of any state or of the United States having jurisdiction required in connection with, or the absence of which would materially adversely affect, the execution and delivery by the Borrower of the Borrower Documents or the performance by the Borrower of its obligations thereunder have been obtained or made and are in full force and effect or will be timely obtained.

(f) As of the date hereof, there is no action, suit, proceeding, inquiry or investigation of which the Borrower has been notified, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower, threatened against the Borrower, affecting the existence of the Borrower or the titles of its officers executing this Note Purchase Agreement to their respective offices, affecting the transaction contemplated by the Official Statement or the exclusion of interest on the Notes from the gross income, for federal income tax purposes, of the owners of the Notes, or contesting or affecting as to the Borrower the validity or enforceability of the Notes, any Borrower Document or the execution and delivery or adoption by the Borrower of any Borrower Document, or in any way contesting or challenging the completeness or accuracy of the Official Statement or the powers of the Borrower or its authority with respect to the Borrower Documents or the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the Borrower, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the Borrower's financial condition or operations or the validity of the authorization, execution, delivery or performance by the Borrower of any Borrower Document.

(g) The Borrower will furnish such information, execute such instruments and take such other action in cooperation with the Purchaser as the Purchaser may reasonably request in order (i) to qualify the Notes for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Purchaser may designate and (ii) to determine the eligibility of the Notes for investment under the laws of such states and other jurisdictions, and will use its best efforts upon the reasonable request of the Purchaser to continue such qualifications in effect so long as required for the distribution of the Notes; provided, however, that the Borrower shall not be required to register as a dealer or broker of securities or execute a general or special consent to service of process or qualify to do business in any jurisdiction where it is not now so subject.

(h) Any certificate signed by the Borrower and delivered to the Purchaser or the Issuer pursuant to the Indenture or the Borrower Documents shall be deemed a representation and warranty by the Borrower to the Purchaser and the Issuer as to the statements made therein as of the date thereof.

(i) The Borrower will not take or omit to take any action, which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes under the Internal Revenue Code of 1986, as amended.

(j) The Borrower shall honor in all material respects all other covenants contained in the Borrower Documents.

(k) All permits, licenses and other authorizations necessary for the ownership, acquisition, construction, and equipping of the Project in the manner contemplated by the Official Statement and the Borrower Documents have been obtained or will be obtained by the time required, and said ownership, acquisition, construction, and equipping are not in material conflict with any zoning or similar ordinance applicable to the Project.

The execution and delivery of this Note Purchase Agreement by the Borrower shall constitute a representation to the Purchaser that the representations and warranties contained in this Section 4 are true as of the date hereof.

Section 5. Indemnification.

(a) The Borrower will indemnify and hold harmless the Issuer and the Underwriter, and each of their officers, directors, employees, agents, officials, members and each person who “controls” (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Issuer and the Underwriter (each referred to individually as an “Indemnified Party” and collectively as the “Indemnified Parties”) against any losses, claims, expenses (including, without limitation, to the extent permitted by law, reasonable attorneys’ fees and expenses actually incurred), damages or liabilities, causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the “Liabilities”), joint or several, to which the Indemnified Parties may be threatened or become subject, caused by or directly or indirectly arising from or in any way relating to (i) the Notes, the Project, the loan of the proceeds of the Notes, this Purchase Contract or any document related to the Notes, the Project or the loan of the proceeds of the Notes or any transaction or agreement, written or oral, pertaining to the foregoing, (ii) any untrue statement or alleged untrue statement of any material fact contained in the Preliminary Official Statement or the Official Statement, or any supplement or amendment thereto, or (iii) any omission or alleged omission to state in the Preliminary Official Statement or the Official Statement a material fact necessary to be stated therein in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. This indemnification provision shall not be construed as a limitation on any other liability which the Borrower may otherwise have to any indemnified person, provided that in no event shall the Borrower be obligated for double indemnification. Notwithstanding the foregoing, the Borrower shall not be required to indemnify an Indemnified Party for the gross negligence or willful misconduct of such Indemnified Party.

(b) The indemnity agreements in Section 5(a) hereof shall be in addition to any liability which the Borrower may otherwise have hereunder or under the other Borrower Documents, and shall extend on the same terms and conditions to each member, principal, official, officer, attorney

or employee of the Borrower and to each person, if any, who “controls” (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Borrower.

(c) Promptly after receipt by an Indemnified Party under Section 5(a) hereof of notice of the commencement of any action against such Indemnified Party in respect of which indemnity or reimbursement may be sought against the Borrower under any such paragraph, such Indemnified Party will notify the Borrower in writing of the commencement thereof; provided that any delay or failure to give such notification shall be of no effect except to the extent that the Borrower is prejudiced thereby.

(d) In case any action, claim or proceeding, as to which the Borrower is to provide indemnification hereunder, shall be brought against the Indemnified Party and the Indemnified Party notifies the Borrower of the commencement thereof, the Borrower may, or if so requested by the Indemnified Party shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to the Indemnified Party; provided that, except as provided below, the Borrower shall not be liable for the expenses of more than one separate counsel representing the Indemnified Parties in the action, claim or proceeding.

(e) If the Borrower shall not have employed counsel to have charge of the defense of the action, claim or proceeding, or if any Indemnified Party shall have concluded reasonably that there may be a defense available to it or to any other Indemnified Party which is different from or in addition to those available to the Borrower or to any other Indemnified Party (hereinafter referred to as a “separate defense”), (i) the Borrower shall not have the right to direct the defense of the action, claim or proceeding on behalf of the Indemnified Party, and (ii) reasonable legal and other expenses incurred by the Indemnified Party (including without limitation, to the extent permitted by law, reasonable attorney’s fees and expenses actually incurred) shall be borne by the Borrower; provided, that the Borrower shall not be liable for the expenses of more than one additional separate counsel for each Indemnified Party with respect to such separate defenses. For the purpose of this paragraph, an Indemnified Party shall be deemed to have concluded reasonably that a separate defense is available to it or any other Indemnified Party if (a) such Indemnified Party shall have requested an unqualified written opinion from Independent Counsel to the effect that a separate defense exists, and such Independent Counsel shall have delivered such opinion to the Indemnified Party within ten (10) days after such request or (b) the Borrower agrees that a separate defense is so available. For purposes of this paragraph, Independent Counsel shall mean any attorney, or firm or association of attorneys, duly admitted to practice law before the supreme court of any state and not a full-time employee of any Indemnified Party. Nothing contained in this Section 5(e) will preclude any Indemnified Party, at its own expense, from retaining additional counsel to represent such party in any action with respect to which indemnity may be sought from the Borrower hereunder.

(f) The Borrower agrees to reimburse any Indemnified Party for any reasonable expense (including reasonable fees and expenses of counsel) incurred as a result of producing documents, presenting testimony or evidence, or preparing to present testimony or evidence (based upon time expended by an Indemnified Party at its then current time charges), in connection with any court or administrative proceeding (including any investigation which may be preliminary thereto) arising out of or relating to any public distribution of the Notes. The Borrower will not be required to reimburse an Indemnified Party if such court or administrative hearing arises out of the gross negligence of, willful misconduct or breach of, this Purchase Contract by such Indemnified Party.

(g) In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in Section 5(a) or 5(b) hereof is for any reason held to be unavailable, the Borrower and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to

which the Borrower and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Notes bears to the aggregate offering price of the Notes, with the Borrower responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any amount in excess of the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Notes; and provided, further, that the foregoing limitation on an Indemnified Party's liability or responsibility shall not be applicable to an Indemnified Party if the indemnity provided for in Section 5(a) or 5(b) hereof is unavailable or inapplicable due to the gross negligence or willful misconduct of such Indemnified Party.

(h) The Indemnified Parties, other than the Underwriter and the Issuer, shall be considered to be third-party beneficiaries of this Purchase Contract for purposes of this Section 5. The provisions of this Section 5 will be in addition to all liability which the Borrower may otherwise have and shall survive any termination and cancellation of this Purchase Contract, the offering and sale of the Notes and the payment or provisions for payment of the Notes.

Section 6. Closing.

At 11:00 a.m., Central time, on May __, 2020, or at such time on such earlier or later date as shall be agreed upon in writing by the Issuer, the Borrower and the Purchaser, the Issuer shall direct the Trustee to deliver the Notes to the Purchaser through the facilities of The Depository Trust Company ("DTC"), New York, New York, in definitive form, duly executed and authenticated by the Trustee. Subject to the terms and conditions hereof, the Issuer shall deliver at the Issuer's offices the other documents and instruments to be delivered pursuant to this Note Purchase Agreement (the "Closing Documents") and the Purchaser shall accept delivery of the Notes and Closing Documents and pay the purchase price for the Notes by wire transfer, to the Trustee, in immediately available federal funds, for the account of the Issuer or as the Issuer shall direct. As a condition precedent to such acceptance, the Purchaser shall have received the Underwriting Fee by wire transfer in immediately available federal funds to the order of the Purchaser, in such manner as shall be agreed upon by the Borrower and the Purchaser (but in no event shall such fee be netted against the purchase price of the Notes). This delivery and payment is herein called the "Closing" and the date on which the Closing occurs is herein called the "Closing Date."

Section 7. Closing Conditions.

The Purchaser has entered into this Note Purchase Agreement in reliance upon representations, warranties and agreements of the Issuer and the Borrower contained herein, in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer and the Borrower of their obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Purchaser's obligations under this Note Purchase Agreement to purchase, to accept delivery of and to pay for the Notes shall be subject to the performance by the Issuer and the Borrower of their obligations to be performed by them hereunder at or prior to the Closing, and to the accuracy of the representations and warranties of the Issuer and of the Borrower contained herein as of the date hereof and as of the Closing as if made on the Closing Date, and shall also be subject to the following additional conditions:

(a) At the time of the Closing, the Resolution shall have been duly approved and adopted by the Issuer and shall be in full force and effect and the Issuer Documents shall have been duly authorized, executed and delivered, and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Purchaser and there shall have been taken in connection therewith and in connection with the issuance of the Notes all such actions as, in the

opinion of Bond Counsel and counsel for the Purchaser, shall be necessary and appropriate in connection with the transactions contemplated hereby.

(b) The Purchaser may terminate this Note Purchase Agreement by notification to the Issuer and the Borrower if at any time subsequent to the date hereof and at or prior to the Closing:

(i) Legislation with an effective date before the Closing Date shall have been enacted by the Congress, or recommended to the Congress for passage by the President of the United States of America or the Department of the Treasury of the United States or the Internal Revenue Service or any member of the United States Congress, or favorably reported for passage to either House of the Congress by any Committee of such House to which such legislation has been referred for consideration, or (ii) a decision shall have been rendered by a court established under Article III of the Constitution of the United States, or the United States Tax Court, or (iii) an order, ruling, regulation (final, temporary, or proposed) or communication (including a press release) shall have been issued by the Department of the Treasury of the United States or the Internal Revenue Service or any other governmental agency, in each case referred to in clauses (i), (ii) and (iii), with the purpose or effect, directly or indirectly, of imposing federal income taxation upon interest to be received on obligations of the general character of the Notes.

(ii) Legislation shall have been enacted or a decision by a court of the United States of America shall be rendered or any action taken by the Securities and Exchange Commission or any other governmental agency which, in the opinion of counsel to the Purchaser, has the effect of requiring the offer or sale of the Notes to be registered under the Securities Act of 1933, as amended, or the Indenture to be qualified under the Trust Indenture Act of 1939, as amended, or any event shall have occurred that, in the judgment of the Purchaser, makes untrue or incorrect in any material respect any statement or information contained in the Official Statement or that, in the judgment of the Purchaser, should be reflected therein in order to make the statements contained therein, in light of the circumstances under which they are made, not misleading, and the Official Statement shall not have been supplemented or amended to reflect such event.

(iii) In the judgment of the Purchaser, the marketability of the Notes or the market price of the Notes is adversely affected because: (A) additional material restrictions not in force as of this date shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; (B) the New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose, as to the Notes or similar obligations, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Purchaser; (C) a general banking moratorium shall have been established by federal, New York or State authorities; (D) a state, national or international calamity or crisis in the financial markets shall have occurred, or any conflict involving the armed forces of the United States of America shall have escalated to such a magnitude as to materially affect the ability of the Purchaser to market the Notes; (E) an amendment to the Constitution of the United States or the Constitution of the State shall have been ratified; (F) any federal or state legislation is proposed, introduced or enacted; (G) any decision of any federal or state court shall have been delivered; (H) any ruling or regulation (final, temporary or proposed) of the Treasury Department of the United States, the Internal Revenue Service or other federal or State authority shall have been issued or promulgated; or (i) any bill shall have been favorably reported out of committee in either House of the Congress of the United States, in any case affecting the tax status of the Issuer, its property or income, its outstanding securities (including the Notes), or the interest thereon, or any tax exemption granted or authorized by the Act; (ii) any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance or sale of the Notes or in any

way contesting or affecting any authority or security for or the validity of the Notes, or the existence or powers of the Issuer; (iii) legislation shall have been introduced in or enacted by the Legislature of the State with the purpose or effect, directly or indirectly, of imposing State income taxation upon interest to be received by any owners of the Notes or that would, in the reasonable judgment of the Purchaser, adversely affect an investment in or the security pledged for the Notes; (iv) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission has been issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Notes is in violation of any provisions of the Securities Act of 1933, as amended, or of the Trust Indenture Act of 1939, as amended; or (v) in the Congress of the United States, legislation has been enacted or a bill has been favorably reported out of committee to either House, or a decision by a court of the United States of America is rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter is made, to the effect that outstanding securities of the Issuer or of any similar public body are not exempt from the registration, qualification or other requirements of the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended.

(iv) There shall have occurred any change that, in the reasonable judgment of the Purchaser, makes unreasonable or unreliable any of the assumptions upon which: (i) yield on the Notes for purposes of compliance with the Code, (ii) payment of debt service on the Notes, or (iii) the basis for the exclusion from gross income for federal income tax purposes of interest on the Notes, is predicated.

(v) The marketability of the Notes or the market price thereof, in the opinion of the Purchaser, has been materially and adversely affected by disruptive events, occurrences or conditions in the securities or debt markets.

(vi) There shall have occurred or any notice shall have been given of any intended downgrading, suspension, withdrawal or negative change in credit watch status by any national rating service to the Notes or any of the Borrower's obligations.

(vii) Any state blue sky or securities commission or other governmental agency or body shall have withheld registration, exemption or clearance of the offering of the Notes as described herein, or issued a stop order or similar ruling relating thereto.

(viii) A general suspension of trading in securities on the New York Stock Exchange or the American Stock Exchange, or the establishment of minimum prices on either such exchange.

(ix) Any amendment to the federal or State Constitution or action by any federal or state court, legislative body, regulatory body, or other authority materially adversely affecting the tax status of the Issuer, its property, or income securities (or interest thereon).

(x) Any event occurring, or information becoming known which, in the judgment of the Purchaser, makes untrue in any material respect any statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(xi) There shall have occurred since the date of this Note Purchase Agreement any materially adverse change in the affairs or financial condition of the Borrower.

(xii) The United States of America shall have become engaged in hostilities which have resulted in a declaration of war or a national emergency or there shall have occurred any other outbreak or escalation of hostilities or a national or international calamity or crisis, or escalation thereof, financial or otherwise.

(xiii) Any fact or event shall exist or have existed that, in the Purchaser's judgment, requires or has required an amendment of or supplement to the Official Statement.

(c) At or prior to the Closing, the Purchaser shall receive the following documents:

(i) an approving opinion of Bond Counsel addressed to the Issuer, dated the Closing Date substantially in the form attached to the Official Statement, and a reliance letter of such counsel dated the Closing Date and addressed to the Purchaser;

(ii) opinions or certificates, as the case may be, dated the Closing Date and addressed to the Purchaser and to such other parties as may be appropriate, of

(A) Bond Counsel, substantially in the form attached hereto as Appendix A;

(B) Borrower's Counsel, substantially in the form attached hereto as Appendix B; and

(C) Counsel to the Trustee, in form and substance satisfactory to the Purchaser.

(d) The Purchaser shall have received an opinion of its counsel in a form satisfactory to the Purchaser.

(e) The Purchaser shall have received certificates, dated the Closing Date, and signed on behalf of the Issuer, to the effect that the representations and warranties of the Issuer contained in this Note Purchase Agreement and the Issuer Documents are true and correct in all material respects on the date thereof with the same effect as if made on the date thereof; to the Issuer's knowledge, no event has occurred since the date of the Official Statement to cause the information in the Official Statement under the captions "THE ISSUER" and "NO LITIGATION – The Issuer" to contain an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made, not misleading; and that the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied under the Notes and the Issuer Documents at or prior to the date thereof.

(f) The Purchaser shall have received a certificate of the Borrower, dated the Closing Date, that (A) each of the representations and warranties set forth in the Borrower Documents (including this Note Purchase Agreement) is true and correct in all material respects on the Closing Date with the same effect as if made on the Closing Date, (B) to the Borrower's knowledge, no event has occurred since the date of the Official Statement to cause the information in the Official Statement under the captions "ESTIMATED SOURCES AND USES OF FUNDS," "THE PROJECT AND THE PARTICIPANTS," "CERTAIN BONDHOLDERS' RISKS" and "NO LITIGATION – The Borrower" to contain an untrue statement of a material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they are made,

not misleading, and (C) the Borrower has complied with all agreements and satisfied all the conditions on its part to be performed or satisfied under the Borrower Documents at or prior to the Closing Date.

(g) The Purchaser shall have received counterpart originals or certified copies of each of the Issuer Documents, Borrower Documents and Trustee Documents.

(h) The Purchaser shall have received written evidence satisfactory to the Purchaser that Moody's Investors Service, Inc. has issued a rating of "Aaa/VMIG 1" for the Notes, which rating has not been placed under review or on "Credit Alert" with negative implications or a similar credit alert by a national rating service and such rating shall be in effect on the Closing Date.

(i) The Purchaser and Bond Counsel shall have received a tax certificate of the Issuer and the Borrower, dated the Closing Date, with respect to the facts, estimates and circumstances and reasonable expectations pertaining to Section 148 of the Code to support the conclusion that, among other things, none of the Notes will be an "arbitrage bond."

(j) The Purchaser shall have received a closing certificate from the Trustee in a form acceptable to the Purchaser.

(k) The Purchaser shall have received such agreements, certificates and opinions as requested by the Purchaser to evidence the closing of the Loan.

(l) The Purchaser shall have received an opinion of the Attorney General of the State approving the Notes and a certificate of registration of the Notes by the Comptroller of Public Accounts of the State.

(m) The Purchaser shall have received such additional legal opinions, certificates (including any certificates necessary or desirable in order to establish the exclusion of the interest on the Notes from gross income for federal income tax purposes), instruments and other documents as the Purchaser may reasonably request to evidence the truth and accuracy, as of the Closing Date, of the Issuer's representations herein and in the Official Statement and the due performance or satisfaction by the Issuer at or prior to such date of all agreements then to be performed, and all conditions then to be satisfied by the Issuer.

If the obligations of the Purchaser shall be terminated for any reason permitted by this Note Purchase Agreement, neither the Purchaser nor the Issuer shall be under further obligation hereunder.

Section 8. Expenses.

The Purchaser shall be under no obligation to pay, and the Borrower hereby agrees to pay, all expenses incident to the performance of the Issuer's obligations hereunder, including, but not limited to, (a) the costs of printing and preparation for printing or other reproduction for distribution and use in connection with the offering and placement of the Notes, such number of copies as the Purchaser shall require of the Indenture, the Resolution and the Official Statement, as well as any delivery costs incurred in connection with the distribution of the foregoing documents; (b) the cost of preparing the definitive Notes; (c) the fees and disbursements of Bond Counsel in connection with the authorization and issuance of the Notes; the fees and expenses of the Trustee and its counsel; the fees and expenses of the Issuer and its counsel; and the fees and disbursements of any other experts or consultants retained by the Issuer; (d) the fees of any rating agencies in connection with the rating of the Notes; (e) all advertising expenses in connection with the public offering of the Notes; (f) the fees and expenses of counsel to the Purchaser;

and (g) all other expenses in connection with the offer, sale and placement of the Notes. The Borrower shall also pay for any expenses (included in the expense component of the Purchaser's discount) incurred by the Purchaser which are incidental to implementing this Note Purchase Agreement and the issuance of the Notes, including, but not limited to, meals, transportation and lodging, if any, and any other miscellaneous closing costs. The Borrower acknowledges it had an opportunity, in consultation with such advisors as it deemed appropriate, if any, to evaluate and consider the fees and expenses being incurred as part of the issuance of the Notes.

The Issuer shall not have any obligation to pay any fees, expenses or costs associated with or resulting from the issuance and delivery of the Notes.

The Borrower acknowledges that the Purchaser will pay from the Purchaser's expense allocation of the underwriting discount the applicable per note assessment charged by the Municipal Advisory Council of Texas, a non-profit corporation whose purpose is to collect, maintain and distribute information relating to issuing entities of municipal securities. An employee of the Purchaser serves on the Board of the Municipal Advisory Council of Texas.

Section 9. Notices.

Any notice or other communication to be given to the Issuer or the Borrower at the respective addresses set forth on the first page hereof and any such notice or other communication to be given to the Purchaser may be given by mailing the same to RBC Capital Markets, LLC, 100 2nd Avenue South, Suite 800, St. Petersburg, Florida 33701, Attention: Ms. Helen H. Feinberg.

Section 10. Parties in Interest.

This Note Purchase Agreement is made solely for the benefit of the Issuer, the Borrower and the Purchaser (including any successor or assignees of the Purchaser), and, except as provided in Section 5 hereof, no other party or person shall acquire or have any right hereunder or by virtue hereof.

Section 11. Amendments.

This Note Purchase Agreement may not be amended without the written consent of the Issuer, the Borrower and the Purchaser.

Section 12. Survival of Representations and Warranties.

The representations and warranties of the Issuer and the Borrower shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of any investigations made by or on behalf of the Purchaser (or statements as to the results of such investigations) concerning such representations and statements of the Issuer and the Borrower and regardless of delivery of and payment for the Notes.

Section 13. Execution in Counterparts.

This Note Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 14. No Prior Agreements.

This Note Purchase Agreement supersedes and replaces all prior negotiations, agreements and understandings between the parties hereto in relation to the sale of Notes for the Issuer.

Section 15. Effective Date.

This Note Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the Issuer and the Borrower and shall be valid and enforceable as of the time of such acceptance.

Section 16. Governing Law.

This Note Purchase Agreement shall be governed by the internal laws of the State without giving effect to the conflict of law principles of the State.

Section 17. Purchaser Not Acting as Advisor or Fiduciary.

The Issuer and the Borrower each acknowledge and agree that (i) the purchase and sale of the Notes pursuant to this Note Purchase Agreement is an arm's-length commercial transaction among the Issuer, the Borrower, and the Purchaser, (ii) in connection therewith and with the discussions, undertaking and procedures leading up to the consummation of such transaction, the Purchaser is and has been acting solely as a principal and is not acting as the agent, advisor, or fiduciary of the Issuer or the Borrower, (iii) the Purchaser has not assumed an advisory or fiduciary responsibility in favor of the Issuer or the Borrower with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Purchaser has provided other services or is currently providing other services to the Issuer or the Borrower on other matters) and the Purchaser has no obligation to the Issuer or the Borrower with respect to the offering contemplated hereby except the obligations expressly set forth in this Note Purchase Agreement and (iv) the Issuer and the Borrower have consulted their own legal, financial and other advisors to the extent they deem appropriate.

Section 18. Establishment of Issue Price.

Notwithstanding any provision of this Note Purchase Agreement to the contrary, the following provisions related to the establishment of the issue price of the Notes apply:

(a) *Definitions.* For purposes of this Section, the following definitions apply:

(i) "Public" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than a Tax Law Underwriter or a Related Party to a Tax Law Underwriter.

(ii) "Related Party" means any two or more persons who are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profits interests of the partnership, as applicable, if one entity is a corporation and the other entity is a

partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(iii) “Sale Date” means the date of execution of this Note Purchase Agreement by all parties.

(iv) “Tax Law Underwriter” means, with respect to each Issue of the Notes, (A) any person that agrees pursuant to a written contract with the Issuer to participate in the initial sale of such Issue of the Notes to the Public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of such Issue of the Notes to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Notes to the Public).

(b) *Issue Price Certificate.* The Underwriter agrees to assist the Issuer in establishing the issue price of the Notes and to execute and deliver to the Issuer at Closing an “issue price” or similar certificate relating to each Issue of the Notes, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit C, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Issuer and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the Public of the Notes (the “Issue Price Certificate”).

(c) *Public Offering.* The Underwriter confirms that, on the Sale Date, the Underwriter offered each Issue of the Notes to the Public at the offering price or prices (each, an “Initial Offering Price”), or at the corresponding yield or yields, set forth in Section I hereto.

(d) *10% Test.* Except as set forth in the Issue Price Certificate, the Issuer will determine the issue price of the Notes based on the first price at which 10% of the Notes is sold to the Public (the “10% Test”) (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% Test). The Issue Price Certificate will confirm if the issue price will be the applicable Initial Offering Price because the 10% Test was satisfied as of the Sale Date.

(e) *Hold-The-Offering-Price Rule.* The Issue Price Certificate will confirm if the 10% Test was not satisfied as of the Sale Date and, if such is the case, the Issuer and the Underwriter agree that the restrictions in the next sentence will apply, which will allow the Issuer to treat the Initial Offering Price to the Public of each the Notes as the issue price of the Notes (the “Hold-the-Offering-Price Rule”). If the 10% Test was not satisfied as of the Sale Date, the Underwriter will neither offer nor sell unsold Notes to any person at a price that is higher than the applicable Initial Offering Price of the Notes during the period starting on the Sale Date and ending on the earlier of the following:

(i) the close of the fifth business day after the Sale Date; or

(ii) the date on which the Tax Law Underwriters have sold at least 10% of the Notes to the Public at a price that is no higher than the Initial Offering Price of the Notes.

The Underwriter will promptly advise the Issuer when the Tax Law Underwriters have sold 10% the Notes to the Public at a price that is no higher than the applicable Initial Offering

Price of the Notes, if that occurs prior to the close of the fifth business day after the Sale Date. On or after the sixth business day after the Sale Date, if requested by the Issuer or Bond Counsel, the Underwriter also will promptly confirm that the Tax Law Underwriters have complied with the Hold-the-Offering-Price Rule. If at any time the Underwriter becomes aware of any noncompliance by a Tax Law Underwriter with respect to the Hold-the-Offering-Price Rule, the Underwriter will promptly report such noncompliance to the Issuer.

The Issuer acknowledges that, in making the representation that the Underwriter will comply with the Hold-the-Offering-Price Rule with respect to any Held Notes of an Issue of the Notes, the Underwriter is relying on (A) in the event a selling group has been created in connection with the sale of the Issue of the Notes to the Public, the agreement of each dealer who is a member of the selling group to comply with the Hold-the-Offering-Price Rule, as set forth in a selling group agreement and the related pricing wires, and (B) in the event that an Underwriter is a party to a third-party distribution agreement that was employed in connection with the sale of an issue of the Notes, the agreement of each broker-dealer that is a party to such agreement to comply with the Hold-the-Offering-Price Rule, as set forth in the third-party distribution agreement and the related pricing wires. The Issuer further acknowledges that each Tax Law Underwriter will be solely liable for its failure to comply with its agreement regarding the Hold-the-Offering-Price Rule and that no Tax Law Underwriter will be liable for the failure of any other Tax Law Underwriter to comply with its corresponding agreement regarding the Hold-the-Offering-Price Rule as applicable to an Issue of the Notes.

(f) *Matters Relating to Certain Agreements.* The Underwriter confirms that:

(i) any selling group agreement and each third-party distribution agreement to which the Underwriter is a party relating to the initial sale of the Notes to the Public, together with related pricing wires, contains or will contain language obligating the Underwriter, each dealer who is a member of any selling group, and each broker-dealer that is a party to any such third-party distribution agreement, as applicable:

(A) to comply with the Hold-the-Offering-Price Rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the relating pricing wire;

(B) to promptly notify the Underwriter of any sales of Notes that, to its knowledge, are made to a purchaser who is a Related Party to a Tax Law Underwriter participating in the initial sale of the Notes to the Public; and

(C) to acknowledge that, unless otherwise advised by the dealer or broker-dealer, the Underwriter will assume that each order submitted by the dealer or broker-dealer is a sale to the Public.

(ii) any selling group agreement relating to the initial sale of the Notes to the Public, together with related pricing wires, contains or will contain language obligating each dealer that is a party to any third-party distribution agreement to be employed in connection with the initial sale of the Notes to the public to require each broker-dealer that is a party to such third-party distribution agreement comply with the Hold-the-Offering Price Rule, if applicable, in each case if and for so long as directed by the Underwriter or the dealer and as set forth in the related pricing wires.

(g) *Sale to Related Party not a Sale to the Public.* The Underwriter acknowledges that sales of any Notes to any person that is a Related Party to a Tax Law Underwriter do not constitute sales to the Public for purposes of this Section.

Section 19. Compliance with Texas Government Code.

The Underwriter hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Note Purchase Agreement is a contract for goods or services, will not boycott Israel during the term of this Note Purchase Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Underwriter understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Underwriter and exists to make a profit.

The Underwriter represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,

<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Underwriter and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Underwriter understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Underwriter and exists to make a profit.

[Remainder of Page Intentionally Left Blank]

If the foregoing is in accordance with your understanding of the Note Purchase Agreement please sign and return to us the enclosed duplicate copies hereof, whereupon it will become a binding agreement among the Issuer, the Borrower and the Purchaser in accordance with its terms.

Very truly yours,

RBC CAPITAL MARKETS, LLC

By: _____
Helen H. Feinberg, Managing Director

[Signatures continue on next page]

[Issuer's Signature Page to the Note Purchase Agreement]

ACCEPTED at Dallas, Texas _____ .m. Central time this ____ day of _____, 2020.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: _____
Leslie Bingham, Vice Chair

[Signatures continue on next page]

[Borrower's Signature Page to the Note Purchase Agreement]

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

APPENDIX A

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

_____, 2020

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

RBC Capital Markets, LLC
100 2nd Avenue South, Suite 800
St. Petersburg, Florida 33701

Re: Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes
(Scott Street Lofts) Series 2020

Ladies and Gentlemen:

We have represented the Texas Department of Housing and Community Affairs (the “Issuer”) in connection with the issuance of the Issuer’s Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”) pursuant to a Trust Indenture dated as of June 1, 2020 (the “Indenture”), between the Issuer and Wilmington Trust, National Association, as trustee (the “Trustee”). The Notes bear interest, mature on the date, and are subject to optional redemption and mandatory tender prior to maturity as provided in the Indenture. Capitalized terms used herein and not otherwise defined are used with the meanings assigned to such terms in the Indenture, in the Loan Agreement dated as of June 1, 2020 (the “Note Loan Agreement”), between the Issuer and Scott Street Lofts, LP, a Texas limited partnership (the “Borrower”), or in the Regulatory and Land Use Restriction Agreement dated as of June 1, 2020 (the “Regulatory Agreement”), among the Issuer, the Trustee and the Borrower.

This opinion is rendered pursuant to Section 7(c)(ii)(A) of the Note Purchase Agreement dated _____, 2020 (the “Note Purchase Agreement”), among the Issuer, the Borrower and RBC Capital Markets LLC, as underwriter. In connection therewith, we have examined and are familiar with (i) certified or original executed counterparts of the documents referred to in our opinion of even date herewith relating to the Notes, and the Official Statement relating to the Notes (the “Official Statement”) and (ii) such other documents, instruments, certificates and opinions as we have deemed necessary to enable us to render this opinion.

You have authorized us to assume without independent verification (i) the genuineness of certificates, records and other documents (collectively, “documents”) submitted to us and the accuracy and completeness of the statements contained therein; (ii) the due authorization, execution and delivery of the documents described above by the parties thereto; (iii) that all documents submitted to us as originals are accurate and complete; (iv) that all documents submitted to us as copies are true and correct copies of the originals thereof; and (v) that all information submitted to us and on which we have relied was accurate and complete.

Based on said examination, and subject to the assumptions, qualifications and limitations set forth herein, it is our opinion that, under existing laws, the Notes may be offered and sold without registration

under the Securities Act of 1933, as amended, and the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended.

We have reviewed the statements appearing in the Preliminary Official Statement, as of its date and the date of the Bond Purchase Agreement, and the Official Statement, as of its date and the date hereof under the captions “SECURITY FOR THE NOTES,” “THE NOTES,” “TAX MATTERS,” “APPENDIX A – Definitions” and “APPENDIX B – Document Summaries.” Such statements, insofar as they purport to summarize certain provisions of the Notes, the Indenture, the Note Loan Agreement, the Regulatory Agreement and certain aspects of our firm’s opinion relating to the federal tax implications with respect to the Notes, present a fair and accurate summary of such matters. Other than as set forth above, we were not requested to participate in and did not take part in the preparation of any information in the Preliminary Official Statement and the Official Statement and do not assume responsibility with respect thereto.

In rendering this opinion, we have relied upon the opinions and certificates delivered pursuant to the Note Purchase Agreement.

The opinions expressed above are expressed only insofar as the laws of the State of Texas and the United States of America may be applicable. This opinion speaks only as of its date and only in connection with the Notes and may not be applied to any other transaction. The opinions set forth above are based on existing law, which is subject to change. Such opinions are further based on our knowledge of facts as of the date hereof. We assume no duty to update or supplement these opinions to reflect any facts or circumstances that may hereafter come to our attention or to reflect any changes in law that may hereafter occur or become effective. Further, this opinion is furnished by us solely to the addressees, and is solely for your benefit, and no one else is entitled to rely upon this opinion. The addressees hereof are hereby authorized to rely on our Bond Counsel opinion of even date herewith as if such opinion were addressed to them.

Very truly yours,

APPENDIX B

BORROWER'S COUNSEL OPINION

RBC Capital Markets, LLC
100 2nd Avenue South, Suite 800
St. Petersburg, Florida 33701

Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248

Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711

\$18,000,000
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020

[After appropriate introductory language, the opinion shall state substantially as follows:]

1. The Borrower is a limited partnership, duly organized, validly existing and in good standing under the laws of the State of Texas and has all requisite limited partnership power and all material government licenses, authorizations, consents and approvals necessary to own and operate its property and conduct its business. The Borrower is qualified to do business in the State of Texas.

2. The Borrower has full legal right, power and authority (a) to own its properties and conduct its business as described in the Official Statement and (b) to enter into and to carry out and consummate the transactions contemplated by the Borrower Documents.

3. The General Partner is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Texas and has all requisite limited liability company power and all material government licenses, authorizations, consents and approvals necessary to own and operate its property and conduct its business. The General Partner is qualified to do business in the State of Texas.

4. By all necessary action, the Borrower has duly authorized and adopted the Borrower Documents, and approved the execution and delivery of, and the performance by the Borrower of the obligations in connection with the issuance of the Notes on its part contained in the Notes and the Borrower Documents and the consummation by it of all other transactions contemplated by the Indenture and the Borrower Documents in connection with the issuance of the Notes. The individual who has executed the Borrower Documents on behalf of the General Partner of the Borrower has the authority to bind the General Partner and thereby the Borrower to the terms and conditions of the Borrower Documents.

5. The Borrower Documents have been duly executed and delivered by the Borrower and, assuming the due authorization, execution and delivery of such agreements by the respective other parties thereto where necessary, if any, constitute legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability affecting the enforcement of creditors' rights and to general principles of equity, regardless of whether such enforceability is considered in equity or in law.

6. The execution and delivery of the Borrower Documents, the performance by Borrower of its obligations thereunder and the consummation of the transactions contemplated therein are within the organizational powers of Borrower and will not (i) conflict with or constitute a breach of the Borrower's organizational documents; (ii) to our knowledge, constitute a default under any indenture, mortgage, deed of trust or other material lien, lease, contract, note, order, judgment, decree or other material agreement, instrument or restriction of any kind to which Borrower is a party or by which any of its properties are bound or affected; or (iii) result in a violation of any constitutional or statutory provision or any material order, rule, regulation, decree or ordinance of any court, government or governmental authority known to us to be applicable to over the Borrower or its property.

7. To the best of our knowledge after due and diligent inquiry, as of the Closing Date, the Borrower is not in any material respect in violation of, breach of or default under any applicable constitutional provision or law of any state or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note, agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Notes and the Borrower Documents, and compliance with the provisions on the Borrower's part contained therein, do not and will not conflict with, or constitute on the part of the Borrower a violation of, breach of or default under, any applicable constitutional provision or law of any state or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note, agreement or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or under the terms of any such law, regulation or instrument, except as provided by the Notes or the Borrower Documents.

8. As of the Closing Date, all consents, approvals, authorizations, and orders of or filings or registrations with any governmental authority, board, agency or issuer of any state or of the United States having jurisdiction required in connection with, or the absence of which would materially adversely affect, the execution and delivery by the Borrower of the Borrower Documents or the performance by the Borrower of its obligations thereunder have been obtained or made and are in full force and effect.

9. To the best of our knowledge after due and diligent inquiry, as of the Closing Date, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best of our knowledge, threatened against the Borrower, affecting the existence of the Borrower or the titles of its officers to their respective offices, or contesting or affecting as to the Borrower the validity or enforceability of the Act, the Notes, any Borrower Document or the execution and delivery or adoption by the Borrower of any Borrower Document, or in any way contesting or challenging the completeness or accuracy of the Preliminary Official Statement or the Official Statement or the powers of the Borrower or its authority with respect to the Borrower Documents or the consummation of the transactions contemplated thereby; nor, to the best of our knowledge, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the financial condition or operations of the Borrower or the validity of the authorization, execution, delivery or performance by the Borrower of any Borrower Document.

10. Nothing has come to our attention that would lead us to believe that the statements and information contained in the Preliminary Official Statement, as of its date and the date of the Bond Purchase Agreement, and the Official Statement, as of its date and the date hereof, under the headings “ESTIMATED SOURCES AND USES OF FUNDS,” “THE PROJECT AND THE PARTICIPANTS,” “CERTAIN BONDHOLDERS’ RISKS” (but only with respect to those risks that expressly relate to the Borrower, the Project and the private participants) and “NO LITIGATION—The Borrower” (except as to the statistical and financial data included in the Official Statement with respect to which we do not express any opinion), contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Very truly yours,

APPENDIX C

\$18,000,000
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING REVENUE NOTES
(SCOTT STREET LOFTS)
SERIES 2020

ISSUE PRICE CERTIFICATE

I, the undersigned officer of RBC Capital Markets, LLC (the “Purchaser”), make this certification in connection with the \$18,000,000 Multifamily Housing Revenue Notes (Scott Street Lofts), Series 2020 (the “Notes”). Each capitalized term used but not defined herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Certificate and Agreement prepared in connection with the Notes (the “Tax Exemption Agreement”).

