

HOPWA LOAN AGREEMENT
(Aspen Court)

This HOPWA Loan Agreement (the "Agreement") is dated June 1, 2023, and is between the County of Contra Costa, a political subdivision of the State of California (the "County"), and Aspen Drive Housing, Inc., a California nonprofit public benefit corporation ("Borrower").

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The County has received Housing Opportunities for Persons with AIDS Program funds from HUD pursuant to the HOPWA Program ("HOPWA Funds"). The HOPWA Funds are available to be administered by the County, as a subrecipient of the City of Oakland, which is the representative for the Alameda-Contra Costa County Eligible Metropolitan Area. The HOPWA Funds must be used by the County in accordance with 24 C.F.R. Section 574 et seq (the "HOPWA Regulations").

C. Borrower is the owner of that certain real property located at 121 Aspen Drive in the unincorporated area of Pacheco, County of Contra Costa, State of California, as more particularly described in Exhibit A (the "Property"). Borrower has constructed twelve (12) housing units on the Property for rental to extremely low and very low and low income households (the "Development"). The Development, as well as all landscaping, roads and parking spaces on the Property and any additional improvements on the Property, are the "Improvements".

D. The County previously made a loan to Borrower in the amount of Seven Hundred Fourteen Thousand Five Hundred Dollars (\$714,500) (the "Original County Loan") consisting of Three Hundred Eighty Thousand Dollars (\$380,000) of HOME Investment Partnerships Act funds, and Three Hundred Thirty-Four Thousand Five Hundred Dollars (\$334,500) in HOPWA Funds to facilitate the construction of the Development.

E. In addition to the Original County Loan, Borrower was granted One Million One Hundred Twenty-Four Thousand Three Hundred Dollars (\$1,124,300) from the U.S. Department of Housing and Urban Development ("HUD") pursuant to Section 811 of the National Affordable Housing Act (the "Section 811 Grant"). The Section 811 Grant is evidence by other documents including the following (collectively, the "HUD Assistance Documents"): (i) that certain Use Agreement dated September 1, 1998, and recorded on September 10, 1998, as Instrument No. 98-0218943, (ii) that certain Regulatory Agreement dated September 1, 1998, and recorded on September 10, 1998, as Instrument No. 98-0218945, (iii) that certain Promissory Note dated September 1, 1998, in the amount of the Section 811 Grant, and (iv) that certain Deed of Trust dated September 1, 1998, and recorded on September 10, 1998, as Instrument No. 98-0218944.

F. Borrower desires to borrow from the County up to an additional Six Hundred Thousand Dollars (\$600,000) of HOPWA Funds (the "Loan"), of which, One Hundred Sixty-Seven Thousand Dollars (\$167,000) (the "Initial Funding Amount") is fiscal year 2018 HOPWA

Funds that must be expended by the County not later than June 30, 2023 (the "Initial Expenditure Date"),

G. The Original County Loan is evidenced by that certain Regulatory Agreement between Resources for Community Development ("RCD") and the County dated March 29, 1996, and recorded March 29, 1996, as Instrument No. 96-58013, as modified by that certain Modification Agreement dated June 1, 1996, recorded October 1, 1996 as Instrument No. 96-183124, as amended by that certain First Amendment to Regulatory Agreement dated January 14, 1998, and recorded as Instrument No. 98-157028, as assigned to Borrower pursuant to that certain Assignment and Assumption Agreement among RCD, Borrower, and the County dated September 8, 1998, recorded September 10, 1998, as Instrument No. 98-0218946, as modified by that certain Subordination and Modification Agreement dated September 1, 1998, and recorded on September 10, 1998, as Instrument No. 98-0218947 (collectively, the "Original Regulatory Agreement").

H. Concurrently with entering into this Agreement, (i) the County and Borrower are amending the Regulatory Agreement to make its term consistent with the term of this Agreement, and (ii) the Borrower is executing the Note and the Deed of Trust.

I. The Loan is being made to finance the predevelopment and construction costs associated with the rehabilitation of the Improvements (the "Rehabilitation"). The Rehabilitation is intended to maintain the supply of affordable rental housing in Contra Costa County. Due to the assistance provided Borrower through the Loan, the County continues to designate eleven (11) units as HOPWA-assisted unit (the "HOPWA Assisted Units"), as set forth in the Regulatory Agreement.

J. In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) ("NEPA"), the County has completed and approved all applicable environmental review for the activities proposed to be undertaken under this Agreement.

The parties therefore agree as follows:

AGREEMENT

ARTICLE 1 DEFINITIONS AND EXHIBITS

Section 1.1 Definitions.

The following terms have the following meanings:

- (a) "Accessibility Requirements" has the meaning set forth in Section 3.9 below.
- (b) "Agreement" has the meaning set forth in the first paragraph of this Agreement.
- (c) "Annual Operating Budget" has the meaning set forth in Section 4.3.

(d) "Approved Rehabilitation Budget" means the proforma budget for the Rehabilitation, including sources and uses of funds, as approved by the County, and attached hereto and incorporated herein as Exhibit B.

(e) "Approved Rehabilitation Schedule" means the schedule for performing the Rehabilitation, as approved by the County, and attached hereto and incorporated herein as Exhibit C.

(f) "Approved Financing" means all of the loans, grants, equity and operating subsidy obtained by Borrower and approved by the County for the purpose of financing the Rehabilitation.

(g) "Bid Package" means the package of documents Borrower's general contractor is required to distribute to potential bidders as part of the process of selecting subcontractors for the Construction Activities. The Bid Package is to include the following: (i) an invitation to bid; (ii) copy of the proposed construction contract; (iii) a form of bid guarantee that is reasonably acceptable to the County that guarantees, at a minimum, an amount equal to five percent (5%) of the bid price; and (iv) all Construction Plans.

(h) "Borrower" has the meaning set forth in the first paragraph of this Agreement.

(i) "CEQA" has the meaning set forth in Section 2.6(c).

(j) "City" means the City of Pacheco, California, a municipal corporation.

(k) "Commencement of the Construction Activities " has the meaning set forth in Section 3.5.

(l) "Construction Activities" means the activities described under the heading "Construction Portion" on the Approved Rehabilitation Budget and under the Heading "Project Milestones- Construction" on the Approved Rehabilitation Schedule.