1. I hereby certify as follows in good faith as of the Issue Date of the Notes:

(a) I am the duly chosen, qualified and acting officer of the Purchaser for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Purchaser. I am the officer of the Purchaser charged, along with other officers of the Purchaser, with responsibility for the Notes.

(b) For the Notes maturing on July 1, 2040, the first price at which at least 10% of each maturity was sold to the Public is the price for each such maturity set forth on the cover of the Official Statement prepared in connection with the Notes (each, an “Actual Sales Price”).

(c) The aggregate of the Actual Sales Prices is \$18,000,000.

2. For purposes of this Issue Price Certificate, the following definitions apply:

(a) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(b) “Related Party” means any two or more persons who are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(c) “Sale Date” means the first day on which there is a binding contract in writing for the sale or exchange of the Notes. The Sale Date of the Notes is _____, 2020.

(d) “Underwriter” means (i) any person that agrees pursuant to a written contract with the Issuer to participate in the initial sale of the Notes to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this definition to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Notes to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser's interpretation of any laws, including specifically sections 103 and 148 of the Internal Revenue Code. The undersigned understands that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Exemption Agreement and with respect to compliance with the federal income tax rules affecting the Notes, and by Bracewell LLP in connection with rendering its opinion that the interest on the Notes is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038, and other federal income tax advice it may give to the Issuer from time to time relating to the Notes.

[EXECUTION PAGE FOLLOWS]

[Underwriter's Signature Page to the Issue Price Certificate]

EXECUTED as of this _____ day of _____, 2020.

RBC CAPITAL MARKETS, LLC

By: _____
Helen H. Feinberg, Managing Director

ATTACHMENT I TO ISSUE PRICE CERTIFICATE

FINAL PRICING WIRE

[See Attached]

**NEW ISSUE/BOOK-ENTRY ONLY EXPECTED RATING: Moody's: "Aaa/VMIG 1"
(See "RATING" herein)**

In the opinion of Bracewell LLP ("Bond Counsel"), assuming compliance with certain covenants and based on certain representations, under existing law (i) interest on the Notes is excludable from gross income for federal income tax purposes, except with respect to interest on any Note for any period during which such note is held by a person who is a "substantial user" of the Project or a "related person" of such a "substantial user" within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended and (ii) interest on the Notes is not an item of tax preference includable in alternative minimum taxable income for purposes of determining a taxpayer's alternative minimum tax liability. See "TAX MATTERS" herein for a discussion of Bond Counsel's opinion.

\$18,000,000*

**Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020**

CUSIP: _____**

Price: 100% Initial Index Interest Rate: ___%

**Dated: June 1, 2020*; interest
to accrue from Date of Delivery**

**Mandatory Tender Date: No earlier than
July 1, 2022* and no later than July 1, 2023***

The above-captioned Notes (the "Notes") are being issued by the Texas Department of Housing and Community Affairs (the "Issuer") to fund a loan (the "Loan") to Scott Street Lofts, LP, a Texas limited partnership (the "Borrower"). The proceeds of the Loan will be used to finance a portion of the costs of the acquisition, construction and equipping of an approximately 123-unit multifamily rental housing development for seniors to be known as Scott Street Lofts and to be located in Houston, Texas (the "Project"), which property shall be occupied by persons of low to moderate income as required by state law and the Internal Revenue Code of 1986, as amended (the "Code"). See "THE PROJECT AND THE PARTICIPANTS - The Regulatory Agreements" herein. The Issuer is issuing the Notes pursuant to a Trust Indenture dated as of June 1, 2020 (the "Indenture") between the Issuer and Wilmington Trust, National Association, as trustee (the "Trustee"). The Issuer will loan the proceeds of the Notes to the Borrower pursuant to the terms of a certain Loan Agreement dated as of June 1, 2020 (the "Note Loan Agreement") between the Issuer and the Borrower.

The Notes will be issued as fully registered notes and when issued will be registered in the name of Cede & Co. as nominee for The Depository Trust Company ("DTC"), New York, New York. Individual purchases of Notes will be made in book-entry form only in principal amounts of \$5,000 each and integral multiples thereof.

Interest on the Notes will be payable semiannually on January 1* and July 1* of each year, commencing on January 1, 2021*, until the Mandatory Tender Date. The Notes will bear interest from the date of their initial delivery, at the Index Interest Rate, which shall be ___% for the first Interest Period, which ends on January 1, 2021*, and thereafter for each subsequent Interest Period ending on an Interest Payment Date, the Municipal Market Data (MMD) rate on the Computation Date immediately preceding such Interest Period for a term with a maturity of July 2023* (or if such rate is not available on a Computation Date, the

* Preliminary; subject to change.

** The Issuer is not responsible for the use of the CUSIP numbers referenced in this Official Statement nor is any representation made by the Issuer as to their correctness; such CUSIP numbers are included solely for the convenience of the readers of this Official Statement.

BVAL AAA Callable Curve), plus a spread of 0.[]%, which Index Interest Rate shall be rounded upward to the second decimal place; provided, however, that the Index Interest Rate for any Interest Period may never be less than []% per annum nor greater than []% per annum. “Computation Date” means the day that is three (3) Business Days immediately preceding each Interest Payment Date. See “THE NOTES – General” herein.

The Notes are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Mandatory Tender Date described above. All Noteholders must tender their Notes for purchase on the Mandatory Tender Date. See “THE NOTES – Mandatory Tender” herein.

The Notes are subject to optional redemption in part prior to the Conversion Date (as defined in Appendix A hereto). See “THE NOTES – Redemption of Notes.” The maturity of the Notes may be accelerated upon the occurrence of certain events as described herein. See “APPENDIX B – DOCUMENT SUMMARIES - SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Events of Default and Acceleration” herein.

THE NOTES, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE NOT GENERAL OBLIGATIONS OF THE ISSUER, BUT ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND WILL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE (EXCEPT TO THE EXTENT PAID OUT OF MONEYS ATTRIBUTABLE TO PROCEEDS OF THE NOTES OR THE INCOME FROM THE TEMPORARY INVESTMENT THEREOF), AND ARE AND WILL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME MAY BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE NOTES, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THIS INDENTURE AND IN THE FINANCING AGREEMENT. THE NOTES AND THE OBLIGATION TO PAY INTEREST THEREON AND REDEMPTION PREMIUM, IF ANY, DO NOT NOW AND WILL NEVER CONSTITUTE A DEBT OR AN OBLIGATION OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF WILL BE LIABLE THEREFOR. THE NOTES ARE NOT AND DO NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE ISSUER HAS NO TAXING POWER.

This cover page contains only a brief description of the Notes and the security therefor. It is not intended to be a summary of material information with respect to the Notes. Investors must read this Official Statement in its entirety to obtain information essential to the making of an informed investment decision.

The Notes are offered when, as and if issued and received by RBC Capital Markets, LLC (the “Underwriter”), subject to the approval as to their validity by the Attorney General of Texas and by Bracewell LLP, Austin, Texas, Bond Counsel, and certain other conditions. Certain legal matters will be passed upon for the Borrower by its counsel, Locke Lord LLP, Austin, Texas, and for the Underwriter by its counsel, Norris George & Ostrow PLLC, Washington, D.C. Stifel, Nicolaus & Company, Incorporated, Dallas, Texas, has served as Financial Advisor to the Issuer. It is anticipated that the Notes will be available for delivery through the facilities of DTC on or about _____, 2020.

RBC Capital Markets

Date: _____, 2020

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This Official Statement, including the cover page hereof, is provided for the purpose of setting forth information in connection with the issuance and sale of the Notes. No dealer, broker, salesperson or other person has been authorized by the Issuer, the Borrower or the Underwriter to give any information or to make any representations with respect to the Notes other than those contained in this Official Statement, and, if given or made, such information or representation 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 any securities other than the Notes offered herein, nor shall there be any sale of the Notes by any person in any jurisdiction in which such offer, solicitation or sale is not authorized or in which the person making such offer, solicitation or sale is not qualified to do so or to any person to whom it is unlawful to make such offer, solicitation or sale.

The information set forth herein has been furnished by the Issuer, the Borrower and other sources which are believed to be reliable, but has not been independently verified, and such information is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Issuer, the Borrower or the Underwriter. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale hereunder shall create any implication that there has been no change in the financial condition or operations of the Issuer, the Borrower, or any other parties described herein since the date hereof. This Official Statement contains, in part, estimates and matters of opinion that are not intended as statements of fact, and no representation or warranty is made as to the correctness of such estimates and opinions or that they will be realized.

The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities law as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

The Issuer has not approved any information in this Official Statement except information relating to the Issuer under the captions "THE ISSUER" and "NO LITIGATION – The Issuer" and takes no responsibility for any other information contained in this Official Statement (other than with respect to the description herein under the captions "THE ISSUER" and "NO LITIGATION – The Issuer").

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE NOTES OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

Wilmington Trust, National Association, in each of its capacities, including, but not limited to, Trustee, Note Registrar, and Paying Agent, has not participated in the preparation of this Official Statement and assumes no responsibility for its content.

OFFICIAL STATEMENT

\$18,000,000*

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING REVENUE NOTES
(SCOTT STREET LOFTS)
SERIES 2020**

INTRODUCTION

The purpose of this Official Statement, including the cover page and the appendices attached hereto, is to set forth information concerning the offering and sale by the Texas Department of Housing and Community Affairs (the “Issuer”) of its \$18,000,000* Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”).

The Notes are authorized to be issued pursuant to the provisions of Chapter 2306, Texas Government Code, as amended (the “Act”), and the Trust Indenture dated as of June 1, 2020 (the “Indenture”) between the Issuer and Wilmington Trust, National Association, as trustee (the “Trustee”).

The Notes are being issued for the purpose of funding a loan (the “Loan”) to Scott Street Lofts, LP, a Texas limited partnership (the “Borrower”), pursuant to the terms of a Loan Agreement dated as of June 1, 2020 (the “Note Loan Agreement”), between the Issuer and the Borrower. The proceeds of the Loan will be used to finance a portion of the costs of the acquisition, construction and equipping of an approximately 123-unit multifamily rental housing development for seniors to be known as Scott Street Lofts and to be located in Houston, Texas (the “Project”), as more fully described under “THE PROJECT AND THE PARTICIPANTS” herein. The Borrower’s obligations to repay the Loan will be evidenced by a Promissory Note (the “Note”) executed by the Borrower in favor of the Issuer and assigned to the Trustee. See “APPENDIX B - DOCUMENT SUMMARIES” herein for summaries of certain provisions of the Indenture and the Note Loan Agreement.

Interest on the Notes will be payable semiannually on January 1* and July 1* of each year, commencing on January 1, 2021*, until the Mandatory Tender Date. The Notes will bear interest from the date of their initial delivery, at the Index Interest Rate, which shall be ___% for the first Interest Period, which ends on January 1, 2021*, and thereafter for each subsequent Interest Period ending on an Interest Payment Date, the Municipal Market Data (MMD) rate on the Computation Date immediately preceding such Interest Period for a term with a maturity of July 2023* (or if such rate is not available on a Computation Date, the BVAL AAA Callable Curve), plus a spread of 0.[_____]%, which Index Interest Rate shall be rounded upward to the second decimal place; provided, however, that the Index Interest Rate for any Interest Period may never be less than [_____] % per annum nor greater than [_____] % per annum. “*Computation Date*” means the day that is three (3) Business Days immediately preceding each Interest Payment Date. See “THE NOTES – General” herein.

A portion of the residential units in the Project will be occupied by and held open for occupancy by persons of low to moderate income as required by state law and by Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”), pursuant to a Regulatory and Land Use Restriction Agreement, dated as of June 1, 2020 (the “Regulatory Agreement”), by and among the Issuer, the Trustee and the Borrower. See “THE PROJECT AND THE PARTICIPANTS” and “APPENDIX B - DOCUMENT SUMMARIES - SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY

* Preliminary; subject to change.

AGREEMENT” herein. The Borrower is required to operate the Project in compliance with the Regulatory Agreement, which contains certain representations, warranties and covenants concerning the operation thereof. Under the Regulatory Agreement, the Borrower is required during the Qualified Project Period (as such term is defined in the Regulatory Agreement), among other things, to lease at least 40% of the completed residential units in the Project to eligible tenants (i.e., persons or families with an adjusted gross income that is at or below 60% of the median gross income for the area in which the Project is located), as further described in the Regulatory Agreement. A failure to comply with certain of these requirements could result in the loss of the federal tax exemption on the Notes retroactive to their date of issuance. See “CERTAIN NOTEHOLDERS’ RISKS – Taxability of the Notes,” “TAX MATTERS” and “APPENDIX B - DOCUMENT SUMMARIES - SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” herein.

The Project will also be encumbered by certain rent and occupancy restrictions in connection with (a) the low income housing tax credits (the “Tax Credits”) expected to be granted for the Project, and (b) the City of Houston Loan (hereinafter defined). See “THE PROJECT AND THE PARTICIPANTS – The Regulatory Agreements” herein.

The Federal Home Loan Mortgage Corporation, a shareholder owned government sponsored enterprise (“Freddie Mac”), has entered into a forward commitment with Jones Lang LaSalle Multifamily, LLC (the “Freddie Mac Seller/Servicer”) dated _____, 2020 (the “Freddie Mac Commitment”), whereby Freddie Mac has committed, subject to the satisfaction on or before the Outside Forward Commitment Maturity Date of the Conditions to Conversion set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment, to facilitate the financing of the Project in the Permanent Phase.

If the Conditions to Conversion are satisfied on or before the Outside Forward Commitment Maturity Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Notes shall be subject to mandatory tender in accordance with the Indenture, (ii) a portion of the principal amount of the Notes shall be cancelled such that the principal amount outstanding equals the Actual Project Loan Amount (as determined by Freddie Mac at such time), (iii) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement) which shall be purchased by the Freddie Mac Seller/Servicer, (iv) the Funding Loan Agreement and the Project Loan Agreement shall be delivered by the respective parties and become effective and shall amend and restate the Indenture and the Loan Agreement, respectively, in their entirety, (v) the proceeds of the Freddie Mac Seller/Servicer Purchase Price shall be deposited into the Collateral Fund, and (vi) the Lender Loan shall be paid in full with amounts on deposit in the Lender Loan Prepayment Fund from amounts transferred from the Collateral Fund in excess of the amount required to pay the purchase price of the Notes, together with funds transferred from the Borrower for deposit in the Lender Loan Prepayment Fund, and all security related to the Lender Loan shall be released.

If the Conditions to Conversion are not satisfied on or before the Outside Forward Commitment Maturity Date, the Loan will not convert from the Construction Phase to the Permanent Phase, and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligation with respect to the purchase of the Governmental Note. See “THE NOTES – Conversion” herein.

The Notes are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Mandatory Tender Date, which may occur on and after the Earliest Mandatory Tender Date (July 1, 2022*) but no later than the Latest Mandatory Tender

* Preliminary; subject to change.

Date (July 1, 2023*). All Noteholders must tender their Notes for purchase on the Mandatory Tender Date. See “THE NOTES – Mandatory Tender” herein.

The Notes are subject to optional redemption in part prior to the Mandatory Tender Date. See “THE NOTES – No Redemption of Notes.”

On the Closing Date, the Note proceeds will be deposited to the Project Fund. This amount together with other Preference Proof Moneys deposited in the Capitalized Interest Account on the Closing Date, if any, will be invested in Permitted Investments maturing or subject to mandatory prepayment on or before the Latest Mandatory Tender Date, the principal and interest on which have been calculated to be sufficient without need for reinvestment to pay principal and interest on the Notes when due, assuming the Notes bear interest at ___% per annum to but not including January 1, 2021*, and at the ___% per annum maximum interest rate on the Notes thereafter to but not including the Latest Mandatory Tender Date. See “SECURITY FOR THE NOTES” and “THE NOTES” herein. The disbursement of Note proceeds from the Project Fund will be conditioned, among other things, on the prior deposit with the Trustee by Zions Bancorporation, N.A. doing business as Amegy Bank (the “Lender”) of an equal amount of funds from the Lender (a “Lender Collateral Deposit”). The Lender Collateral Deposit is expected to be made on the Closing Date and monthly thereafter in an aggregate amount not to exceed \$18,000,000* prior to the earlier of the Mandatory Tender Date or the Latest Mandatory Tender Date.

Interest payments due on the Notes will be made from the funds deposited in the Capitalized Interest Account of the Note Fund on the Closing Date, as well as investment earnings on Permitted Investments deposited with the Trustee on the Closing Date. The payment of principal of the Notes on the Mandatory Tender Date is expected to be made from funds on deposit in the Note Fund and the Collateral Fund. Therefore, the security for the Notes is the Project Fund, the Capitalized Interest Account, and the Collateral Fund, and the interest earnings thereon. See “SECURITY FOR THE NOTES” herein. The amounts deposited in the Capitalized Interest Account and the Collateral Fund are to be invested in Permitted Investments, as defined in the Indenture. See “APPENDIX B - DOCUMENT SUMMARIES - SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE - Investment” herein.

The Lender will make a mortgage loan in the aggregate principal amount not to exceed \$18,000,000* to the Borrower to provide financing for the Construction Phase of the Project (the “Lender Loan”). In connection with the Lender Loan, the Borrower will execute a promissory note (the “Lender Borrower Note”). The Borrower’s repayment obligations under the Lender Borrower Note will be secured by a first-lien priority Deed of Trust, Assignment of Leases and Rents Security Agreement and Fixture Filing on the Project (the “Lender Mortgage”).

None of the Owners of the Notes, the Trustee or the Issuer will have rights with respect to the Lender Loan or under the Lender Loan Documents. Furthermore, none of the Owners of the Notes, the Trustee or the Issuer will have a (i) lien on the real estate on which the Project is located, or (ii) a lien on any funds, accounts or reserves established, disbursed, maintained and/or collected by the Lender in connection with the Lender Loan.

Definitions of certain terms used herein and not otherwise defined are set forth in Appendix A hereto. Brief descriptions of the Issuer, the Project, the Borrower, the use of proceeds of the Notes and the Notes together with summaries of the Indenture, the Note Loan Agreement and the Regulatory Agreement are provided below. All information with respect to the Borrower, the Project and the private participants contained in this Official Statement has been furnished by the Borrower. The descriptions and summaries of the Note Loan Agreement, the Indenture, the Regulatory Agreement and other documents contained herein do not purport to be comprehensive or definitive and are qualified in their entirety by reference to

those documents, and all references to the Notes are qualified in their entirety by the definitive forms thereof included in the Indenture. See “MISCELLANEOUS” herein for the availability of those documents.

THE ISSUER

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

General

The Issuer, a public and official agency of the State was created pursuant to and in accordance with the Act. The Issuer is the successor agency to the Texas Housing Agency (the “Agency”) and the Texas Department of Community Affairs, both of which were abolished by the Act and their functions and obligations transferred to the Issuer. One of the purposes of the Issuer is to provide for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State. Pursuant to the Act, the Issuer may issue bonds, notes or other obligations to finance or refinance residential housing and to refund bonds previously issued by the Agency, the Issuer or certain other quasi-governmental issuers. The Act specifically provides that the revenue bonds of the Agency become revenue bonds of the Issuer.

The Issuer is subject to the Texas Sunset Act (Chapter 325, Texas Government Code, as amended, hereinafter referred to as the “Sunset Act”), and its continued existence is subject to a review process that resulted in passage of legislation in the 2013 Legislative Session which continued the Issuer in existence until September 2025, at which time it will be subject to review. The Sunset Act, however, recognizes the continuing obligation of the State to provide for the payment of bonded indebtedness incurred by a State agency abolished under the provisions thereof and provides that the Governor of the State shall designate an appropriate State agency to continue to carry out all covenants with respect to any bonds outstanding, including the payment of any bonds from the sources provided in the proceedings authorizing such bonds.

In the Act, the State also pledges and agrees with the holders of any bonds issued under the Act (such as the Notes) that the State will not limit or alter the rights vested in the Issuer to fulfill the terms of any agreements made with the holders thereof that would in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, interest on any unpaid installments of interest and all costs and expenses incurred in connection with any action or proceeding by or on behalf of such holders are fully met and discharged.

Organization and Membership

Governing Board. The Issuer is governed by a governing board (the “Board”) consisting of seven public members appointed by the Governor, with the advice and consent of the State Senate. Board members hold office for six-year staggered terms. Each member serves until his or her successor is appointed and qualified. Each member is eligible for reappointment. Members serve without compensation, but are entitled to reimbursement for actual expenses incurred in performing their duties of office. The Act requires the Governor to make appointments so that the places on the Board are occupied by persons who have a demonstrated interest in issues related to housing and support services and who broadly reflect the geographic, economic, cultural and social diversity of the State, including ethnic minorities, persons with disabilities, and women.

The Governor of the State designates a member of the Board to serve as the presiding officer (the “Chair”) of the Board at the pleasure of the Governor. The Chair presides at all meetings and performs such other duties as may be prescribed from time to time by the Board and by the Act. In addition, the members of the Board elect one of its members as assistant presiding officer (the “Vice Chair”) to perform the duties of the Chair when the Chair is not present or is incapable of performing such duties. The Board also elects a Secretary and a Treasurer (which offices may be held by one individual, neither of which is required to be a Board member) to perform the duties prescribed by the Board.

One seat on the Board is currently vacant and two other Board members have resigned. J.B. Goodwin conducted his last meeting as Chair on December 12, 2019 and Asusena Resendiz has resigned resulting in another vacant seat. The remaining members of the Board, their occupations and their terms of office are as follows:

LESLIE BINGHAM, Vice Chair and Board Member. Chief Executive Officer, Valley Baptist Medical Center-Brownsville. Her term expired January 31, 2019.

PAUL A. BRADEN, Board Member. Partner and Head of Public Finance for the United States at Norton Rose Fulbright, Dallas, Texas. His term expires January 31, 2023.

LEO VASQUEZ, Board Member. Executive Vice President of Cadeco Industries and related companies, Houston, Texas. His term expires January 31, 2023.

SHARON THOMASON, Board Member. President of S Arthur Services, Lubbock, Texas. Her term expires January 31, 2021.

All of the above Board members have been appointed by the Governor and confirmed by the State Senate. Texas law requires that confirmations of any such appointment be considered at the next legislative session, whether regular or special. Pursuant to Article XVI, Section 17, of the Texas Constitution, any Board member whose term has expired or who has tendered his or her resignation continues to serve until his or her successor has been appointed.

Administrative Personnel. The Act provides that the Issuer is to be administered by an Executive Director to be employed by the Board with the approval of the Governor. The Executive Director serves at the pleasure of the Board, but may also be removed by a newly elected Governor who did not approve the Executive Director’s appointment by action taken within 90 days after such Governor takes office. The Executive Director is responsible for administering the Issuer and its personnel. The Executive Director may employ other employees necessary for the discharge of the duties of the Issuer, subject to the annual budget and the provisions of any resolution authorizing the issuance of the Issuer’s bonds.

Currently, the Issuer has 292 employees. The following is a biographical summary of certain of the Issuer’s senior staff members who have responsibility with respect to multi-family housing bond matters:

ROBERT WILKINSON, Executive Director. Mr. Wilkinson was hired by the Governing Board to serve as the Executive Director at the Board meeting of July 25, 2019, and he began his tenure on August 15, 2019. Most recently, Mr. Wilkinson served as the Deputy Budget Director to Texas Governor Greg Abbott. Mr. Wilkinson served in the Budget and Policy Division within the Office of the Governor for the first three legislative sessions of Governor Abbott's administration; 2015, 2017, and 2019. His duties included the development of the Governor's proposed budgets, the analysis and tracking hundreds of filed bills including the General Appropriations Act, the development of policy, and the coordination of governance with executive state agencies. Housing and TDHCA were important elements of Mr. Wilkinson's portfolio of responsibility from 2014 (under former Governor Rick Perry) through 2019. Before 2014, Mr. Wilkinson held other positions within the Office of the Governor and worked in the private sector in various capacities including a stint as a project manager at a large commercial electrical contractor. Mr. Wilkinson received his Bachelor of Arts from the University of Texas at Austin.

MONICA GALUSKI, Director of Bond Finance and Chief Investment Officer. Ms. Galuski has over 20 years of experience in municipal finance, including 14 years as a single-family housing banker. She oversees the Department's Single Family and Multifamily Mortgage Revenue Bond Programs, including bond issuance, debt and portfolio management, and bond compliance and disclosure. Ms. Galuski received a Bachelor of Science in Financial Management from Arizona State University.

JAMES "BEAU" ECCLES, General Counsel. J. Beau Eccles joined the Issuer in June 2015 as its General Counsel and is responsible for coordination of all internal and external legal counsel for the Issuer. Before joining the Issuer, Mr. Eccles served as an Assistant Texas Attorney General for thirteen years, including five years as Deputy Chief, then two years as Chief, of the General Litigation Division. Mr. Eccles is a graduate of the Texas Tech School of Law, and received his B.A. from the University of Texas at Austin.

TERESA MORALES, Director of Multifamily Bonds. Ms. Morales began her career with the Department in 1999 as a Senior Accountant responsible for back-end compliance relating to the Department's Residential Mortgage Revenue Bond and Multifamily Bond Trust Indentures. Since 2004 she has overseen the Department's Multifamily Private Activity Bond and 4% Housing Tax Credit programs resulting in the issuance of over \$1.1 billion in Private Activity Bonds and over \$300 million in 4% Housing Tax Credits. Ms. Morales earned her Bachelor's degree in Psychology and her Master's degree in Applied Sociology from Texas State University.

The offices of the Issuer are located at 221 East 11th Street, Austin, Texas 78701-2410, and the telephone number for the Issuer is 512/475-3800 or toll-free 800/525-0657.

Other Indebtedness of the Issuer

Single Family Mortgage Revenue Bonds. As of February 29, 2020, the aggregate outstanding principal amount of bonded indebtedness of the Issuer for single-family purposes was \$845,136,617 and includes both single family mortgage revenue bonds and residential mortgage revenue bonds.

Multifamily Housing Revenue Bonds. As February 29, 2020, the aggregate outstanding principal amount of multifamily housing revenue bonds was \$895,130,660, which have been issued pursuant to separate trust indentures and are secured by individual trust estates which are separate and distinct from each other.

THE ISSUER HAS NOT REVIEWED THIS OFFICIAL STATEMENT AND IS NOT RESPONSIBLE FOR ANY INFORMATION CONTAINED HEREIN, EXCEPT FOR THE INFORMATION IN THIS SECTION AND UNDER THE CAPTION “NO LITIGATION – THE ISSUER” HEREIN.

SECURITY FOR THE NOTES

General

At all times the Notes will be secured by Permitted Investments on deposit in the Special Funds sufficient to pay, without need for reinvestment, all of the interest and principal on the Notes when due to the Latest Mandatory Tender Date, assuming that the Notes bear interest at ___% per annum to but not including January 1, 2021*, and at the ___% per annum maximum interest rate on the Notes thereafter to but not including the Latest Mandatory Tender Date, as further described herein. On the Closing Date, the Note proceeds will be deposited to the Project Fund. On the Closing Date, upon deposit of a Lender Collateral Deposit or other Preference Proof Moneys to the Collateral Fund, such amount, together with amounts on deposit in the Capitalized Interest Account and the Project Fund, will be invested in Permitted Investments maturing or subject to mandatory prepayment on or before the Latest Mandatory Tender Date, the principal and interest on which have been calculated to be sufficient to pay principal and interest on the Notes when due.

Pursuant to the Indenture, the Issuer grants, bargains, sells, conveys, pledges and assigns, without recourse, to the Trustee and its successors in trust forever, and grants to the Trustee and to its successors in trust, a security interest in, the following (such property being herein referred to as the “Trust Estate”): (i) all right, title and interest of the Issuer in and to all Revenues (as defined below), 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 Note Loan Agreement (other than the Unassigned Rights of the Issuer (as defined in Appendix A)), 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 Borrower Note (other than the Unassigned Rights of the Issuer) including all payments and proceeds with respect thereto or replacement thereof; (iii) any fund or account created under the Indenture except for the Cost of Issuance Fund, the Expense Fund and the Rebate Fund; (iv) all right, title and interest of the Issuer in and to, and remedies under, the Note Loan Agreement (other than the Unassigned Rights of the Issuer); and (v) all funds, moneys and securities and any and all other rights and interests in property whether tangible or intangible from time to time by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security under the Indenture for the Notes 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. “Revenues” means all payments paid or payable to the Trustee in accordance with the Note Loan Agreement, the Loan and the Borrower Note and all investment earnings derived or to be derived on any moneys or investments held by the Trustee under the Indenture, but excluding (a) amounts paid as fees, reimbursement for expenses or for indemnification of any Issuer Indemnified Party and the Trustee, (b) amounts paid to or collected by the Issuer in connection with any Unassigned Rights of the Issuer and (c) any Rebate Requirement. The Notes will not be secured by a deed of trust or other security interest in the Project.

* Preliminary; subject to change.

The Collateral Fund; Application of Lender Collateral Deposit

On the Closing Date, the proceeds of the Notes will be deposited in the Project Fund pursuant to the Note Loan Agreement and the Indenture. On the Closing Date and from time to time thereafter, the Lender will irrevocably deposit into the Collateral Fund up to \$18,000,000*. Following the deposit of a Lender Collateral Deposit into the Collateral Fund, Note proceeds in an amount equivalent to such Lender Collateral Deposit will be disbursed by the Trustee in accordance with the direction of the Borrower and Lender, to be applied to the costs of the Project. Upon maturity or tender of the Notes or the occurrence of an event of default under the Indenture and acceleration of maturity of the Notes, the Trustee is authorized to apply moneys held in the Special Funds to payment of interest and principal on the Notes.

In no event shall the Lender have any claim or lien upon the Trust Estate and funds pledged to secure the repayment of the Notes.

None of the Owners of the Notes, the Trustee or the Issuer will have rights with respect to the Lender Loan or under the Lender Loan Documents. Furthermore, none of the Owners of the Notes, the Trustee or the Issuer will have a (i) lien on the real estate on which the Project is located, or (ii) a lien on any funds, accounts or reserves established, disbursed, maintained and/or collected by the Lender in connection with the Lender Loan.

Nonrecourse Liability of Borrower

The Note Loan Agreement provides that (i) the liability of the Borrower under the Note Loan Agreement shall be limited to the Trust Estate, and such amounts as may be invested in accordance with the Indenture, and the Issuer and the Trustee shall look exclusively thereto or to such other security as may from time to time be given or have been given for payment of the Notes, and any judgment rendered against the Borrower under the Note Loan Agreement shall be limited to the Project and moneys derived from the operation of the Project, and any other security so given for satisfaction thereof, and (ii) no deficiency or other personal judgment shall be sought or rendered against the Borrower or any of its partners, or any of their respective successors, transferees or assigns, in any action or proceeding arising out of the Note Loan Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding; provided, however, that nothing contained in the Note Loan Agreement shall limit the Issuer's or the Trustee's ability to exercise any right or remedy with respect to any property pledged or granted to the Issuer or to any trustee under the Note Loan Agreement, or both, or to exercise any right against the Borrower, on account of any claim for fraud or deceit, and against any other Person on account of any claim for fraud or deceit. Notwithstanding anything in the Note Loan Agreement to the contrary, nothing in the provisions of the Note Loan Agreement described in this paragraph shall limit the rights of indemnification against the Borrower pursuant to the terms of the Note Loan Agreement. Furthermore, notwithstanding anything to the contrary, the Borrower shall be fully liable for (1) amounts payable to the Issuer constituting Unassigned Rights of the Issuer, (2) any amount due and owing as a result of any calculation or determination which may be required in connection with the Notes for the purpose of complying with Section 148 of the Code (including rebate liability) or any applicable Treasury regulation, (3) payment of the Issuer's Fees, the Trustee's Fee and the Rebate Analyst's Fee and (4) any indemnification or payment obligations to the Issuer as more particularly described in the Note Loan Agreement.

Limited Obligations of the Issuer

THE NOTES, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE NOT GENERAL OBLIGATIONS OF THE ISSUER, BUT ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND WILL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST

ESTATE (EXCEPT TO THE EXTENT PAID OUT OF MONEYS ATTRIBUTABLE TO PROCEEDS OF THE NOTES OR THE INCOME FROM THE TEMPORARY INVESTMENT THEREOF), AND ARE AND WILL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME MAY BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE NOTES, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THIS INDENTURE AND IN THE FINANCING AGREEMENT. THE NOTES AND THE OBLIGATION TO PAY INTEREST THEREON AND REDEMPTION PREMIUM, IF ANY, DO NOT NOW AND WILL NEVER CONSTITUTE A DEBT OR AN OBLIGATION OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF AND NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF WILL BE LIABLE THEREFOR. THE NOTES ARE NOT AND DO NOT CREATE OR CONSTITUTE IN ANY WAY AN OBLIGATION, A DEBT OR A LIABILITY OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF, OR CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF. THE ISSUER HAS NO TAXING POWER.

Investment of the Project Fund and the Collateral Fund

The Trustee has been directed to purchase on the Closing Date a portfolio of Permitted Investments maturing on or before the Mandatory Tender Date, with respect to the investment of certain amounts on deposit in the Special Funds, the principal and interest of which have been calculated to be sufficient to pay principal and interest on the Notes when due. All interest earned from the foregoing investments shall be deposited in the Note Fund. Such funds shall remain on deposit, subject to reallocation pursuant to the Indenture, until the Mandatory Tender Date, on which date they will be withdrawn to make payment on the Notes. In the event that any investments in the Special Funds must be liquidated prior to the Maturity Date, such investments shall be liquidated under the Indenture.

Except as otherwise specified in the Indenture, amounts on deposit in the Special Funds shall be invested at all times in Permitted Investments. The investments described in each of the above paragraphs shall be made by the Trustee pursuant to the direction provided thereby and in accordance with the written direction of the Borrower to be provided on the Closing Date, which shall remain in effect until further written direction is provided by the Borrower. In the absence of investment instructions from the Borrower, the Trustee shall invest the moneys held in Special Funds first in money market funds described in part (iii) of the definition of Permitted Investments and if those investments are not available, in money market funds described in part (ii) of the definition of Permitted Investments.

Subject to the following sentence, investments shall be sold at the best price obtainable whenever it shall be necessary to do so in order to provide moneys to make any transfer, withdrawal, payment or disbursement from the applicable Special Fund. Prior to the Latest Mandatory Tender Date, at the direction of the Borrower, the Trustee is permitted to invest in Eligible Investments that mature on or before the Latest Mandatory Tender Date but is not permitted to sell or otherwise dispose of any such Eligible Investment prior to such time without first receiving from or on behalf of the Borrower: (i) a Cash Flow Projection, and (ii) Preference Proof Moneys in the amount, if any, set forth in such Cash Flow Projection.

The following investments (“Permitted Investments”) are permitted under the Indenture: (i) direct obligations issued by 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 (“Government Obligations”), (ii) to the extent permitted in the Indenture, money market funds rated “AAAm”, “Aaa-mf” or its equivalent by any rating agency that invest in Government Obligations, which funds are registered with the Securities and Exchange Commission and which meet the requirements of

Rule 2(a)(7) of the Investment Company Act of 1940, as amended (including any money market 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 money market fund and receives reasonable compensation therefor), (iii) Fidelity Institutional Money Market Treasury Only – Class I as long as it is rated “AAAm”, “Aaa-mf” or its equivalent by any rating agency, and (iv) obligations of any state or local government with a short-term rating of MIG-1 or VMIG-1 and/or a long-term rating of Aaa or its equivalent which mature or are subject to mandatory prepayment no later than the Latest Mandatory Tender Date. Ratings of Permitted Investments shall be determined at the time of purchase of such Permitted Investments and without regard to ratings subcategories, and the Trustee shall have no responsibility to monitor the ratings of Permitted Investments upon or after the initial purchase of such Permitted Investments.

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ESTIMATED SOURCES AND USES OF FUNDS*

The total costs of the Project and the sources of funds to pay those costs are estimated by the Borrower as follows:

Sources of Funds*	
Freddie Mac Tax-Exempt Loan	\$11,270,000
City of Houston Loan	15,730,788
Federal Tax Credit Equity	7,082,464
Deferred Developer Fee	<u>137,516</u>
Total	<u>\$34,220,768</u>

Uses of Funds*	
Acquisition Costs	\$3,600,000
Construction Costs	22,755,000
Developer Fee	3,820,000
Financing/Legal & Soft Costs	3,716,222
Reserves and Escrow	<u>329,546</u>
Total	<u>\$34,220,768</u>

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

The sources and uses of funds for the Project to be applied under the Indenture prior to Conversion are estimated by the Borrower to be approximately as follows:

Sources of Funds*	
Note Proceeds	\$18,000,000
Lender Collateral Deposit	18,000,000
Capitalized Interest Deposit [†]	<u> </u>
Total	\$ <u> </u>

Uses of Funds*	
Deposit to Project Fund	\$18,000,000
Deposit to Collateral Fund	18,000,000
Deposit to Capitalized Interest Account	<u> </u>
Total	\$ <u> </u>

† The Capitalized Interest Deposit has been calculated to be sufficient to pay, together with investment earnings on Permitted Investments deposited with the Trustee on the Closing Date, and without the need for reinvestment, interest at the maximum Index Interest Rate that will become due on the Notes to the Latest Mandatory Tender Date.

The Freddie Mac Tax-Exempt Loan. Freddie Mac has committed, subject to the satisfaction on or before the Outside Forward Commitment Maturity Date of the Conditions to Conversion set forth in the Construction Phase Financing Agreement and the Freddie Mac Commitment, to originate a tax-exempt loan in the original principal amount of \$11,270,000* (the "Freddie Mac TEL"), which will bear interest at the

* Preliminary; subject to change.

rate of []%* per annum. The Freddie Mac TEL will be evidenced by the Governmental Note and secured by a mortgage on the Project. The Freddie Mac TEL will be amortized over 40 years.

Lender Loan. The Project will utilize the Lender Loan to collateralize the proceeds of the Notes prior to Conversion, in the original principal amount of \$18,000,000* and shall bear interest at the 1-month London Inter-Bank Offered Rate (“LIBOR”), plus a spread of 2.25%* per annum and subject to a 1-month LIBOR floor of 1% per annum. The Lender Loan shall be repaid from amounts transferred from the Collateral Fund in excess of the amount required to pay purchase price of the Notes, together with equity provided by the Investor Limited Partner. A portion of the proceeds of the Lender Loan will be deposited in the Capitalized Interest Account of the Note Fund on the Closing Date to capitalize interest on the Notes at ___% per annum to but not including January 1, 2021* and at the ___% per annum maximum interest rate thereafter, subject to projected earnings on Permitted Investments made on the Closing Date, from the date of delivery of the bonds to the Latest Mandatory Tender Date.

The Federal Low Income Housing Tax Credits. Prior to the issuance of the Notes, the Borrower expects to admit the Investor Limited Partner as a 99.99% member in the Borrower. Pursuant to the sale, the funding of the Federal Low Income Housing Tax Credit (“LIHTC”) equity will total approximately \$7,082,464*. 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 City of Houston Loan. The Project will also utilize CDBG financing provided by the City of Houston in the principal amount of \$15,730,788* (the “City of Houston Loan”). The obligation to repay the City of Houston Loan will be set forth in a promissory note (the “City of Houston Loan Note”) from the Borrower to Lone Star Housing and Community Development Corporation, a Texas nonprofit corporation (the “Conduit Lender”), which subordinate loan was funded pursuant to a loan in the same amount the City of Houston to the Borrower, and will be repayable out of cash flow on the terms and conditions set forth therein. The City of Houston Loan Note will mature 40 years after the construction period and will bear interest at a rate of 1.0%* per annum with annual interest only payments. At the end of the 40 year compliance period, the principal of the City of Houston Loan will be repayable to the Conduit Lender.

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THE PROJECT AND THE PARTICIPANTS

The information under this heading has been provided solely by the Borrower and has not been independently verified by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees, or Bond Counsel. No representation whatsoever as to the accuracy, adequacy or completeness of such information is made by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees or Bond Counsel.

The Project

The Project, known as Scott Street Lofts is a 123-unit senior rental housing development located 1320 Scott Street, Houston, Harris County, Texas. The development amenities will include a clubhouse, a resort-style ADA compliant swimming pool with a cabana, business center, furnished fitness room, community room, laundry facilities and community kitchen. An added benefit to the development will be a hair salon on the property for the community to utilize.

It is anticipated that construction will commence on the Closing Date and will be completed in approximately 18-24 months. There will be 25 market rate units in the project, the remaining 98 units will be affordable units. The post-construction affordability and unit mix of the Project is as follows:

Unit Type	Number	Square Feet	% of Area Median Income
1 Bed – 1 Bath	5	716	30%
1 Bed – 1 Bath	10	716	50%
1 Bed – 1 Bath	22	716	60%
1 Bed – 1 Bath	11	716	80%
1 Bed – 1 Bath	15	716	Market Rate
2 Bed – 2 Bath	5	1,029	30%
2 Bed – 2 Bath	10	1,029	50%
2 Bed – 2 Bath	23	1,029	60%
2 Bed – 2 Bath	12	1,029	80%
2 Bed – 2 Bath	10	1,029	Market Rate
Total	123		

The Borrower

The Borrower is Scott Street Lofts, LP, a Texas limited partnership (the “Borrower”). The Borrower is a single purpose entity formed to acquire, construct and operate the Project. The Borrower’s general partner is Scott Street Lofts Advisors, LLC, a Texas limited liability company (the “General Partner”), which will have a 0.009% ownership interest in the Borrower. The General Partner’s Managing Member and the developer of the project is Mark-Dana Corporation, a Virginia corporation (the “Developer”) which will have a 55% ownership interest in the General Partner. Cavender Development, LLC, a Texas limited liability company will have a 5% ownership interest in the General Partner. Urban Partnerships Community Development Corporation will have a 40% ownership interest in the General Partner. RBC Community Investments, LLC, an Illinois limited liability company (the “Investor Limited Partner”), will own a 99.99% interest in the Borrower and RBC Community Investments Manager II, Inc., a Delaware corporation (the “Special Limited Partner”), will own a 0.001% interest in the Borrower..

The Borrower has not acquired and does not intend to acquire any substantial assets or engage in any substantial business activities other than those related to the Project. However, affiliates of the Borrower may engage in the acquisition, development, ownership and management of other similar types of projects that may be competitive with the Project.

The Developer

The Developer is located in Spring, Texas. The Developer has over 30 years of experience in affordable housing multifamily development. The Developer has been involved in the development of more than 2,000 units.

Investor Limited Partner

Prior to the issuance of the Notes, the Borrower expects to enter into a commitment with the Investor Limited Partner to offer to it a 99.99% ownership interest in the Borrower. Pursuant to the offer, the equity funding arrangements for the funding of the tax credit equity are expected to be in the total amount set forth under “ESTIMATED SOURCES AND USES OF FUNDS” herein 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 Property Manager

The Project will be managed by Mark-Dana Management of Texas, LLC, a Texas limited liability company (the “Property Manager”), and an affiliate of the Developer. The principals of the Property Manager have been involved in the management of apartment complexes for over 30 years. The Property Manager will enter into a sub-management agreement with FDI Management Group, LLC (“FDI”), pursuant to which Property Manager shall subcontract the day-to-day management of the Project to FDI.

The General Contractor

The general contractor for the Project will be Urban Partnerships Community Development Corporation, a Texas nonprofit corporation (the “General Contractor”). The General Contractor will enter into a subcontract with Koogler Construction of Texas, LLC, a Texas limited liability company (“Koogler”), and an affiliate of the Developer, pursuant to which Property Manager shall subcontract the day-to-day construction and development of the Project to Koogler. Koogler was formed in 2002 and has built all of the Developer’s projects in Texas

The Architect

The architect for the Project is Mucasey & Associates (the “Architect”). The Architect has been licensed in Texas for 37 years and has experience in the development of affordable housing projects.

Limited Recourse to Borrower

The Borrower and its members will not be personally liable for payments on the Borrower Note, the payments on which are to be applied to pay the principal of and interest on the Notes; nor will the Borrower and its members be personally liable under the other documents executed in connection with the issuance of the Notes and the making of the Loan. Furthermore, no representation is made that the Borrower

will have substantial funds available for the Project. Accordingly, neither the Borrower's financial statements nor those of its members are included in this Official Statement.

The Regulatory Agreements

In order to obtain low income housing tax credits, the Project will be operated as a qualified residential rental project with at least 40% of the residential units in the Project occupied by Qualified Tenants during the Qualified Project Period, in accordance with Section 142(d) of the Code.

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 LIHTCs 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 79.67% of the units in the Project (the "Tax Credit Units"), and the Tax Credit Units shall be held available for rental to persons whose adjusted family income is between 20% and 80% of area median income ("AMI") adjusted for family size, such that the average of the imputed income limitations designated for each Tax Credit Unit shall not exceed 60% of area median income and the rents which may be charged for occupancy of Tax Credit Units in the Project will be restricted to not more than 30% of applicable AMI, adjusted for family size.

Additionally, the Project will be further encumbered by Restrictive Covenants to be executed by the Borrower in connection with the loan from the City of Houston, Texas. Said Restrictive Covenants will restrict the income levels of 51.22% of the units in the Project, which shall float and be held available for rental to persons whose adjusted family income is less than 80% of AMI.

THE NOTES

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

General

The Notes will be dated June 1, 2020*. Interest on the Notes will be payable semiannually on January 1* and July 1* of each year, commencing on January 1, 2021*, until the Mandatory Tender Date. The Notes will bear interest from the date of their initial delivery, at the Index Interest Rate, which shall be ___% for the first Interest Period, which ends on January 1, 2021*, and thereafter for each subsequent Interest Period ending on an Interest Payment Date, the Municipal Market Data (MMD) rate on the Computation Date immediately preceding such Interest Period for a term with a maturity of July 2023* (or if such rate is not available on a Computation Date, the BVAL AAA Callable Curve), plus a spread of 0.[_____]%, which Index Interest Rate shall be rounded upward to the second decimal place; provided, however, that the Index Interest Rate for any Interest Period may never be less than [_____] % per annum nor greater than [_____] % per annum. "Computation Date" means the day that is three (3) Business Days immediately preceding each Interest Payment Date.

On or before each Interest Payment Date, the Calculation Agent shall provide notice to the Municipal Securities Rulemaking Board's EMMA System of the Index Interest Rate to be in effect for the immediately succeeding Interest Period.

* Preliminary; subject to change.

The Notes will be issued in book-entry form only in denominations of \$5,000 and integral multiples thereof and, when issued, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York (“DTC”). See “BOOK-ENTRY ONLY SYSTEM” below.

Conversion

All Notes offered by this Official Statement are subject to mandatory tender at Conversion, and no later than the Outside Forward Commitment Maturity Date regardless whether Conversion occurs. Any provisions of the Notes after Conversion or the Outside Forward Commitment Maturity Date described herein do not apply to the Notes being offered by this Official Statement.

If the Notice of Conversion is issued in the timeframe required under the Construction Phase Financing Agreement and all conditions with respect thereto and with respect to the purchase of the Governmental Note are satisfied, Conversion will occur on the Conversion Date indicated in such Notice of Conversion. If the Notice of Conversion is not so issued or all conditions with respect thereto and with respect to the funding of the Funding Loan are not so satisfied, then Conversion will not occur and neither the Freddie Mac Seller/Servicer nor Freddie Mac will have any obligations with respect to the purchase of the Governmental Note or otherwise with respect to the Loan or the Project.

If Conversion occurs, on the Conversion Date (i) the Notes shall be subject to mandatory tender in accordance with the Indenture, (ii) a portion of the principal amount of the Notes shall be cancelled such that the principal amount Outstanding following such cancellation equals the Actual Project Loan Amount (as determined by Freddie Mac at such time), (iii) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement) which shall be purchased by the Freddie Mac Seller/Servicer, (iv) the Funding Loan Agreement attached as an exhibit to the Indenture and the Project Loan Agreement attached as an exhibit to the Indenture shall be delivered by the respective parties and become effective and shall amend and restate in their entirety the Indenture and the Note Loan Agreement, respectively, (v) the proceeds of the Freddie Mac Seller/Servicer Purchase Price shall be deposited into the Collateral Fund, and (vi) the Lender Loan shall be paid in full with amounts on deposit in the Lender Loan Prepayment Fund from amounts transferred from the Collateral Fund in excess of the amount required to pay purchase price of the Notes, together with funds transferred from the Borrower for deposit in the Lender Loan Prepayment Fund and all security related to the Lender Loan shall be released.

Provided all Conditions to Conversion are satisfied, the Issuer and Trustee agree to execute and deliver the Funding Loan Agreement, the Governmental Note and Project Loan Agreement on the Conversion Date, subject to the completion of the forms attached as exhibits to the Indenture, including filling in the Conversion Date, the Actual Project Loan Amount and attaching the final amortization schedule in accordance with the provisions described in the paragraph below.

In addition to the Conditions to Conversion set forth in the Freddie Mac Commitment and the Construction Phase Financing Agreement, Conversion shall be conditioned upon the delivery of the items set forth in the Funding Loan Agreement.

If Conversion does not occur by the Outside Forward Commitment Maturity Date, the Notes shall be subject to mandatory tender pursuant to the Indenture on the Latest Mandatory Tender Date, and the Trustee shall cancel the Notes immediately following the purchase thereof on such date.

Optional Redemption of Notes

The Notes are subject to optional redemption prior to maturity from Preference Proof Moneys, at the direction of an Authorized Officer of the Borrower (with delivery of a Cash Flow Projection and written notice to the Trustee at least 35 days prior to the proposed redemption date) in part in a principal amount not to exceed \$[] on January 1, 2022, or on any Business Day thereafter, at a redemption price equal to the principal amount of the Notes to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

Other than as set forth in the immediately preceding paragraph, the Notes are not subject to redemption prior to the Conversion Date.

The Trustee shall utilize the amounts and take the actions set forth in the Cash Flow Projection to pay the redemption price of the Notes called for redemption.

The particular Notes to be redeemed shall be selected by the Trustee by lot in such manner as the Trustee shall deem fair and appropriate, provided that if a Book Entry System is then in effect, the Securities Depository shall select the interests of the beneficial owners of the Notes to be redeemed.

Mandatory Tender

The Notes are subject to mandatory tender in whole and not in part on the Mandatory Tender Date and shall be purchased at a price equal to 100 percent of the principal amount of such Notes, plus accrued interest, if any to the Mandatory Tender Date, and without premium. No later than 10:00 a.m., New York City time, on the Mandatory Tender Date, the Holders shall deliver the Notes to the Trustee. The Trustee shall utilize the following sources of payments to pay the tender price of the Notes not later than 1:30 p.m. New York City time on the Mandatory Tender Date, in the following priority; (i) amounts on deposit in the Collateral Fund and the Project Fund, to pay the principal amount of Notes tendered for purchase, (ii) amounts on deposit in the Note Fund (including the Capitalized Interest Account therein) to pay the accrued interest, if any, on Notes tendered for purchase, and (iii) any other Preference Proof Moneys available or made available for such purpose at the direction of the Borrower.

Notice of Redemption

Notice of redemption shall be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first-class mail, postage prepaid, to the Holder of each Note to be redeemed, at the address of such Holder shown on the registration books kept by the Trustee as Note Registrar at the opening of business on the fifth day prior to such mailing, not less than 20 days nor more than 30 days prior to the date fixed for redemption.

All notices of redemption shall be dated and shall state:

- (1) the proposed redemption date,
- (2) the redemption price,
- (3) that on the redemption date the redemption price will become due and payable upon each such Note or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (4) the place where such Notes are to be surrendered for payment of the redemption price, and

(5) that the notice of redemption is conditioned upon there being deposited with the Trustee on or prior to the date of redemption Preference Proof Moneys sufficient to pay the redemption price of the Notes to be redeemed and to pay through the Latest Mandatory Tender Date the principal of and interest on the Notes that are not being redeemed as set forth in a Cash Flow Projection.

Failure to receive notice by mailing or any defect in that notice regarding any Note, however, shall not affect the validity of the proceedings for the redemption of any other Note.

Notice of any redemption with respect to Notes held under a Book Entry System shall be given by the Trustee only to the Securities Depository, or its nominee, as the Holder of such Notes in the manner required by the Securities Depository. Notice of redemption to the beneficial owners is the responsibility of the Securities Depository and any failure of the Securities Depository to notify the beneficial owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of such Notes.

If Preference Proof Moneys as described in clause (5) above are not received by the Trustee on or prior to the redemption date, the redemption shall be cancelled and the Trustee shall, within a reasonable time thereafter, give notice, in the manner in which the notice of redemption was given, that such moneys were not so received and that the redemption was cancelled as a result.

Notice of Mandatory Tender

Not less than five (5) days before the Mandatory Tender Date, the Trustee shall give written notice of mandatory tender to the Holders by first class mail, postage prepaid, at their respective addresses as they appear on the registration books kept by the Trustee as Note Registrar. The notice shall state the Mandatory Tender Date and that:

(1) all Outstanding Notes are subject to mandatory tender for purchase on the Mandatory Tender Date and must be tendered for purchase on the Mandatory Tender Date no later than 10:00 a.m., New York City time, on the Mandatory Tender Date;

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

(3) Holders will not have the right to elect to retain their Notes and any Notes not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date; and

(4) the address of the office of the Trustee at which Holders should deliver their Notes for purchase on the Mandatory Tender Date.

If notice is given as stated in this section, failure of any Holder to receive such notice, or any defect in the notice, shall not affect the tender or the validity of the proceedings for the mandatory tender and purchases of the Notes.

Anything to the contrary contained in the Indenture notwithstanding, the Trustee shall not give notice of mandatory tender for a Mandatory Tender Date prior to the Latest Mandatory Tender Date unless the Trustee has received a Cash Flow Projection and any Preference Proof Moneys described therein.

BOOK-ENTRY ONLY SYSTEM

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

The Depository Trust Company, New York, New York ("DTC"), will act as securities depository for the Notes. The Notes will be initially issued and issuable only as one fully registered Note certificate for each maturity, registered in the name of Cede & Co. as partnership nominee of DTC. Those fully registered Notes will be deposited with and retained in the custody of DTC.

For ease of reference in this and other discussions, reference to "DTC" includes when applicable any successor securities depository and the nominee of the depository.

For all purposes under the Note proceedings, DTC will be and will be considered by the Issuer and the Trustee to be the owner or Holder of the Notes.

Owners of book entry interests in the Notes (book entry interest owners) will not receive or have the right to receive physical delivery of Notes, and will not be or be considered by the Issuer and the Trustee to be, and will not have any rights as, owners or holders of Notes under the Note proceedings.

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"). DTC has an S&P rating of AA+. 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 Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the book entry interest owner) is in turn to be recorded on the Direct and Indirect Participant's records. Book entry interest owners will not receive written confirmation from DTC of their purchase, but are 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 book entry interest owner entered into the transaction. Transfers of ownership interests in the Notes are to be accomplished by entries made on the books of Participants acting on behalf of book entry interest owners. Book entry

interest owners will not receive certificates representing their ownership interests in the Notes, except in the event that use of the book entry system for the Notes is discontinued.

To facilitate subsequent transfers, all Notes 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 Notes with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in actual ownership. DTC has no knowledge of the book entry interest owners (or beneficial owners) of the Notes; DTC's records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the book entry interest owners. 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 book entry interest owners, will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Notes 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 the Notes unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the 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 the Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and debt service payments on the Notes 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 the Issuer or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to book entry interest 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, the Trustee or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and debt service payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the book entry interest owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Notes at any time by giving reasonable notice to the Issuer or the Trustee. The Issuer may decide to discontinue use of the book entry system if DTC (or a successor securities depository) determines not to continue to act as securities depository for the Notes. See "Revision of Book Entry System; Replacement Notes."

Direct Participants and Indirect Participants may impose service charges on book entry interest owners in certain cases. Purchasers of book entry interests should discuss that possibility with their brokers.

The Issuer, the Borrower and the Trustee have no role in the purchases, transfers or sales of book entry interests. The rights of book entry interest owners to transfer or pledge their interests, and the manner of transferring or pledging those interests, may be subject to applicable state law. Book entry interest owners may want to discuss with their legal advisers the manner of transferring or pledging their book entry interests.

The Issuer, the Borrower and Trustee have no responsibility or liability for any aspects of the records or notices relating to, or payments made on account of, book entry interest ownership, or for maintaining, supervising or reviewing any records relating to that ownership.

The Issuer and the Borrower cannot and do not give any assurances that DTC, Direct Participants, Indirect Participants or others will distribute to the book entry interest owners payments of debt service on the Notes made to DTC as the registered owner, or any notices, or that they will do so on a timely basis, or that DTC will serve and act in the manner described in this Official Statement.

CERTAIN NOTEHOLDERS' RISKS

The following is a summary of certain risks associated with a purchase of the Notes. There are other possible risks not discussed below. The Notes are payable from the payments to be made by the Borrower under the Note Loan Agreement and the Borrower Note and from amounts on deposit in the Special Funds and the investment earnings thereon.

Limited Security; Investment of Funds

The Notes are special, limited obligations of the Issuer payable solely from certain funds pledged to and held by the Trustee pursuant to the Indenture, including the Note Fund and the Collateral Fund. See “SECURITY FOR THE NOTES - Limited Obligations of the Issuer” herein. The Notes will not be secured by a deed of trust or other security interest in the Project.

The Notes are offered solely on the basis of the amounts held under the Indenture and are not offered on the basis of the credit of the Borrower, the feasibility of the Project or any other security. As a consequence, limited information about the Project and no information about the financial condition or results of operations of the Borrower is included in this Official Statement. The Notes are offered only to investors who, in making their investment decision, rely solely on the amounts held under the Indenture and not on the credit of the Borrower, the feasibility of the Project or any other security.

The principal of and interest on the Notes are payable from and secured by certain revenues and funds pledged thereto under the Indenture. The Trustee is required to invest amounts held in the Special Funds in Permitted Investments, as defined in the Indenture. See “APPENDIX B — DOCUMENT SUMMARIES — SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE — Investment.” Failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Notes.

Lender Collateral Deposit; Disbursement of Note Proceeds

As described under the heading “SECURITY FOR THE NOTES – The Collateral Fund; Application of Lender Collateral Deposit” above, a Lender Collateral Deposit will be disbursed and deposited into the Collateral Fund under the Indenture as a condition precedent to the disbursement of Note proceeds in an equal amount to pay a portion of the costs of acquiring, constructing and equipping the Project. In order to have the Lender initiate the transfer of a Lender Collateral Deposit into the Collateral Fund, the Borrower will be required to satisfy any agreements relating to the Lender Loan. Failure of the

Borrower to satisfy additional future conditions could result in the Lender's suspending payments from the reserve account held under the Lender Disbursement Agreement until the conditions have been satisfied which, in turn, could result in the inability of the Borrower to pay the costs of completing the Project. However, such a failure to complete the Project would not affect the security for the Notes or cause a default on the Notes.

Exercise of Legal Remedies

The ability of the Issuer to enforce its rights or exercise its remedies upon default under the Note Loan Agreement is dependent upon regulatory and judicial actions which may be subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under the Loan Agreement or the Indenture may not be readily available, and the Borrower will have no personal liability for the satisfaction of any obligation of the Borrower under such agreements or of any claim against the Borrower arising out of such agreements or the Indenture.

The various legal opinions to be delivered concurrently with the delivery of the Notes will be qualified to the extent that the enforceability of certain legal rights related to the Notes and the documents described above is subject to limitations imposed by such things as the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or a court of equity), including judicial limitations on rights to specific performance and bankruptcy, insolvency, reorganization, moratorium or other similar laws heretofore or hereafter in effect affecting creditors' rights, to the extent constitutionally applicable.

Taxability of the Notes

THE NOTES ARE NOT SUBJECT TO ACCELERATION OR REDEMPTION UPON ANY DETERMINATION OF TAXABILITY OF INTEREST ON THE NOTES. IN ADDITION, THE RATE OF INTEREST ON THE NOTES IS NOT SUBJECT TO ADJUSTMENT BY REASON OF THE INTEREST ON THE NOTES BEING INCLUDED IN GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION. Such event could occur if the Borrower (or any subsequent owner of the Project) or other parties to the transaction do not comply with the provisions of the Regulatory Agreement, certain other tax-related agreements executed in connection with the Notes, and the Note Loan Agreement, or if the transaction is deemed not to comply with requirements of the Code in order for the interest on the Notes to be excluded from gross income for federal income tax purposes. Under such circumstances, interest on the Notes might become subject to federal income taxation retroactive to the date of issuance or some other subsequent date. See "APPENDIX B – DOCUMENT SUMMARIES – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT" and "TAX MATTERS" herein.

Permitted Investments

Preference Proof Moneys received by the Trustee for deposit into the Special Funds are required to be invested in Permitted Investments. See "APPENDIX A — DEFINITIONS" hereto for the definition of Permitted Investments. There can be no assurance that there will not be a loss resulting from any investment held for the credit of the Special Funds, 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 Notes.

Rating Based on Permitted Investments

The rating on the Notes is based upon the Notes being fully secured by Permitted Investments held in the Trust Estate. If one or more of such investments fail to meet the rating standards for Permitted

Investments after their purchase and prior to their maturity, such a change may result in a downgrade or withdrawal of the rating on the Notes.

Subordination to Lender Loan Documents

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

Infectious Disease Outbreak

Without limiting the generality of the foregoing, an outbreak of a highly contagious, epidemic or pandemic infectious disease such as COVID-19 nationally or locally in the Project's market area could adversely affect the Project's operations and financial results, including the length of time necessary to complete the construction of the Project. A significant delay in construction completion may adversely impact the Borrower's ability to comply with certain tax code requirements. See the caption "Tax Exemption" below.

Tax Exemption

In the event the Borrower does not maintain the Project as a "qualified residential rental project" for the Qualified Project Period, the interest on the Notes may be or become taxable from the date of original issuance to the Holders for federal income tax purposes. Such an event will not constitute an immediate default under the Loan and is not the basis for an increase in the rate of interest payable on the Notes or give rise to the payment to the owners of the Notes of any amount denoted as "supplemental interest," "additional interest," "penalty interest," "liquidated damages" or otherwise, in addition to the amounts payable to the owners of the Notes prior to the occurrence of the event which results in the interest payable on the Notes being includable, for federal income tax purposes, in the gross income of the owners of the Notes.

Secondary Markets and Prices

No representation is made concerning the existence of any secondary market for the Notes. The Underwriter will not be obligated to repurchase any of the Notes, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Notes. Further, there can be no assurance that the initial offering prices for the Notes will continue for any period of time. Furthermore, the Notes should be purchased for their projected returns only and not for any resale potential, which may or may not exist.

Future Legislation; IRS Examination

The Project, its operation and the treatment of interest on the Notes 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 Notes, 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 notes. Currently, the primary penalty

available to the IRS under the Code is a determination that interest on notes 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 Note 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 Notes. If the Notes are examined, it may have an adverse impact on their price and marketability.

Infectious Disease Outbreak

Without limiting the generality of the foregoing, an outbreak of a highly contagious, epidemic or pandemic infectious disease such as COVID-19, Zika or Ebola nationally or locally in the Project’s market area could adversely affect the Project’s operations and financial results, including the length of time necessary to complete the rehabilitation of the Project. An increase in delinquencies and/or vacancies could depress rental revenue, and operating costs could increase, resulting in a default by the Borrower on its obligations with respect to the Bonds, including the taxability of interest thereon (See “Tax Exemption” above).

TAX MATTERS

The following discussion of certain federal income tax considerations is for general information only and is not tax advice. Each prospective purchaser of the Notes should consult its own tax advisor as to the tax consequences of the acquisition, ownership and disposition of the Notes.

Tax Exemption

In General

In the opinion of Bond Counsel, assuming compliance with certain covenants and based on certain representations, under existing law (i) interest on the Notes is excludable from gross income for federal income tax purposes, except with respect to interest on any Note for any period during which such note is held by a person who is a “substantial user” of the Project or a “related person” of such a “substantial user” within the meaning of Section 147(a) of the Code, as and (ii) interest on the Notes is not an item of tax preference includable in alternative minimum taxable income for purposes of determining a taxpayer’s alternative minimum tax liability.

The Code imposes a number of requirements that must be satisfied for interest on state or local obligations, such as the Notes, to be excludable from gross income for federal income tax purposes. These requirements include, among other things, limitations on the use of the note-financed project, limitations on the use of note proceeds, limitations on the investment of note proceeds prior to expenditure, a requirement that excess arbitrage earned on the investment of note proceeds be paid periodically to the United States, and a requirement that the Issuer file an information report with the Internal Revenue Service (the “Service”). The Issuer and the Borrower have covenanted in the Indenture, Note Loan Agreement, Tax Agreement and Regulatory Agreement that they will comply with these requirements.

Bond Counsel’s opinion will assume continuing compliance with the covenants of the Indenture, Financing Agreement, Tax Agreement and Regulatory Agreement pertaining to those sections of the Code that affect the excludability of interest on the Notes from gross income for federal income tax purposes and, in addition, will rely on representations by the Issuer, the Borrower and the Underwriter with respect to matters solely within the knowledge of the Issuer, the Borrower and the Underwriter, respectively, which Bond Counsel has not independently verified. If the Issuer or the Borrower should fail to comply with the

covenants in the Indenture, Note Loan Agreement, Tax Agreement and Regulatory Agreement or if the foregoing representations should be determined to be inaccurate or incomplete, interest on the Notes could become includable in gross income for federal income from the date of original delivery of the Notes, regardless of the date on which the event causing such inclusion occurs.

Interest on the Notes is not treated as an “item of tax preference” to be included in the computation of “alternative minimum taxable income” for purposes of determining a taxpayer’s alternative minimum tax liability.

Except as stated above, Bond Counsel will express no opinion as to the amount of interest on the Notes or any federal, state or local tax consequences resulting from the receipt or accrual of interest on, or the acquisition, ownership or disposition of, the Notes.

Bond Counsel’s opinions are based on existing law, which is subject to change. Such opinions are further based on Bond Counsel’s knowledge of facts as of the date thereof. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may thereafter come to Bond Counsel’s attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, Bond Counsel’s opinions are not a guarantee of result and are not binding on the Service; rather, such opinions represent Bond Counsel’s legal judgment based upon its review of existing law and in reliance upon the representations and covenants referenced above that it deems relevant to such opinions. The Service has an ongoing audit program to determine compliance with rules that relate to whether interest on state or local obligations is includable in gross income for federal income tax purposes. No assurance can be given whether or not the Service will commence an audit of the Notes. If an audit is commenced, in accordance with its current published procedures the Service is likely to treat the Issuer as the taxpayer and the Owners may not have a right to participate in such audit. Public awareness of any future audit of the Notes could adversely affect the value and liquidity of the Notes during the pendency of the audit regardless of the ultimate outcome of the audit.

Operation of the Project

In the case of notes used to provide residential rental housing, such as the Notes, section 142 of the Code requires that such notes also satisfy the tenant eligibility requirements applicable to “qualified residential rental projects” under section 142(d) of the Code. Section 142(d) of the Code requires that at all times during the “qualified project period” a certain percentage of the available units in the Project be occupied by individuals with income below certain levels pursuant to the Issuer’s election made under section 142(d)(1) of the Code. The “qualified project period” for the Project will commence on the first day on which 10 percent of the residential units in the Project are occupied and will end on the latest of the following: (1) the date that is 15 years after the date on which 50 percent of the residential units in the Project are occupied; (2) the first day on which no tax-exempt private activity bond (as defined in section 141 of the Code) issued with respect to the Project remains outstanding for federal income tax purposes; or (3) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates. Treasury Regulations (the “Regulations”) setting forth requirements for compliance with a comparable provision of the predecessor of section 142 of the Code require, among other things, that (1) the low-income set aside requirement must be met on a continuous basis during the “qualified project period” and (2) all of the units in the Project must be rented or available for rental to the general public on a continuous basis during such period. Under the Regulations, the failure to satisfy the foregoing requirements on a continuous basis or the failure to satisfy any of the other requirements of the Regulations, unless corrected within a reasonable period of not more than 60 days after such non-compliance is first discovered or would have been discovered by the exercise of reasonable diligence, will cause interest on the Notes to be includable in gross income for federal income tax purposes as of the date of their original issue, irrespective of the date such non-compliance actually occurred.

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 Note Loan Agreement, the Tax Agreement and the Indenture. In addition, the Issuer and the Trustee have each covenanted in the Tax Agreement to follow and enforce such procedures to ensure compliance with such requirements. However, no assurance can be given that in the event of a breach of any of the provisions or covenants described above, the remedies available to the Issuer and the Trustee can be judicially enforced in such manner as to assure compliance with the Code and therefore to prevent the loss of the excludability of the interest on the Notes from gross income for federal income tax purposes. Furthermore, if the Borrower fails to comply with the Regulatory Agreement, the Tax Agreement or the Note Loan Agreement, the enforcement remedies available to the Issuer, the Trustee and the Owners are severely limited and may be inadequate to prevent the loss of the excludability of interest on the Notes from gross income for federal income tax purposes retroactive to the date of issuance of the Notes. In such event, there is no provision for acceleration or redemption of the Notes, and the holders of the Notes may be required to hold the Notes until maturity bearing interest that is includable in gross income for federal income tax purposes.

Bond Counsel's opinions assume continuous compliance with all covenants and requirements set forth in the Regulatory Agreement and the Tax Exemption Agreement pertaining to those sections of the Code that affect the excludability of interest on the Notes from gross income for federal income tax purposes. Prospective purchasers should be aware that the Federal Home Loan Mortgage Association ("Freddie Mac") has required the inclusion of a section in the Regulatory Agreement (the "Freddie Mac Requirements") that provides that, after Conversion, any action taken under the Regulatory Agreement may not conflict with applicable Freddie Mac requirements. Bond Counsel expresses no opinion as to whether any of the covenants and requirements set forth in the Regulatory Agreement conflict with such Freddie Mac requirements. Furthermore, Bond Counsel expresses no opinion as to whether the interest on the Notes will be excludable from gross income for federal income tax purposes in the event that the Freddie Mac Requirements preclude compliance with any other of the covenants or requirements of the Regulatory Agreement.

Additional Federal Income Tax Considerations

Prospective purchasers of the Notes should be aware that the ownership of tax-exempt obligations may result in collateral federal income tax consequences to financial institutions, property and casualty insurance companies, certain S corporations with Subchapter C earnings and profits, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, low and middle taxpayers otherwise qualifying for the health insurance premium assistance credit and individuals otherwise qualifying for the earned income tax credit. In addition, certain foreign corporations doing business in the United States may be subject to the "branch profits tax" on their effectively-connected earnings and profits, including tax-exempt interest such as interest on the Notes. These categories of prospective purchasers should consult their own tax advisors as to the applicability of these consequences. Under the Code, taxpayers are required to report on their returns the amount of tax-exempt interest, such as interest on Notes, received or accrued during the year.

Tax Legislative Changes

Current law may change so as to directly or indirectly reduce or eliminate the benefit of the excludability of interest on the Notes from gross income for federal income tax purposes. Any proposed legislation, whether or not enacted, could also affect the value and liquidity of the Notes. Prospective purchasers of the Notes should consult with their own tax advisors with respect to any proposed, pending or future legislation.

UNDERWRITING

RBC Capital Markets, LLC (the “Underwriter”) has agreed to purchase the Notes from the Issuer at a price of one hundred percent (100%) of the principal amount thereof. The Underwriter will be paid an aggregate fee of \$_____ for underwriting the Notes, inclusive of expenses, except for the fees and expenses of its counsel. The Note Purchase Agreement provides that the obligation of the Underwriter to purchase the Notes is subject to certain terms and conditions and the approval of certain legal matters by counsel.

The Underwriter and its 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 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) and the Underwriter and its affiliates may engage in transactions for its own accounts involving the securities and instruments made the subject of this securities offering or other offerings of the Issuer and/or Borrower. The Underwriter and its 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 make a market in credit default swaps with respect to municipal securities at this time but may do so in the future.

The initial public offering prices of the Notes may be changed from time to time by the Underwriter. The Underwriter may offer and sell the Notes to certain dealers (including dealers depositing Notes into investment trusts) and certain dealer banks and banks acting as agents at prices lower than the public offering price stated on the inside cover of this Official Statement.

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

RATING

Moody’s Investors Service, Inc. (the “Rating Agency”) is expected to assign to the Notes a rating of “Aaa/ VMIG 1.” Such rating reflects only the view of the Rating Agency and an explanation of the significance of the rating may be obtained from the Rating Agency. There is no assurance that the rating will continue for any given period of time or that it will not be revised or withdrawn entirely by the Rating Agency, if in its judgment, circumstances so warrant. A revision or withdrawal of the rating may have an effect on the market price of the Notes.

A rating is not a recommendation to buy, sell, or hold the Notes. There is no assurance that a particular rating will be maintained for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the rating agency originally establishing the rating, circumstances so warrant. The Rating Agency will not undertake responsibility either to bring to the attention of the registered owners of the Notes any proposed revision or withdrawal of the rating of the Notes, if issued, or to oppose any such proposed revision or withdrawal. Any such change in or withdrawal of such a rating could have an adverse effect on the market price of the Notes if a registered owner attempts to sell the same.

The Issuer has not assumed any responsibility either to notify the owners of any proposed change in, suspension or withdrawal of such rating subsequent to the date of this Official Statement, and the Borrower has such responsibility only in connection with the reporting of events as provided in the

Continuing Disclosure Agreement. Neither of them has any responsibility to contest any such revision, suspension or withdrawal.

CERTAIN LEGAL MATTERS

Delivery of the Notes will be accompanied by the approving legal opinion of the Texas Attorney General to the effect that the Notes are valid and legally binding obligations of the Issuer under the laws of the State of Texas, payable from the Trust Estate. Certain legal matters relating to the execution and delivery of the Indenture and the Note Loan Agreement are subject to the approving opinion of Bracewell LLP, Bond Counsel, Austin, Texas, which will be furnished at the expense of the Borrower (the “Bond Counsel Opinion”). See “APPENDIX C – PROPOSED FORM OF OPINION OF BOND COUNSEL” hereto. Certain legal matters will be passed upon for the Borrower by its counsel, Locke Lord LLP, Austin, Texas, and for the Underwriter by its counsel, Norris George & Ostrow PLLC, Washington, D.C. Stifel, Nicolaus & Company, Incorporated, Dallas, Texas has served as Financial Advisor to the Issuer. Fees and expenses of certain of the above-mentioned counsel are contingent upon the issuance of the Notes.

Bracewell LLP, whose legal services as Bond Counsel have been retained by the Issuer, will opine on the date of issuance of the Notes with regard to the excludability of interest on the Notes from gross income. See “TAX MATTERS” herein. The proposed text of the legal opinion is set forth in APPENDIX C. The actual legal opinion to be delivered may vary from that text if necessary to reflect facts and law on the date of delivery of the Notes. The opinion will speak only as of its date, and subsequent distribution of it by recirculation of this Official Statement or otherwise shall create no implication that Bond Counsel has reviewed or expresses any opinion concerning any of the matters referenced in the opinion subsequent to its date.

In rendering its approving opinion, Bond Counsel will rely on certifications and representations of fact to be contained in the transcript of proceedings which Bond Counsel will not have independently verified.

The various legal opinions to be delivered concurrently with the delivery of the Notes express the professional judgment of the attorneys rendering the 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.

NO LITIGATION

The Borrower

There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, public board or body for which service of process has been effected on the Borrower or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower, or to its knowledge, any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the existence of the Borrower or the titles of its officers to their respective offices, the financial condition or operations of the Borrower, the transactions contemplated by this Official Statement, the exclusion of interest on the Notes from the gross income, for federal income tax purposes, of the owners of the Notes, the validity or enforceability of the Notes, the Indenture, the Note Loan Agreement, the Borrower Note, or any other agreement or instrument to which the Borrower is a party and which is used or contemplated for use in the transactions contemplated by this Official Statement, or in any way contesting or challenging the completeness or accuracy of this Official Statement.

The Issuer

To the knowledge of the Issuer, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or threatened against the Issuer in any way affecting the organization of the Issuer, or the legal or corporate existence of the Issuer, or the title of the members of the Issuer to their respective offices, or any powers of the Issuer under the laws of the State pursuant to which the Issuer was created, seeking to prohibit, restrain or enjoin the issuance, sale or delivery of the Notes or the collection of revenues from the Borrower derived from payments under the Note Loan Agreement, or the pledge thereof, contesting or affecting the validity or enforceability of the Notes or the Issuer Documents, contesting the power of the Issuer to enter into, execute and deliver the Issuer Documents or to consummate the transactions contemplated by such documents and the Official Statement, contesting in any way the completeness or accuracy of the Official Statement or any amendment or supplement thereto (nor to the actual knowledge of the Issuer, is there any basis therefor) or wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Issuer Documents, the financial position or condition of the Issuer or the exclusion from gross income for federal income tax purposes of the interest on the Notes.

CONTINUING DISCLOSURE

The Borrower will enter into a Continuing Disclosure Agreement dated as of June 1, 2020 (the “Continuing Disclosure Agreement”) with the Trustee, acting as the Dissemination Agent, obligating the Borrower to send, or cause to be sent, certain financial information with respect to the Project to the Municipal Securities Rulemaking Board annually and to provide notice, or cause notice to be provided, to the Municipal Securities Rulemaking Board, of certain enumerated events for the benefit of the beneficial owners and Holders of any of the Notes, pursuant to the requirements of Section (b)(5)(i) of Securities Exchange Commission Rule 15c2-12 (the “Rule”). See APPENDIX D - “FORM OF CONTINUING DISCLOSURE AGREEMENT.”