(m) "Construction Plans" means all construction documentation that Borrower and Borrower's general contractor use in the Construction Activities and include, but are not limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings").

(n) "County" has the meaning set forth in the first paragraph of this Agreement.

(o) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing of even date herewith among Borrower, as trustor, Doma Title of California, Inc., as trustee, and the County, as beneficiary, that encumbers the Property to secure repayment of the Loan and performance of the covenants of the Loan Documents.

(p) "Default Rate" means the lesser of the maximum rate permitted by law and ten percent (10%) per annum.

(q) "Development" has the meaning set forth in Paragraph C of the Recitals.

(r) "Event of Default" has the meaning set forth in Section 6.1.

(s) "Hazardous Materials" means: (i) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical, and (ii) any waste, substance or material defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic materials", "toxic waste", "toxic substances," or words of similar import under any Hazardous Materials Law.

(t) "Hazardous Materials Claims" means with respect to the Property (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or the Property pursuant to any Hazardous Materials Law; and (ii) all claims made or threatened by any third party against Borrower or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials.

(u) "Hazardous Materials Law" means any federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments thereto as of this date and to be added in the future and any successor statute or rule or regulation promulgated thereto.

(v) "HOPWA" means the Housing Opportunities for Persons with AIDS Program Pursuant to the AIDS Housing Opportunity Act (42 USC 12901 et seq.), as amended by the Housing and Community Development Act of 1992 (42 USC 5301 et seq.).

(w) "HOPWA-Assisted Unit" has the meaning set forth in Paragraph I of the Recitals.

(x) "HOPWA Eligible Household" means a household that includes at least one Person with HIV/AIDS.

(y) "HOPWA Funds" has the meaning set forth in Paragraph B of the Recitals.

(z) "HOPWA Note" means the promissory note of even date herewith that evidences Borrower's obligation to repay the Loan.

(aa) "HOPWA Regulations" has the meaning set forth in Paragraph B of the Recitals.

(bb) "HUD" has the meaning set forth in Paragraph E of the Recitals.

(cc) "HUD Assistance Documents" has the meaning set forth in Paragraph E of the Recitals.

- (dd) "Initial Expenditure Date" has the meaning set forth in Paragraph F of the Recitals.
- (ee) "Initial Funding Amount" has the meaning set forth in Paragraph F of the Recitals.
- (ff) "Improvements" has the meaning set forth in Paragraph C of the Recitals.
- (gg) "Loan Documents" means this Agreement, the Note, the Regulatory Agreement, and the Deed of Trust.
- (hh) "Loan" has the meaning set forth in Paragraph F of the Recitals.
- (ii) "NEPA" has the meaning set forth in Paragraph J of the Recitals.
- (jj) "Note" means the promissory note of even date herewith that evidences Borrower's obligation to repay the Loan.
- (kk) "Operating Reserve Account" has the meaning set forth in Section 4.1(b).
- (ll) "Original County Loan" has the meaning set forth in Paragraph D of the Recitals.
- (mm) "Original Regulatory Agreement" has the meaning set forth in Paragraph G of the Recitals.
- (nn) "Persons with HIV/AIDS" has the meaning set forth in the Regulatory Agreement.
- (oo) "Predevelopment Activities" means the activities that do not require building permit applications and described under the heading "Predevelopment Portion" on the Approved Rehabilitation Budget and under the heading "Project Milestones- Predevelopment" on the Approved Rehabilitation Schedule.
- (pp) "Property" has the meaning set forth in Paragraph C of the Recitals.
- (qq) "Regulatory Agreement" means the Original Regulatory Agreement as amended by the Second Amendment to Regulatory Agreement.
- (rr) "Rehabilitation" has the meaning set forth in Paragraph I of the Recitals.
- (ss) "Remaining Balance" means Four Hundred Thirty-Three Thousand Dollars (\$433,000), which is the result obtained by subtracting the Initial Funding Amount from Six Hundred Thousand Dollars (\$600,000).
- (tt) "Replacement Reserve Account" has the meaning set forth in Section 4.1(a).
- (uu) "Retention Amount" means Fifty Thousand Dollars (\$50,000) of the Loan,

the disbursement of which is described in Section 2.7.

(vv) "Second Amendment to Regulatory Agreement " means the second amendment to the Regulatory Agreement entered into between the County and Borrower of even date herewith that is being recorded against the Property.

(ww) "Section 811 Grant" has the meaning set forth in Paragraph E of the Recitals.

(xx) "Tenant" means the tenant household that occupies a unit in the Development.

(yy) "Term" means the period of time that commences on the date of this Agreement, and expires, unless sooner terminated in accordance with this Agreement, on January 1, 2078.

(zz) "Transfer" has the meaning set forth in Section 4.14 below.

Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A: Legal Description of the Property
- Exhibit B: Approved Rehabilitation Budget
- Exhibit C: Approved Rehabilitation Schedule

ARTICLE 2 LOAN PROVISIONS

Section 2.1 Loan.

Upon satisfaction of the conditions set forth in Section 2.5, the County shall lend to Borrower that portion of the Loan equal to the Initial Funding Amount for the purposes set forth in Section 2.3(a) of this Agreement. Upon satisfaction of the conditions set forth in Sections 2.6 through Section 2.7, the County shall lend to Borrower that portion of the Loan equal to the Remaining Balance for the purposes set forth in Section 2.3(b) of this Agreement. Borrower's obligation to repay the Loan is evidenced by the Note.

Section 2.2 Interest.

(a) Loan. Subject to the provisions of subsection (b) below, no interest will accrue on the outstanding principal balance of the Loan.

(b) Event of Default. Upon the occurrence of an Event of a Default, interest on the outstanding principal balance of the Loan will accrue at the Default Rate, beginning on the date of such occurrence and continuing until the date the Loan is repaid in full or the Event of Default is cured.

Section 2.3 Use of Loan Funds.

(a) Initial Funding Amount. Borrower shall use the Initial Funding Amount exclusively to fund the cost of the Predevelopment Activities, in amounts consistent with the Approved Rehabilitation Budget and in accordance with Section 2.5 below. The scope of the Predevelopment Activities may be amended with the written approval of the County pursuant to the process set forth in Section 3.17 for amending the Approved Rehabilitation Budget.

(i) Timing Limitations. The Initial Funding Amount must be expended by the County not later than the Initial Expenditure Date. To enable the County to expend the Initial Funding Amount by the Initial Expenditure Date, Borrower shall satisfy the conditions set forth in Section 2.5 not later than June 15, 2023. If Borrower does not satisfy the conditions to disbursement set forth in Section 2.5 by June 15, 2023, the unexpended portion of the Initial Funding Amount will be forfeited.

(ii) Applicable Use. The Approved Rehabilitation Budget itemizes Predevelopment Activities that utilize the full amount of the Initial Funding Amount.

(b) Remaining Balance. Borrower shall use the Remaining Balance exclusively to fund Construction Activities, in amounts consistent with the Approved Rehabilitation Budget and in accordance with Section 2.6 and Section 2.7 below, as applicable.

(c) Other Uses. Borrower may not use the Loan proceeds for any other purposes without the prior written consent of the County.

Section 2.4 Security.

In consideration of the Loan, Borrower shall (i) secure its obligation to repay the Loan, as evidenced by the Note, by executing the Deed of Trust, and cause or permit it to be recorded as a lien against the Property, and (ii) execute the Second Amendment to the Regulatory Agreement, and cause or permit it to be recorded against the Property.

Section 2.5 Conditions Precedent to Disbursement of Initial Funding Amount for Predevelopment Activities.

The County is not obligated to disburse any portion of the Initial Funding Amount for Predevelopment Activities, or to take any other action under the Loan Documents unless all of the following conditions have been and continue to be satisfied:

(a) There exists no Event of Default nor any act, failure, omission or condition that would constitute an Event of Default under this Agreement;

(b) Borrower holds title to the Property;

(c) Borrower has delivered to the County copies of all of Borrower's organizational documents, and a copy of a corporate resolution authorizing Borrower to obtain the Loan and all other Approved Financing, and execute the Loan Documents;

(d) There exists no material adverse change in the financial condition of

Borrower from that shown by the financial statements and other data and information furnished by Borrower to the County prior to the date of this Agreement;

(e) Borrower has furnished the County with evidence of the insurance coverage meeting the requirements of Section 4.12 below;

(f) Borrower has executed and delivered to the County the Loan Documents and has caused all other documents, instruments, and policies required under the Loan Documents to be delivered to the County;

(g) The Deed of Trust and the Second Amendment to the Regulatory Agreement have been recorded against the Property in the Office of the Recorder of the County of Contra Costa;

(h) A title insurer reasonably acceptable to the County is unconditionally and irrevocably committed to issuing an LP-10 2006 ALTA Lender's Policy of title insurance insuring the priority of the Deed of Trust in the amount of the Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require. Borrower shall provide whatever documentation (including an indemnification agreement), deposits or surety is reasonably required by the title company in order for the County's Deed of Trust to be senior in lien priority to any mechanics liens in connection with any start of construction that has occurred prior to the recordation of the Deed of Trust against the Property in the Office of the Recorder of the County of Contra Costa;

(i) The County has determined the undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that Borrower has obtained in connection with the Rehabilitation, are not less than the amount the County determines is necessary to pay for the Rehabilitation and to satisfy all of the covenants contained in this Agreement and the Regulatory Agreement;

(j) Borrower has obtained all permits and approvals necessary for the Predevelopment Activities;

(k) The County has received a written draw request from Borrower, including: (i) certification that the condition set forth in Section 2.5(a) continues to be satisfied; (ii) certification that the proposed uses of funds is consistent with the Approved Rehabilitation Budget; (iii) the amount of funds needed; and, (iv) where applicable, a copy of the bill or invoice from the third-party performing the work, covering a cost incurred. Borrower is not required to have paid such third-party prior to the County providing a disbursement. When a disbursement is requested to pay any contractor in connection with improvements on the Property, the written request must be accompanied by: (1) certification by Borrower's architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Property and make an independent evaluation); and (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

Section 2.6 Conditions Precedent to Disbursement of Loan Funds for Construction Activities.

The County is not obligated to disburse any portion of the Loan beyond the Initial Funding Amount for Construction Activities, or to take any other action under the Loan Documents unless all of the following conditions have been and continue to be satisfied:

- (a) All requirements set forth in Section 2.5 have been and continue to be satisfied;
- (b) If less than the full amount of the Initial Funding Amount was disbursed, the County has approved a revision to the Approved Development Budget in accordance with Section 3.17;
- (c) The County taken all required action in accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA") and Borrower has provided the County evidence of planned compliance with all CEQA requirements and mitigation measures applicable to construction, if any;
- (d) Borrower has obtained all permits and approvals necessary for the Construction Activities;
- (e) The County has received and approved the Bid Package for the subcontractors for the Rehabilitation pursuant to Section 3.2 below;
- (f) The County has received and approved the general contractor's construction contract that Borrower has entered or proposed to enter for the Rehabilitation pursuant to Section 3.3 below;
- (g) The County has received and approved labor and material (payment) bonds and performance bonds as required pursuant to Section 3.4 below;
- (h) Borrower has closed the loans that comprise Approved Financing and has already received, or is eligible to receive, the funds;
- (i) Borrower has provided the County a certification from an architect or Certified Access Specialist (as defined in 21 California Code of Regulations Section 121) that the Construction Plans are in conformance with the Accessibility Requirements; and
- (j) The County has received a written draw request from Borrower, including:
 - (i) certification that the condition set forth in Section 2.5(a) continues to be satisfied; (ii) certification that the proposed uses of funds is consistent with the Approved Rehabilitation Budget; (iii) the amount of funds needed; and, (iv) where applicable, a copy of the bill or invoice from the third-party performing the work, covering a cost incurred. Borrower is not required to have paid such third-party prior to the County providing a disbursement. When a disbursement is requested to pay any contractor in connection with improvements on the Property, the written request must be accompanied by: (1) certification by Borrower's architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although

the County reserves the right to inspect the Property and make an independent evaluation); and (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

Section 2.7 Conditions Precedent to Disbursement of Retention.