A failure by the Borrower to comply with the provisions of the Continuing Disclosure Agreement will not constitute a default under the Indenture or Note Loan Agreement (although Noteholders will have any available remedy at law or in equity for obtaining necessary disclosures). Nevertheless, such a failure to comply is required to be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Notes in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Notes.

The Borrower is a new entity and has not previously been subject to the continuing disclosure requirements of the Rule.

ENFORCEABILITY OF REMEDIES

The remedies available to the Trustee, the Issuer and the Owners of the Notes upon an Event of Default under the Note Loan Agreement, the Regulatory Agreement or the Indenture are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, including specifically the Federal Bankruptcy Code, the remedies provided for under the Federal Bankruptcy Code, the Note Loan Agreement, the Regulatory Agreement or the Indenture may not be readily available or may be limited.

In addition, the Note Loan Agreement and the Regulatory Agreement both provide that the payment obligations of the Borrower contained in such agreements (other than certain obligations to the Issuer and the Trustee individually and not on behalf of the Owners of the Notes) will be limited obligations payable

solely from the income and assets of the Borrower, and that no partner of the Borrower will have any personal liability for the satisfaction of any payment obligation of the Borrower under such agreements or of any claim against the Borrower arising out of such agreements or the Indenture.

The various legal opinions to be delivered concurrently with the delivery of the Notes will be qualified as to the enforceability of various legal instruments by limitations imposed by the valid exercise of the constitutional powers of the State and the United States of America and bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally, and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

VERIFICATION REPORT

Causey Demgen & Moore, certified public accountants (the “Verifier”), concurrently with the issuance of the Notes, will deliver to the Underwriter its verification report indicating that it has verified the arithmetical accuracy of certain computations provided by the Underwriter relating to the computation of forecasted receipts of principal and interest on the obligations and certain cash deposited as security for the Notes, and the forecasted payments of principal and interest to pay the Notes at their redemption or maturity dates. All such computations have been based solely upon assumptions and information supplied by the Underwriter. The Verifier restricted its procedures to verifying the arithmetical accuracy of the computations described above and has not made any study or evaluation of the assumptions and information on which the computations are based, and the Verifier has not expressed any opinion on the data used, the reasonableness of the assumptions or the achievability of the forecasted outcomes.

FINANCIAL ADVISOR

Stifel, Nicolaus & Company, Incorporated (the “Financial Advisor”) has served as financial advisor to the Issuer for purposes of assisting the Issuer with the development and implementation of the bond program in connection with the Notes. The Financial Advisor has not been engaged by the Issuer to compile, create or interpret any information in this Official Statement relating to the Issuer, including (without limitation) any of the Issuer’s financial and operating data, whether historical or projected. Any information contained in this Official Statement concerning the Issuer, any of its affiliates or contractors and any outside parties has not been independently verified by the Financial Advisor, and inclusion of such information is not and should not be construed as a representation by the Financial Advisor as to its accuracy or completeness or otherwise. The Financial Advisor is not a public accounting firm and has not been engaged by the Issuer to review or audit any information in this Official Statement in accordance with accounting standards.

The Financial Advisor does not assume any responsibility for the covenants and representations contained in any of the legal documents with respect to the federal income tax status of the Notes, or the possible impact of any present, pending or future actions taken by any legislative or judicial bodies.

MISCELLANEOUS

Copies of the Indenture, the Note Loan Agreement, the Borrower Note and the Regulatory Agreement are on file at the office of the Trustee and are available for inspection upon request.

This Official Statement is submitted in connection with the sale of the securities referred to herein 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, 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 or the Borrower and the purchasers or holders of any of the Notes.

The Issuer makes no representations with respect to any information in this Official Statement other than the information under the headings “THE ISSUER” and “NO LITIGATION – The Issuer.”

This Official Statement has been approved by the Issuer and the Borrower for distribution to current Noteholders and potential purchasers of the Notes.

[Signature Page to Official Statement – Scott Street Lofts]

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

APPENDIX A

DEFINITIONS

“Account” means an account within any Fund created pursuant to the Indenture.

“Act” means Chapter 2306, Texas Government Code, as amended.

“Actual Project Loan Amount” has the meaning set forth in the Construction Phase Financing Agreement.

“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.

“Authorized Officer” means with respect to the Borrower or other party giving such instructions to the Trustee, the officer(s) listed in the incumbency certificate provided to the Trustee under the Indenture.

“Board” means the Governing Board of the Issuer.

“Bond Counsel” means nationally recognized bond counsel selected by the Issuer and initially means Bracewell LLP.

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

“Borrower” means Scott Street Lofts, LP, a limited partnership duly organized and existing in the State of Texas, and its successors and assigns.

“Borrower Documents” means the Note Loan Agreement, the Borrower Note, the Tax Agreement, the Regulatory Agreement, the Note Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and any and all documents, agreements or instruments executed by the Borrower in connection with the Loan evidenced by the Note Loan Agreement.

“Borrower Note” means the Promissory Note, dated the Closing Date, from the Borrower to the Issuer in substantially the form attached as an exhibit to the Note Loan Agreement, and any amendments, supplements or modifications thereto, which Note has been assigned by the Issuer to the Trustee.

“Borrower Obligations” means the obligations of the Borrower under the Note Loan Agreement, the Borrower Note and the other Borrower Documents to (a) pay the principal of, and interest on the Borrower 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 Note Loan Agreement, the Borrower Note, and the other Borrower Documents to be paid by the Borrower to the Issuer and the Trustee, 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 Note Loan Agreement, the Borrower Note, the Tax Agreement, the Regulatory Agreement, and any of the other Borrower Documents, to perform or observe.

“Borrower Representative” means a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by the General Partner, which certificate may designate an alternate or alternates.

“Business Day” or “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 Trust Office of 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.

“BVAL AAA Callable Curve” means, for any Computation Date, the BVAL AAA Municipal Curve made available by Bloomberg Finance L.P. as of 4:00 p.m. New York, New York time for a term with a maturity of July 2023*.

“Calculation Agent” means Wilmington Trust, National Association or any other Person appointed by the Borrower to serve as calculation agent for the Notes.

“Capitalized Interest Account” means the Account by that name created in the Note Fund pursuant to the Indenture.

“Capitalized Interest Deposit” means the deposit of \$_____ from Preference Proof Moneys to the Project Fund on the Closing Date, as provided in the Indenture.

“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 Notes, designated by the Borrower and establishing the sufficiency of (a) the amount on deposit in the Project Fund, the Collateral Fund and the Capitalized Interest Account, (b) projected investment income to accrue on amounts on deposit in the Project Fund, the Collateral Fund and the Capitalized Interest Account during the applicable period and (c) any additional Preference Proof Moneys delivered to the Trustee by or on behalf of the Borrower to pay the principal of and interest on the Notes as and when they become due and payable to the Latest Mandatory Tender Date or the Mandatory Tender Date in connection with a proposed Conversion, as applicable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Notes, (ii) a release of amounts on deposit in the Capitalized Interest Account as provided in the Indenture, or (iii) the mandatory tender of the Notes as provided in the Indenture prior to the Latest Mandatory Tender Date. The cost and expense of obtaining any Cash Flow Projections shall be the sole responsibility of the Borrower.

“City of Houston Loan” means the subordinate loan relating to the Project from Lone Star Housing and Community Development Corporation, a Texas nonprofit corporation (the "Conduit Lender"), to Borrower, which subordinate loan was funded pursuant to a loan in the same amount from the City of Houston, Texas to the Conduit Lender.

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

* Preliminary; subject to change.

“Closing Memorandum” means the closing memorandum prepared by the Underwriter and executed by the Borrower and/or the Issuer in connection with the issuance of the Notes.

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

“Collateral Fund” means the Collateral Fund created pursuant to the Indenture.

“Completion Certificate” means a certificate submitted by the Borrower Representative to the Issuer and the Trustee as provided in the Note Loan Agreement.

“Completion Date” means the date upon which the Completion Certificate is delivered by the Borrower to the Issuer and the Trustee.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“Computation Date” means the day that is three (3) Business Days immediately preceding each Interest Payment Date.

“Conditions to Conversion” has the meaning set forth in the Construction Phase Financing Agreement.

“Confirmation of Rating” means a written confirmation (or, at the option of the Rating Agency, a new rating with respect to the Notes), 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 Notes 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 Contract” means that certain construction contract executed between the Contractor and the Borrower relating to the construction of the Project, as that contract may be amended from time to time.

“Construction Draw Date” means the date on which a disbursement from the Project Fund shall be made to pay Costs of the Project.

“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.

“Construction Phase Financing Agreement” means the Construction Phase Financing Agreement dated as of the date of the Indenture among Freddie Mac, the Lender and the Freddie Mac Seller/Service, and acknowledged and agreed to by the Borrower, as the same may be amended, modified or supplemented from time to time.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated as of June 1, 2020 between the Borrower and the Dissemination Agent.

“Contractor” means the entity identified as the general contractor under the Construction Contract.

“Conversion” means the conversion of the Loan from the Construction Phase to the Permanent Phase on the Conversion Date.

“Conversion Date” means the date the Freddie Mac Seller/Servicer purchases the Governmental Note upon the satisfaction of the Conditions to Conversion, as such Conversion Date is specified by the Freddie Mac Seller/Servicer in the Notice of Conversion; provided, however, the Conversion Date shall occur hereunder no earlier than the Earliest Mandatory Tender Date nor later than the Latest Mandatory Tender Date.

“Costs of Issuance” means all fees, costs and expenses incurred in connection with the issuance of the Notes and the extension of the Loan that are payable from amounts deposited in the Cost of Issuance Fund.

“Cost of Issuance Deposit” means \$ _____.

“Cost of Issuance Fund” means the Cost of Issuance Fund created 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.

“Default” means any Default under the Note Loan Agreement as specified and defined therein.

“Dissemination Agent” means Wilmington Trust, National Association, a national banking association organized and existing under the laws of the United States of America and its permitted successors and assigns as Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means a portion of the Trustee’s Fee payable to Wilmington Trust, National Association, in its capacity as Dissemination Agent pursuant to the Continuing Disclosure Agreement.

“Documents” means and shall include (without limitation), with respect to the Notes, the Indenture, the Note Documents, the Borrower Documents, 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 after the date of the Indenture, to evidence or secure the Notes and the Borrower’s Obligations, or any part thereof, or in connection therewith, and any and all supplements thereto.

“Earliest Mandatory Tender Date” means July 1, 2022*.

“Event of Default” or “Default” means, when used in the Indenture, those events of default or defaults specified therein and, when used in the Note Loan Agreement, those events of default or defaults specified therein.

“Expense Fund” means the fund by that name created and established pursuant to the Indenture.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that, under existing law, such action or omission does not adversely affect the Federal Tax Status of the Notes (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel

* Preliminary; subject to change.

delivered upon the original issuance of the Notes or other customary exceptions acceptable to the recipient(s) thereof).

“Federal Tax Status” means, as to the Notes, the status of the interest on the Notes as excludable from gross income for federal income tax purposes (except on any Note for any period during which it is held by a “substantial user” of the Project or by a “related person” of such a substantial user, each within the meaning of Section 147(a) of the Code).

“Freddie Mac” means the Federal Home Loan Mortgage Corporation, a shareholder owned government sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns.

“Freddie Mac Commitment” means the commitment from Freddie Mac to the Freddie Mac Seller/Serviceicer pursuant to which Freddie Mac has agreed to purchase the Governmental Note following the Conversion Date, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“Freddie Mac Seller/Serviceicer” means Jones Lang LaSalle Multifamily, LLC, as Freddie Mac’s seller/serviceicer under the Freddie Mac Commitment, or any of its successors or assigns under the Freddie Mac Commitment.

“Freddie Mac Seller/Serviceicer Purchase Price” means an amount equal to the Actual Project Loan Amount to be funded by the Freddie Mac Seller/Serviceicer on the Conversion Date.

“Fund” means any fund created pursuant to the Indenture.

“Funding Agreement” means the Funding Agreement dated as of _____, 2020, among the Borrower, the Lender and the Trustee, as amended, supplemented or restated from time to time.

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

“General Partner” means Scott Street Lofts Advisors, LLC, a Texas limited liability company, as general partner of the Borrower.

“Government Obligations” means direct obligations issued by 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 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 attached as an exhibit to the Funding Loan Agreement, which Governmental Note shall be executed, delivered and become effective on the Conversion Date.

“Governmental Requirements” means all laws, ordinances, orders, rules or regulations of all Governmental Authorities applicable to the Project, the Issuer, the Borrower or any of the Borrower’s assets or other properties, including without limitation, laws, ordinances, orders, rules and regulations relating to

securities or other public disclosures, zoning, licenses, permits, subdivision, building, safety, health, and fire protection and all environmental laws.

“Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBS”) and compounds containing them; lead and lead based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above ground storage tanks, whether empty or containing any substance; any substance the presence of which at the Project is prohibited by any federal, state or local authority; any substance that requires special handling under any Hazardous Materials Law; and any other material or substance now or in the future defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” within the meaning of any Hazardous Materials Law, but does not include any such substance that is a customary and ordinary household, cleaning, office, swimming pool or landscape maintenance product used on the Project by the Borrower or any tenant or agent of the Borrower, or customary construction materials used during the course of construction and equipping of the Project by the Borrower or the Contractor, provided such use is in accordance with applicable hazardous material laws.

“Hazardous Materials Laws” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials and apply to Borrower or to the Project. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, and their state analogs, including laws of the State.

“Indenture” means the Trust Indenture, dated as of June 1, 2020, between the Issuer and the Trustee, and any and all Supplements thereto, authorizing the issuance of the Notes.

“Independent” means a Person that has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, partner, member or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, partner, member, officer or employee of any partner or member of the Borrower or any Affiliate of the Borrower.

“Index Interest Rate” means (i) for the first Interest Period, ___% per annum, and (ii) for each subsequent Interest Period, the Municipal Market Data (MMD) rate on the Computation Date immediately preceding such Interest Period for a term with a maturity of July 2023* (or if such rate is not available on a Computation Date, the BVAL AAA Callable Curve), plus a spread of ___%, which Index Interest Rate shall be rounded upward to the second decimal place; provided, however, that the Index Interest Rate for any Interest Period may never be less than ___% per annum nor greater than ___% per annum.

“Initial Note” means the Note certificate registered by the Comptroller and subsequently canceled and replaced by a definitive Note pursuant to the Indenture.

“Interest Payment Date” means each January 1* and July 1*, beginning January 1, 2021*.

* Preliminary; subject to change.

“Interest Period” means, initially, the period from the Closing Date to but not including first Interest Payment Date, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day preceding the next Interest Payment Date.

“Investor Limited Partner” means RBC Community Investments, LLC, an Illinois limited liability company, and its permitted successors and assigns in their capacity as the investor limited partner of the Borrower.

“Issuer” means the Texas Department of Housing and Community Affairs, a public and official agency of the State, or any successor to its rights and obligations under the Note Loan Agreement and the Indenture.

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

“Issuer Indemnified Party” or “Issuer Indemnified Parties” has the meaning set forth in the Note Loan Agreement.

“Issuer’s Administrative Fee” means the fee payable annually in advance to the Issuer on each July 1, in the amount of 0.10% per annum of the aggregate principal amount of the Loan at the inception of each payment period. On the Closing Date, the Borrower will pay the Issuer Administrative Fee to the Issuer for the period from the Closing Date to June 30, 2022. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), payable solely from funds provided by the Borrower, all payments of the Issuer Administrative Fee due on or after July 1, 2022.

“Issuer’s Compliance Fee” means the fee payable annually in advance to the Issuer on each July 1, in the amount of \$25 per Low-Income Unit in the Project. The first annual compliance fee shall be paid on the Closing Date. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), solely from funds provided by the Borrower, all payments of the Issuer’s Compliance Fee due on or after July 1, 2023. The Issuer’s Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“Issuer’s Fees” means, collectively, the Issuer’s Administrative Fee and the Issuer’s Compliance Fee.

“Latest Mandatory Tender Date” means July 1, 2023*.

“Lender” means Zions Bancorporation, N.A. doing business as Amegy Bank, and its successors and assigns.

“Lender Borrower Note” means the promissory note from the Borrower to the Lender to evidence its indebtedness under the Lender Loan.

“Lender Collateral Deposit” shall have the meaning given to such term in the Indenture.

“Lender Loan” means the mortgage loan made by the Lender to the Borrower in the original principal amount not to exceed \$18,000,000* with respect to the Project, as described and provided for in the Lender Loan Documents.

“Lender Loan Documents” means the documents related to the Lender Loan, including the Lender Borrower Note, the Lender Mortgage and any and all other documents, agreements, or instruments which evidence or secure the indebtedness evidenced by the Lender Loan.

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

“Lender Loan Prepayment Fund” means the Lender Loan Prepayment Fund created in the Indenture.

“Lender Mortgage” means the first-lien priority Deed of Trust, Assignment of Leases and Rents Security Agreement and Fixture Filing dated June 1, 2020, from the Borrower for the benefit of the Lender to secure the repayment of the Lender Borrower Note.

“Loan” means the loan in the principal amount of \$18,000,000* made by the Issuer to the Borrower evidenced by the Borrower Note, described in the Note Loan Agreement and made in connection with the issuance of the Notes.

“Loan Documents” means the Note Loan Agreement and the Borrower Note.

“Mandatory Tender Date” means the Conversion Date.

“Maturity Date” means July 1, 2040*.

“Moody’s” means Moody’s Investors Service, Inc., a Delaware corporation, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer with the approval of the Borrower.

“Note” or “Notes” means the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 issued, authenticated and delivered under the Indenture.

“Note Documents” means, with respect to the Notes, the Indenture, the Note Loan Agreement, the Note Purchase Agreement, the Regulatory Agreement, the Continuing Disclosure Agreement, the Tax Agreement and any and all documents executed in connection with the Notes.

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

“Noteholder” or “Holder of the Notes” or “Holder” or “Owner of the Notes” or “Owner” when used with respect to any Note, means the Person or Persons in whose name such Note is registered as the owner thereof on the books of the Issuer maintained at the Trust Office of the Trustee for that purpose.

* Preliminary; subject to change.

“Note Loan Agreement” or “Agreement” means the Loan Agreement, dated as of June 1, 2020, between the Issuer and the Borrower, and any and all amendments or supplements thereto, pursuant to which the Loan is being made to the Borrower.

“Note Purchase Agreement” means the Note Purchase Agreement, dated _____, 2020, among the Issuer, the Borrower and the Underwriter.

“Note Registrar” has the meaning assigned to it in the Indenture.

“Notice of Conversion” means a written notice to be delivered not less than ten (10) days prior to the Conversion Date by the Freddie Mac Seller/Service to the Issuer, the Trustee, the Borrower, the Lender and Freddie Mac (i) stating that the Conditions to Conversion have been satisfied on or before the Outside Forward Commitment Maturity Date or, if any Condition to Conversion has not been satisfied on or before the Outside Forward Commitment Maturity Date, stating that such Condition to Conversion has been waived in writing by Freddie Mac (if a waiver is permitted and is granted by Freddie Mac, in its sole and absolute discretion) on or before the Outside Forward Commitment Maturity Date, and (ii) confirming the Conversion Date.

“Official Statement” means the Official Statement dated _____, 2020, relating to the Notes.

“Outside Forward Commitment Maturity Date” means July 1, 2023.

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

- (a) Notes theretofore canceled by the Trustee or theretofore delivered to the Trustee for cancellation;
- (b) Notes for the payment of which moneys or obligations shall have been theretofore deposited with the Trustee or other escrow agent in accordance with the Indenture; or
- (c) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered under the Indenture.

“Partnership Agreement” means the Amended and Restated Agreement of Limited Partnership of the Borrower, dated as of June 1, 2020, as may be amended and supplemented from time to time.

“Paying Agent” means the Trustee in its capacity as paying agent for the Notes.

“Permanent Phase” means the permanent phase of the Loan, which time period shall commence on the Conversion Date and remain in effect through the remaining term of the Loan.

“Permitted Investments” means (i) Government Obligations, (ii) to the extent permitted in the Indenture, money market funds rated “AAAm”, “Aaa-mf” or its equivalent by any rating agency that invest in Government Obligations, which funds are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended (including any money market 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 money market fund and receives reasonable compensation therefor), (iii) Fidelity Institutional Money Market Treasury Only – Class I as long as it is rated “AAAm”, “Aaa-mf” or its equivalent by any rating agency, and (iv) obligations of any state or local government with a short-term rating of MIG-1 or VMIG-1 and/or a long-term rating of Aaa

or its equivalent which mature or are subject to mandatory prepayment no later than the Latest Mandatory Tender Date. Ratings of Permitted Investments shall be determined at the time of purchase of such Permitted Investments and without regard to ratings subcategories, and the Trustee shall have no responsibility to monitor the ratings of Permitted Investments upon or after the initial purchase of such Permitted Investments.

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

“Plans and Specifications” means the plans and specifications and/or the scope of work for the Project, together with such amendments thereto as are made from time to time in accordance with the Note Loan Agreement.

“Preference Proof Moneys” means (i) moneys drawn on a letter of credit, (ii) proceeds of the Notes, (iii) moneys received by the Trustee representing advances to the Borrower (or an Affiliate) of funds from other third parties representing loans or grants of money earmarked for the Project, including but not limited to proceeds of the Lender Loan, (iv) proceeds of the Freddie Mac Seller/Servicer Purchase Price received from the Freddie Mac Seller/Servicer in connection with the purchase of the Governmental Note on the Conversion Date, (v) proceeds of the City of Houston Loan, or (vi) moneys in connection with which the Trustee shall have been delivered an opinion of bankruptcy counsel acceptable to it to the effect that the use of such moneys would not be avoidable as a preference under Section 547 of the United States Bankruptcy Code or give rise to a stay under Section 362(a) of the United States Bankruptcy Code.

“Project” means the multifamily rental housing development for seniors to be known as Scott Street Lofts, which will consist of approximately 123 units and related facilities to be located in Houston, Texas.

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

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

“Qualified Project Costs” has the meaning assigned to such term in the Tax Agreement.

“Qualified Project Period” has the meaning assigned to such term in the Regulatory Agreement.

“Rating Agency” means any national rating agency then maintaining a rating on the Notes, and initially means Moody’s.

“Rebate Analyst” means [_____] or any other rebate analyst selected by the Borrower and reasonably acceptable to the Issuer.

“Rebate Analyst Fee” means the fee payable by the Borrower annually in arrears to the Rebate Analyst on each January 1 in the amount of \$[_____], commencing on [_____ 1, 20__], so long as any of the Notes are Outstanding.

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

“Rebate Requirement” means the amount, if any, which is to be paid to the United States of America pursuant to Section 148(f) of the Code and the Indenture or to reduce the yield on investments to the yield on the Notes pursuant to Section 148 of the Code.

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

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Regulatory Agreement” means the Regulatory and Land Use Restriction Agreement dated as of June 1, 2020, among the Issuer, the Trustee and the Borrower, and any and all amendments or supplements thereto.

“Representation Letter” means the Blanket Letter of Representations from the Issuer to DTC, or any similar Letter of Representations at the time in use by DTC.

“Requisition” means (a) the request signed by the Borrower Representative to make a disbursement from the Project Fund on a Construction Draw Date in the manner provided pursuant to the Indenture or (b) the request signed by the Borrower Representative to make a disbursement from the Cost of Issuance Fund in the manner provided pursuant to the Indenture.

“Resolution” means the resolution adopted by the Issuer on [May 21], 2020, duly authorizing and directing the issuance, sale and delivery of the Notes.

“Responsible Officer” means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate, associate or other officer of the Trustee within the Trust Office (or any successor corporate trust office) customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Trust Office because of such person’s knowledge of and familiarity with the particular subject and having direct responsibility for the administration of the Indenture.

“Restricted Unit” means any one of the 98 Units located in the Development, which are described as “affordable units” in Exhibit B-1 to the Regulatory Agreement.

“Revenues” means, all payments paid or payable to the Trustee in accordance with the Note Loan Agreement, the Loan and the Borrower Note and all investment earnings derived or to be derived on any moneys or investments held by the Trustee under the Indenture, but excluding (a) amounts paid as fees, reimbursement for expenses or for indemnification of any Issuer Indemnified Party and the Trustee, (b) amounts paid to or collected by the Issuer in connection with any Unassigned Rights of the Issuer and (c) any Rebate Requirement.

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

“SLGS” means United States Treasuries – Time Deposit State and Local Government Series.

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

“State” means the State of Texas.

“Subordinate Mortgage” means the subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing, dated of even date with the Indenture, from the Borrower to Wilmington Trust, National Association for the benefit of the Trustee and the Issuer, as amended or supplemented from time to time.

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

“Tax Agreement” means the Tax Exemption Certificate and Agreement dated as of June 1, 2020, among the Issuer, the Borrower and the Trustee, and any and all amendments or supplements thereto.

“Term of Agreement” means the term of the Note Loan Agreement as specified therein.

“Trust Estate” has the meaning given such term in the granting clauses of the Indenture.

“Trust Office” means the corporate trust office of the Trustee located at the address set forth in the Indenture or such other office designated by the Trustee from time to time, or such other offices as may be specified in writing to the Issuer by the Trustee.

“Trustee” means Wilmington Trust, National Association, a national banking association duly organized and existing under the laws of the United States of America, and authorized to exercise corporate trust powers in the State, having a corporate trust office in Dallas, Texas, and its successor or successors in the trust created by the Indenture.

“Trustee’s Fee” means the ongoing compensation and expenses payable to the Trustee as follows: (a) the acceptance fee of the Trustee of \$2,000 payable on the Closing Date; (b) the annual administration fees and expenses of the Trustee, as Trustee, Registrar and Paying Agent of \$4,000 per year for the ordinary services of the Trustee rendered under the Indenture during each twelve-month period, payable annually in advance beginning on the Closing Date and thereafter on each anniversary of the Closing Date; (c) the reasonable fees and charges of the Trustee for necessary extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture as and when the same become due, including reasonable counsel fees (including in-house counsel fees and fees prior to litigation, at trial, in insolvency proceedings or for appellate proceedings); provided, further, that the Trustee shall not be required to undertake any such extraordinary services unless provision for payment of extraordinary expenses satisfactory to the Trustee shall have been made; (d) for purposes of the Note Loan Agreement, indemnification of the Trustee by the Borrower; and (e) the annual Dissemination Agent Fee under the Continuing Disclosure Agreement of \$500 per year, payable annually in advance on the Closing Date and thereafter on each anniversary of the Closing Date.

“Unassigned Rights of the Issuer” and “Unassigned Rights” means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to the Note Loan Agreement, including the Issuer’s Fees; (c) all rights of the Issuer to receive any Rebate Amount (as defined in the Tax Agreement) required to be rebated to the United States of America under the Code in connection with the Notes, as described in the Tax Agreement; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent under the Indenture and under the Note Loan Agreement, the Regulatory Agreement and the Tax Agreement; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Note Loan Agreement, in the Tax Agreement and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set forth in the Indenture, the Note

Loan Agreement, the Regulatory Agreement, the Tax Agreement, or the Subordinate Mortgage, as applicable, regarding (1) the negotiability, registration and transfer of the Notes, (2) the loss or destruction of the Notes, (3) the limited liability of the Issuer as provided in the Act, the Indenture, the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Subordinate Mortgage or the Borrower Note, (4) no liability of the Issuer to third parties, and (5) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or modification of the Indenture, the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement, the Subordinate Mortgage and the Borrower Note; (h) any and all limitations of the Issuer's liability and the Issuer's disclaimers of warranties set forth in the Indenture, the Regulatory Agreement, the Tax Agreement or the Note Loan Agreement, and the Issuer's right to inspect and audit the books, records and permits of the Borrower and the Project.

“Underwriter” means RBC Capital Markets, LLC.

APPENDIX B

DOCUMENT SUMMARIES

SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

The Indenture contains terms and conditions relating to the issuance and sale of Notes under it, including various covenants and security provisions, certain of which are summarized below. This summary does not purport to be comprehensive or definitive and is subject to all of the provisions of the Indenture to which reference is hereby made, a copy of which is on file with the Trustee. This summary uses various terms defined in the Indenture and such terms as used herein shall have the same meanings as so defined.

Funds and Accounts

The following trust funds are created by the Issuer under the Indenture to be held separately by the Trustee:

- (1) Note Fund, and within the Note Fund, a Capitalized Interest Account;
- (2) Project Fund;
- (3) Rebate Fund;
- (4) Expense Fund;
- (5) Collateral Fund;
- (6) Cost of Issuance Fund; and
- (7) Lender Loan Prepayment Fund.

Note Fund. On the Closing Date, upon receipt of the Capitalized Interest Deposit in accordance with the Note Loan Agreement, the Trustee shall deposit the Capitalized Interest Deposit to the Project Fund, and thereafter transfer or allocate to the Capitalized Interest Account of the Note Fund the amounts set forth in the Closing Memorandum. All Revenues received by the Trustee, except for funds deposited in the Note Fund (including the Capitalized Interest Account therein), the Project Fund or the Collateral Fund on the Closing Date and any investment earnings thereon, shall be deposited, first, to the credit of the Expense Fund to the extent any fees, costs, or expenses described under the caption “Expense Fund” below are due and payable, and then to the Note Fund. In accordance with the Indenture, for so long as the Notes are outstanding under the Indenture, funds on deposit in the Project Fund, the Collateral Fund or the Note Fund (including the Capitalized Interest Account therein) shall not be deposited in the Expense Fund or otherwise used to pay fees, costs or expenses described under the caption “Expense Fund” below.

Upon receipt by the Trustee of (a) a Confirmation of Rating provided by the Rating Agency and (b) a Cash Flow Projection provided on behalf of the Borrower, but no more than once prior to the Latest Mandatory Tender Date, the Trustee is authorized to release from the Capitalized Interest Account the amount set forth in the Cash Flow Projection to or at the written direction of the Borrower.

The funds on deposit in the Note Fund shall be used by the Trustee to pay principal of and interest on the Notes on each Interest Payment Date.

In the event that amounts on deposit in the Note Fund on any Interest Payment Date are insufficient to make the payment of principal of or interest on the Notes when due, the Trustee shall transfer funds in the following order to the Note Fund and use such funds, together with amounts then on deposit in the Note Fund, to make such payments when due:

- (a) first, from amounts on deposit in the Capitalized Interest Account of the Note Fund;
- (b) second, from amounts on deposit in the Collateral Fund; and
- (c) third, from amounts on deposit in the Project Fund.

So long as there are any Outstanding Notes, payments due under the Borrower Note and the Note Loan Agreement shall be deemed made by the Trustee's transfer of funds on each Interest Payment Date from the Capitalized Interest Account of the Note Fund or from the Collateral Fund to the Note Fund, in an amount necessary to pay the interest on and principal (if any) of the Notes.

Project Fund. The proceeds received by the Trustee for such purpose upon the issuance and sale of the Notes shall be deposited in the Project Fund in the amount set forth in the Closing Memorandum. Disbursements from the Project Fund shall be made upon the receipt by the Trustee of the following and shall be used solely to pay Costs of the Project incurred in connection with the acquisition and construction of the Project: (1) a request or requests therefor executed by the Borrower, in the form of a Requisition in substantially the form attached to the Indenture and (2) an amount equal to the requested disbursement has been received by the Trustee and deposited to the Collateral Fund in accordance with the Indenture. Together with amounts on deposit in the Project Fund and any other Preference Proof Moneys on deposit in the Capitalized Interest Account of the Note Fund, amounts on deposit in the Note Fund and the Collateral Fund, including any investment earnings thereon, shall be sufficient at all times to pay the principal of and interest on the Notes as and when they become due to the Latest Mandatory Tender Date.

Notwithstanding any provision of the Note Loan Agreement or any other provision of the Indenture to the contrary, the Trustee shall not disburse moneys from the Project Fund, other than to pay principal and/or interest payments on the Notes in accordance with the Indenture, unless and until the Trustee receives satisfactory evidence that a Lender Collateral Deposit in an amount equal to or greater than the requested disbursement amount 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, (ii) the Capitalized Interest Account of the Note Fund, (iii) the Project Fund and (iv) the Note Fund, will be sufficient to pay principal of and interest on the Notes as and when they become due to the Latest Mandatory Tender Date. Upon satisfaction of the conditions precedent set forth in this paragraph, and notwithstanding anything in the Note Documents to the contrary, once the Lender deposits a Lender Collateral Deposit and upon satisfaction of the conditions set forth in the Indenture, the Trustee is irrevocably and unconditionally obligated to disburse an equal amount of moneys from the Project Fund in accordance with approved Requisitions.

Rebate Fund. The Rebate Fund is created for the sole benefit of the United States of America and shall not be subject to the claim of any other Person, including without limitation, the Issuer or the Holders of the Notes. The Rebate Fund is established for the purpose of complying with Section 148 of the Code. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, shall be held in trust and applied solely as provided in the Tax Agreement. The Rebate Fund is not a portion of the Trust Estate and is not subject to any lien under the Indenture. Notwithstanding the foregoing, with respect to the Rebate Fund the Trustee is afforded all the rights, protections and immunities otherwise accorded to it under the Indenture.

Expense Fund. The Trustee shall deposit amounts received from the Borrower for the purpose of paying Trustee's Fees, the Issuer's Fees, the Rebate Analyst Fee and any other fees and expenses required under the Note Loan Agreement into the Expense Fund. The Trustee shall pay such amounts to the proper persons on the dates and in the amounts due. Amounts on deposit in the Expense Fund shall be withdrawn or maintained, as appropriate by the Trustee to pay (i) to the Issuer, the Issuer's Fees, (ii) to the Trustee, the Trustee's Fee, (iii) to the Rebate Analyst, the Rebate Analyst Fee, (iv) upon receipt, to the Trustee, any amounts due to the Trustee which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (v) upon receipt, to the Issuer, the Issuer's Fees due and unpaid, other than amounts paid in accordance with clause (i) above.

Collateral Fund. Upon receipt of funds provided by the Lender (each, a "Lender Collateral Deposit") or other Preference Proof Moneys, the Trustee shall, in accordance with the Funding Agreement, deposit such amounts to the Collateral Fund. Together with amounts on deposit in the Project Fund and the Note Fund (including the Capitalized Interest Account therein), amounts on deposit in the Collateral Fund, including any investment earnings thereon, shall be sufficient at all times to pay the principal of and interest on the Notes as and when they become due to the Latest Mandatory Tender Date, assuming that the Notes bear interest at ___% per annum to but not including January 1, 2021*, and at ___% per annum thereafter to but not including the Latest Mandatory Tender Date. On each date on which principal of or interest on the Notes is due, the Trustee shall transfer a sufficient amount of funds from the Collateral Fund for deposit to the Note Fund to enable the Trustee to make such payments as and when due.

Cost of Issuance Fund. On or before the Closing Date the Borrower shall deliver the Cost of Issuance Deposit to the Trustee. On the Closing Date, the Trustee shall deposit or transfer, as applicable, the Cost of Issuance Deposit into the Cost of Issuance Fund as designated in the Closing Memorandum.

Except as otherwise described under this caption, the amounts deposited in the Cost of Issuance Fund shall be expended for Costs of Issuance and for no other purpose. The Borrower shall deliver to the Trustee a Requisition in the form attached as an exhibit to the Indenture, executed by the Borrower (and approved by the Lender), specifying in detail the amount that constitutes Costs of Issuance to be paid or reserved to be paid under this caption, the respective firms or persons to whom such payments are to be made, and their respective payment instructions. The Trustee shall make the payments specified therein concurrently with or as soon as may be practicable after the delivery of the Notes.

Any moneys remaining in the Cost of Issuance Fund twelve (12) months after the Closing Date and not needed to pay still unpaid Costs of Issuance will be returned to the Borrower upon the written instruction to the Trustee from the Borrower, in accordance with the provisions described under the caption "Payment of Excess Moneys" below. Upon final disbursement, the Trustee shall close the Cost of Issuance Fund.

Lender Loan Prepayment Fund. On the Conversion Date, the Trustee shall deposit in the Lender Loan Prepayment Fund the amounts described in the Indenture such that the amount in the Lender Loan Prepayment Fund equals the Lender Loan Prepayment Amount, which amount shall be used on the Conversion Date to pay the Lender Loan in full.

Payment of Excess Moneys. Subject to the provisions of the Indenture, any amounts remaining in the Cost of Issuance Fund after the payment in full of all Costs of Issuance shall be paid (upon written direction from the Borrower to the Trustee) to the Borrower in accordance with the provisions described under the caption "Cost of Issuance Fund" above, any amounts remaining in the Collateral Fund or the Project Fund after payment in full of the purchase price of the Notes on the Conversion Date shall be

* Preliminary; subject to change.

transferred to the Lender Loan Prepayment Fund, and any amounts remaining in the Note Fund (except for amounts then held by the Trustee for payment of principal of, or interest on any of the Notes) after payment in full of the purchase price of the Notes on the Conversion Date, and other costs associated with the conversion of the Notes, and payment in full of any outstanding fees and expenses of the Paying Agent, the Issuer and the Trustee and any other fees and expenses due under the Note Documents, shall, upon written instruction to the Trustee from the Borrower, be deposited into the Loan Payment Fund established under the Funding Loan Agreement or for any other purpose provided that the Trustee is furnished with a Favorable Opinion of Bond Counsel.

Investment

On the Closing Date, a portion of the moneys on deposit in the Project Fund in the amount, if any, set forth in the Closing Memorandum will be held by the Trustee uninvested until disbursed to the Borrower on the Closing Date in accordance with the Closing Memorandum. The balance of amounts on deposit in the Project Fund after the Closing Date shall be invested as set forth in the following paragraph.

The Trustee has been directed to purchase on the Closing Date a portfolio of Permitted Investments maturing on or before the Latest Mandatory Tender Date, with respect to the investment of certain amounts on deposit in the Special Funds, the principal and interest of which will be sufficient to pay principal and interest on the Notes when due. All interest earned from the foregoing investments shall be deposited in the Note Fund. Such funds shall remain on deposit, subject to reallocation pursuant to the Indenture, until the Mandatory Tender Date, on which date they will be withdrawn to make payment on the Notes. In the event that any investments in the Special Funds must be liquidated prior to the Latest Mandatory Tender Date, such investments shall be liquidated under the Indenture.

At no time shall the Borrower direct that any funds constituting Gross Proceeds (as defined in the Tax Agreement) of the Notes be used in any manner as would constitute failure of compliance with Section 148 of the Code, all as set forth in the Tax Agreement.