The County is not obligated to disburse the Retention Amount unless the following conditions precedent are satisfied:

(a) The County has received a completion report from Borrower setting forth: (i) the income, household size, race, and ethnicity of Tenants of the HOPWA-Assisted Units; (ii) and the unit address, unit size, rent amount and utility allowance for all HOPWA-Assisted Units;

(b) The County has received from Borrower copies of the certificate of occupancy or equivalent final permit sign-offs for the Rehabilitation;

(c) The County has received from Borrower current evidence of the insurance coverage meeting the requirements of Section 4.12 below;

(d) The County has received from Borrower evidence of marketing for any vacant HOPWA-Assisted Unit in the Development such as copies of flyers, list of media ads, list of agencies and organizations receiving information on availability of such units, as applicable;

(e) The County has received from Borrower all relevant contract activity information, including compliance with Section 3 requirements and minority-owned (MBE) and women-owned (WBE) business requirements;

(f) If Borrower was required to comply with relocation requirements as set forth in Section 3.10 below, the County has received from Borrower evidence of compliance with all applicable relocation requirements;

(g) If Borrower is required to pay prevailing wages under the Davis-Bacon Act (40 U.S.C. 3141-3148) by the HUD regulations governing the Loan, the County has received confirmation that Borrower has submitted all certified payrolls to the County, and any identified payment issues have been resolved, or Borrower is working diligently to resolve any such issues; and

(h) The County has received a written draw request from Borrower, including certification that the condition set forth in Section 2.5(a) continues to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Rehabilitation Budget, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. Borrower shall apply the disbursement for the purpose(s) requested.

Section 2.8 Repayment Schedule.

(a) Deferred Loan. No annual payments are due on the Loan. Payment of the Loan is deferred for the Term. Payment of the Loan is due pursuant to subsection (b) below.

(b) Payment in Full of Loan. Borrower shall pay all outstanding principal and

accrued interest on the Loan, in full, on the earliest to occur of: (i) an Event of Default; and (ii) the expiration of the Term.

(c) Prepayment. Borrower may prepay the Loan at any time without premium or penalty. However, the Regulatory Agreement and the Deed of Trust (as security for the Regulatory Agreement) will remain in effect for the entire Term, regardless of any prepayment or Transfer.

Section 2.9 Non-Recourse.

Except as provided below, Borrower shall not have any direct or indirect personal liability for payment of the principal of, and interest on, the Loan. Following recordation of the Deed of Trust, the sole recourse of the County with respect to the principal of, or interest on, the Note will be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability limits or impairs the enforcement of all the rights and remedies of the County against all such security for the Note, or impairs the right of County to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation to repay the principal and interest on the Note. Nothing contained herein is intended to relieve Borrower of its obligation to indemnify the County under the Loan Documents and Borrower shall be fully and personally liable for: (i) loss or damage of any kind resulting from waste, fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; (iv) willful or grossly negligent violation of applicable law; and (v) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property.

ARTICLE 3
THE REHABILITATION

Section 3.1 Permits and Approvals.

Borrower shall obtain all permits or permit ready letter and approvals necessary for the commencement of the Construction Activities no later than September 30, 2023 or such later date that the County approves in writing.

Section 3.2 Bid Package.

Not later than thirty (30) days prior to Borrower's proposed date for advertising the Bid Package, Borrower shall submit to the County a copy of Borrower's general contractor's proposed Bid Package. The County's Director, Department of Conservation and Development, or his or her designee, shall approve or disapprove the Bid Package within fifteen (15) days after receipt of the Bid Package by the County. If the County rejects the proposed Bid Package the reasons therefore must be given to Borrower. Borrower will then have fifteen (15) days to revise

the proposed Bid Package and resubmit it to the County. The County will then have fifteen (15) days to review and approve Borrower's new or corrected Bid Package. The provisions of this Section will continue to apply until a proposed Bid Package has been approved by the County. Borrower may not publish a proposed Bid Package until it has been approved by the County.

Section 3.3 Construction Contract.

(a) Not later than fifteen (15) days prior to the proposed Commencement of the Construction Activities, Borrower shall submit to the County for its approval a draft of the proposed construction contract for the Rehabilitation. All construction work and professional services are to be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. Each contract that Borrower enters for the Rehabilitation is to provide that at least ten percent (10%) of the costs incurred will be payable only upon completion of the Rehabilitation, subject to early release of retention for specified subcontractors upon approval by the County. The construction contract will include all applicable HOPWA requirements set forth in Section 4.15 below. The County's approval of the construction contract may not be deemed to constitute approval of or concurrence with any term or condition of the construction contract except as such term or condition may be required by this Agreement.

(b) Upon receipt by the County of the proposed construction contract, the County shall promptly review same and approve or disapprove it within fifteen (15) days. If the construction contract is not approved by the County, the County shall set forth in writing and notify Borrower of the County's reasons for withholding such approval. Borrower shall thereafter submit a revised construction contract for County approval, which approval is to be granted or denied in fifteen (15) days in accordance with the procedures set forth above. Any construction contract executed by Borrower for the Rehabilitation is to be in the form approved by the County.

Section 3.4 Construction Bonds.

Not later than thirty (30) days prior to the proposed Commencement of the Construction Activities Borrower shall deliver to the County copies of labor and material bonds and performance bonds for the Rehabilitation in an amount equal to one hundred percent (100%) of the scheduled cost of the Rehabilitation. Such bonds must name the County as a co-obligee.

Section 3.5 Commencement of the Rehabilitation.

Borrower shall cause the Commencement of the Construction Activities to occur no later than November 1, 2023 or such later date that the County approves in writing, but in no event later than 1 year from date of this Agreement. For the purposes of this Agreement, "Commencement of the Rehabilitation" means the date set for the start of the Rehabilitation in the notice to proceed issued by Borrower to Borrower's general contractor.

Section 3.6 Completion of the Rehabilitation.

(a) Borrower shall diligently prosecute the Rehabilitation to completion, and shall cause the Rehabilitation to be completed no later than June 30, 2024 or such later date that

the County approves in writing.

Section 3.7 Changes; Construction Pursuant to Plans and Laws.

(a) Changes. Borrower shall perform the Rehabilitation in conformance with (i) the plans and specifications approved by the City's building department, and (ii) the Approved Rehabilitation Budget. Borrower shall notify the County in a timely manner of any changes in the work required to be performed under this Agreement, including any additions, changes, or deletions to the plans and specifications approved by the City. Written authorization from the County must be obtained before any of the following changes, additions, or deletions in work for the Rehabilitation may be performed: (i) any change in the work the cost of which exceeds One Hundred Thousand Dollars (\$100,000); or (ii) any set of changes in the work the cost of which cumulatively Two Hundred Fifty Thousand Dollars (\$250,000) or ten percent (10%) of the Loan amount, whichever is less; or (iii) any material change in building materials or equipment, specifications, or the structural or architectural design or appearance of the Development as provided for in the plans and specifications approved by the County. The County's consent to any additions, changes, or deletions to the work does not relieve or release Borrower from any other obligations under this Agreement, or relieve or release Borrower or its surety from any surety bond.

(b) Compliance with Laws. Borrower shall cause all work performed in connection with the Rehabilitation to be performed in compliance with:

(i) all applicable laws, codes (including building codes and codes applicable to mitigation of disasters such as earthquakes), ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter;

(ii) the HOPWA Regulations including the property standards set out in 24 C.F.R. Section 574.310;

(iii) the requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35; and

(iv) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. Borrower may permit the work to proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and Borrower is responsible to the County for the procurement and maintenance thereof.

Section 3.8 Prevailing Wages.

(a) Davis Bacon. To the extent required by funding sources Borrower shall cause the Rehabilitation to be in compliance with the prevailing wage requirements of the federal Davis-Bacon Act (40 U.S.C. 3141-3148). Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages,

compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to the prevailing wage provisions of the federal Davis-Bacon Act and implementing rules and regulations in connection with the Rehabilitation or any other work undertaken or in connection with the Property. This obligation to indemnify survives termination of this Agreement, repayment of the Loan, and the reconveyance of the Deed of Trust.

(b) State Prevailing Wages.

(i) To the extent required by applicable law Borrower shall:

(1) pay, and shall cause any consultants or contractors to pay, prevailing wages in the Rehabilitation as those wages are determined pursuant to California Labor Code Section 1720 et seq.;

(2) cause any consultants or contractors to employ apprentices as required by California Labor Code Section 1777.5 et seq., and the implementing regulations of the Department of Industrial Relations (the "DIR"), and to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR;

(3) keep and retain, and shall cause any consultants and contractors to keep and retain, such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed as required by California Labor Code Section 1777.5 et seq.;

(4) post at the Property, or shall cause the contractor to post at the Property, the applicable prevailing rates of per diem wages. Copies of the currently applicable current per diem prevailing wages are available from DIR;

(5) cause contractors and subcontractors working on the Rehabilitation to be registered as set forth in California Labor Code Section 1725.5;

(6) cause its contractors and subcontractors, in all calls for bids, bidding materials and the construction contract documents for the Rehabilitation to specify that:

(A) no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Rehabilitation unless registered with the DIR pursuant to California Labor Code Section 1725.5; and

(B) the Rehabilitation is subject to compliance monitoring and enforcement by the DIR.

(7) provide the County all information required by California Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within 2 days of the award of any contract (<https://www.dir.ca.gov/pwc100ext/>);

(8) cause its contractors to post job site notices, as prescribed by regulation by the DIR; and

(9) cause its contractors to furnish payroll records required by California Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(ii) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to California Labor Code Section 1777.5 et seq., to meet the conditions of California Labor Code Section 1771.4, and implementing regulations of the DIR, or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and 1771.4, and the implementing regulations of the DIR, in connection with the Rehabilitation or any other work undertaken or in connection with the Property. This obligation to indemnify survives termination of this Agreement, repayment of the Loan, and the reconveyance of the Deed of Trust.

Section 3.9 Accessibility.

(a) Borrower shall cause the Development to be constructed and operated, and the Rehabilitation to be performed, at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973, (iv) the United States Fair Housing Act, as amended, (v) the Americans with Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements").

(b) In compliance with the Accessibility Requirements, if the rehabilitation is substantial as defined in 24 C.F.R. 8.23(a): (i) a minimum of one (1) unit must be rehabilitated to be fully accessible to households with a mobility impaired member and, (ii) an additional one (1) unit must be rehabilitated to be fully accessible to hearing and/or visually impaired persons. Non-substantial alterations must comply with 24 C.F.R. 8.23(b). In compliance with the Accessibility Requirements Borrower shall provide the County with a certification from an architect or Certified Access Specialist (as defined in 21 California Code of Regulations Section 121), that to the best of the professional's knowledge, the Rehabilitation complies with all federal and state accessibility requirements applicable to the Rehabilitation.

(c) Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its architect, contractor and subcontractors) to perform the Rehabilitation in accordance with the Accessibility Requirements. This obligation to indemnify survives termination of this Agreement, repayment of the Loan and the reconveyance of the Deed of Trust.

Section 3.10 Relocation.

(a) If and to the extent that development of the Property will result in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then Borrower shall comply with all applicable local, state, and federal statutes and regulations, (including without limitation the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 92.353; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq.) with respect to preparation of a relocation plan, relocation planning, advisory assistance, and payment of monetary benefits. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws.

(b) Borrower shall indemnify, defend and hold harmless, (with counsel reasonably acceptable to the County), the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns against any claim for damages, compensation, fines, penalties, relocation payments or other amounts and expenses (including reasonable attorneys' fees) arising out of the failure or alleged failure of any person or entity (including Borrower, or the County) to satisfy relocation obligations related to the acquisition and development of the Property. This obligation to indemnify survives termination of this Agreement, repayment of the Loan and the reconveyance of the Deed of Trust.

Section 3.11 Equal Opportunity.

During the Rehabilitation discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, or demoting of any person engaged in the construction work is not allowed.

Section 3.12 Minority and Women-Owned Contractors.

Borrower shall use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the Rehabilitation. Borrower shall, at a minimum, notify applicable minority-owned and women-owned business firms located in Contra Costa County of bid opportunities for the Rehabilitation. A listing of minority owned and women owned businesses located in the County and neighboring counties is available from the County. Documentation of such notifications must be maintained by Borrower and available to the County upon request.

Section 3.13 Progress Reports.