Except as otherwise specified in the Indenture, amounts on deposit in the Special Funds shall be invested at all times in Permitted Investments or held uninvested. The investments described in each of the above paragraphs shall be made by the Trustee pursuant to the direction provided by the Indenture and in accordance with the written direction of the Borrower to be provided on the Closing Date, which shall remain in effect until further written direction is provided by the Borrower. In the absence of investment instructions from the Borrower, the Trustee shall hold moneys in the Special Funds uninvested until such time as the Borrower otherwise provides direction to invest in Permitted Investments maturing on or before the Latest Mandatory Tender Date. The Trustee shall have no responsibility or liability for any losses or damages of any nature that may arise from any action taken or not taken by the Trustee in accordance with written investment instructions provided by the Borrower.

Subject to the following sentence, investments shall be sold at the best price obtainable whenever it shall be necessary to do so in order to provide moneys to make any transfer, withdrawal, payment or disbursement from the applicable Special Fund. Prior to the Latest Mandatory Tender Date, at the direction of the Borrower, the Trustee is permitted to invest in Permitted Investments that mature on or before the Latest Mandatory Tender Date but is not permitted to sell or otherwise dispose of any such Permitted Investment prior to such time without first receiving from or on behalf of the Borrower: (i) a Cash Flow Projection, and (ii) Preference Proof Moneys in the amount, if any, set forth in such Cash Flow Projection.

Amounts, if any, on deposit in the Cost of Issuance Fund, until disbursed or returned to the Borrower pursuant to the provisions described under the caption "Cost of Issuance Fund" above, shall be invested at the direction of the Borrower Representative. The Expense Fund shall be invested at the

direction of the Borrower Representative. In the absence of investment instructions from the Borrower, the Trustee shall not be responsible or liable for keeping the moneys held in the Cost of Issuance Fund or the Expense Fund under the Indenture fully invested in Permitted Investments.

Investment of Rebate Fund

Any moneys held as part of the Rebate Fund, and not immediately required for the purposes of the Rebate Fund, shall be invested or reinvested by the Trustee as set forth in the Tax Agreement.

Discharge of Lien

If and when the Notes secured by the Indenture shall become due and payable in accordance with their terms as provided in the Indenture, or otherwise, and the whole amount of the principal and the interest so due and payable upon all of the Notes, together with all other amounts payable under the Indenture by the Issuer and all fees and expenses of the Trustee and the Issuer, shall be paid, or provision shall have been made for the payment of the same, then the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Noteholders shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, upon request of the Borrower, the Trustee shall turn over to the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing and after receipt of a rebate analyst report and, if necessary, funding for any rebate payment, any surplus in the Collateral Fund and all balances remaining in any other fund created under the Indenture and shall assign and transfer to the Borrower all other property then held by the Trustee under the Indenture and shall execute such documents as may be reasonably required by the Borrower.

If and when the Trustee shall hold sufficient moneys under the Indenture, as verified to the Trustee in writing by an Independent public accounting firm of national reputation or other firm similarly experienced in performing such computations, to provide for payment of the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all the Notes, together with all other amounts (exclusive of amounts in the Cost of Issuance Fund, the Rebate Fund or the Expense Fund) payable or which may thereafter become payable under the Indenture by the Issuer, notwithstanding that all the Notes have not yet become due and payable and that consequently the right, title and interest of the Trustee in and to the Trust Estate shall not have ceased, terminated and become void as described in the prior paragraph, the Trustee, on demand of the Borrower, shall deposit with or at the direction of the Borrower, so long as there shall have occurred no Event of Default which is uncured and continuing, any surplus in the Collateral Fund in excess of the amount sufficient to pay the whole amount of the principal and interest due and payable and thereafter to become due and payable upon all Notes together with all other amounts payable or which may thereafter become payable under the Indenture by the Issuer or the Borrower.

All Outstanding Notes shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect described above if (a) there shall have been deposited with the Trustee (as verified to the Trustee in writing by an Independent public accounting firm of national reputation or other firm similarly experienced in performing such computations) either (i) moneys in an amount which shall be sufficient, or (ii) Government Obligations that are not subject to redemption prior to maturity, the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal and interest due and to become due on such Notes on the maturity date thereof, and (b) the Borrower shall have given the Trustee, in form satisfactory to it irrevocable instructions to give, as soon as practicable, a notice to the Holders of such Notes and the Rating Agency that the deposit required by (a) above has been made with the Trustee and that such Notes are deemed to have been paid in accordance with the provisions

described under this caption and stating such maturity upon which moneys are to be available for the payment of the principal and interest on such Notes.

Notwithstanding the foregoing, any provisions of the Indenture which relate to the maturity of Notes, interest payments and dates thereof, exchange, transfer and registration of Notes, replacement of mutilated, destroyed, lost or stolen Notes, the safekeeping and cancellation of Notes, non-presentment of Notes, the holding of money in trust, the rebate of money to the United States in accordance with the Indenture and the Tax Agreement, and the rights and duties of the Trustee in connection with all of the foregoing, or which by their terms survive payment and discharge of the Notes, shall remain in effect and be binding upon the Trustee and the Holders notwithstanding the release and discharge of the Indenture. The provisions of this caption shall survive the release, discharge and satisfaction of the Indenture.

Notwithstanding anything in the Indenture to the contrary, the purchase of Permitted Investments in accordance with the provisions described under the caption "Investment" above, together with the Capitalized Interest Deposit, shall not cause a discharge of the Indenture under as described in the Indenture.

Events of Default and Acceleration

The following events shall constitute an "Event of Default" under the Indenture:

- (a) any interest on any Note is not paid on the date on which the same becomes due;
or
- (b) the principal of any Note is not paid on the date on which the same becomes due, whether at the stated maturity thereof, by acceleration or otherwise; or
- (c) an Event of Default occurs under the Note Loan Agreement; or
- (d) the Issuer fails to duly and promptly perform, comply with, or observe any covenant, condition, agreement or provision (other than as described in (a) or (b) above) contained in the Notes 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 and the Borrower 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 100% in principal amount of the Notes 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 or the Borrower is taking appropriate corrective action to cure such failure and if such failure will not impair the security for the Loan or the Notes.

If any Loan payment required under the Note Loan Agreement to avoid a default described in (a) or (b) above 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 and the Investor Limited Partner, which telephonic notice shall be confirmed by electronic, telegraphic or written notice to the Borrower and the Investor Limited Partner. If any other default shall occur under the provisions described under this caption, 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 Investor Limited Partner, the Holders of the Notes and the Rating Agency. A default or an Event of Default described 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 Noteholders and not in limitation of such rights.

If an Event of Default specified in (a) or (b) above shall occur and be continuing, the Trustee, may, and upon written request of the Holders of a majority in aggregate principal amount of the Notes then Outstanding shall, declare the principal of all Notes then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Borrower, and the Rating Agency, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided in such notice, anything in the Indenture or in the Notes to the contrary notwithstanding.

If an Event of Default specified in (c) or (d) above shall occur and be continuing, the Trustee, upon written request of the Holders of 100% in aggregate principal amount of the Notes then Outstanding, shall declare the principal of all Notes then Outstanding to be immediately due and payable by notice in writing to that effect delivered to the Issuer, the Borrower and the Rating Agency, and upon such declaration such principal, together with interest accrued thereon, shall become immediately due and payable at the place of payment provided in such notice, anything in the Indenture or in the Notes to the contrary notwithstanding.

Anything in the Indenture to the contrary notwithstanding, the Investor Limited Partner shall have the right, but not the obligation, to cure any default under the Indenture on the same terms provided to the Borrower.

Remedies

Upon the happening of any Event of Default that is uncured and is continuing and in addition to and not in limitation of any rights and remedies described under the caption “Events of Default and Acceleration” above, then and in every such case the Trustee in its discretion may, and upon the written request of the Holders of a majority in principal amount of the Notes then Outstanding and receipt of satisfactory indemnity, shall:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Noteholders, and require the Issuer or the Borrower to carry out any agreements with or for the benefit of the Noteholders and to perform its or their duties under the Act and the Documents including, but not limited to, foreclosing upon the security interest in or otherwise using funds on deposit in the Special Funds;

(b) bring suit upon the Notes; 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 Noteholders.

Notwithstanding anything contained in the Indenture to the contrary, upon the occurrence and continuance of an Event of Default, before taking any action which may subject the Trustee to liability under any environmental law, statute, regulation or similar requirement relating to the environment, the Trustee may require that a satisfactory indemnity bond, indemnity or environmental impairment insurance be furnished for the payment or reimbursement of all expenses to which it may be put and to protect it against all liability resulting from any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability) and expenses which may result from such action.

No Interference or Impairment of Lender Loan

Notwithstanding anything in the Indenture to the contrary, none of the Issuer, the Trustee nor any other Person shall:

- (a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Lender Loan; or
- (b) interfere with or attempt to interfere with or influence the exercise by the Lender of any of its rights under the Lender Loan, including, without limitation, the Lender remedial rights under the Lender Loan upon the occurrence of an event of default by the Borrower under the Lender Loan.

The foregoing prohibitions and limitations shall not be construed to affect the Unassigned Rights of the Issuer or to limit the rights of the Issuer to enforce its rights against the Borrower under the indemnification provisions of the Indenture.

Notwithstanding anything in the Indenture to the contrary, any right of the Issuer or the Trustee to take any action at law or in equity to enforce the obligations, covenants and agreements of the Borrower under the Indenture which includes any claim for indemnification, damages or any other monetary obligation sought to be enforced shall be subject and subordinate in all respects to the repayment in full of all amounts due under the Lender Loan Documents.

No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligation of any prior Borrower unless specifically assumed in writing by a subsequent Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations shall be personal to the Person who was the Borrower at the time the default or breach was alleged to have occurred and such Person shall remain liable for any and all damages occasioned by the default or breach even after such Person ceases to be the Borrower with regards the Project.

Promptly upon determining that an Event of Default under the Indenture has occurred, the Issuer or the Trustee shall, by notice in writing to the Lender, inform the Lender that such Event of Default has occurred, the nature of such Event of Default and that such Event of Default has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such Event of Default, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Lender Loan or to foreclose on the Lender Mortgage.

Amendments to Indenture and Note Loan Agreement Not Requiring Consent of Noteholders

The Issuer and the Trustee may, from time to time and at any time, without the consent of Noteholders, enter into Supplements or other agreements supplemental to the Indenture and the Note Loan Agreement as follows (provided, however, notwithstanding anything to the contrary set forth in the Indenture, any amendments to the Indenture that affect the rights or obligations of Borrower shall require the Borrower's written consent, not to be unreasonably withheld):

- (1) to specify and determine any matters and things relative to Notes which shall not materially adversely affect the interest of the Noteholders;

- (2) to cure any formal defect, omission or ambiguity in the Indenture or the Note Loan Agreement if such action does not materially adversely affect the rights of the Noteholders;
- (3) to grant to or confer upon the Trustee for the benefit of the Noteholders 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 previously in effect;
- (4) to add to the covenants and agreements of the Issuer in the Indenture or the Note Loan Agreement other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with the Indenture or the Note Loan Agreement as theretofore in effect;
- (5) to add to the limitations and restrictions in the Indenture or the Note Loan Agreement, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with the Indenture or the Note Loan Agreement as theretofore in effect;
- (6) 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; or
- (7) to modify, amend or supplement the Indenture or the Note Loan Agreement in any respect which, in the judgment of the Trustee, is not materially adverse to the interests of the owners of the Notes.

Before the Issuer shall enter into any Supplement to the Indenture pursuant to the provisions described under this caption, there shall have been filed with the Trustee an opinion of Bond Counsel to the effect that such Supplement is authorized or permitted by the Indenture and complies with the terms thereof, and that upon adoption such Supplement will be valid and binding upon the Issuer in accordance with its terms. The opinion of Bond Counsel filed with the Trustee shall also include a Favorable Opinion of Bond Counsel.

The Trustee shall send written notice to the Rating Agency, the Borrower and the Investor Limited Partner of any amendment to the Indenture or the Note Loan Agreement.

Amendments to Indenture Requiring Consent of Noteholders

Subject to the terms and provisions described under this caption and not otherwise, the Holders of at least 66 2/3% in aggregate principal amount of the Notes 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 Supplement to the Indenture as shall be deemed necessary or desirable by the Issuer and the Trustee 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 Notes then Outstanding, nothing contained in the Indenture 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 Note, or a reduction in the principal amount of any Outstanding Note 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 Note or Notes over any other Note or Notes, or (iv) a reduction in the aggregate principal amount of the Notes required for any action or consent by Noteholders set forth in the Indenture, including (without limitation) that required for consent to such Supplements. The provisions described under this caption shall not limit or otherwise affect the ability of the Issuer to enter into Supplements to the Indenture without the consent of

the Noteholders pursuant to the provisions described under the caption “Amendments to Indenture and Note Loan Agreement Not Requiring Consent of Noteholders” above.

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SUMMARY OF CERTAIN PROVISIONS OF THE NOTE LOAN AGREEMENT

The Note Loan Agreement contains terms and conditions relating to the issuance and sale of the Notes certain of which are summarized below. This summary does not purport to be comprehensive or definitive and is subject to all of the provisions of the Note Loan Agreement to which reference is hereby made, copies of which are on file with the Trustee. This summary uses various terms defined in the Note Loan Agreement and such terms as used herein shall have the same meanings as so defined.

Loan of Proceeds

The Issuer agrees, upon the terms and conditions contained in the Note Loan Agreement and the Indenture, to lend to the Borrower the proceeds received by the Issuer from the sale of the Notes. Such proceeds shall, in accordance with the terms of the Indenture, be disbursed to or on behalf of the Borrower from the Project Fund to pay Costs of the Project in the manner consistent with the Tax Agreement. The Trustee shall 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 exhibit.

Borrower Required to Pay in Event Project Fund Insufficient

In the event the moneys in the Project Fund available for payment of the Costs of the Project are not sufficient to pay the Costs of the Project in full, the Borrower agrees to complete the Project and to pay that portion of the Costs of the Project in excess of the moneys available therefor 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 described under this caption, which may be from revenue derived from the Project, the Borrower shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Notes, nor shall the Borrower be entitled to any diminution of the amounts payable under the Note Loan Agreement. Notwithstanding the foregoing, the terms, conditions and covenants described under this caption do not in any way affect the ability of the Issuer to pursue its rights and remedies under the Documents.

Amounts Payable

On or prior to the Closing Date, the Borrower shall have delivered or caused to be delivered the Capitalized Interest Deposit to the Trustee for deposit to the Capitalized Interest Account of the Project Fund.

The Borrower covenants and agrees to repay the Loan on or before any date that any payment of interest or principal is required to be made in respect of the Notes pursuant to the Indenture, until the principal of and interest on the Notes shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, in immediately available funds, a sum which, together with any other moneys available for such payment in the Capitalized Interest Account of the Note Fund the Project Fund and the Collateral Fund, will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or acceleration or otherwise) and interest on the Notes as provided in the Indenture. Deposits into the Note Fund for payments by the Trustee of principal and interest on the Notes from amounts in the Capitalized Interest Account of the Note Fund, the Project Fund or the Collateral Fund shall be credited simultaneously against the Borrower's obligation to pay principal and interest on the Loan.

The parties agree that all payments of principal and interest payable by the Borrower as described under this caption will be assigned by the Issuer in accordance with the terms of the Indenture to the Trustee

for the benefit of the Holders of the Notes (excluding amounts on deposit in the Rebate Fund and the Expense Fund). The Borrower consents to such assignment.

In the event the Borrower should fail to make any of the payments required under this caption, the item or installment so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower agrees to pay the same with interest thereon, to the extent permitted by law, from the date when such payment was due, at the rate of interest borne by the Notes.

No Pecuniary Liability of the Issuer

All obligations of the Issuer incurred under the Note Loan Agreement, the Regulatory Agreement, the Tax Agreement and the Indenture shall be limited obligations of the Issuer, payable solely and only from Note proceeds, Revenues and other amounts derived by the Issuer from the Trust Estate. NO GOVERNING BOARD MEMBER, OFFICER, AGENT, EMPLOYEE, OR ATTORNEY OR MEMBER OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE NOTE LOAN AGREEMENT ON BEHALF OF THE ISSUER, SHALL BE LIABLE PERSONALLY UNDER THE NOTE LOAN AGREEMENT OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE NOTES. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE NOTES, OR FOR ANY CLAIM BASED ON THE NOTES, OR OTHERWISE IN RESPECT OF THE NOTES, OR BASED ON OR IN RESPECT OF THE NOTE LOAN AGREEMENT OR ANY AMENDMENT TO THE NOTE LOAN AGREEMENT, AGAINST ANY GOVERNING BOARD MEMBER, OFFICER, AGENT, EMPLOYEE, ATTORNEY OR MEMBER OF THE ISSUER, OR ANY SUCCESSOR WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE NOTE LOAN AGREEMENT AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE NOTES, EXPRESSLY WAIVED AND RELEASED.

Defaults Defined

The following shall be “Defaults” under the Note Loan Agreement and the term “Default” shall mean, whenever it is used in the Note 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 Note Loan Agreement for debt service on the Notes and certain fees and expenses;
- (b) failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Note Loan Agreement, other than as referred to in clause (a) above or failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Regulatory Agreement, or the Tax Agreement, 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 by the Issuer or the Trustee; provided, with respect to any such failure described in this clause (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 sixty (60) day period and will thereafter be diligently prosecuted to completion and the failure will be remedied thereby;
- (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; or

(d) the occurrence and continuance of an Event of Default under the Indenture.

Remedies on Default

A copy of any notice of default provided to Borrower under any of the Borrower Documents shall also be provided to the Investor Limited Partner and the Lender. Whenever any Default as described under the caption “Defaults Defined” above shall have happened and be continuing beyond the expiration of any applicable notice or cure period, the Trustee, or the Issuer (in the event the Trustee fails to act), may 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 Note Loan Agreement, the Borrower Note, the Tax Agreement, the Regulatory Agreement or any other Document in the event of default thereunder that is continuing beyond all applicable notice, grace, and cure periods. Any amounts collected pursuant to action taken under this caption shall be paid into the Collateral Fund.

No Remedy Exclusive

Subject to the provisions described in “APPENDIX B – DOCUMENT SUMMARIES – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Events of Default and Acceleration,” no remedy in the Note Loan Agreement conferred upon or reserved to the Issuer or the Trustee 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 Note Loan Agreement or existing at law or in equity as of or after the date of the Note Loan Agreement. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power nor shall it be construed to be a waiver thereof, but any such right or 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 the Note Loan Agreement, it shall not be necessary to give any notice, other than such notice as may be required in the Note Loan Agreement. Such rights and remedies as are given to the Issuer under the Note Loan Agreement shall also extend to the Trustee, and the Trustee and the Holders of the Notes, subject to the provisions of the Indenture, including, but not limited to the Unassigned Rights of the Issuer, shall be entitled to the benefit of all covenants and agreements contained in the Note Loan Agreement.

No Additional Waiver Implied by One Waiver

In the event any agreement contained in the Note 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 Note Loan Agreement.

Right to Cure

Notwithstanding anything to the contrary in the Note Loan Agreement or otherwise in the Borrower Documents, if the Borrower shall, for whatever reason, at any time fail to pay any amount or perform any act which it is obligated to pay or perform under any of the Borrower Documents and, as a result, a default or event of default occurs or may occur thereunder, the Investor Limited Partner shall have the right to perform such act or pay such amount on behalf of the Borrower and thereby cure or prevent such default or

event of default, provided such default or event of default is cured within any applicable cure period or grace period provided to the Borrower in the Note Loan Agreement or otherwise in the Borrower Documents. Any cure of any event of default by the Investor Limited Partner under the Borrower Documents shall be deemed a cure by Borrower thereunder.

No Interference or Impairment of Lender Loan

Notwithstanding anything in the Note Loan Agreement to the contrary, none of the Issuer, the Trustee nor any other Person shall:

(a) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Lender Loan; or

(b) interfere with or attempt to interfere with or influence the exercise by the Lender of any of its rights under the Lender Loan, including, without limitation, the Lender remedial rights under the Lender Loan upon the occurrence of an event of default by the Borrower under the Lender Loan.

The foregoing prohibitions and limitations shall not be construed to affect the ability or rights of the Trustee to take any actions permitted under the Indenture or to affect the Unassigned Rights of the Issuer or to limit the rights of the Issuer to enforce its rights against the Borrower under the indemnification provisions of the Note Loan Agreement so long as it does not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

Notwithstanding anything in the Note Loan Agreement to the contrary, any right of the Issuer or the Trustee to take any action at law or in equity to enforce the obligations, covenants and agreements of the Borrower under the Note Loan Agreement which includes any claim for indemnification, damages or any other monetary obligation sought to be enforced shall be subject and subordinate in all respects to the repayment in full of all amounts due under the Lender Loan Documents.

No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligation of any prior Borrower unless specifically assumed in writing by a subsequent Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations shall be personal to the Person who was the Borrower at the time the default or breach was alleged to have occurred and such Person shall remain liable for any and all damages occasioned by the default or breach even after such Person ceases to be the Borrower with regards the Project.

Promptly upon determining that an Event of Default under the Note Loan Agreement has occurred, the Issuer or the Trustee shall, by notice in writing to the Lender, inform the Lender that such Event of Default has occurred, the nature of such Event of Default and that such Event of Default has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such Event of Default, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Lender Loan or to foreclose on the Lender Mortgage.

Amendments, Changes and Modifications

Subsequent to the issuance of the Notes and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise expressly therein provided in the Note Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee, in accordance with the provisions of the Indenture. See “APPENDIX B – DOCUMENT SUMMARIES –SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Amendments to Indenture and Note Loan Agreement Not Requiring Consent of Noteholders” and “Amendments to Indenture Requiring Consent of Noteholders.”

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SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

The following is a summary of certain provisions of the Regulatory and Land Use Restriction Agreement (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, copies of which are on file with the Issuer and the Trustee.

Tax-Exempt Status of the Notes

The Borrower will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Notes from gross income for federal income tax purposes (subject to any exceptions contained in the opinion delivered upon the original issuance of the Notes). With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that prior to the final maturity of the Notes, unless it has received and filed with the Issuer and Trustee a Favorable Opinion of Bond Counsel:

(a) That the Project will be owned, managed and operated as a "qualified residential rental project" within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Borrower covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Project will be comprised of residential Units (as defined in the Regulatory Agreement) and facilities functionally related and subordinate thereto in accordance with Section 142(d) of the Code;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Project will be functionally related and subordinate to the Units comprising the Project and will be of a character and size that is commensurate with the character and size of the Project;

(iv) that at no time during the Qualified Project Period will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than six months (unless the Unit serves as a single room occupancy unit or transitional housing for the homeless (as described in Section 42(i)(3)(B) of the Code), in which case such lease may be on a month-to-month basis) or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Project will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Project will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Project tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Project, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time during the Qualified Project Period will any Unit in any building or structure in the Project that contains fewer than five Units be occupied by the Borrower;

(viii) that each Restricted Unit will be rented or available for rental on a continuous basis to Eligible Tenants (as defined in the Regulatory Agreement) (subject to the limitations and exceptions contained in the Regulatory Agreement, the Tax Agreement and the Loan Agreement) at all times during the longer of (A) the remaining term of the Notes or (B) the Qualified Project Period, that the Borrower will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs (as defined in the Regulatory Agreement), Low-Income Tenants (as defined in the Regulatory Agreement), seniors and other Eligible Tenants as provided in the Regulatory Agreement, and that at no time will any portion of the Project be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that the Project will meet the Set Aside (as defined in the Regulatory Agreement). For the purposes of this clause (a)(ix), a vacant Unit that was most recently occupied by a Low-Income Tenant is treated as rented and occupied by a Low-Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low-Income Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant Income Certification (as defined in the Regulatory Agreement), such tenant's Annual Income (as defined in the Regulatory Agreement) increases to exceed the qualifying limit for Low-Income Tenants; provided, however, that, should a Low-Income Tenant's Annual 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 and such Low-Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low-Income Tenant;

(x) that the Borrower will obtain, complete and maintain on file Tenant Income Certifications and supporting documentation from each Low-Income Tenant, including (A) a Tenant Income Certification dated immediately prior to the initial occupancy of such Low-Income Tenant in the Project and (B) thereafter, annual Tenant Income Certifications obtained on or before the anniversary of such Low Income Tenant's occupancy of the Unit, and in no event less than once in every 12-month period following each Low Income Tenant's occupancy of a Unit; provided that the requirement for annual recertification will not apply for any year in which no Unit in the Development is occupied by a new resident whose income exceeds the applicable income limit. The Borrower will obtain such additional information as may be required in the future 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 promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service as of or after the date of the Regulatory Agreement with

respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Borrower will make a diligent and good-faith effort to determine that the income information provided by an applicant in a Tenant Income Certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Borrower will document income and assets in accordance with HUD Handbook 4350.3 and the Issuer's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Borrower will submit to the Secretary of the Treasury, with a copy provided to the Issuer, 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; and

(xii) that the Borrower will prepare and submit the Unit Status Report in the form available on the Issuer's website at the time of such submission to the Issuer (via the electronic filing system available on the Issuer's website in accordance with the Regulatory Agreement). The Borrower will retain all documentation required by this clause (a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Borrower will maintain complete and accurate records pertaining to the Low-Income Units and will permit, at all reasonable times during normal business hours and upon reasonable prior written notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Issuer, the Trustee, the Funding Lender (as defined in the Regulatory Agreement), the Department of the Treasury or the Internal Revenue Service to enter upon the Project Site to examine and inspect the Project and to inspect and photocopy the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low-Income Units. The Borrower will retain all records maintained in accordance with the provisions described under this caption until the date that is three years after the end of the Qualified Project Period.

(c) The Borrower will provide to the Trustee and the Issuer a certificate in the form attached as an exhibit to the Regulatory Agreement certifying (i) within 90 days thereof, the date on which 10% of the Units are occupied; and (ii) within 90 days thereof, the date on which 50% of the Units are occupied.

(d) That the Borrower will prepare and submit to the Issuer and the Trustee, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form; however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in the Regulatory Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties thereto that the Issuer and the Trustee may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Borrower in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Borrower, and which is required to be noticed, represented or certified by the Borrower under the Regulatory Agreement or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Notes.

Housing Development During the State Restrictive Period

The Issuer and the Borrower have recognized and declared their understanding and intent that the Project is to be owned, managed and operated as a “housing development,” as such term is defined in Section 2306.004(13) of the Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Issuer until the expiration of the State Restrictive Period (as defined in the Regulatory Agreement).

To the same end, the Borrower has represented, covenanted and agreed as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Project, to assure that 100% of the Restricted Units (as defined in the Regulatory Agreement) are reserved for Eligible Tenants;

(b) to assure that the provisions of clauses (a)(viii) and (a)(ix) under the caption “Tax-Exempt Status of the Notes” above continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant of a Restricted Unit in the Project (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant’s initial occupancy of a Restricted Unit in the Project, and, if required as described in clause (a)(x) under the caption “Tax-Exempt Status of the Notes” above, at least annually thereafter in the manner as described in clause (a)(x) under the caption “Tax-Exempt Status of the Notes” above, and to maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant of a Restricted Unit in the Project (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Restricted Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Issuer to the Borrower from time to time that (i) such lease is subordinate to the Security Instrument (as defined in the Regulatory Agreement) and the Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of the Regulatory Agreement and the Loan Agreement are substantial and material obligations of tenancy in the Project, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Borrower, the Trustee and the Issuer, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Project;

(e) to cause to be prepared and submitted to the Issuer (via the electronic filing system available on the Issuer’s website) by the tenth calendar day of each January, April, July and October or other schedule as determined by the Issuer with written notice to the Borrower, a certified quarterly Unit Status Report in a form available on the Issuer’s website at the time of submission or in such other form as the Issuer may reasonably prescribe in writing to the Borrower with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable prior written notice to permit any duly authorized representative of the Issuer, the Funding Lender or the Trustee to inspect the

books and records of the Borrower pertaining to the Project or the incomes of Project tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Issuer's requirements;

(g) that the Borrower is qualified to be a "housing sponsor" as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Issuer's website) the Annual Borrower's Compliance Report to the Issuer in the form available on the Issuer's website at the time of submission by April 30 of each year, commencing April 30, 2022;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached as an exhibit to the Regulatory Agreement in the manner provided in such exhibit, or from any additional supportive services added to the Issuer's rules at any future date as agreed to in writing by the Issuer in accordance with Title 10, Part 1, Chapter 10, Subchapter E, Section 10.405 of the Texas Administrative Code. The Borrower must maintain documentation satisfactory to the Issuer of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Issuer upon request. The Borrower must provide the social services throughout the State Restrictive Period;

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code and other Issuer rules regarding affirmative marketing and written policies and procedures, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD's Uniform Physical Condition Standards and to provide regular maintenance to keep the Project sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Issuer must first provide notice of any default or breach to the Borrower, and the Borrower will have 30 days following receipt of such notice to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Project pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Borrower is not a party to and will not enter into a contract for the Project with, a housing developer that (i) is on the Issuer's debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Borrower has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Borrower's participation in contracts with the agency and the amount of financial assistance awarded to the Borrower by the agency;

(m) to cooperate fully with the Issuer with respect to its compliance and oversight requirements and to cause the manager of the Project to so comply;

(n) to ensure that Units intended to satisfy the Set Aside in clause (a)(ix) under the caption "Tax-Exempt Status of the Notes" above will be distributed evenly throughout the Project and will include a reasonably proportionate amount of each type of Unit available in the Project; and

(o) to ensure that the Project conforms to the federal Fair Housing Act;

(p) the Project meets the requirements of the Housing for Older Persons Act under the Fair Housing Act and receives no funding that requires leasing to persons other than the elderly and is therefore considered by the Issuer to have a federal elderly limitation; and

(q) the Nonhousing Facilities (as defined in the Regulatory Agreement) are necessary, convenient, or desirable appurtenances for the Restricted Units.

Persons With Special Needs

The Borrower has represented, covenanted and warranted that during the State Restrictive Period, it will make at least 5% of the Restricted Units within the Project available for occupancy by Persons with Special Needs.

Term

The Regulatory Agreement and all and each of the provisions thereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided in the Regulatory Agreement and, except as otherwise described under this caption, will terminate in its entirety at the end of the State Restrictive Period, it being expressly agreed and understood that the provisions of the Regulatory Agreement are intended to survive the retirement of the Notes, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of the Regulatory Agreement to the contrary notwithstanding, the requirements set forth in the Regulatory Agreement will terminate, without the requirement of any consent by the Issuer or the Trustee, and be of no further force and effect in the event of involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Closing Date which prevents the Issuer or the Trustee from enforcing the provisions of the Regulatory Agreement, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Notes are retired in full or amounts received as a consequence of such event are used to provide a “qualified residential rental project” that meets the requirements of the Code and State law including, but not limited to, certain provisions set forth in the Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any Related Person obtains an ownership interest in the Project for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of the Regulatory Agreement, the Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee and the Borrower upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of the Regulatory Agreement, the parties thereto have agreed 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 are not necessary or a prerequisite to the termination of the Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Issuer and the Trustee incurred in connection with the termination of the Regulatory Agreement will be paid by the Borrower and its successors in interest.

Covenants to Run With the Land

The Borrower has subjected the Project (including the Project Site) to the covenants, reservations and restrictions set forth in the Regulatory Agreement. The Issuer, the Trustee and the Borrower have declared that the covenants, reservations and restrictions set forth in the Regulatory Agreement are covenants running with the land and will pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that upon the termination of the Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument executed after the date of the Regulatory Agreement covering or conveying the Project or any portion thereof prior to the termination of the Regulatory Agreement will 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 instrument.

No breach of any of the provisions of the Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Project or any portion thereof.

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APPENDIX C

PROPOSED FORM OF OPINION OF BOND COUNSEL

On the date of issuance of the Notes in definitive form, Bracewell LLP, Bond Counsel, propose to render their approving opinions in substantially the following form:

[TO BE PROVIDED]

APPENDIX D

FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) is executed and delivered by Scott Street Lofts, LP, a Texas limited partnership (the “Borrower”) and Wilmington Trust, National Association, a national banking association, as dissemination agent (the “Dissemination Agent”), in connection with the issuance of \$18,000,000* Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”). The Notes are being issued under a Trust Indenture dated as of June 1, 2020 (the “Indenture”), between the Texas Department of Housing and Community Affairs (the “Issuer”) and Wilmington Trust, National Association, as trustee (the “Trustee”). The proceeds of the Notes are being loaned by the Issuer to the Borrower pursuant to a Loan Agreement dated as of June 1, 2020, between the Issuer and the Borrower (the “Note Loan Agreement”), for the purpose of the acquisition and construction of a multifamily rental housing development for seniors located in Houston, Texas, known or to be known as Scott Street Lofts.

The Borrower and the Dissemination Agent covenant and agree as follows:

1. 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, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report prepared by the Borrower pursuant to, and as described in, Sections 2 and 3 of this Continuing Disclosure Agreement.

“Business Day” shall mean a day on which commercial banks located in Dallas, Texas are required or permitted by law to be open for the purpose of conducting a commercial banking business.

“Disclosure Representative” shall mean the authorized representative of the Borrower or his or her designee, or such other person as the Borrower shall designate in writing to the Trustee from time to time.

“Financial Obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of a debt obligation or derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; provided, however, the term “financial obligation” excludes municipal securities for which a final official statement has been provided to the MSRB consistent with the Rule.

“Holder” shall mean the registered holder of any Notes as reflected on the Notes register maintained in accordance with the Indenture, or any beneficial owner reflected on the books of the registered holder.

“Material Event Filing” shall mean any of the material events listed in Section 4(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, as amended. All documents provided to the MSRB shall be in an electronic format and accompanied by identifying information, as prescribed by the MSRB.

* Preliminary; subject to change.

Initially, all document submissions to the 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” shall mean the original underwriter for the Notes, if any, required to comply with the Rule in connection with offering of the Notes.

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

“SEC” means the Securities and Exchange Commission.

2. Provision of Annual Reports.

(a) Not later than the one hundred twenty (120) days after the end of the Borrower's fiscal year (currently December 31) except as provided in subsection (e) below, commencing with fiscal year 2020, the Borrower shall provide to the Dissemination Agent, an Annual Report prepared by an independent certified public accounting firm selected by the Borrower, together with sufficient copies of such Annual Report for filing with the MSRB. However, an annual financial statement compiled or reviewed by a licensed certified public accountant may be submitted in lieu of an audited financial statement for the Project prior to the issuance of a certificate of occupancy for any unit in the Project, provided that the subsequent annual audited financial statement shall include all operations since inception. If the Dissemination Agent has not received the Annual Report by such date, the Dissemination Agent shall notify the Borrower in writing by electronic means.

(b) The Dissemination Agent shall, as soon as practical, but in no event later than the fourteenth (14th) Business Day following receipt of an Annual Report, provide such Annual Report to the MSRB.

(c) If an Annual Report is not filed on or before the date required in any year, the Dissemination Agent shall send a notice to the MSRB in substantially the form attached as Exhibit “A”.

(d) Following the Dissemination Agent filing an Annual Report with the MSRB, the Dissemination Agent shall provide confirmation to the Borrower stating that the Annual Report has been provided to the MSRB pursuant to this Continuing Disclosure Agreement, and stating the date it was provided.

(e) The Borrower shall deliver Annual Reports to the Dissemination Agent at least annually, notwithstanding any fiscal year longer than twelve (12) months. The Borrower shall notify the Dissemination Agent in writing of any change in the Borrower's fiscal year, and the Dissemination Agent shall notify the MSRB of each change in the Borrower's fiscal year.

3. Content of Annual Reports. The Annual Report prepared by Borrower shall contain or incorporate by reference the following:

The certified audited financial statements of the Borrower for the prior fiscal year, including income statement, balance sheet, and cash flows of operations of Scott Street Lofts (the “Project”), prepared in accordance with generally accepted accounting principles as promulgated from time to time by the Financial Accounting Standards Board. The Borrower shall also include in each Annual Report the Project's current occupancy levels, current monthly rental rates and the current expenditures for monthly maintenance, taxes and property insurance.

Any or all of the items listed above 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 or the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Borrower shall clearly identify each such other document so incorporated by reference. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package.

The Dissemination Agent shall have no duty or obligation to review the content of the Annual Report for compliance with this Continuing Disclosure Agreement or the Rule, but shall file the Annual Report in the form it is received by the Dissemination Agent.

4. Reporting of a Material Event Filing.

(a) This Section 4 shall govern the giving of notices of the occurrence of any of the following events (each, a “Material 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) events that may adversely affect the tax exemption of the Notes, including issuance by the Internal Revenue Service of proposed and final decisions about whether such Notes can be taxed;
- (vii) Modifications to rights of security holders, if material;
- (viii) Notes calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Notes, if material;
- (xi) Rating changes (including those relating to the Notes, the Borrower, reserve fund surety notes, providers of guaranteed investment contracts, and other entities directly or indirectly securing payment of the Notes);
- (xii) bankruptcy, insolvency, receivership, or similar proceeding 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, trustee 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 if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, 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) mergers, consolidations, or acquisitions of the Borrower, the sale of all or substantially all of the assets of the Borrower, or the termination of the Borrower, 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; and

(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.

(b) The Dissemination Agent shall, within three (3) Business Days of obtaining actual knowledge of the occurrence of any Material Event, provide the Borrower with notice (by electronic means confirmed by telephone), and request that the Borrower promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f). 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), (viii), (ix), and (xiv) above without the Dissemination Agent having received written 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) - (xvi) above without the Dissemination Agent having received written notice of such event. For purposes of providing notice to the Borrower, the Dissemination Agent shall assume that the unscheduled draws described in clauses (iii) and (iv) reflect financial difficulty. It is agreed and understood that the duty to make or cause to be made the disclosures herein is that of the Borrower, and not that of the Trustee or the Dissemination Agent. It is agreed and understood that the Dissemination Agent has agreed to give the foregoing notice to the Borrower as an accommodation to assist it in monitoring the occurrence of such event, but is under no obligation to investigate whether any such event has occurred. As used above, "actual knowledge" means the actual fact or statement of knowing, without a duty to make any investigation with respect thereto. In no event shall the Dissemination Agent be liable in damages or in tort to any person or entity, including the Participating Underwriter, the Issuer, Borrower, or any Holder or beneficial owner of any interests in the Notes as a result of its failure to give the foregoing notice or to give such notice in a timely fashion.

(c) Whenever the Borrower obtains knowledge of the occurrence of a Material Event, because of notice from the Dissemination Agent pursuant to subsection (b) or otherwise, 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 required by the Rule to be disclosed and provide the Dissemination Agent with notice and instructions, in writing, pursuant to subsections (d) or (e) below.