Until such time as Borrower has received a certificate of occupancy (or equivalent permit sign off) from the City for the Rehabilitation, Borrower shall provide the County with quarterly progress reports regarding the status of the Rehabilitation, including a certification that the actual construction costs to date conform to the Approved Rehabilitation Budget, as it may be amended from time to time pursuant to Section 3.17 below.

Section 3.14 Construction Responsibilities.

(a) Borrower is responsible for the coordination and scheduling of the work to be performed so that commencement and completion of the Rehabilitation takes place in accordance with this Agreement.

(b) Borrower is solely responsible for all aspects of Borrower's conduct in connection with the Rehabilitation, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the County with reference to the Rehabilitation is solely for the purpose of determining whether Borrower is properly discharging its obligations to the County, and may not be relied upon by Borrower or by any third parties as a warranty or representation by the County as to the quality of the design or construction work.

Section 3.15 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Property or a stop notice affecting the Loan is served on the County or any other lender or other third party in connection with the Rehabilitation, then Borrower shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the County a surety bond in sufficient form and amount, or provide the County with other assurance satisfactory to the County that the claim of lien or stop notice will be paid or discharged.

(b) If Borrower fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, the County may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternately, the County may require Borrower to immediately deposit with the County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The County may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

(c) Borrower shall file a valid notice of cessation or notice of completion upon cessation of the Rehabilitation for a continuous period of thirty (30) days or more, and take all other steps necessary to forestall the assertion of claims of lien against the Property. Borrower authorizes the County, but the County has no obligation, to record any notices of completion or cessation of labor, or any other notice that the County deems necessary or desirable to protect its interest in the Development and Property.

Section 3.16 Inspections.

(a) Borrower shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection at the Development by the County and by public authorities during reasonable business hours during the Term, for the purposes of determining compliance with this Agreement.

(b) The County will perform inspections both during and upon completion of the Rehabilitation to determine if the Rehabilitation is being carried out in accordance with the HOPWA Regulations, including the property standards set forth 24 C.F.R. 574.310. Borrower shall give the County notice when the Rehabilitation is complete. If the County determines the Rehabilitation is not being carried out in accordance with the HOPWA Regulations, the County will provide Borrower with a written report of the deficiencies. Borrower shall correct such deficiencies within the timeframe set forth in the notice provided to Borrower by the County.

Section 3.17 Approved Rehabilitation Budget; Revisions to Budget.

As of the date of this Agreement, the County has approved the Approved Rehabilitation Budget set forth in Exhibit B. Borrower shall submit an amendment to the Approved Rehabilitation Budget to the County for approval: (i) within five (5) days after the date Borrower receives information indicating that actual costs of the Rehabilitation vary or will vary from the costs shown on the Approved Rehabilitation Budget, or if the scope of the Predevelopment Activities or Construction Activities may change, and (ii) if less than the full amount of the Initial Funding Amount was disbursed, the amendment must show the alternate funding sources for the Predevelopment Activities that were not funded with the Initial Funding Amount. Written consent of the County will be required to amend the Approved Rehabilitation Budget.

ARTICLE 4
LOAN REQUIREMENTS

Section 4.1 Reserve Accounts.

(a) Replacement Reserve Account. Borrower shall establish and maintain an account that is available for capital expenditures for repairs and replacement necessary to maintain the Development in the condition required by the Loan Documents (the "Replacement Reserve Account"). Borrower shall make annual deposits to the Replacement Reserve Account and replenish the Replacement Reserve Account in the amounts required in the HUD Assistance Documents. In no event may the annual amount deposited in the Replacement Reserve Account exceed Six Hundred Dollars (\$600) per unit, increasing by the applicable consumer price index every five (5) years, or such greater amount required in connection with the HUD Assistance Documents.

(b) Operating Reserve Account. Borrower shall establish and maintain an account that is available to fund operating deficits (which is the amount by which Annual Operating Expenses exceed Gross Revenue for any period) (the "Operating Reserve Account"). Borrower shall capitalize and replenish the Operating Reserve Account in the amount required by HUD Assistance Documents. In no event may the amount held in the Operating Reserve Account exceed six (6) months gross rent from the Development (as such rent may vary from time to time). The County acknowledges that the Operating Reserve Account is the same as the HUD required Residual Receipts account.

Section 4.2 Financial Accountings and Post-Completion Audits.

(a) No later than one hundred twenty (120) days following completion of the Rehabilitation, Borrower shall provide to the County for its review and approval a financial

accounting of all sources and uses of funds for the Rehabilitation.

(b) No later than one hundred eighty (180) days after completion of the Rehabilitation, Borrower shall submit an audited financial report showing the sources and uses of all funds utilized for the Rehabilitation.

Section 4.3 Approval of Annual Operating Budget.

Borrower shall provide the following to the County for its review and approval: (i) by not later than sixty (60) days prior to commencement of each Development Fiscal Year for the Term, the estimated annual budget for the upcoming Development Fiscal Year for the operations of the Development which shall include projected income from all sources, projected expenses, including operating expenses, debt service, and deposits to and withdrawals from Development reserves (the "Annual Operating Budget"); and (ii) within ninety (90) days following the end of each Development Fiscal Year, a report showing the actual income and expenditures with respect to the Development for the immediately preceding Development Fiscal Year and the status of Development reserves. The County's review shall be limited to whether the Development is being operated and managed in accordance with the requirements and standards of the Loan Documents. The County may request additional information to assist the County in evaluating the financial viability of the Development. Unless rejected by the County in writing within thirty (30) days after receipt of the budget, the budget will be deemed accepted. If rejected by the County in whole or in part, Borrower shall submit a new or corrected budget within thirty (30) calendar days after notification of the County's rejection and the reasons therefor. The provisions of this Section relating to time periods for resubmission of new or corrected budgets will continue to apply until such budget has been approved by the County.

Section 4.4 Information.

Borrower shall provide any information reasonably requested by the County in connection with the Development, including (but not limited to) any information required by HUD in connection with Borrower's use of the Loan funds.

Section 4.5 County Audits.

(a) Each year, Borrower shall provide the County with a copy of Borrower's annual audit, which is to include information on all of Borrower's activities and not just those pertaining to the Development.