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

(e) If the Borrower determines that a Material Event is not required to be disclosed, the Borrower shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent in writing not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been provided with a written notice describing the Material Event and instructed by the Borrower to report the occurrence of a Material Event, the Dissemination Agent shall, within three (3) 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 Material Event, file the notice with the MSRB, and send a copy to the Borrower. The foregoing notwithstanding, notice of a Material Event described in subsections (a)(viii) and (ix) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Notes pursuant to the Indenture.

5. Successors. If the Borrower's obligations under the Agreement are assumed in full by some other entity, such entity shall be responsible for compliance with this Continuing Disclosure Agreement in the same manner as if it were the Borrower and the original Borrower shall have no further responsibility hereunder. If the Trustee's obligations under the Indenture are assumed in full by a successor Trustee, such person shall be responsible for compliance with this Continuing Disclosure Agreement in the same manner as if it were the Dissemination Agent and the original Dissemination Agent shall have no further responsibility hereunder.

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 shall agree to any reasonable amendment so requested by the Borrower that does not affect the Dissemination Agent's rights, obligations, immunities or indemnities) if in the opinion of counsel expert in federal securities law matters affecting governmental notes acceptable to the Borrower and the Dissemination Agent, (i) the amendment is permitted and is 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 the Borrower, or the type of business it conducts, (ii) this Continuing Disclosure Agreement, as amended, would have complied with the Rule at the time the Notes was issued, after taking into account any amendments or interpretations of the Rule, as well as any changes in circumstances, and (iii) the amendment does not materially impair the interests of the Holders. A copy of any amendment to this Continuing Disclosure Agreement shall be delivered to the MSRB.

7. Termination. This Continuing Disclosure Agreement may be terminated by any party to this Continuing Disclosure Agreement upon thirty days' written notice of termination delivered to the other party or parties to this Continuing Disclosure Agreement; provided the termination of this Continuing Disclosure Agreement is not effective until (i) the Borrower, or its successor, enters into a new continuing disclosure agreement with a dissemination agent who agrees to continue to provide, to the MSRB and the Holders of the Notes, all information required to be communicated pursuant to the rules promulgated by the SEC or the MSRB, (ii) a nationally recognized bond counsel or counsel expert in federal securities laws provides an opinion that the new continuing disclosure agreement is in compliance with all applicable state and federal securities laws, and (iii) notice of the termination of this Continuing Disclosure Agreement is provided to the MSRB.

The Dissemination Agent shall be fully discharged at the time any such termination is effective. This Continuing Disclosure Agreement shall terminate (i) automatically upon payment or provisions for payment of the Notes, or (ii) when all of the Notes are or are deemed to be no longer outstanding by reason of redemption or legal defeasance or at final maturity.

8. 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 Material 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 Material Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Borrower shall have no obligation under the Note Loan Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.

9. Default. In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Continuing Disclosure Agreement, the Dissemination Agent may (and at the request of the Holders of at least 25% in aggregate principal amount of the Notes, shall), or any Holder may, take such action as permitted hereby. A default under this Continuing Disclosure Agreement shall not be deemed an Event of Default under the Indenture or the Note 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 shall be an action to compel specific performance by court order. Anything in the Indenture to the contrary notwithstanding, the Dissemination Agent shall not be required to bring any enforcement action unless provision has been made to the satisfaction of the Dissemination Agent for payment of all fees and expenses of the Dissemination Agent and its counsel in connection with such action.

10. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent has entered into this Continuing Disclosure Agreement solely in its capacity as Dissemination Agent under this Continuing Disclosure Agreement and the Indenture. Article XI of the Indenture is hereby made applicable to this Continuing Disclosure Agreement as if this Continuing Disclosure Agreement were contained in the Indenture. The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement, and the Borrower agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's gross negligence or willful misconduct. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Notes.

Neither the Dissemination Agent nor the Trustee shall have any obligation to make disclosure about the Notes, the Borrower, or any other matter except as expressly provided herein. The fact that the Dissemination Agent and the Trustee, or any affiliate thereof, may have any fiduciary or banking relationship with the Issuer, the Borrower, any manager of the Project financed with the Notes or any person with whom the Issuer or the Borrower contracts in connection with such Project, apart from the relationship created by the Indenture or this Continuing Disclosure Agreement, shall not be construed to mean (whether or not an Event of Default has occurred or is continuing under the Indenture) that (i) the Dissemination Agent or the Trustee has actual knowledge of any event or condition except in its capacity as Trustee under the Indenture when deemed pursuant to the Indenture to have actual knowledge or except as may be provided by written notice to the Dissemination Agent pursuant to this Continuing Disclosure Agreement or (ii) the Dissemination Agent or the Trustee has any duties or obligations under the Indenture or the Disclosure Agreement other than those expressly set forth in the Indenture and this Continuing Disclosure Agreement and in the capacity of agent to the Borrower.

11. Beneficiaries. This Continuing Disclosure Agreement shall inure solely to the benefit of the Issuer, the Borrower, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Notes, and shall create no rights in any other person or entity.

(Borrower's Signature Page to Continuing Disclosure Agreement)

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

(Counterpart Signature Page to Continuing Disclosure Agreement)

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Dissemination Agent

By: _____
Authorized Officer

EXHIBIT "A"

NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Texas Department of Housing and Community Affairs

Name of Issue: \$18,000,000*
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020

Name of Borrower: Scott Street Lofts, LP

Date of Issuance: _____, 2020

NOTICE IS HEREBY GIVEN that the Borrower has not provided an Annual Report with respect to the above-named Notes as required by the Continuing Disclosure Agreement dated as of June 1, 2020 between Wilmington Trust, National Association and the Borrower. [The Borrower anticipates that the Annual Report will be filed by _____.]

Dated: _____

WILMINGTON TRUST, NATIONAL ASSOCIATION, as Dissemination Agent

By: _____
Name: _____
Title: _____

cc: Borrower

* Preliminary; subject to change.

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this “**Agreement**”) is entered into as of the ___ day of June, 2020, by and among (i) ZIONS BANCORPORATION, N.A., DBA AMEGY BANK, its successors, transferee and assigns (the “**Senior Mortgagee**”), and (ii) the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “**Subordinate Mortgagee**”), and joined in by WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association (“**Trustee**”) as assignee of the Subordinate Mortgage.

RECITALS

A. **SCOTT STREET LOFTS, LP**, a Texas limited partnership, organized and existing under the laws of Texas (the “**Borrower**”) is the owner of land located in Houston, Harris County, Texas, described in Exhibit A hereto (the “**Land**”). The Land is or will be improved with a multifamily housing project (the “**Improvements**”).

B. As provided for in a Credit Support and Funding Agreement of even date herewith (the “**Senior Loan Agreement**”), the Senior Mortgagee has made or is making a construction loan (the “**Senior Loan**”) to the Borrower in the aggregate principal amount of \$18,000,000.00. The Senior Loan is or will be secured by, among other things, an Multifamily Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated of even date herewith (the “**Senior Mortgage**”) encumbering the Land and Improvements and other “**Mortgaged Property**” (as defined in the Senior Mortgage). The Senior Loan will be used to cash secure the Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020, in the original aggregate principal amount of \$[18,000,000.00] (the “**Tax-Exempt Loan Notes**”) issued by Subordinate Mortgagee in book entry form pursuant to an Indenture of Trust (the “**Indenture**”) between the Subordinate Mortgagee, as issuer, and Trustee, as trustee (the “**Trustee**”).

C. As provided for in a Loan Agreement dated as of June 1, 2020 (the “**Subordinate Loan Agreement**”), the Subordinate Mortgagee has made or is making a loan (the “**Subordinate Loan**”) of the proceeds of the Tax Exempt Loan Notes to the Borrower in the original principal amount of \$18,000,000.00. Borrower’s obligations under the Subordinate Loan Agreement (other than repayment of principal and interest on the Subordinate Loan pursuant to Section 4.01 of the Subordinate Loan Agreement) is or will be secured by a Subordinate Deed of Trust, Security Agreement, and Fixture Filing dated of even date with the Subordinate Loan Agreement (the “**Subordinate Mortgage**”) encumbering the Land and Improvements (the lien granted in the Subordinate Mortgage is sometimes referred to herein as the “**Subordinate Liens**”). Under the terms of the Indenture, the Subordinate Loan was assigned to the Trustee (and all references to the Subordinate Lender in this Agreement shall be applicable to the Trustee as assignee of the Subordinate Lender).

D. The Senior Mortgage is intended to be recorded in the Official Public Records of Real Property of Harris County, Texas (“**Recording Offices**”). The Subordinate Mortgage is intended to be recorded in the Recording Offices.

E. The execution and delivery of this Agreement is a condition of Senior Mortgagee’s making of the Senior Loan.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **DEFINITIONS.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), shall have the following meanings.

(a) The terms “**Condemnation Action**”, “**Impositions**”, “**Leases**”, “**Rents**”, “**Restoration**” and “**Transfer**”, as well as any term used in this Agreement and not otherwise defined in this Agreement, shall have the meanings given to those terms in the Senior Mortgage and/or in the Senior Loan Agreement.

(b) “**Bankruptcy Proceeding**” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to the Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

(c) “**Borrower**” means all persons or entities identified as “Borrower” in the first paragraph of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Land and Improvements after the date of this Agreement; provided that the term “Borrower” shall not include the Senior Mortgagee in the event that the Senior Mortgagee may acquire title to the Land and Improvements.

(d) “**Casualty**” means the occurrence of damage to or loss of any of the Mortgaged Property by fire or other casualty.

(e) “**Enforcement Action**” means the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee’s sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker’s lien or rights of set-off or recoupment, or the taking of any other enforcement action against the

Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

(f) **“Enforcement Action Notice”** means a written notice from the Subordinate Mortgagee to the Senior Mortgagee, given following a Subordinate Mortgage Default and the expiration of any notice or cure periods provided for such Subordinate Mortgage Default in the Subordinate Loan Documents, setting forth in reasonable detail the Enforcement Action proposed to be taken by the Subordinate Mortgagee.

(g) **“Loss Proceeds”** means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result or any Condemnation Action or Casualty.

(h) **“Senior Indebtedness”** means all sums evidenced or secured or guaranteed by, or otherwise due and payable to the Senior Mortgagee pursuant to, the Senior Loan Documents..

(i) **“Senior Loan Documents”** means the “means the Senior Mortgage, the promissory note or other evidence of the Senior Indebtedness referred to in the Senior Mortgage and any replacement thereof (the **“Senior Note”**), and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Senior Indebtedness, as the same may be amended from time to time..

(j) **“Senior Mortgage Default”** means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Senior Mortgage.

(k) **“Senior Mortgagee”** means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Senior Note after the date of this Agreement.

(l) **“Subordinate Indebtedness”** means all sums evidenced or secured or guaranteed by, or otherwise due and payable to the Subordinate Mortgagee pursuant to, the Subordinate Loan Documents.

(m) **“Subordinate Loan Documents”** means the Subordinate Mortgage, the subordinate promissory note or other evidence of the Subordinate Indebtedness referred to in the Subordinate Mortgage and any replacement thereof (the **“Subordinate Note”**) and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as the same may be amended from time to time.

(n) **“Subordinate Mortgage Default”** means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement),

or which with the giving of notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), the Subordinate Mortgagee to take an Enforcement Action.

(o) **“Subordinate Mortgagee”** means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Loan after the date of this Agreement.

2. **SUBORDINATION OF SUBORDINATE INDEBTEDNESS.**

(a) During the construction of the Improvements and until the Senior Indebtedness is paid in full, the Subordinate Indebtedness is and shall continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness.

(b) Until the occurrence of a Senior Mortgage Default, the Subordinate Mortgagee shall be entitled to retain for its own account all payments made on account of the principal of and interest on the Subordinate Indebtedness in accordance with the requirements of the Subordinate Loan Documents; provided no such payment is made more than ten (10) days in advance of the due date thereof. However, immediately upon the Subordinate Mortgagee’s receipt of notice or actual knowledge of a Senior Mortgage Default, the Subordinate Mortgagee will not accept any payments on account of the Subordinate Indebtedness, and the provisions of Section 2(c) of this Agreement shall apply. The Subordinate Mortgagee acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, the Subordinate Mortgagee shall be deemed to have actual knowledge of a Senior Mortgage Default.

(c) If (i) the Subordinate Mortgagee receives any payment, property, or asset of any kind or in any form on account of the Subordinate Indebtedness (including, without limitation, any proceeds from any Enforcement Action) after a Senior Mortgage Default of which the Subordinate Mortgagee has actual knowledge or has been given notice, or (ii) the Subordinate Mortgagee receives, voluntarily or involuntarily, by operation of law or otherwise, any payment, property, or asset in or in connection with any Bankruptcy Proceeding, such payment, property, or asset will be received and held in trust for the Senior Mortgagee. The Subordinate Mortgagee will promptly remit by warrant of the State of Texas, all such payments, properties, and assets to the Senior Mortgagee. The Senior Mortgagee shall apply any payment, asset, or property so received from the Subordinate Mortgagee to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as the Senior Mortgagee shall determine in its sole and absolute discretion.

(d) Without limiting the complete subordination of the Subordinate Indebtedness to the payment in full of the Senior Indebtedness, in any Bankruptcy Proceeding, upon any payment or distribution (whether in cash, property, securities, or

otherwise) to creditors (i) the Senior Indebtedness shall first be paid in full in cash before the Subordinate Mortgagee shall be entitled to receive any payment or other distribution on account of or in respect of the Subordinate Indebtedness, and (ii) until all of the Senior Indebtedness is paid in full in cash, any payment or distribution to which the Subordinate Mortgagee would be entitled but for this Agreement (whether in cash, property, or other assets) shall be made to the Senior Mortgagee to the extent allowed by law.

(e) The subordination of the Subordinate Indebtedness shall continue in the event that any payment under the Senior Loan Documents (whether by or on behalf of the Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to the Borrower or its insolvent estate, or avoided, set aside or required to be paid to the Borrower, a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law. In such event, the Senior Indebtedness or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Indebtedness had not been made.

3. SUBORDINATION OF SUBORDINATE LOAN DOCUMENTS.

(a) The Subordinate Liens and each of the Subordinate Loan Documents are subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of the Senior Mortgage and each of the other Senior Loan Documents.

(b) The subordination of the Subordinate Liens, the Subordinate Loan Documents and of the Subordinate Indebtedness shall apply and continue until the Senior Indebtedness has been paid in full notwithstanding (i) the actual date and time of execution, delivery, recording, filing or perfection of the Senior Mortgage and other Senior Loan Documents and of the Subordinate Mortgage, and other Subordinate Loan Documents, and (ii) the availability of any collateral to the Senior Mortgagee, including the Subordinate Liens and the availability of any collateral other than the Mortgaged Property.

(c) By reason of, and without in any way limiting, the full subordination of the Subordinate Indebtedness and the Subordinate Loan Documents provided for in this Agreement, all rights and claims of the Subordinate Mortgagee under and with respect to the Subordinate Liens, or under the other Subordinate Loan Documents in or to the Mortgaged Property or any portion thereof, the proceeds thereof, the Leases thereof, the Rents, issues and profits therefrom, and the Loss Proceeds payable with respect thereto, are expressly subject and subordinate in all respects to the rights and claims of the Senior Mortgagee under the Senior Loan Documents in and to the Mortgaged Property or any portion thereof, the proceeds thereof, the Leases thereof, the Rents, issues and profits therefrom, and the Loss Proceeds payable with respect thereto.

(d) If the Subordinate Mortgagee, by indemnification, subrogation or otherwise, shall acquire any lien, estate, right or other interest in any of the Mortgaged Property, that lien, estate, right or other interest shall be fully subject and subordinate, during the construction of the Improvements, to the receipt by the Senior Mortgagee of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Indebtedness and the Subordinate Loan Documents are subordinate pursuant to this Agreement.

4. **ADDITIONAL REPRESENTATIONS AND COVENANTS.**

(a) The Subordinate Mortgagee represents and warrants that (i) the Subordinate Mortgagee is now the owner and holder of the Subordinate Loan Documents; (ii) the Subordinate Loan Documents are now in full force and effect; (c) the Subordinate Loan Documents have not been modified or amended; (iv) no Subordinate Mortgage Default has occurred, (v) the current principal balance of the Subordinate Indebtedness is \$18,000,000.00; (vi) no scheduled monthly payments under the Subordinate Note have been or will be prepaid; and (vii) none of the rights of the Subordinate Mortgagee under any of the Subordinate Loan Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise.

(b) Without the prior written consent of the Senior Mortgagee in each instance, the Subordinate Mortgagee shall not, if and to the extent allowed by law, (i) amend, modify, waive, extend, renew or replace any provision of any of the Subordinate Loan Documents, or (ii) pledge, assign, transfer, convey, or sell any interest in the Subordinate Indebtedness or any of the Subordinate Loan Documents; or (iii) accept any payment on account of the Subordinate Indebtedness other than a regularly scheduled payment of interest or principal and interest made not earlier than ten (10) days prior to the due date thereof or as expressly authorized in Section 4(i); or (iv) take any action which has the effect of increasing the Subordinate Indebtedness, or (v) unless required by applicable law, take any action concerning environmental matters affecting the Mortgaged Property.

(c) The Subordinate Mortgagee shall deliver to the Senior Mortgagee a copy of each notice relating to a Subordinate Mortgage Default received or delivered by the Subordinate Mortgagee pursuant to the Subordinate Loan Documents, the Subordinate Indebtedness, simultaneously with the Subordinate Mortgagee's delivery or receipt of such notice. The Senior Mortgagee shall deliver to the Subordinate Mortgagee a copy of each notice of a Senior Mortgage Default delivered by the Senior Mortgagee, simultaneously with the Senior Mortgagee's delivery of such notice. Neither giving nor failing to give a notice to the Senior Mortgagee or Subordinate Mortgagee pursuant to this Section 4(c) shall affect the validity of any notice given by the Senior Mortgagee or Subordinate Mortgagee to the Borrower, as between the Borrower and such of the Senior Mortgagee or the Subordinate Mortgagee as provided the notice to the Borrower.

(d) Without the prior written consent of the Senior Mortgagee in each instance, the Subordinate Mortgagee will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, the Subordinate Mortgagee shall not vote affirmatively in favor of any plan of reorganization or liquidation unless the Senior Mortgagee has also voted affirmatively in favor of such plan to the extent allowed by law. In the event of any Bankruptcy Proceeding, the Subordinate Mortgagee shall not contest the continued accrual of interest on the Senior Indebtedness, in accordance with and at the rates specified in the Senior Loan Documents, both for periods before and for periods after the commencement of such Bankruptcy Proceedings.

(e) In the event and to the extent that each of Senior Mortgagee and Subordinate Mortgagee have under their respective loan documents certain approval or consent rights over the same subject matters (regardless of whether the obligations or rights are identical or substantially identical), Subordinate Mortgagee agrees that Senior Mortgagee shall exercise such approval rights on behalf of both Senior Mortgagee and Subordinate Mortgagee to the extent allowed by law, and Subordinate Mortgagee shall have no right to object to any such action or approval taken by Senior Mortgagee and shall consent thereto and be bound thereby to the extent allowed by law. Without limiting the generality of the foregoing, Senior Mortgagee shall have all approval, consent and oversight rights in connection with any insurance claims relating to the Property, any decisions regarding the use of insurance proceeds after a casualty loss or condemnation awards, the hiring or firing of property managers, or otherwise related in any way to the Property, and Subordinate Mortgagee shall have no right to object to any such action or approval taken by Senior Mortgagee and shall consent thereto and be bound thereby to the extent allowed by law.

(f) All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) shall be deemed satisfied if the Borrower complies with the insurance requirements under the Senior Loan Documents. All original policies of insurance required pursuant to the Senior Loan Documents shall be held by the Senior Mortgagee. Nothing in this Section 4(f) shall preclude the Subordinate Mortgagee from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by the Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Proceeds, or that the Subordinate Mortgagee be named as an additional insured under all policies of liability insurance maintained by the Borrower with respect to the Mortgaged Property.

(g) In the event of a Condemnation Action or a Casualty, the following provisions shall apply:

(i) the rights of the Subordinate Mortgagee (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating

to a Condemnation Action or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Condemnation Action or a Casualty, shall be and remain subordinate in all respects to the Senior Mortgagee's rights under the Senior Loan Documents with respect thereto, and the Subordinate Mortgagee shall be bound by any settlement or adjustment of a claim resulting from a Condemnation Action or a Casualty made by the Senior Mortgagee;

(ii) all Loss Proceeds shall be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by the Senior Mortgagee in its sole discretion;

(iii) in the event the Senior Mortgagee applies or releases Loss Proceeds for the purposes of Restoration of the Mortgaged Property, the Subordinate Mortgagee shall release for such purpose all of its right, title and interest, if any, in and to such Loss Proceeds. If the Senior Mortgagee holds Loss Proceeds, or monitors the disbursement thereof, the Subordinate Mortgagee shall not do so. Nothing contained in this Agreement shall be deemed to require the Senior Mortgagee to act for or on behalf of the Subordinate Mortgagee in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of the Subordinate Mortgagee, and all or any Loss Proceeds may be commingled with any funds of the Senior Mortgagee; and

(iv) if the Senior Mortgagee elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by the Senior Mortgagee shall be paid to the Subordinate Mortgagee unless another party has asserted a claim to the remaining Loss Proceeds.

(h) Intentionally deleted.

(i) Except as provided in this Section 4(i), and regardless of any contrary provision in the Subordinate Loan Documents, during the construction phase for the Improvements, the Subordinate Mortgagee shall not collect payments for the purpose of escrowing for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Indebtedness. However, if the Senior Mortgagee is not collecting escrow payments for one or more Impositions, the Subordinate Mortgagee may collect escrow payments for such Impositions; provided that all payments so collected by the Subordinate Mortgagee shall be held in trust by the Subordinate Mortgagee to be applied only to the payment of such Impositions.

(j) Within ten (10) days after request by the Senior Mortgagee, the Subordinate Mortgagee shall furnish the Senior Mortgagee with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Indebtedness, that there exists no default under the Subordinate Loan

Documents (or describing any default that does exist), and such other information with respect to the Subordinate Indebtedness as the Senior Mortgagee may request.

(k) The Senior Mortgagee may waive, postpone, extend, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of the Subordinate Mortgagee, and without affecting any of the provisions of this Agreement; provided that such modifications do not have a material adverse effect on Subordinate Mortgage. Notwithstanding the forgoing, Senior Mortgagee may not modify any provisions of the Senior Loan Documents that increases the Senior Indebtedness, except for increases in the Senior Indebtedness that result from advances made by Senior Mortgagee to protect the security or lien priority of Senior Mortgagee under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.

5. DEFAULT UNDER LOAN DOCUMENTS.

(a) The Senior Mortgagee shall have the right to cure any Subordinate Mortgage Default. The Senior Mortgagee shall not be subrogated to the rights of the Subordinate Mortgagee under the Subordinate Loan Documents by reason of the Senior Mortgagee having cured any Subordinate Mortgage Default. However, the Subordinate Mortgagee acknowledges that all amounts advanced or expended by the Senior Mortgagee in accordance with the Senior Loan Documents to cure a Subordinate Mortgage Default shall be added to and become a part of the Senior Indebtedness under the Senior Mortgage and shall be secured by the lien of, the Senior Mortgage.

(b) The Senior Mortgagee shall deliver to the Subordinate Mortgagee a notice within five business days in each case where the Senior Mortgagee has given notice to the Borrower of a Senior Mortgage Default. Failure of the Senior Mortgagee to send notice to the Subordinate Mortgagee shall not prevent the exercise of the Senior Mortgagee's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. All amounts paid by the Subordinate Mortgagee to the Senior Mortgagee to cure a Senior Mortgage Default shall be deemed to have been advanced by the Subordinate Mortgagee pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(c) In the event of a Subordinate Mortgage Default, the Subordinate Mortgagee will not commence any Enforcement Action until the Senior Loan is fully and finally paid. Without limiting the foregoing, the Subordinate Mortgagee may not commence any Enforcement Action until the delivery by Senior Mortgagee to the Subordinate Mortgagee of the Senior Mortgagee's written consent to such Enforcement Action by the Subordinate Mortgagee. The Subordinate Mortgagee acknowledges that the Senior Mortgagee may grant or refuse consent to the Subordinate Mortgagee's Enforcement Action in the Senior Mortgagee's sole and absolute discretion, and that such discretion may be exercised in an arbitrary manner. The Subordinate Mortgagee acknowledges that it has received a benefit from the Senior Mortgagee having granted its

consent to the Subordinate Mortgage, and that the Senior Mortgagee would not have granted such consent without the inclusion of these provisions in this Agreement.

(d) The Senior Mortgagee may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action by the Subordinate Mortgagee. No action or failure to act on the part of the Senior Mortgagee in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action shall constitute a waiver on the part of the Senior Mortgagee of any provision of the Senior Loan Documents or this Agreement.

(e) In the event that an Enforcement Action taken by the Subordinate Mortgagee is the appointment of a receiver for any of the Mortgaged Property, all of the rents, issues, profits and proceeds collected by the receiver shall be paid and applied by the receiver solely to and for the benefit of the Senior Mortgagee until the Senior Indebtedness shall have been paid in full.

(f) The Subordinate Mortgagee hereby expressly consents to and authorizes the release by the Senior Mortgagee of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. The Subordinate Mortgagee hereby waives to the fullest extent permitted by law, all equitable or other rights it may have (i) in connection with any release of any portion of the Mortgaged Property, (ii) to require the separate sales of any portion of the Mortgaged Property or to require the Senior Mortgagee to exhaust its remedies against any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness, or (iii) to require the Senior Mortgagee to proceed against the Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of the Borrower if the Borrower is a partnership), any portion of the Mortgaged Property or combination of portions of the Mortgaged Property, or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as the Senior Mortgagee determines. The Subordinate Mortgagee hereby expressly consents to and authorizes, at the option of the Senior Mortgagee, the sale, either separately or together, of all or any portion of the Mortgaged Property. The Subordinate Mortgagee acknowledges that without notice to the Subordinate Mortgagee and without affecting any of the provisions of this Agreement, the Senior Mortgagee may (i) extend the time for or waive any payment or performance under the Senior Loan Documents; (ii) modify or amend in any respect any provision of the Senior Loan Documents; and (iii) modify, exchange, surrender, release and otherwise deal with any additional collateral for the Senior Indebtedness.

(g) If any party other than the Borrower or Borrower's affiliates (including the Senior Mortgagee) acquires title to any of the Mortgaged Property pursuant to a foreclosure of, or trustee's sale or other exercise of any power of sale under, the Senior Mortgage conducted in accordance with applicable law, the lien, operation, and effect of

the Subordinate Mortgage and other Subordinate Loan Documents automatically shall terminate with respect to such Mortgaged Property.

6. MODIFICATION OR REFINANCING OF SENIOR INDEBTEDNESS.

The Subordinate Mortgagee consents to any agreement or arrangement in which the Senior Mortgagee waives, postpones, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money subject to this Section 6. Without the prior written consent of the Subordinate Mortgagee, the Senior Mortgagee shall not extend the Scheduled Maturity Date (as defined in the Senior Note) of the Senior Note. Subordinate Mortgagee further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Indebtedness, the Senior Mortgage, the Senior Loan Documents and Senior Mortgagee shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note.

7. MISCELLANEOUS PROVISIONS

(a) In the event of any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall control.

(b) This Agreement shall be binding upon and shall inure to the benefit of the respective legal successors and assigns of the parties hereto.

(c) This Agreement does not constitute an approval by the Senior Mortgagee of the terms of the Subordinate Loan Documents.

(d) Each notice, request, demand, consent, approval or other communication (collectively, “notices”, and singly, a “notice”) which is required or permitted to be given pursuant to this Agreement, including, but not limited to any notice relating to a Subordinate Mortgage Default shall be in writing and shall be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any notice so delivered shall be deemed to have been received on the next business day following receipt by the courier), or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received three (3) days after it has been deposited in the United States Mail), addressed to the respective parties as follows:

(i) Notices intended for the Senior Mortgagee shall be addressed to:

Zions Bancorporation, N.A., dba Amegy Bank
4576 Research Forest Drive
The Woodlands, Texas 77381
Attention: Sara Hutchinson

(ii) Notices intended for the Subordinate Mortgagee shall be addressed to:

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701 or
P.O. Box 13941
Austin, Texas 78711-3941
Attention: Director of Asset Management

With a copy to:

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701 or
P.O. Box 13941
Austin, Texas 78711-3941
Attention: Legal Services Division

With a copy to Borrower:

Scott Street Lofts, LP
26302 Oak Ridge Drive, Suite 100
Spring, Texas 77380
Attn.: David Mark Koogler

With a copy to:

Wilmington Trust, Nation Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75248

Any party, by notice given pursuant to this Section, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its notices, but notice of a change of address shall only be effective upon receipt. Neither party shall refuse or reject delivery of any notice given in accordance with this Section.

(e) Nothing herein or in any of the Senior Loan Documents or Subordinate Loan Documents shall be deemed to constitute the Senior Mortgagee as a joint venturer or partner of the Subordinate Mortgagee.

(f) Upon notice from the Senior Mortgagee from time to time, the Subordinate Mortgagee shall execute and deliver such additional Instruments and documents, and shall take such actions, as are required by the Senior Mortgagee in order to further evidence or effectuate the provisions and intent of this Agreement.

(g) This Agreement shall be governed by the laws of the State in which the Land is located.

(h) If any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein, and any other application thereof, shall not in any way be affected or impaired thereby.

(i) The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the Senior Indebtedness; provided that this Agreement shall be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by the Senior Mortgagee as described in Section 2(e) hereof; (ii) the payment of all of the Subordinate Indebtedness other than by reason of payments which the Subordinate Mortgagee is obligated to remit to the Senior Mortgagee pursuant to this Agreement; (iii) the acquisition by the Senior Mortgagee or by a third party purchaser, of title to the Land and Improvements pursuant to a foreclosure of, or trustee's sale or other exercise of a power of sale under, the Senior Mortgage; or (iv) without limiting the provisions of Section 5(d), the acquisition by the Subordinate Mortgagee, with the prior written consent of the Senior Mortgagee, of title to the Land and Improvements subject to the Senior Mortgage pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Mortgage.

(j) No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.

(k) Each party hereto acknowledges that in the event any party fails to comply with its obligations hereunder, the other parties shall have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

(l) No party other than the Senior Mortgagee and the Subordinate Mortgagee shall have any rights under, or be deemed a beneficiary of any of the provisions of, this Agreement.

(m) No amendment, supplement, modification, waiver or termination of this Agreement shall be effective against any party unless such amendment, supplement, modification, waiver or termination is contained in a writing signed by such party.

(n) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

SENIOR MORTGAGEE:

ZIONS BANCORPORATION, N.A., dba Amegy Bank

By: _____
Sara Hale, Senior Vice President

STATE OF TEXAS)
) ss:
COUNTY OF _____)

On this ___ day of _____, 2020, before me, the undersigned officer, personally appeared Sara Hale, Senior Vice President, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, the person or entity upon behalf of which the individual acted, executed the instrument.

(Seal)

Notary Public, State of Texas

TRUSTEE:

**WILMINGTON TRUST, NATIONAL
ASSOCIATION**

By: _____

Name: _____

Title: _____

STATE OF TEXAS)

)

ss:

COUNTY OF _____)

On this ___ day of _____, 2020, before me, the undersigned officer, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon on behalf of which the person acted executed the instrument.

(Seal)

Notary Public, State of Texas

CONSENT OF BORROWER

Borrower hereby acknowledges receipt of a copy of this Subordination Agreement, dated as of _____, 2020, by and between Zions Bancorporation, N.A., DBA AMEGY BANK and Texas Department of Housing and Community Affairs, and consents to the agreement of the parties set forth herein.

BORROWER:

SCOTT STREET LOFTS, LP, a Texas limited partnership

By: Scott Street Lofts Advisors, LLC, a Texas limited liability company, its general partner

By: Mark-Dana Corporation, a Virginia corporation, its managing member

By: _____
David Mark Koogler, President

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared David Mark Koogler, President of Mark-Dana Corporation, a Virginia corporation, on behalf of said corporation, managing member of Scott Street Lofts Advisors, LLC, a Texas limited liability company, general partner of SCOTT STREET LOFTS, LP, a Texas limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ___ day of _____, 2020.

NOTARY PUBLIC in and for The State

EXHIBIT A
LEGAL DESCRIPTION

Exhibit A - 1

TAX EXEMPTION CERTIFICATE AND AGREEMENT

Dated as of

June 1, 2020

among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

and

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

and

SCOTT STREET LOFTS, LP,
as Borrower

regarding

**[\$Par Amount]
Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Notes
(Scott Street Lofts)
Series 2020**

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TAX EXEMPTION CERTIFICATE AND AGREEMENT

THIS TAX EXEMPTION CERTIFICATE AND AGREEMENT (this “Agreement”) dated as of June 1, 2020, but effective as of the Closing Date (as defined in the Indenture described below) is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Issuer”), a public and official agency of the State (as defined herein), **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as Trustee under the hereinafter defined Indenture (together with any successor Trustee under the Indenture described below and their respective successors and assigns, the “Trustee”), and **SCOTT STREET LOFTS, LP**, a Texas limited partnership (together with its permitted successors and assigns, the “Borrower”) and is entered into in connection with the issuance of the \$[Par Amount] Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”). The representations of facts and circumstances and the covenants of the Issuer made herein are made in part for purposes of fulfilling the requirements set forth in section 1.148-2(b)(2) of the Regulations (as defined herein).

RECITALS

WHEREAS, the Governing Board of the Issuer has determined to authorize the issuance of the Notes pursuant to and in accordance with the terms of an Indenture (as defined herein) by and between the Issuer and the Trustee for the purpose of obtaining funds to finance the Project (as defined herein), all under and in accordance with the Constitution and laws of the State (as defined herein); and

WHEREAS, the Issuer desires to use the Proceeds (as defined herein) of the Notes to fund a mortgage loan to the Borrower (i.e., the Loan, as defined herein) upon the terms and conditions set forth in the Loan Agreement (as defined herein) in order to finance a portion of the Project Costs (as defined herein); and

WHEREAS, Freddie Mac (as defined herein) has committed, subject to the satisfaction of the Conditions to Conversion as set forth in the Construction Phase Financing Agreement (as defined herein) and the Freddie Mac Commitment (as defined herein), to facilitate the financing of the Project in the Permanent Phase (as defined herein); and

WHEREAS, if the Conditions to Conversion are satisfied on or before the Outside Forward Commitment Maturity Date, Conversion will occur on the Conversion Date (as defined herein) and, on such Conversion Date, the Funding Loan Agreement (as defined herein) and the Project Loan Agreement (as defined herein) will be delivered by the respective parties and become effective and shall amend and restate the Indenture and the Loan Agreement, respectively, in their entirety; and

WHEREAS, the Issuer and the Borrower desire that interest on the Notes be excludable from gross income for federal income tax purposes under the Code (as defined herein); and

WHEREAS, the purpose of executing this Agreement is to set forth various facts, certifications, covenants, representations, and warranties regarding the Notes and the Project and

to establish the expectations of the Issuer, the Borrower, and the Trustee as to future events regarding the Notes, the Project, and the use and investment of Proceeds of the Notes.

NOW THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby certify, covenant, represent, and agree on behalf of the Issuer, the Borrower, and the Trustee (but not in their individual capacities), respectively, as follows:

1. **Definitions.** Each capitalized term used in this Agreement has the meaning ascribed to such term below or has the meaning or is the amount, as the case may be, specified for such term in this Agreement or in Exhibits to this Agreement and for all purposes hereof has the meaning or is in the amount therein specified. All capitalized terms used but not defined herein, to the extent that such terms are defined in the Indenture, the Loan Agreement, or the Regulatory Agreement for all purposes hereof have the meanings therein specified. All such terms defined in the Code or Regulations that are not defined herein will for all purposes hereof have the same meanings as given to those terms in the Code and Regulations unless the context clearly requires otherwise.

“Administration Fund” means the “Administration Fund” to be established pursuant to the Funding Loan Agreement.

“Bidding Agent” means [_____].

“Bond Counsel” means any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes, and initially shall mean Bracewell LLP.

“Bond Year” means each one-year period that ends on the day selected by the Borrower in a certificate provided to the Issuer and the Trustee. The first and last bond years may be short periods. If no day is selected by the Borrower before the earlier of the final Maturity Date of the Notes or the date that is five years after the Issue Date of the Notes, a bond year will end on each anniversary of the Issue Date of the Notes and on the final Maturity Date of the Notes.

“Borrower” means, together with its permitted successors and assigns, Scott Street Lofts, LP, a Texas limited partnership.

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

“Collateral Fund” means the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020– Collateral Fund” established pursuant to the Indenture.

“Computation Date” means each Installment Computation Date and the Final Computation Date.

“Conditions to Conversion” means the conditions to conversion set forth in the Construction Phase Financing Agreement.

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

“Construction Phase Financing Agreement” means the Construction Phase Financing Agreement dated as of June 1, 2020, among Freddie Mac, the Lender and the Freddie Mac Seller/Servicer, and acknowledged and agreed to by the Borrower, as the same may be amended, modified or supplemented from time to time.

“Conversion” means the conversion of the Loan from the Construction Phase to the Permanent Phase on the Conversion Date.

“Costs of Issuance” means costs to the extent incurred in connection with, and allocable to, the issuance of an issuance of obligations within the meaning of section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in connection with, and allocable to, the borrowing: underwriters’ spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

“Costs of Issuance Fund” means the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Cost of Issuance Fund” established pursuant to the Indenture.

“Expense Fund” means the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Expense Fund” established pursuant to the Indenture.

“Favorable Opinion of Bond Counsel” means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Notes under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Notes or other customary exceptions acceptable to the recipient thereof).

“Final Computation Date” means the date on which the final payment in full of the Notes is made.

“Financial Advisor” means Stifel, Nicolaus & Company, Incorporated.

“Fiscal Agent” means Wilmington Trust, National Association, as fiscal agent under the Funding Loan Agreement.

“Form 8038” means IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

“Freddie Mac” means the Federal Home Loan Mortgage Corporation, a shareholder-owned government sponsored enterprise.

“Freddie Mac Commitment” means the commitment from Freddie Mac to the Freddie Mac Seller/Servicer pursuant to which Freddie Mac has agreed to purchase the Governmental Note following the Conversion Date, subject to the terms and conditions set forth therein, as such commitment may be amended, modified or supplemented from time to time.

“Freddie Mac Seller/Servicer” means JLL Capital Markets, as Freddie Mac’s seller/servicer under the Freddie Mac Commitment, or any of its successors or assigns under the Freddie Mac Commitment.

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

“Governmental Lender” means the Texas Department of Housing and Community Affairs, as governmental lender under the Funding Loan Agreement.

“Gross Proceeds” means any Proceeds and any Replacement Proceeds.

“Indenture” means the Trust Indenture by and between the Issuer and the Trustee, dated as of June 1, 2020.

“Installment Computation Date” means the last day of the fifth Bond Year and each succeeding fifth Bond Year.

“Investment Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from investing Proceeds.

[**“Investment Provider”** means _____].

“Investment Securities” means the securities provided by the Investment Provider.]

“IRS” means the Internal Revenue Service.

“Issue Date” means, with respect to an issue of obligations, the first date on which an issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any obligation.

“Issue Price” has the meaning ascribed to it in section 1.148-1(f) of the Regulations.

“Issuer” means, together with its successors and assigns, the Texas Department of Housing and Community Affairs, a public and official agency of the State. After Conversion, the Issuer is referred to as the “Governmental Lender” under the Funding Loan Agreement and the Project Loan Agreement.

“Lender Loan Prepayment Fund” means the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Lender Loan Prepayment Fund” established pursuant to the Indenture.

“Loan” means the mortgage loan made by the Issuer to the Borrower pursuant to the Loan Agreement in the aggregate principal amount of \$[Par Amount] and evidenced by a multifamily note.

“Loan Agreement” means the Loan Agreement among the Issuer, the Trustee, and the Borrower, dated as of June 1, 2020.

“Loan Payment Fund” means the “Loan Payment Fund” to be established pursuant to the Funding Loan Agreement.

“Loan Prepayment Fund” means the “Loan Prepayment Fund” to be established pursuant to the Funding Loan Agreement.

“Maturity Date” means July 1, 2040.

“Median Gross Income for the Area” means, with respect to the Project, the median income for the households in the area which includes the standard metropolitan statistical area in which the Project is located, as determined from time to time by the Secretary of HUD, under Section 8 of the Housing Act (or if such program is terminated, median income determined under the program in effect immediately before such termination), in each case as adjusted for family size.

“Minor Portion” means that portion of the Gross Proceeds of the Notes that does not exceed in the aggregate \$100,000.

“Net Proceeds” means Sale Proceeds, less the portion of any Sale Proceeds invested in a reasonably required reserve or replacement fund.

“Nonpurpose Investment” means any “investment property,” within the meaning of section 148(b) of the Code, that is not a purpose investment acquired to carry out the governmental purpose of the Notes.

“Note Documents” means, collectively, (i) prior to Conversion, the Indenture and the Loan Agreement and (ii) after Conversion, the Funding Loan Agreement and the Project Loan Agreement.

“Note Fund” means the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Note Fund” established pursuant to the Indenture, including the “Capitalized Interest Account” therein.

“**Notes**” means the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020. After Conversion, the Notes are referred to as the “Governmental Lender Note” under the Funding Loan Agreement.

“**Official Intent Date**” means September 5, 2019.

“**Original Issue Discount**” means the excess of the Stated Redemption Price at Maturity over the Issue Price.

“**Original Issue Premium**” means the excess of the Issue Price over the Stated Redemption Price at Maturity.

“**Outside Forward Commitment Maturity Date**” means July 1, 2023.

“**Permanent Phase**” means the permanent phase of the Loan, which time period shall commence on the Conversion Date and remain in effect through the remaining term of the Loan.

“**Permitted Investments**” has the meaning set forth in the Indenture.

“**Placed in Service**” has the meaning set forth in section 1.150-2(c) of the Regulations and means the date on which, based on all the facts and circumstances, (a) a facility reaches a degree of completion that will permit its operation at substantially its design level, and (b) a facility is, in fact, in operation at such level.

“**Pre-Issuance Accrued Interest**” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means amounts representing interest that accrued on an obligation for a period not greater than one year before its Issue Date but only if those amounts are paid within one year after the Issue Date.

“**Preliminary Expenditures**” are described in section 1.150-2(f)(2) of the Regulations and include architectural, engineering, surveying, soil testing, reimbursement bond issuance and similar costs that are incurred prior to commencement of acquisition, construction or rehabilitation of a project, but do not include land acquisition, site preparation and similar costs incident to the commencement of construction or rehabilitation.

“**Proceeds**” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means any Sale Proceeds and Investment Proceeds.

“**Project**” means an approximately 123-unit multifamily housing development to be located at 1320 Scott Street, Houston, Texas 77003.

“**Project Costs**” means costs relating to the acquisition, construction and equipping of the Project.

“**Project Fund**” means the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 – Project Fund” established pursuant to the Indenture.

“Project Loan Agreement” means the Project Loan Agreement attached to the Indenture as *Exhibit E*, which Project Loan Agreement shall be executed, delivered and become effective on the Conversion Date.

“Qualified Administrative Costs” are those (i) costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Loan and (ii) costs of issuing, carrying or repaying the Notes, and any underwriter’s discount.

“Qualified Investments” has the meaning set forth in the Funding Loan Agreement.

“Qualified Project Costs” means the Project Costs that meet the following requirements:

(a) The costs are chargeable to a capital account with respect to the Project for federal income tax purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Notes during, and fees for a “qualified guarantee” (within the meaning of section 1.148-4 of the Regulations) attributable to the period of, the construction of the Project will constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs.

(b) If any portion of the Project is being constructed by the Borrower or a Related Person to the Borrower (whether as a general contractor or a subcontractor), such costs include only (i) the actual out-of-pocket costs incurred by the Borrower or such Related Person in constructing the Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by the Borrower or such Related Person (but excluding any profit component) and (iii) any overhead expenses incurred by the Borrower or such Related Person that are directly attributable to the work performed on the Project and do not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of section 1504 of the Code) participating in the construction of the Project or payments received by such Related Person due to early completion of the Project (or any portion thereof).

(c) The costs are not Costs of Issuance.

(d) (i) The costs were paid no earlier than 60 days prior to the Official Intent Date and (ii) the reimbursement allocation is made no later than 18 months after the later of (A) the date the expenditure was paid and (B) the date the Project is Placed in Service or abandoned, but in no event more than three years after the original expenditure is paid; provided that such limitations do not apply to any amount not in excess of \$100,000 or to Preliminary Expenditures that do not exceed 20 percent of the Sale Proceeds of the Notes.

“Qualified Project Period” means, with respect to the Project, the period beginning on the first day on which 10 percent of the Units are occupied and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied, (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Project is outstanding for federal income tax purposes or, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Qualifying Tenant” means a tenant whose Annual Income is 60 percent or less of Median Gross Income for the Area, as determined under sections 142(d)(2)(B) and (E) of the Code. If all the occupants of a Unit are students (as defined under section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants are not Qualifying Tenants, unless such students meet the qualifications under section 42(i)(3)(D) of the Code.

“Rebate Amount” has the meaning set forth in section 1.148-3(b) of the Regulations and, generally, means the excess, as of any date, of the future value of all receipts on Nonpurpose Investments over the future value of all payments on Nonpurpose Investments all as determined in accordance with section 1.148-3 of the Regulations.

“Rebate Analyst” means a Person that is (a) qualified and experienced in the calculation of rebate payments under section 148 of the Code, (b) chosen by the Borrower, and (c) engaged for the purpose of determining the amount of required deposits, if any, to the Rebate Fund.

“Rebate Fund” means, prior to Conversion, the “Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020– Rebate Fund” established pursuant to the Indenture and, after Conversion, the “Rebate Fund” to be established pursuant to the Funding Loan Agreement.

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Regulatory Agreement” means the Regulatory and Land Use Restriction Agreement, among the Issuer, the Trustee, and the Borrower, dated as of June 1, 2020.

“Related Party” means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same controlled group, and, in reference to a person that is not a governmental unit or a 501(c)(3) organization, a Related Person.

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Replacement Proceeds” has the meaning set forth in section 1.148-1(c) of the Regulations and, generally, consist of amounts that have a sufficiently direct nexus to an issue of obligations or the governmental purpose of an issue of obligations to conclude that the amounts would have been used for that governmental purpose if the Proceeds were not used or to be used for that governmental purpose.

“Revenue Fund” means the “Revenue Fund” to be established pursuant to the Funding Loan Agreement.

“Sale Proceeds” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from the sale (or other disposition) of any obligation, including amounts used to pay underwriters’ discount or compensation and accrued interest other than Pre-Issuance Accrued Interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any obligation and that is described in section 1.148-4(b)(4) of the Regulations.

“State” means the State of Texas.

“Stated Redemption Price at Maturity” means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate and payable unconditionally at fixed periodic intervals of one year or less during the entire term of the debt instrument).

“Substantial User” has the meaning given to such term in section 1.103-11(b) of the Regulations, and generally includes any person (i) specifically for whom a facility, or part thereof, is constructed, reconstructed, or acquired or (ii) that (A) receives more than five percent of the total revenue derived by all users of such facility as gross revenue or (B) occupies more than five percent of the entire usable area of the facility.

“Trustee” means, together with its successors and assigns, Wilmington Trust, National Association, a national banking association organized and existing under the laws of the United States of America. After Conversion, the Trustee is referred to as the “Fiscal Agent” under the Funding Loan Agreement and the Project Loan Agreement.

“Underwriter” means RBC Capital Markets, LLC.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation; provided that, a residential accommodation will not fail to be treated as a “Unit” merely because it is a single-room occupancy unit (within the meaning of section 42 of the Code).

“Weighted Average Maturity” means the sum of the products of the Issue Price and the number of years to maturity (taking into account mandatory redemptions) of an obligation, divided by the aggregate Sale Proceeds of such obligation.

“Yield” on (a) an issue of obligations has the meaning set forth in section 1.148-4 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments of principal, interest and fees for qualified guarantees to be paid on the obligation produces an amount equal to the Issue Price of such issue and (b) any investment has the meaning set forth in section 1.148-5 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments to be received on the investment produces an amount equal to all payments for the investment.

“Yield Reduction Payments” means amounts paid in accordance with section 1.148-5(c) of the Regulations that are treated as payments that reduce the Yield on an investment.

“**40-60 Test**” means the requirement set forth in section 142(d)(1)(B) of the Code providing that 40 percent or more of Units in the Project be occupied by individuals whose income is 60 percent or less of the Median Gross Income for the Area.

2. Authorized Representatives.

(a) Issuer. The undersigned representative of the Issuer represents that such representative (i) is charged, along with others, with the responsibility for the Notes and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Issuer to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Issuer personnel and consultants to the Issuer, the undersigned representative of the Issuer has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(b) Borrower. The undersigned representative of the Borrower represents that such representative (i) is a duly chosen, qualified and acting officer or other representative of the Borrower, which will be the owner of the Project and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Borrower to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Borrower personnel and consultants to the Borrower, the undersigned representative of the Borrower has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(c) Trustee. The undersigned representative of the Trustee represents that such representative is a duly chosen, qualified and acting officer or other representative of the Trustee and is authorized on behalf of the Trustee to execute and deliver this Agreement.

3. Reasonable Expectations. The Issuer and the Borrower hereby affirm that the facts and estimates that are set forth in this Agreement are accurate and the expectations that are set forth in this Agreement are reasonable in light of such facts and estimates. There are no other facts or estimates that would materially change such expectations. The Issuer has also relied, to the extent appropriate, on the (a) Issue Price Certificate attached hereto as Exhibit A, (b) Certificate of Financial Advisor attached hereto as Exhibit B, [(c) Certificate of Bidding Agent attached hereto as Exhibit C and (d) Certificate of Investment Provider attached hereto as Exhibit D]. The undersigned representatives of the Issuer and the Borrower are aware of no fact, estimate or circumstance that would create any doubt regarding the accuracy or reasonableness of all or any portion of the representations set forth in such certificates.

4. Reliance on Borrower’s Representations and Covenants. Except as otherwise indicated in this Agreement, the representations, expectations, certifications, covenants and warranties of the Issuer concerning the use and investment of the Proceeds of the Notes and certain

other matters described in this Agreement are based solely upon representations, expectations, certifications, covenants and warranties of the Borrower, as set forth in this Agreement or in the Exhibits attached hereto. In relying upon such representations, expectations, certifications, covenants and warranties of the Borrower, the Issuer has not made any independent investigations of the matters pertaining thereto. The Issuer is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation, expectations, certifications, covenants and warranties of the Borrower made in this Agreement or in the Exhibits attached hereto.

5. Completeness of Borrower Information. The Borrower has supplied or caused to be supplied to Bond Counsel all documents, instruments and written information requested by Bond Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Bond Counsel, which have been reasonably relied upon by Bond Counsel in rendering its opinion with respect to the excludability from gross income for federal income tax purposes of the interest on the Notes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information for which Bond Counsel has not asked. After due investigation, there is no information not obtained, or any investigation or inspection not heretofore pursued, that would be relevant or material to the certifications set forth below.

6. General Requirements Relating to Issuance of the Notes.

(a) Governmental Purpose. The Borrower has applied to the Issuer and been approved for the Loan to be made from the Proceeds of the Notes. The proceeds of the Loan (and, thus, the Proceeds of the Notes) will be used to finance a portion of the Project Costs.

(b) Public Hearing and Approval. As required under section 147(f) of the Code, the Issuer hosted a forum that provided a reasonable opportunity for interested individuals to express their views, orally or in writing, on the Notes and the location and nature of the Project on February 20, 2020, in Houston, Texas. The Issuer provided notice reasonably designed to inform residents of the approving governmental unit of the proposed issue no fewer than seven days before the date such public hearing by publication in the newspaper of general circulation available to residents of the governmental unit. The notice stated the time and place for the public hearing, a general functional description of the type and use of the Project, the maximum stated principal amount of the Notes, the name of the expected initial legal owner of the Project, and the location of the Project. The Attorney General of the State approved the issuance of the Notes for purposes of section 147(f) of the Code.

(c) Volume Cap. The Issuer has received from the Texas Bond Review Board a reservation of State private activity bond volume cap in an amount no less than the aggregate principal amount of the Notes (or if greater, the Issue Price of the Notes) for the purpose of issuing the Notes to finance the Project.

(d) Issue. There are no other obligations that (i) are sold at substantially the same time as the Notes (i.e., less than 15 days apart), (ii) are sold pursuant to the same plan of financing with the Notes, and (iii) will be paid out of substantially the same source of funds as the Notes.

(e) Form 8038. The Borrower has examined the completed Form 8038 with respect to the Notes, including accompanying schedules and statements, and, to the best of the Borrower's knowledge and belief, the information in Parts IV and V, which was furnished by the Borrower, is true, correct, and complete. The Issuer will cause Form 8038 with respect to the Notes to be filed timely with the IRS.

(f) Program Covenant. Neither the Borrower nor any Related Party of the Borrower is, or will be, a party to any agreement, formal or informal, pursuant to which it will purchase any of the Bonds in an amount related to the amount of the Loan made to the Borrower unless the Borrower or such Related Party provides a Favorable Opinion of Bond Counsel to the Issuer.

(g) No Federal Guarantee. Neither the Issuer nor the Borrower will take any action that would result in all or any portion of the Notes being treated as federally guaranteed within the meaning of section 149(b)(2) of the Code.

7. Sale Proceeds of the Notes. The amount of Sale Proceeds received by the Issuer from the sale of the Notes is \$[Par Amount], which represents the Stated Redemption Price at Maturity of the Notes. The Sale Proceeds of the Notes will be loaned to the Borrower and deposited as follows:

(a) The amount of \$[] will be deposited in the Project Account of the [Project Fund] and used to pay Project Costs.

(b) [The amount of \$[] will be deposited in the Closing Costs Fund and disbursed to pay Costs of Issuance on the Notes.]

8. Pre-Issuance Accrued Interest. There is no Pre-Issuance Accrued Interest on the Notes.

9. Use of Proceeds of the Notes.

(a) Qualified Project Costs. At least 95 percent of the Net Proceeds of the Notes actually expended will be used to pay or reimburse Qualified Project Costs. Not more than five percent of the Net Proceeds of the Notes will be expended for or allocated to Project Costs that are not Qualified Project Costs.

For purposes of this subparagraph (a) the Project includes only: (i) those portions of buildings included in the Project that are (A) separate and complete facilities for living, sleeping, eating, cooking and sanitation that will be used on other than a transient basis by one or more persons and that will be available on a regular basis for use by members of the general public and will be rented, or available for rental, on a continuous basis during the Qualified Project Period, and (B) facilities in building areas that are functionally related

and subordinate thereto, such as centrally located machinery and equipment and common areas in a typical apartment building (but not including any health club facilities, except a facility that will be available only to tenants and their guests with no separate fee to be paid for the use of such facility); and (ii) land and other facilities that are properly allocable to such living facilities, such as parking areas and recreational areas for occupants of the living facilities.

Further, all of the allocable functionally related and subordinate land areas, facilities, and building areas taken into account in determining Qualified Project Costs under this subparagraph (a) are of a character and size commensurate with the number and size of the living facilities and are not functionally related and subordinate to, or properly allocable to, any other facilities.

(b) Additional Limitations.

(i) Costs of Issuance. The Sale Proceeds of the Notes, for purposes of the limit on Costs of Issuance payable from Proceeds of the Notes set forth in section 147(g) of the Code, is not less than \$[_____]. **[If paid from Proceeds:** Costs of Issuance in an amount of \$[_____] are expected to be paid out of the Net Proceeds of the Notes.] The Costs of Issuance financed out of Net Proceeds of the Notes will not exceed in the aggregate two percent of the Sale Proceeds of the Notes (i.e., \$[_____]). Costs of Issuance in excess of two percent of Sale Proceeds of the Notes will be paid by the Borrower from sources other than Net Proceeds of the Notes. **[If not paid from Proceeds:** No Costs of Issuance are expected to be paid out of the Net Proceeds of the Notes. Thus, Costs of Issuance financed out of Net Proceeds of the Notes are not expected to exceed in the aggregate two percent of the Sale Proceeds of the Notes (i.e., \$[_____]). In no event will Costs of Issuance paid from Proceeds of the Notes exceed two percent of the Sale Proceeds of the Notes, and any Costs of Issuance in excess of two percent of Sale Proceeds of the Notes will be paid by the Borrower from sources other than Net Proceeds of the Notes.

(ii) Acquisition of Existing Property. No portion of the Net Proceeds of the Notes will be used to pay or reimburse the cost of acquiring any property or an interest therein unless, except for land, the first use of such property is pursuant to such acquisition.

(iii) Limitation on Land Acquisition. Less than 25 percent of the Net Proceeds of the Notes will be used (directly or indirectly) to acquire land (or an interest therein) and no portion of the Net Proceeds of the Notes will be used (directly or indirectly) for farming purposes. Net Proceeds of the Notes in the amount of \$[_____] are expected to be used (directly or indirectly) to acquire land (or an interest therein), and such amount is less than 25 percent of the Net Proceeds of the Bonds.

(iv) Prohibited Facilities. None of the Proceeds of the Notes will be used to acquire, construct, or equip, and no portion of the Project will be, an airplane, a

skybox or any other type of luxury box, a health club facility, a facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; provided that, any portion of a fitness room functionally related to and subordinate to the Project for use by tenants of the Project or their guests is not considered a health club facility for purposes of this subparagraph.

(v) Payments to Related Persons. Any amount of Proceeds of the Notes paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower will not exceed an arm's-length charge that is the amount that would be charged to a person other than the Borrower. Further, any amount of Proceeds of the Notes paid to a Related Person to the Borrower or any affiliated person that is not a Related Person to the Borrower would be paid under the same circumstances by a person other than the Borrower to such affiliated person or entity. Notwithstanding the foregoing, in no event will amounts of Proceeds of the Notes that are paid to a Related Person to the Borrower be treated as spent until such amounts are spent on capital expenditures by such Related Person.

(vi) No Working Capital. Except for an amount that does not exceed five percent of the Sale Proceeds of the Notes (and that is directly related to the Project), the Proceeds of the Notes will only be expended for (A) costs that would be chargeable to the capital account of the Project if the Issuer's income were subject to federal income taxation; (B) interest on the Notes in an amount that does not cause the aggregate amount of interest paid on the Notes to exceed that amount of interest on the Notes that is attributable to the period that commences on the Issue Date of the Notes and ends on the later of (1) the date that is three years from the Issue Date of the Notes or (2) the date that is one year after the date on which the Project is Placed in Service; and/or (C) fees for a qualified guarantee of the Notes or payment for a qualified hedge on the Notes.

(vii) No Pooling. The Proceeds of the Bonds are not being used to directly or indirectly make or finance loans to two or more ultimate unrelated borrowers.

(viii) Weighted Average Economic Life. The Weighted Average Maturity of the Notes, as calculated by the Financial Advisor as set forth in Exhibit B hereto, is [WAM] years. The weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Notes is at least [WAM/1.2] years. Thus, the Weighted Average Maturity of the Notes is not more than 120 percent of the weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Notes. Such weighted average estimated economic life is determined in accordance with the following assumptions: (A) the weighted average is determined by taking into account the respective costs of each asset, excluding land; (B) the reasonably expected economic life of an asset is determined as of the later of (1) the Issue Date of the Notes or (2) the date on which such asset is originally Placed in Service (or expected

to be Placed in Service); and (C) the economic lives for the itemized assets are the useful lives that would have been used for depreciation purposes under section 167 of the Code prior to the enactment of the ACRS system under section 168 of the Code (i.e., the mid-point lives under the Class Life Asset Depreciation Range System of section 167(m) of the Code where applicable and the guideline lives under Revenue Procedure 62-21, 1962-2 C.B. 418, in the case of structures). The Borrower hereby covenants not make any changes to the Project that would, at the time made, cause the remaining Weighted Average Maturity of the Notes to be more than 120 percent of the remaining weighted average estimated economic life of the portion of the Project financed with Proceeds of the Notes.

(c) Reimbursement. [The Borrower expects that it will use Proceeds of the Notes in the amount of approximately \$[] to reimburse itself for expenditures paid prior to the Issue Date of the Notes.] Other than (i) an amount not greater than \$100,000 and/or (ii) Preliminary Expenditures up to an amount not in excess of 20 percent of the Issue Price of the Notes, no portion of the Proceeds of the Notes will be disbursed to reimburse the Issuer, the Borrower or any Related Person to the Borrower for any expenditures paid or incurred prior to the date that is 60 days before the Official Intent Date, which is the date on which the Issuer adopted a resolution describing the Project, stating the maximum principal amount of obligations expected to be issued for the Project and stating the Issuer's reasonable expectation that expenditures for costs of the Project would be reimbursed with Proceeds of an obligation. Such resolution was not an official intent declared as a matter of course or in an amount substantially in excess of the amount expected to be necessary for the Project. Neither the Issuer nor the Borrower has engaged in a pattern of failure to reimburse actual original expenditures covered by official intents. Such reimbursed portion will be treated as spent for purposes of the "Funds—Project Fund" subparagraph herein and the "Compliance with Rebate Requirements; Rebate Fund" paragraph herein.

(d) Allocations and Accounting. The Borrower will prepare a final allocation of the Proceeds of the Notes to expenditures not later than 18 months after the later of the date the original expenditure is made or the date the Project is Placed in Service, but in no event later than the date that is 60 days after the fifth anniversary of the Issue Date of the Notes or the retirement of the Notes, if earlier; provided that, if such allocation is made pursuant to a reimbursement expenditure described above, such reimbursement allocation will in no event be made later than the date that is three years after the date each such original expenditure is paid. The Borrower may redetermine the allocation of the Proceeds of the Notes within the time frame set forth in the immediately preceding sentence, provided that the Borrower will notify the Issuer and Bond Counsel of any such reallocation and provide such parties with documentation of such reallocation. The Borrower hereby elects to consistently allocate the expenditure of Proceeds of the Notes to Qualified Project Costs. No Proceeds of the Notes will be allocated to any expenditures to which Proceeds of any other tax-exempt obligations have heretofore been allocated.

10. Issue Price. In accordance with section 1.148-1(f)(2)(iv) of the Regulations, the Issuer hereby identifies in its books and records maintained for the Notes the rule the Issuer will use to determine the Issue Price for each maturity of the Notes as the rule set forth in the first

sentence of section 1.148-1(f)(2)(i) of the Regulations, i.e. the Issue Price is the first price at which a substantial amount (i.e. 10%) is sold to the public. Based on the representations set forth in Exhibit A hereto, the aggregate Issue Price of the Notes is \$[Par Amount]. The Issue Price of the Notes represents the Stated Redemption Price at Maturity (excluding Pre-Issuance Accrued Interest for those Notes the interest on which is paid at least once annually).

11. Yield on the Notes. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) The Yield on the Notes will be computed separately for each computation period. For the purposes of this Agreement, the Yield on the Notes for each computation period is the discount rate that, when used in computing the present value as of the first day of the computation period of all payments of principal and interest on the Notes that are attributable to the computation period, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price (or deemed Issue Price, as determined by section 1.148-4(c)(2)(iv) of the Regulations) of the Notes as of the first day of the computation period. No underwriter's discount, Costs of Issuance, or costs of carrying or repaying the Notes is taken into account for purposes of computing the Yield on the Notes.

(b) Neither the Issuer nor the Borrower has entered into any hedging transaction with respect to the Notes, and each covenants not to enter into a hedging transaction with respect to the Notes unless there is first received a Favorable Opinion of Bond Counsel.

12. Yield on the Loan. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) The Loan is allocated to the Notes. The Yield on the Loan is computed using the same compounding interval and financial conventions used to compute the Yield on the Notes. For the purposes of this Agreement, the Yield on the Loan is the discount rate that, when used in computing the present value as of the Issue Date of the Notes of all receipts with respect to the Loan, produces an amount equal to the present value, using the same discount rate, of the aggregate payments with respect to the Loan as of the Issue Date of the Notes. The aggregate payments made to the Borrower with respect to the Loan include no payments other than the "purchase price" of the Loan. The purchase price of the Loan is the amount loaned to the Borrower by the Issuer on the Issue Date of the Notes, i.e. \$[Par Amount].

(b) The Loan is a purpose investment that the Issuer intends to treat as a "program investment" within the meaning of section 1.148-1 of the Regulations, because it is part of a governmental program (i) that involves the origination or acquisition of purpose investments; (ii) in which at least 95 percent of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, organizations exempt from tax under section 501(c)(3) of the Code, persons who provide housing and related facilities, or any combination of the foregoing; (iii) in which at least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues

that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption; and (iv) in which the program documents prohibit any obligor on a purpose investment financed by the program or any “related party,” within the meaning of section 1.150-1(b) of the Regulations, to that obligor from purchasing bonds of an issue that finance the program in an amount related to the amount of the purpose investment acquired from that obligor. The Issuer has not waived the right to treat the Loan as a program investment.

(c) The receipts from the Borrower with respect to the Loan include interest and principal payments with respect to the Loan and the Qualified Administrative Costs paid by the Borrower, and the Qualified Administrative Costs paid by the Borrower have been taken into account, as provided by 1.148-5(e) of the Regulations, for purposes of computing the yield on the Loan. Because the Issuer intends to treat the Loan as a “program investment” within the meaning of section 1.148-1 of the Regulations, the Qualified Administrative Costs do not include the costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Loan, which amounts are set forth in Exhibit E hereto.

(d) As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Loan, calculated in the manner set forth above, is [Loan Yield], which does not exceed than the Yield on the Notes by more than 1.5 percentage points.

13. Investment of Proceeds Pending Expenditure; No Arbitrage.

(a) Investment Proceeds. Amounts on deposit in the Note Fund and the Project Fund may be comprised of Proceeds of the Notes and amounts that are not Proceeds of the Notes or any tax-exempt obligation. If Proceeds of the Notes and amounts that are not Proceeds of the Notes are commingled, the Borrower will take into account for purposes of its covenant to comply with the arbitrage and rebate requirements that Proceeds of the Notes and amounts that are not Proceeds of the Notes have been commingled as an investment. Investment Proceeds resulting from the investment of any Proceeds of the Notes pending expenditure of such Proceeds will be used to pay Qualified Project Costs or, if not used to pay Qualified Project Costs, such amounts will be treated as “bad costs.”

(b) Minor Portion and Yield Reduction Payments. All Gross Proceeds of the Notes will be invested in accordance with the “Funds” paragraph herein. To the extent such amounts remain on hand following the periods set forth in the “Funds” paragraph herein or exceed the limits set forth in the “Funds” paragraph herein, such amounts will be invested at a restricted Yield as set forth in such paragraph; provided, however, that an amount not to exceed the Minor Portion may be invested at a Yield that is higher than the Yield on the Notes and, provided further, that, if permitted by section 1.148-5(c) of the Regulations, the Yield restriction requirements may be satisfied by making Yield Reduction Payments to the federal government.

(c) Notes Are Not Hedge Bonds. Not more than 50 percent of the Proceeds of the Notes will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more. Further, at least 85 percent of the spendable Proceeds of the Notes are reasonably expected to be used to carry out the governmental purposes of the Notes within the three-year period beginning on the Issue Date of the Notes.

(d) No Arbitrage. On the basis of the facts, estimates and circumstances set forth in this Agreement, it is expected by the Issuer and the Borrower that the Gross Proceeds of the Notes will not be used in a manner that would cause the Notes to be “arbitrage bonds” within the meaning of section 148 of the Code. To the best of the knowledge and belief of the undersigned representatives of the Issuer and the Borrower, there are no other facts, estimates or circumstances that would materially change such expectations. Except as provided in the Indenture and the Loan Agreement, the Borrower will not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under the Loan Agreement or the note relating to the Loan, will not establish any segregated reserve or similar fund for such purpose and will not prepay any such amounts in advance of the redemption date of an equal principal amount of the Notes, unless in each case there will have been delivered a Favorable Opinion of Bond Counsel. The Borrower will not, at any time prior to the final maturity of the Notes, direct or permit the Trustee to invest Gross Proceeds of the Notes in any investment (or to use Gross Proceeds of the Notes to replace money so invested), if as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Notes to stated maturity, except as permitted by section 148 of the Code. The Issuer and the Borrower further covenant and agree that each will comply with and will take all action reasonably required to ensure that the Trustee complies with all applicable requirements of section 148 of the Code relating to the Notes and the interest thereon.

(e) [Investment Securities. To the extent not expended on the Issue Date of the Bonds, Proceeds of the Bonds on deposit in the Project Fund and the Collateral Fund will be invested in the Investment Securities. The Issuer and the Borrower hereby certify that the requirements of section 1.148-5(d)(6)(iii) of the Regulations will be followed. Specifically, with respect to the Investment Securities:

(i) The purchase of the Investment Securities was awarded to the Investment Provider based upon a bona fide solicitation by the Bidding Agent on behalf of the Issuer pursuant to bid specifications that were in writing and were timely forwarded to potential providers. The bid specifications included all material terms of the bid. A term is material if it may directly or indirectly affect the Yield or the cost of the investment. The bid specifications included a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the Issuer or any other person (whether or not in connection with the Bonds), and that the bid is not being submitted solely as a courtesy to the Issuer, or any other person for purposes of

satisfying the requirements of the Regulations. The terms of the bid specifications were commercially reasonable. A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the Yield of the investment.

(ii) All potential providers had an equal opportunity to bid. No potential provider was given the opportunity to review other bids (i.e., a last look) before providing a bid. At least three reasonably competitive providers were solicited for each of the bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of investments being purchased.

(iii) The bids received by the Bidding Agent satisfied all of the following requirements: (A) the Bidding Agent received three bids from providers that were solicited under a bona fide solicitation meeting the requirements described above and that did not have a material financial interest in the issue. A lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until fifteen days after the Issue Date of the issue. In addition, any entity acting as a financial advisor with respect to the purchase of the investment at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue. A provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue; (B) at least one of the bids described in (A) of this subparagraph was from a reasonably competitive provider, within the meaning set forth above; and (C) [the Underwriter and] the Bidding Agent did not bid to provide the investment.

(iv) The winning bid satisfied the following requirements: (A) the winning bid was the lowest cost bona fide bid (including any brokerage fees) for the portfolio and (B) the Provider certified the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the investment.

(v) The Issuer and the Borrower will retain the following records with the Bond documents until three years after the last outstanding Bond is redeemed: (A) a copy of the trade confirmations for the Investment Securities; (B) the receipt or other record of the amount actually paid for the Investment Securities, including a record of any administrative costs paid by any person and the certifications described above; (C) for each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid and the bid results; and (D) the bid solicitation form and, if the terms of the Investment Securities deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation.

(vi) As evidenced by the certificates attached hereto as Exhibits C and D, the Issuer determined that the bid to provide the Investment Securities satisfies each of the conditions set forth above.]

14. Covenants of Trustee Relating to Investment of Proceeds. The Trustee will invest funds held under the Indenture in accordance with the respective terms of the Indenture and this Agreement, which covenant will extend throughout the term of the Notes, to all funds and accounts created under the Indenture and this Agreement and all moneys on deposit to the credit of any fund or account.

Should the Issuer or the Borrower deliver notice (in the manner required under the Indenture or the Loan Agreement, as applicable) to the Trustee (it being understood that neither the Issuer nor the Borrower has an obligation to so deliver) or should the Trustee receive an opinion of Bond Counsel to the effect that any proposed investment or other use of Proceeds of the Notes would cause the Notes to become “arbitrage bonds” within the meaning of section 148 of the Code, then the Trustee will comply with any written direction of the Borrower regarding such investment or use so as to prevent the Notes from becoming an “arbitrage bond.”

The Issuer and the Borrower agree that, in complying with the provisions set forth under this subparagraph, the Trustee will be deemed to have complied with such provisions and will have no liability to the extent the Trustee materially follows the written directions of the Borrower or the Issuer.

15. Compliance with Yield Reduction and Rebate Requirements; Rebate Fund.

(a) Covenant to Comply with Rebate Requirements. The Issuer and the Borrower covenant to comply with the requirement that (i) if Gross Proceeds of the Notes have been invested at a Yield that is “materially higher” than the Yield on the Bonds and Yield Reduction Payments are permitted under section 1.148-5(c)(3) of the Regulations, Yield Reduction Payments be made to the federal government and (ii) “rebateable arbitrage earnings” on the investment of the Gross Proceeds of the Notes, within the meaning of section 148(f) of the Code, be rebated to the federal government.

(b) Rebate Fund. The Indenture established the Rebate Fund, which will be maintained and held in trust by the Trustee and which will be disbursed and applied only as herein authorized in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph. Notwithstanding anything herein to the contrary, all provisions of the Indenture relating to the general administration of the funds created thereunder will apply to the Rebate Fund, and the Trustee is afforded all the rights, protections and immunities otherwise accorded to it thereunder as if the provisions set forth in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph were set forth in the Indenture.

(c) Delivery of Documents and Money by Borrower on Computation Dates. The Borrower will deliver to the Trustee and the Issuer, within 55 days after each Computation Date:

(i) a statement, signed by an officer or other authorized representative of the Borrower, stating the Rebate Amount as of such Computation Date and the amount of any Yield Reduction Payments due; and

(ii) (A) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90 percent of the Rebate Amount and Yield Reduction Payments due as of such Installment Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations), made to the United States of America or (B) if such Computation Date is the Final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount and Yield Reduction Payments due as of such Final Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations) made to the United States of America; and

(iii) an IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (“Form 8038-T”) properly signed and completed as of such Computation Date.

(d) Administration of Rebate Fund and Payment of Rebate.

(i) The Trustee will deposit or transfer to the credit of the Rebate Fund, pursuant to written direction from the Borrower, each amount delivered to the Trustee by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto. Within five days after each receipt or transfer of funds to the Rebate Fund, the Trustee will withdraw such funds from the Rebate Fund and pay such funds to the United States of America. The Trustee may conclusively rely on the written instructions of the Borrower with regard to any actions to be taken by it pursuant to this paragraph and will have no liability for any consequences of any failure of the Borrower to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided herein, the Trustee will have no duty or responsibility with respect to the Rebate Fund or the Borrower’s duties and responsibilities with respect thereto except to follow the Borrower’s specific written instructions related thereto.

(ii) Moneys and securities held by the Trustee in the Rebate Fund will not be deemed funds of the Notes and are not pledged or otherwise subject to any security interest in favor of the owners of the Notes to secure the Notes or any other obligations.

(iii) Moneys in the Rebate Fund will be separately invested and reinvested by the Trustee, at the written direction of the Borrower, in Qualified Investments, subject to the Code. The Trustee will sell and reduce to cash a sufficient amount of such Qualified Investments whenever the cash balance in the Rebate Fund is insufficient for its purposes. In the absence of written instructions from a Borrower Representative, the Trustee will not be responsible or liable for keeping the moneys held as part of the Rebate Fund fully invested.

(iv) The Borrower will provide to the Trustee and the Trustee will keep such records of the results of the computations made pursuant to this paragraph for

a period of three years after the last Note and any tax-exempt obligations issued to refinance the Notes is retired. The Trustee will keep and make available to the Issuer and the Borrower such records concerning the investments of Gross Proceeds of the Notes and the investments of earnings from those investments as may be requested by the Issuer or the Borrower in order to enable the Borrower to make the computations required under section 148(f) of the Code.

(e) Correction of Underpayments. If the Borrower discovers or is notified as of any date that any amount required to be paid to the United States of America pursuant to this Agreement has not been paid as required or that any payment paid to the United States of America pursuant to this Agreement has failed to satisfy any requirement of section 148(f) of the Code or section 1.148-3 of the Regulations (whether or not such failure is due to any default by the Borrower, the Issuer, or the Trustee), the Borrower will (i) deliver to the Trustee (for deposit to the Rebate Fund) and cause the Trustee to pay to the United States of America from the Rebate Fund (A) the Rebate Amount or Yield Reduction Payments due that the Borrower failed to pay, plus any interest specified in section 1.148-3(h)(2) of the Regulations, if such correction payment is delivered to and received by the Trustee within 175 days after such discovery or notice, or (B) if such correction payment is not delivered to and received by the Trustee within 175 days after such discovery or notice, the amount determined in accordance with clause (A) of this subparagraph plus the 50 percent penalty required by section 1.148-3(h)(1) of the Regulations, and (ii) deliver to the Trustee and the Issuer a Form 8038-T completed as of such date. If such Rebate Amount or Yield Reduction Payments, together with any penalty and/or interest due, is not paid to the United States of America in the amount and manner and by the time specified in the Regulations, the Borrower will take such steps as are necessary to prevent the Notes from becoming “arbitrage bonds” within the meaning of section 148 of the Code.

(f) Fees and Expenses. The Borrower agrees to pay all of the fees and expenses of Bond Counsel, the Rebate Analyst, and any other necessary consultant employed by the Borrower, the Trustee, or the Issuer in connection with computing the Rebate Amount and the Yield Reduction Payments; provided that, nothing herein will be construed as the Trustee being responsible for creating, preparing or reviewing any of the computations contemplated under this Agreement.

(g) No Diversion of Rebateable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Notes that is not purchased at fair market value (as defined in section 1.148-5(d)(6)(iii) of the Regulations) or includes terms that the Borrower would not have included if the Notes were not subject to section 148(f) of the Code.

(h) Amounts Not Required in Certain Circumstances.