(b) In addition, the County may, at any time, audit all of Borrower's books, records, and accounts pertaining to the Development. Any such audit is to be conducted during normal business hours at the principal place of business of Borrower and wherever records are kept. Immediately after the completion of an audit, the County shall deliver a copy of the results of the audit to Borrower.

Section 4.6 Hazardous Materials.

(a) Borrower shall keep and maintain the Property (including but not limited to, soil and ground water conditions) in compliance with all Hazardous Materials Laws and may

not cause or permit the Property to be in violation of any Hazardous Materials Law. Borrower may not cause or permit the use, generation, manufacture, storage or disposal of on, under, or about the Property or transportation to or from the Property of any Hazardous Materials, except such of the foregoing as may be customarily used in construction of projects like the Development or kept and used in and about residential property of this type.

(b) Borrower shall immediately advise the County in writing if at any time it receives written notice of any Hazardous Materials Claims, and Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law including but not limited to the provisions of California Health and Safety Code, Section 25220 et seq., or any regulation adopted in accordance therewith.

(c) The County has the right to join and participate in, as a party if it so elects, and be represented by counsel acceptable to the County (or counsel of its own choice if a conflict exists with Borrower) in any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Borrower.

(d) Borrower shall indemnify and hold harmless the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, fine, penalty, judgment, award, settlement, expense or liability, directly or indirectly arising out of or attributable to: (i) any actual or alleged past or present violation of any Hazardous Materials Law; (ii) any Hazardous Materials Claim; (iii) any actual or alleged past or present use, generation, manufacture, storage, release, threatened release, discharge, disposal, transportation, or presence of Hazardous Materials on, under, or about the Property; (iv) any investigation, cleanup, remediation, removal, or restoration work of site conditions of the Property relating to Hazardous Materials (whether on the Property or any other property); and (v) the breach of any representation of warranty by or covenant of Borrower in this Section 4.7, and Section 5.1(l). Such indemnity shall include, without limitation: (x) all consequential damages; (y) the costs of any required or necessary investigation, repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (z) all reasonable costs and expenses incurred by the County in connection with clauses (x) and (y), including but not limited to reasonable attorneys' fees and consultant fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property, (2) loss or restriction of use of rentable space on the Property, (3) adverse effect on the marketing of any rental space on the Property, and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify survives termination of this Agreement, repayment of the Loan and the reconveyance of the Deed of Trust, and will not be diminished or affected in any respect as a result of any notice, disclosure, knowledge, if any, to or by the County of Hazardous Materials.

(e) Without the County's prior written consent, which will not be

unreasonably withheld, Borrower may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the County's judgment, impair the value of the County's security hereunder; provided, however, that the County's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the County's consent before taking such action, provided that in such event Borrower shall notify the County as soon as practicable of any action so taken. The County agrees not to withhold its consent, where such consent is required hereunder, if: (i) a particular remedial action is ordered by a court of competent jurisdiction; (ii) Borrower will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Borrower establishes to the satisfaction of the County that there is no reasonable alternative to such remedial action which would result in less impairment of the County's security hereunder; or (iv) the action has been agreed to by the County.

(f) Borrower hereby acknowledges and agrees that: (i) this Section is intended as the County's written request for information (and Borrower's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(g) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the County's or the trustee's rights and remedies under the Deed of Trust, the County may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to: (i) waive its lien on such environmentally impaired or affected portion of the Property; and (ii) exercise, (1) the rights and remedies of an unsecured creditor, including reduction of its claim against Borrower to judgment, and (2) any other rights and remedies permitted by law. For purposes of determining the County's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Borrower will be deemed to have willfully permitted or acquiesced in a release or threatened release of Hazardous Materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Borrower knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the County in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the Default Rate, until paid, will be added to the indebtedness secured by the Deed of Trust and is due and payable to the County upon its demand made at any time following the conclusion of such action.

Section 4.7 Maintenance; Damage and Destruction.

(a) During the course of the operation of the Development and the performance of the Rehabilitation, Borrower shall maintain the Development and the Property in good repair and in a neat, clean and orderly condition, and in accordance with the Regulatory Agreement.

(b) Subject to the requirements of senior lenders, and if economically feasible in the County's judgment after consultation with Borrower, if any improvement now or in the future on the Property is damaged or destroyed, then Borrower shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by the County with such changes as have been approved by the County. Such work or repair is to be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by the County in writing, after the damage or loss occurs or thirty (30) days following receipt of the insurance or condemnation proceeds, and is to be complete within one (1) year thereafter. Any insurance or condemnation proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance or condemnation proceeds are insufficient for such purpose, then Borrower shall make up the deficiency. If Borrower does not promptly make such repairs then any insurance or condemnation proceeds collected for such damage or destruction are to be promptly delivered by Borrower to the County as a special repayment of the Loan, subject to the rights of the senior lenders, if any.

Section 4.8 Fees and Taxes.

Borrower is solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Development and shall pay such charges prior to delinquency and at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property. Borrower is also solely responsible for payment of all personal property taxes, and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, and shall pay such charges prior to delinquency and at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property.

However, Borrower is not required to pay and discharge any such charge so long as: (i) the legality thereof is being contested diligently and in good faith and by appropriate proceedings; and (ii) if requested by the County, Borrower deposits with the County any funds or other forms of assurance that the County in good faith from time to time determines appropriate to protect the County from the consequences of the contest being unsuccessful.

In the event Borrower exercises its right to contest any tax, assessment, or charge against it, Borrower, on final determination of the proceeding or contest, will immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Borrower shall not apply for a property tax exemption for the Property under any provision of law except California Revenue and Taxation Section 214(g) without the prior written consent of the County.

Section 4.9 Notices.

Borrower shall promptly notify the County in writing of any and all of the following:

- (a) Any litigation known to Borrower materially affecting Borrower, or the Property and of any claims or disputes that involve a material risk of litigation;
- (b) Any written or oral communication Borrower receives from any governmental, judicial, or legal authority giving notice of any claim or assertion that the Property or Improvements fail in any respect to comply with any applicable governmental law;
- (c) Any material adverse change in the physical condition of the Property (including any damage suffered as a result of fire, earthquakes, or floods);
- (d) Any material adverse change in Borrower's financial condition, any material adverse change in Borrower's operations, or any change in the management of Borrower;
- (e) That any of the statements in Section 5.1(1) regarding Hazardous Materials are no longer accurate;
- (f) Any Default or event which, with the giving of notice or the passage of time or both, would constitute a Default; and
- (g) Any other circumstance, event, or occurrence that results in a material adverse change in Borrower's ability to timely perform any of its obligations under any of the Loan Documents.