(i) Notwithstanding the foregoing, the Borrower will not be required to perform the obligations set forth in this “Compliance with Rebate Requirements; Rebate Fund” paragraph, except for the obligation to retain accounting records and

the payment of expenses as described herein, if (A) the Gross Proceeds of the Notes have not been invested at a Yield that is “materially higher” than the Yield on the Notes and therefore is not required to pay Yield Reduction Payments and/or (B) the Borrower has not earned any rebatable arbitrage and, therefore, is not subject to the rebate obligation set forth in section 148(f) of the Code. To the extent that the Borrower will not be required to perform such obligations, the Borrower will send written notice to the Trustee and the Issuer within 55 days after the applicable Computation Date.

(ii) Notwithstanding anything to the contrary in this Agreement requiring a payment to be made based on the Rebate Analyst’s calculations showing a rebate being due, no payment will be made by the Trustee to the United States of America if the Borrower furnishes to the Issuer and the Trustee a Favorable Opinion of Bond Counsel. In such event, the Borrower will be entitled to withdraw funds from the Rebate Fund to the extent provided in such Favorable Opinion of Bond Counsel.

(i) Trustee Reliance on Written Directions. The Issuer and the Borrower agree that, in complying with the provisions set forth under this paragraph, the Trustee will be deemed to have complied with such provisions and will have no liability to the extent it materially follows the written directions of the Borrower, the Issuer, or the Rebate Analyst.

16. Funds.

(a) Funds Prior To Conversion.

(i) Note Fund. Amounts on deposit in the Note Fund will be used primarily to achieve a proper matching of payments made by the Borrower in repayment of the Loan and debt service on the Notes within each Bond Year. Any amounts in the Note Fund held for longer than 13 months will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Notes, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(ii) Collateral Fund. Amounts on deposit in the Collateral Fund will be used for the purposes set forth in Section 4.03 of the Indenture. Any amounts held in the Collateral Fund will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Notes, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” and “—Investment Securities” subparagraphs herein.

(iii) Costs of Issuance Fund. Amounts on deposit in the Costs of Issuance Fund will be used for the purpose of paying Costs of Issuance. Amounts remaining in the Costs of Issuance Fund after the payment of all Costs of Issuance, and in any event not later than six months following the Closing Date of the Notes, will be (i) to the extent such amounts represent Proceeds of the Notes, transferred to the Project Account of the Project Fund and (ii) to the extent such amounts

represent amounts that are not Proceeds of the Notes, transferred to the Borrower. There is no assurance that amounts on deposit in the Costs of Issuance Fund will be available to pay debt service on the Notes.

(iv) Expense Fund. Amounts on deposit in the Expense Fund will be used for the purposes of payment of fees and expenses required under the Loan Agreement. There is no assurance that amounts on deposit in the Expense Fund will be available to pay debt service on the Notes.

(v) Project Fund. All of the Proceeds of the Notes in the Project Account of the Project Fund are expected to be invested and disbursed as described in the Indenture to pay Project Costs. The Issuer and the Borrower hereby waive the temporary period available under Section 1.148-2(e)(2) of the Regulations. Any amounts in the Project Fund will be invested at a Yield that is not “materially higher” than the Yield on the Notes, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(vi) Rebate Fund. The Rebate Fund will be used in the event the Borrower is required to pay rebatable arbitrage earnings to the federal government, as described in the “Compliance with Rebate Requirements; Rebate Fund” paragraph above. Amounts on deposit in the Rebate Fund are not subject to the lien of the Indenture; accordingly, there is no assurance that amounts on deposit, if any, in the Rebate Fund will be available to pay debt service on the Notes.

(vii) Lender Loan Prepayment Fund. Amounts on deposit in the Lender Loan Prepayment Fund will be used for the purposes of paying principal and interest on the Lender Loan. There is no assurance that amounts on deposit in the Lender Loan Prepayment Fund will be available to pay debt service on the Notes.

(b) Funds After Conversion.

(i) Revenue Fund. Amounts on deposit in the Revenue Fund will be used for the purposes and in the order set forth in Section 4.03 of the Funding Loan Agreement. There is no assurance that amounts on deposit in the Revenue Fund will be available to pay debt service on the Governmental Note.

(ii) Loan Payment Fund. Amounts on deposit in the Loan Payment Fund will be used for the purposes set forth in Section 4.04 of the Funding Loan Agreement. The Loan Payment Fund will be used primarily to achieve a proper matching of payments made by the Borrower in repayment of the Loan and debt service on the Notes within each Bond Year. Any amounts in the Loan Payment Fund held for longer than 13 months will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Governmental Lender Note, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(iii) Loan Prepayment Fund. Amounts on deposit in the Loan Prepayment Fund will be used for the purposes set forth in Section 4.05 of the Funding Loan Agreement. The Loan Prepayment Fund will be used to effect a prepayment of the Notes in accordance with Section 4.03(b) or (c) of the Funding Loan Agreement. Any amounts in the Loan Prepayment Fund will be used within 13 months of receipt of amounts in such account.

(iv) Administration Fund. Amounts on deposit in the Administration Fund will be used for the purposes and in the order set forth in Section 4.06 of the Funding Loan Agreement. There is no assurance that amounts on deposit in the Administration Fund will be available to pay debt service on the Notes.

(v) Rebate Fund. The Rebate Fund will be used in the event the Borrower is required to pay rebatable arbitrage earnings to the federal government, as described in the “Compliance with Rebate Requirements; Rebate Fund” paragraph above. Amounts on deposit in the Rebate Fund are not subject to the lien of the Funding Loan Agreement; accordingly, there is no assurance that amounts on deposit, if any, in the Rebate Fund will be available to pay debt service on the Notes.

17. Replacement Proceeds. The Issuer and the Borrower hereby represent as follows:

(a) No Sinking Funds. Other than the Note Fund, the Collateral Fund, the Loan Payment Fund and the Loan Prepayment Fund, there is no debt service fund, redemption fund, reserve fund, replacement fund, or similar fund reasonably expected to be used directly or indirectly to pay principal or interest on the Notes.

(b) No Pledged Funds. Other than amounts in the Note Fund, the Collateral Fund, the Loan Payment Fund and the Loan Prepayment Fund, there is no amount that is directly or indirectly pledged to pay principal or interest on the Notes, or to a guarantor of the Notes, such that such pledge provides reasonable assurance that such amount will be available to pay principal or interest on the Notes if the Issuer encounters financial difficulty. For purposes of this certification, an amount is treated as so pledged if it is held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the holders or the guarantor of the Notes.

(c) No Other Replacement Proceeds. There are no other Replacement Proceeds allocable to the Notes because the Issuer reasonably expects that the term of the Notes will not be longer than is reasonably necessary for the governmental purpose of the Notes. Furthermore, even if the Notes were outstanding longer than necessary for the purpose of the Notes, no Replacement Proceeds will arise because the Issuer reasonably expects that no amounts will become available during the period that the Notes remain outstanding longer than necessary based on the reasonable expectations of the Issuer as to the amounts and timing of future revenues. The Notes would be issued to achieve the governmental purpose of the Notes independent of any arbitrage benefit as evidenced by the expectation that the Notes reasonably would have been issued if the interest on the Notes were not excludable from gross income (assuming that the hypothetical taxable interest rate would

be the same as the actual tax-exempt interest rate and that tax credits issued under section 42 of the Code would be available in connection therewith).

18. Not an Abusive Transaction. The Issuer and the Borrower hereby represent as follows:

(a) General. A device has not been and will not be employed in connection with the issuance of the Notes to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates. Furthermore, no action taken in connection with the Notes is or will be an abusive arbitrage device by having the effect of (i) enabling the Issuer or the Borrower to exploit, other than during an allowable temporary period, the difference between tax-exempt and taxable interest rates to obtain a material financial advantage (including as a result of an investment of any portion of the Gross Proceeds of the Notes over any period of time, notwithstanding that, in the aggregate, the Gross Proceeds of the Notes are not invested in higher yielding investments over the term of the Notes) and (ii) overburdening the tax-exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the Notes, based on all the facts and circumstances. Specifically, (A) the primary purpose of each transaction undertaken in connection with the issuance of the Notes is a bona fide governmental purpose; (B) each action taken in connection with the issuance of the Notes would reasonably be taken to accomplish the governmental purposes of the Notes if the interest on the Notes were not excludable from gross income for federal income tax purposes (assuming the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate on the Notes); and (C) the Proceeds of the Notes will not exceed by more than a Minor Portion the amount reasonably anticipated to be necessary to accomplish the governmental purposes of the Notes and will in fact not be substantially in excess of the amount of Proceeds allocated to expenditures for the governmental purposes of the Notes.

(b) No Sinking Fund. No portion of the Notes has a term that has been lengthened primarily for the purpose of creating a sinking fund or similar fund with respect to the Notes.

(c) No Window. No portion of the Notes has been structured with maturity dates the primary purpose of which is to make available released revenues that will enable the Issuer to avoid transferred proceeds or to make available revenues that may be invested to be ultimately used to pay debt service on another issue of obligations.

(d) No Disposition. No portion of the Project is reasonably expected to be disposed of while the Notes are outstanding.

19. The Project. The Borrower hereby represents and covenants as follows:

(a) The Project will be comprised of (i) Units, which will be rented to individuals or families for residential occupancy and none of which will be owner-occupied (other than any functionally related and subordinate Units used by management for the purpose of housing any resident managers, security personnel or maintenance personnel

that is reasonably required for the Project) and (ii) facilities, all of which are functionally related and subordinate to the aforementioned Units (i.e., facilities that are of a size and character commensurate with the size and character of such Units).

(b) There has been and will be no substantial deviation from the description and location of the Project and the Borrower, operator or manager set forth in the notice of hearing published with respect to the Notes for purposes of satisfying the requirements of section 147(f) of the Code.

(c) The Project will be designed and equipped and will be owned, maintained and operated on a continuous basis in accordance with the Loan Agreement and the Regulatory Agreement. For purposes of this subparagraph, each of the enumerated types of facilities includes the interior furnishings of such facility (including the facility's plumbing, electrical and decorating costs) and the structural components required for the facility (including the facility's walls, ceilings and special enclosures). Each such enumerated type of facility includes only those normal components of the structure in which it is located, such as the structure's structural supports, to the extent that those components are required because of the facility. The recreational facilities, if any, included as part of the Project will be available only to residential tenants and their guests and no separate fee will be required for the use of such facilities.

(d) Except to the extent that any Unit in the Project is a single room occupancy unit under section 42 of the Code, each Unit will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Specifically, each such Unit will contain a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, full-size refrigerator and sink, all of which are separate and distinct from the facilities included in other Units.

(e) Parking spaces included in the Project are functionally related and subordinate to the Units included in the Project in that they are no greater in number than is normally appropriate for a residential rental facility that is of the size of the Project. Only tenants, prospective tenants, guests of tenants, employees of the Borrower, and employees of the manager are expected to use these parking spaces.

(f) If the Project contains a clubhouse, exercise or similar recreational facility, such facility exists as a tenant amenity and may be used by any tenant free of any separate charge and will be constructed for the exclusive use of tenants of the Project and their guests. Any such facility is of a character and size commensurate with the character and size of the Project and will not be open to the general public on a membership basis.

(g) The Project will not include any nonresidential or commercial space, including particularly, without limitation, any other space or facility not described in this paragraph.

(h) No continual or frequent skilled or unskilled nursing services will be available at the Project, although the tenants will be permitted to engage such services from providers that are not affiliated with the Borrower or the manager. Thus, neither the

Borrower nor the manager, nor any Related Person to either the Borrower or the manager, will provide any assistance to any tenant in connection with his or her activities of daily living, other than concierge and valet services. The Project will not be licensed as a convalescent or nursing home, continuing care facility, personal care facility, special care facility or other assisted living facility under State law.

20. Tenant Income Certifications. The Borrower hereby represents and covenants as follows:

(a) The Borrower will obtain and maintain tenant income certifications from Qualifying Tenants with respect to the Project in a form that satisfies the requirements of section 1.103-8(b)(8) of the Regulations demonstrating that the 40-60 Test is met with respect to the occupied Units continuously throughout the Qualified Project Period.

(b) The Borrower will ensure that each person who is intended to be a Qualifying Tenant will sign and deliver to the Borrower or a manager of the Project a tenant income certification in the form required by the Regulatory Agreement. In addition, the Borrower will ensure that such person will provide whatever other information, documents or certifications are deemed necessary to substantiate the tenant income certification.

(c) The Borrower will timely file, or take such actions as are necessary to cause any other person who is properly treated as the “operator” for purposes of section 142(d)(7) of the Code to file timely, the annual certifications described in section 142(d)(7) of the Code (currently, IRS Form 8703, Annual Certificate of Residential Rental Project).

(d) For a period of at least three years after the date the Notes are retired, a tenant income certification in the form required by the Regulatory Agreement will at all times be maintained on file at the applicable location for the Project with respect to each Qualifying Tenant who resides or has resided in a Unit.

21. Form of Lease. The Borrower will ensure that the term of a lease of any Unit in the Project will be for a term of not less than six months, subject to the provision that any lease may be terminated if the tenant’s physical condition no longer permits full-time residence in the Project; provided, however, that the form of lease to be utilized by the Borrower in renting any Units to a person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the tenant income certification.

22. Change in Use. The Borrower acknowledges that any failure to satisfy the applicable requirements of sections 103 and 142 through 150, inclusive, of the Code, including the 40-60 Test, with respect to the Project will be treated as a change in use for purposes of section 150(b)(2) of the Code with the result that no deduction will be allowed for federal income tax purposes for interest paid by the Borrower with respect to the portion of the Loan that is allocable to Proceeds of the Notes that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet such requirements and ending on the date that the Project meets such requirements.

On the earlier of (a) the date on which the Borrower reasonably determines that the Project will not be completed or (b) the date on which the Project is Placed in Service, the Borrower will identify the amount of unspent Net Proceeds of the Notes, if any, and will use such amount to redeem or, if not permitted by the terms of the Notes, defease the Notes, all in accordance with the requirements of section 1.142-2 of the Regulations, the Indenture and the Loan Agreement, as applicable, including the requirement that, if a defeasance is necessary, timely written notice be provided to the IRS.

23. Cashflow Sufficiency. The Borrower reasonably expects that the cash flow from the Project on an annual basis (excluding cash generated from the investment of nonoperating funds or other investment funds maintained by the Borrower) will be sufficient to pay annual debt service on the Loan during each year. Accordingly, the Borrower expects that debt service on the Loan will not be paid, directly or indirectly, from non-operating or other investment funds maintained by the Borrower or any Related Person to the Borrower. Except for the funds described in the “Funds” paragraph above, the Borrower does not expect to create or establish, or otherwise set aside or dedicate, any fund or account that is expected to be used to pay principal of, or interest on, the Notes or to be pledged, directly or indirectly, to the payment of principal of, or interest on, the Notes. Investment Proceeds of the Bonds and amounts earned from the investment of such Investment Proceeds will not be commingled with other receipts or revenues of the Borrower.

24. Post-Issuance Compliance Procedures. The Issuer has implemented written post-issuance tax compliance procedures regarding federal tax compliance that include provisions to ensure that all nonqualified bonds are remediated according to the requirements under the Code and Regulations and to monitor the requirements of section 148 of the Code. A copy of the Issuer’s then-current post-issuance tax compliance procedures is and will be available on the Issuer’s website during the term of this Agreement. If the Issuer’s website is not available, a copy of the then-current post-issuance tax compliance procedures will be made available to the Borrower, upon request. The Borrower agrees to take such actions as required therein to be taken by the Borrower to maintain compliance with requirements in the Code. In the event that the terms of the Issuer’s post-issuance tax compliance procedures conflict with the terms of this Agreement, the terms of this Agreement will control.

25. Record Retention. The Borrower and the Trustee will retain or cause to be retained all pertinent and material records relating to any formal elections made for purposes of federal income tax law; the use of the Project; the investment, use and expenditure of the Proceeds of the Notes; and the calculation of rebate in connection therewith until three years after the Notes, including any tax-exempt obligations issued to refinance the Notes, are redeemed or paid at maturity, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the Issuer to retrieve and reproduce such books and records in the event of an examination of the Notes by the IRS.

26. Examination by IRS. The Borrower acknowledges that, in the event of an examination by the IRS of the exclusion of interest on the Notes from the gross income of the

owners thereof for federal tax purposes, the Issuer will likely be treated as the “taxpayer”, and the Borrower agrees to respond in a commercially reasonable manner on behalf of, and at the direction of, the Issuer (and in consultation with the Trustee, who will have the right to participate in all related proceedings (including tax court challenges and appeals)) to such examination and to pay the costs of the counsel selected by the Issuer to provide a defense regarding the exclusion of the interest on the Notes from the gross income of the owners thereof for federal income tax purposes. THE BORROWER WILL INDEMNIFY AND HOLD HARMLESS THE ISSUER AND THE TRUSTEE AGAINST ANY AND ALL COSTS, LOSSES, CLAIMS, DAMAGES, OR LIABILITY OF, OR RESULTING FROM, SUCH AN EXAMINATION AND THE SETTLEMENT THEREOF BY THE ISSUER AND THE TRUSTEE (INCLUDING THE COST OF THE ISSUER’S AND THE TRUSTEE’S LEGAL COUNSEL), EXCEPT AS A RESULT OF THE WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE ISSUER (WITH RESPECT TO INDEMNIFICATION OF THE ISSUER) OR THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE TRUSTEE (WITH RESPECT TO INDEMNIFICATION OF THE TRUSTEE).

27. Term. The obligations of the Issuer, the Borrower and the Trustee, under this Agreement will survive the defeasance and discharge of the Notes for as long as such matters are relevant to the exclusion from gross income of interest on the Notes for federal income tax purposes.

28. Amendments.

(a) To the extent any amendments to the Code or the Regulations, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Agreement, this Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as will be necessary to document such automatic amendment hereof.

(b) To the extent that the Code or the Regulations, or any amendments thereto, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Agreement, this Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Trustee and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All reasonable costs, including fees and out-of-pocket expenses actually incurred by the Issuer and the Trustee, in connection with an amendment to this Agreement will be paid by the Borrower and its successors in interest.

29. Remedies. The Issuer, the Trustee, and the Borrower each hereby agree that, upon the occurrence of an Event of Default (as defined under the applicable Note Document) resulting

from an action or omission of an action by any party hereunder with respect to any provision of this Agreement the remedies available under the Note Documents apply.

30. Miscellaneous.

(a) Severability. If any provision of this Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such provision will not affect any of the remaining provision hereof.

(b) Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

(c) Notices. All notices, demands, communications and requests which may or are required to be given hereunder or by any party hereto will be deemed given on the date on which the same will have been mailed by registered or certified mail, postage prepaid, addressed to such parties at the addresses set forth in the Indenture and the Loan Agreement, as applicable.

(d) Successors and Assigns. The terms, provisions, covenants and conditions of this Agreement bind and inure to the benefit of the respective successors and assigns of the Issuer, the Borrower, and the Trustee.

(e) Headings. The headings of this Agreement are inserted for convenience only and will not be deemed to constitute a part of this Agreement.

(f) Governing Law. This Agreement is governed by the laws of the State, without regard to the choice of law rules of the State. Venue for any action under this Agreement will lie within the district courts of the State, and the parties hereto consent to the jurisdiction and venue of any such court and hereby waive any argument that venue in such forums is not convenient.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Issuer, the Borrower and the Trustee (but, as for the Trustee, only with respect to sections 2(c), 14, 15, and 26 through 30) have caused this Agreement to be executed and delivered by duly authorized officers thereof as of Closing Date.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**, as Issuer

By: _____
Name: Monica Galuski
Title: Director of Bond Finance/Chief Investment
Officer

SCOTT STREET LOFTS, LP,
a Texas limited partnership

By: Scott Street Lofts Advisors, LLC,
a Texas limited liability company,
its general partner

By: Mark-Dana Corporation,
a Virginia corporation,
its managing member

By: _____
David Mark Koogler
President

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Trustee**

By: _____
Name:
Title:

EXHIBIT A

ISSUE PRICE CERTIFICATE

I, the undersigned officer of RBC Capital Markets, LLC (“RBC”) make this certification in connection with the \$[Par Amount] Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”). Each capitalized term used but not defined herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Certificate and Agreement prepared in connection with the Notes (the “Tax Exemption Agreement”).

1. I hereby certify as follows in good faith as of the Issue Date of the Notes:

(a) I am the duly chosen, qualified and acting officer of RBC for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of RBC. I am the officer of RBC charged, along with other officers of RBC, with responsibility for the Notes.

(b) The first price at which at least 10% of the Notes was sold to the Public is the price set forth on the cover of the Official Statement prepared in connection with the Notes (the “Actual Sales Price”).

(c) The Actual Sales Price of the Notes is \$[Par Amount].

2. For purposes of this Issue Price Certificate, the following definitions apply:

(a) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(b) “Related Party” means any two or more persons who are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(c) “Underwriter” means (i) any person that agrees pursuant to a written contract with the Issuer to participate in the initial sale of the Notes to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this definition to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Notes to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser’s interpretation of any laws, including specifically

sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Exemption Agreement and with respect to compliance with the federal income tax rules affecting the Notes, and by Bracewell LLP in connection with rendering its opinion that the interest on the Notes is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice it may give to the Issuer from time to time relating to the Notes.

[EXECUTION PAGE FOLLOWS]

The foregoing Issue Price Certificate has been duly executed as of the Closing Date.

RBC CAPITAL MARKETS, LLC

By: _____
Name: Helen Feinberg
Title: Managing Director

EXHIBIT B

CERTIFICATE OF FINANCIAL ADVISOR

I, the undersigned officer of Stifel, Nicolaus & Company, Incorporated (the “Financial Advisor”), make this certificate in connection with the \$[Par Amount] Texas Department of Housing and Community Affairs Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the “Notes”). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Agreement to which this Exhibit B is attached (the “Tax Exemption Agreement”). I hereby certify as follows as of the Issue Date of the Notes:

1. I am the duly chosen, qualified and acting officer of the Financial Advisor for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Financial Advisor.

2. The Issue Price plus any Pre-Issuance Interest on the Notes, based on the representations of RBC in the Issue Price Certificate attached as Exhibit A to the Tax Exemption Agreement, is not more than \$[Par Amount].

3. Solely for the purposes of demonstrating the fact that the Yield on the Loan is not more than 1.5 percentage points higher than the Yield on the Governmental, the Financial Advisor computed the Yield on the Governmental Note, based on the Issue Price and assuming semiannual compounding, an assumed Construction Phase rate of interest of [_____] percent per annum, a Conversion Date of [_____] , and a fixed rate of interest of [_____] percent per annum thereafter to the Maturity Date, to be [_____] percent and the Yield on the Loan to be [_____] percent. Accordingly, the Yield on the Mortgage Loan does not exceed the Yield on the Notes by more than 1.5 percentage points.

4. For purposes of determining the Yields in paragraph 3 above, the Financial Advisor has performed certain calculations relating to the Notes and the Loan. Such calculations are attached hereto as Schedule I. The Financial Advisor hereby represents that such calculations are based on assumptions and methodologies provided by Bond Counsel and are in all material respects consistent with the assumptions and methodologies set forth in the “Yield on the Notes” and “Yield on the Loan” paragraphs of the Tax Exemption Agreement. These calculations include calculations based upon assumptions, information, and estimates obtained from the Borrower and the Issuer, which the Financial Advisor, based on its experience with similar transactions, has no reason to believe are not reasonable in light of the relevant facts and circumstances. To the best of the Financial Advisor’s knowledge, as of the Issue Date of the Notes, no fact or circumstance has come to the Financial Advisor’s attention that conflicts with the assumptions, information and estimates described in the preceding sentence.

5. As shown in Schedule I attached hereto, the Financial Advisor computed the Weighted Average Maturity of the Notes, calculated in accordance with the provisions of the Tax Exemption Agreement, to be [WAM] years.

6. The Financial Advisor represents that to the best of its knowledge as of the Issue Date of the Notes, the statements set forth in paragraphs (a) through (c) of the “Not An Abusive Transaction” paragraph of the Tax Exemption Agreement are true.

The Issuer may rely on the statements made herein in connection with making the representations set forth in the Tax Exemption Agreement and in its efforts to comply with the conditions imposed by the Code on the exclusion of interest on the Notes from the gross income of their owners. Bracewell LLP also may rely on this certificate for purposes of its opinion regarding the treatment of interest on the Notes as excludable from gross income for federal income tax purposes and the preparation of the Form 8038.

[EXECUTION PAGE FOLLOWS]

The foregoing Certificate of Financial Advisor has been duly executed as of the Closing Date.

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

By: _____

Name: _____

Title: _____

Signature Page to Certificate of Financial Advisor

SCHEDULE I
TO CERTIFICATE OF FINANCIAL ADVISOR

Schedule I to Certificate of Financial Advisor

EXHIBIT C
CERTIFICATE OF BIDDING AGENT

[See Attached]

EXHIBIT D
CERTIFICATE OF INVESTMENT PROVIDER

[See Attached]

EXHIBIT E
SCHEDULE OF LOAN COSTS

Paid Prior to Closing

Application Fee	\$2,460
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Paid at Closing

Issuer Closing Fee	\$90,000
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Issuer Administration Fee (first two years)	\$35,200
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Issuer Compliance Fee (first year)	\$2,450
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Annual Fees

Issuer Administrative Fee (beginning July 1, 2022)	.10% per annum of the aggregate principal amount of the Notes outstanding
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Issuer Compliance Fee (beginning July 1, 2023)	\$2,450 per annum
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**ATTACHMENT H
TO LOAN AGREEMENT**

DECLARATION OF SUBORDINATION OF SENIOR LENDER

DECLARATION OF SUBORDINATION OF SENIOR LENDER

STATE OF TEXAS §
§
COUNTY OF HARRIS §

WHEREAS, ZIONS BANCORPORATION, N.A. D/B/A AMEGY BANK ("Senior Lender"), has made a loan to **SCOTT STREET LOFTS, LP**, a Texas limited partnership ("Owner"), in the principal amount of EIGHTEEN MILLION AND NO/100 DOLLARS (\$18,000,000.00)], (the "Construction Senior Loan," together with the Permitted Refinancing as defined herein, the "Senior Loan") for the purpose of securing the Texas Department of Housing and Community Affairs' ("TDHCA") Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020, in an amount not to exceed \$18,000,000.00, which proceeds from the sale thereof shall be used by the TDHCA to make a loan to Borrower in the original principal amount of \$18,000,000.00 for the purpose of financing a portion of the costs to construct affordable senior housing located at 1320 Scott Street, Houston, Harris County, Texas 77003, as more particularly described in Exhibit A attached hereto and incorporated herein ("Property"). The Construction Senior Loan is evidenced by a certain promissory note, executed by Owner, of even date herewith (together with any note executed in connection with the Permitted Refinancing, the "Senior Lien Note"), and secured by a certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, executed by Owner, covering the Property, and which has been or will be recorded in the Real Property Records of Harris County, Texas (together with any deed of trust securing the Permitted Refinancing, the "Senior DOT," together with all documents evidencing, securing, guaranteeing or otherwise pertaining to the Senior Loan, collectively, the "Senior Lien Loan Documents");

WHEREAS, upon expiration of the term of the Construction Senior Loan, it is anticipated that the Construction Senior Loan will be repaid and the Borrower will enter into a permanent loan in an amount not to exceed \$[_____] made by Jones Lang LaSalle Multifamily, LLC as the permanent loan lender (the "Permanent Senior Loan"), and intended to be sold to Federal Home Loan Mortgage Corporation, in accordance with the terms of that certain Forward Commitment Agreement by and between Jones Lang LaSalle Multifamily, LLC and Borrower dated on or about the date hereof (the "Term Sheet"). The repayment of the Construction Senior Loan and entering into the Permanent Senior Loan (the "Permitted

Refinancing") shall be permitted provided that the terms and conditions of the Permanent Senior Loan do not materially vary from the Term Sheet and any additional material terms not set forth in the Term Sheet are reasonably acceptable to the Director and further provided that the parties named therein enter into the form of Subordination Agreement (Government Entity) attached to the Term Sheet ("Freddie Mac Subordination Agreement") dated as of closing the Permanent Senior Loan, and each, respectively assumes the representations and the covenants of the Senior Lender hereunder.

WHEREAS, THE CITY OF HOUSTON ("City") has made a loan to **URBAN PARTNERSHIPS COMMUNITY DEVELOPMENT CORPORATION**, a Texas non-profit corporation, in the principal amount of [FIFTEEN MILLION SEVEN HUNDRED THIRTY THOUSAND SEVEN HUNDRED EIGHTY EIGHT AND NO/100 DOLLARS (\$15,730,788.00)], which loan is subordinate to the Senior Loan ("Subordinate Loan") for the purpose of financing a portion of the costs to acquire and/or construct the improvements to the Property, as evidenced by a certain promissory note, executed by Borrower, of even date herewith, and secured by a certain Collateral Assignment of Note and Liens executed by Borrower collaterally assigning to City, Borrower's right, title and interest in and to a loan made by Borrower to Owner in the maximum principal amount of the Subordinate Loan, together with a Deed of Trust, Security Agreement and Financing Statement, covering the Property, and which has been or will be recorded in the Official Public Records of Real Property of Harris County, Texas (such deed of trust together with all documents evidencing, securing, guaranteeing or otherwise pertaining to the Subordinate Loan, collectively, the "Subordinate Lien Loan Documents");

WHEREAS, the Property is encumbered (or will be encumbered) by that certain Restrictive Covenants executed (or to be executed) by Owner for the benefit of the City (together with all renewals, modifications, consolidations, replacements and extensions thereof, collectively, the "LURA").

WHEREAS, the Property is also encumbered (or will be encumbered) by that certain Regulatory Agreement and Land Use Restriction Agreement among TDHCA, Wilmington Trust, National Association ("Wilmington Trust") and the Borrower (the "Regulatory Agreement").

NOW, THEREFORE, for and in consideration of the City's extension of credit to Borrower evidenced by the Subordinate Loan, of the mutual promises, covenants and agreements contained herein, and in satisfaction of certain requirements set forth in that certain Loan Agreement between the City,

Borrower and Owner, effective as of _____, 2020 (the "Loan Agreement"), Senior Lender, Wilmington Trust, TDHCA and the City, as applicable, agree, covenant, represent and warrant as follows:

- I. The documents evidencing, securing, guaranteeing or otherwise pertaining to the Senior Loan, including, without limitation, any express or implied vendor's lien retained in connection with the transfer of the Property to Owner or other equitable lien (collectively, the "Senior Lien Loan Documents" and the liens created thereby, the "Senior Liens") are now and shall at all times during the "Affordability Period" (as defined in the LURA) be subject, subordinate and inferior to the lien, operation and effect of the LURA, SAVE AND EXCEPT the repayment of any part of the Subordinate Loan that is triggered by the default of any provision of the LURA, with the same effect as if the LURA had been executed, delivered and recorded prior to the execution, delivery and recordation of the Senior Lien Loan Documents, regardless of the order of recordation of the Senior Lien Loan Documents and the LURA.
- II. So long as the Affordability Period has not expired, the LURA shall at all times be an exception and encumbrance to title of the Property delivered to Senior Lender pursuant to the Senior DOT. The Affordability Period may not be extended without the prior written consent of the Senior Lender, which consent shall not be unreasonably withheld.
- III. Notwithstanding anything contained in this Declaration, the Subordinate Lien Loan Documents, that certain Intercreditor Agreement dated of even date herewith by and between the City, Borrower, Owner, and Senior Lender (the "Intercreditor Agreement") or the Senior Lien Loan Documents to the contrary, (i) in no event shall the LURA be deemed a "Subordinate Lien Loan Document", (ii) during the Affordability Period, the LURA shall at all times be prior and superior to the Senior Liens and any and all other provisions of the Senior Lien Loan Documents, SAVE AND EXCEPT the repayment of any part of the Subordinate Loan that is triggered by the default of any provision of the LURA, and (iii) in the event that there is a conflict in the terms and provisions of (a) this Declaration, (b) the Senior Lien Loan Documents, (c) the Subordinate Lien Loan Documents and/or (d) the Intercreditor Agreement, the terms and provisions of this Declaration shall control; provided, however, that during the term of the Permanent Senior Loan, the Freddie Mac Subordination Agreement governs the priority between the Senior Loan Documents and the LURA.

- IV. Notwithstanding anything to the contrary contained herein, the Subordinate Loan Documents, the Regulatory Agreement or the Senior Loan Documents, so long as the Affordability Period has not expired, the Regulatory Agreement and the LURA shall be in equal priority.
- IV. All notices, demands, certificates, or other communications hereunder shall be in writing and shall be deemed sufficiently given or served for all purposes when delivered personally, when sent by certified or registered mail, postage prepaid, return receipt requested or by private courier service, in each case, with the proper address as indicated below; provided that any such notices, demands, certificates, or other communications shall be deemed effective only upon receipt. Each party may, by written notice given to the other parties, designate any other address or addresses to which notices, certificates or other communications to them shall be sent as contemplated by this Declaration. Until otherwise so provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

SENIOR LENDER:

Amegy Bank
4576 Research Forest Drive
The Woodlands, Texas
Attn:

BORROWER:

Urban Partnerships Community Development Corporation
26302 Oak Ridge Drive, Suite 100
Spring, TX 77380
Attention: _____

OWNER:

Scott Street Lofts, LP
26302 Oak Ridge Drive, Suite 100
Spring, TX 77380
Attention: _____

CITY:

CITY OF HOUSTON
c/o Department of Housing and Community Development
2100 Travis St, 9th Floor
Houston, TX 77002
Attention: Director

With copy to:

CITY OF HOUSTON LEGAL DEPARTMENT
900 Bagby, 4th Floor
Houston, TX 77002
Attention: City Attorney

INVESTOR:
RBC Capital Markets, LLC

Attn:

TDHCA:
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78701
Attention: Director of Multifamily Bonds
Email: teresa.morales@tdhca.state.tx.us
Telephone: (512) 475-3344

WILMINGTON TRUST:
Wilmington Trust, National Association
15950 North Dallas Parkway, Suite 550
Dallas, Texas 75284
Attention: Charles Hicks, Corporate Trust Department
Telephone: (972) 383-3154
Email: chicks@wilmingtontrust.com

- V. Whenever in this Declaration any party hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all rights, benefits, covenants, promises, and agreements in this Declaration by or on behalf of the respective parties hereto shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.
- VI. This Declaration shall be performable and enforced in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas, without regard to the conflicts of laws rules of the State of Texas. Venue shall be appropriate in Harris County, as applicable.
- VII. No amendment or waiver of any provision of this Declaration shall be effective unless the same shall be (a) in writing and signed by the party or parties against whom it is to be enforced and (b) approved in writing by the Mayor of the City of Houston and countersigned by the Controller of the City, and any such waiver or consent shall be effective only in the specific instance and for the

specific purpose for which given. The obligations set forth herein constitute covenants running with the Property and shall be binding upon Senior Lender, its successors and assigns.

- VIII. Notwithstanding anything contained herein to the contrary, neither this Declaration, nor the City's acceptance hereof, nor shall it be construed to, foreclose or waive the application of all lawful requirements under the applicable laws of the State of Texas for the approval or issuance of future agreements, permits or licenses by the City.
- IX. In case any one or more of the provisions contained in this Declaration shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected and/or impaired thereby.
- X. Any provision of this Declaration which contemplates (i) the payment of money by the City, which payment would require the appropriation of funds over and above any sums appropriated prior to the Effective Date of this Declaration in connection with this Declaration (and the transactions contemplated herein), or (ii) any other future action, decision, agreement, waiver or approval which by its nature must be approved by the City Council, including without limitation, the issuance of permits or licenses, shall be subject to the approval of any subsequent City Councils to which such matter is presented and to the appropriation by such City Council of the required funds, in the exercise of its legislative discretion.
- XI. The parties have executed this Declaration in multiple originals, each having full force and effect, as of the date of this Declaration. Facsimile or electronically transmitted signatures shall be deemed originals for all purposes hereunder.
- XII. This Declaration shall remain in full force and effect until payment in full of the Senior Loan (including any refinancing thereof).

[SIGNATURE PAGES FOLLOW]

SIGNATURE PAGE

Declaration of Subordination of Senior Lender

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written.

SENIOR LENDER:

ZIONS BANCORPORATION, N.A. dba AMEGY BANK

By: _____

Name: _____

Title: _____

STATE OF TEXAS

§

COUNTY OF HARRIS

§

§

The foregoing instrument was acknowledged before me on the ____ day of _____, 20____, by _____, _____ of Zions Bancorporation, N.A. dba Amegy Bank.

NOTARY PUBLIC - THE STATE OF TEXAS

Printed Name of Notary

My commission expires:_____.

BORROWER:

**URBAN PARTNERSHIPS COMMUNITY
DEVELOPMENT CORPORATION**, a Texas non-
profit corporation

By: _____
Name:
Title:

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____, the _____ of **URBAN PARTNERSHIPS COMMUNITY DEVELOPMENT CORPORATION**, a Texas non-profit corporation on behalf of said corporation.

NOTARY PUBLIC, State of Texas

PRINTED NAME OF NOTARY

My COMMISSION EXPIRES: _____

OWNER:

SCOTT STREET LOFTS, LP, a Texas limited partnership

By: Scott Street Lofts Advisors, LLC, a Texas limited liability company, its general partner

By: Mark-Dana Corporation, a Virginia corporation, its managing member

By: _____
Name:
Title:

STATE OF TEXAS

COUNTY OF HARRIS

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, the _____ of Mark-Dana Corporation, a Virginia corporation, the managing member of Scott Street Lofts Advisors, LLC, a Texas limited liability company, the general partner of **SCOTT STREET LOFTS, LP**, a Texas limited partnership, on behalf of such limited partnership.

NOTARY PUBLIC - THE STATE OF TEXAS

Printed Name of Notary

My commission expires:_____.

CITY:

THE CITY OF HOUSTON, TEXAS

Tom McCasland, Director
Housing and Community Development
Department

STATE OF TEXAS §
§
COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me on the ____ day of _____, 20__, by Tom McCasland, Director, Housing and Community Development Department of the City of Houston, State of Texas.

Notary Public, State of Texas

Printed Name of Notary

My commission expires:_____

TDHCA:

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

By:

Name: James B. "Beau" Eccles

Title: Secretary to Board

STATE OF TEXAS §

§

COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me on the ____ day of _____, 20____, by James B. "Beau" Eccles, Secretary to the Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

Notary Public, State of Texas

Printed Name of Notary

My commission expires:_____

WILMINGTON TRUST:

WILMINGTON TRUST, NATIONAL ASSOCIATION,

By:
Charles Hicks
Vice President

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me on the ____ day of _____, 20____, by Charles Hicks, a Vice President of Wilmington Trust, National Association, a national banking association.

Notary Public, State of Texas

Printed Name of Notary

My commission expires:_____

EXHIBIT A