Section 4.10 Operation of Development as Affordable Housing.

(a) Borrower shall operate the Development (i) in accordance with all applicable laws, codes, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (ii) as an affordable housing development consistent with: (1) HUD's requirements for use of HOPWA Funds; (2) the Regulatory Agreement; (3) any other regulatory requirements imposed on Borrower; and (4) any regulatory requirements imposed on Borrower related to the rental subsidies provided to the Development.

Section 4.11 Nondiscrimination.

(a) Borrower covenants by and for itself and its successors and assigns that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), ancestry, age, familial status (except for lawful senior housing in accordance with state and federal law), or disability, in the sale, lease, sublease, transfer, use,

occupancy, tenure or enjoyment of the Property, nor may Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property. The foregoing covenant will run with the land.

(b) Nothing in this Section prohibits Borrower from requiring the HOPWA-Assisted Unit in the Development to be available to and occupied by a HOPWA Eligible Household in accordance with the Regulatory Agreement.

Section 4.12 Insurance Requirements.

(a) Borrower shall maintain the following insurance coverage throughout the Term of the Loan:

(i) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(ii) Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations (which limits may be met through excess/umbrella coverage).

(iii) Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable.

(iv) Builders' Risk insurance during the course of construction, and upon completion of construction, property insurance covering the Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County, naming the County as a Loss Payee, as its interests may appear. Flood insurance must be obtained if required by applicable federal regulations.

(v) Commercial crime insurance covering all officers and employees, for loss of Loan proceeds caused by dishonesty, in an amount approved by the County, naming the County a Loss Payee, as its interests may appear.

(b) Borrower shall cause any general contractor, agent, or subcontractor working on the Development under direct contract with Borrower or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (i), (ii), and (iii) above, except that the limit of liability for commercial general liability insurance for subcontractors must be One Million Dollars (\$1,000,000), and must require that such insurance will meet all of the general requirements of subsections (d) and (e) below.

(c) The required insurance must be provided under an occurrence form, and

Borrower shall maintain the coverage described in subsection (a) continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit must be three times the occurrence limits specified above.

(d) Commercial General Liability, Automobile Liability and Property insurance policies must be endorsed to name as an additional insured the County and its officers, agents, employees and members of the County Board of Supervisors.

(e) All policies and bonds are to contain: (i) the agreement of the insurer to give the County at least ten (10) days' notice prior to cancellation or material change for non-payment of premium, and thirty (30) days' notice prior to cancellation for any other change or cancellation in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the County; (iii) a provision that no act or omission of Borrower shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the County and its authorized parties in connection with any loss or damage thereby insured against.

Section 4.13 Covenants Regarding Approved Financing.

(a) Borrower shall promptly pay the principal and interest when due on any Approved Financing.

(b) Borrower shall promptly notify the County in writing of the existence of any default under any documents evidencing Approved Financing whether or not a default has been declared by the lender, and provide the County copies of any notice of default.

(c) Borrower may not amend, modify, supplement, cancel or terminate any documents related to any loan that is part of the Approved Financing without the prior written consent of the County. Borrower shall provide the County copies of all amendments, modifications, and supplements to any document related to any loan that is part of Approved Financing.

(d) Borrower may not incur any indebtedness of any kind other than Approved Financing or encumber the Development with any liens (other than liens for Approved Financing approved by the County) without the prior written consent of the County.

Section 4.14 Transfers.

(a) For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (i) any rights and/or duties under the Loan Documents; and/or (ii) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred and Borrower retains title. The term "Transfer" excludes the leasing of any single unit in the Development to an occupant in compliance with the Regulatory

Agreement. The County Director – Department of Conservation and Development is authorized to execute assignment and assumption agreements on behalf of the County to implement any approved Transfer.

(b) Except as otherwise permitted in this Section 4.14, no Transfer is permitted without the prior written consent of the County, which the County may withhold in its sole discretion. The County Loan will automatically accelerate and be due in full upon any Transfer made without the prior written consent of the County.

Section 4.15 HOPWA Requirements.

(a) Borrower shall comply with all applicable laws and regulations governing the use of the HOPWA Funds, as set forth in 24 C.F.R. Part 574 et. seq. In the event of any conflict between this Agreement and applicable laws and regulations governing the use of the Loan funds, the applicable laws and regulations govern.

(b) The laws and regulations governing the use of the Loan funds include (but are not limited to) the following:

(i) Environmental and Historic Preservation. 24 C.F.R. Part 58, which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5;

(ii) Applicability of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The applicable policies, guidelines, and requirements of 2 C.F.R. Part 200;

(iii) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24;

(iv) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608;

(v) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35;

(vi) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and

implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 92.353; 24 C.F.R. 574.630; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq.;

(vii) Discrimination against the Disabled. The requirements of the Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto;

(viii) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time;

(ix) Uniform Administrative Requirements. The provisions of 24 C.F.R. 574.650 regarding cost and auditing requirements;

(x) Housing Quality Standards. The housing quality standards set forth in 24 C.F.R. Section 574.310(b);

(xi) Supportive Services. The supportive service requirements of 24 C.F.R. Section 574.310(a)(1). Borrower shall procure services to satisfy such service requirements;

(xii) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u and implementing Regulations at 24 C.F.R. 75 ("Section 3");

(1) Pursuant to Section 3, to the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations Borrower shall ensure:

(A) that employment and training opportunities arising in connection with the Development are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the Development is located. Where feasible, priority for opportunities and training described above should be given to: (i) Section 3 workers residing within the service area or the neighborhood of the project, and (ii) participants in YouthBuild programs; and

(B) that contracts for work awarded in connection with the Development are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the Development is located. Where feasible, priority for opportunities and training described above should be given to: (i) Section 3 business concerns that provide economic opportunities to

Section 3 workers residing within the service area or the neighborhood of the Development, and (ii) participants in YouthBuild programs.

(2) Borrower will be considered to have complied with the Section 3 requirements, in the absence of evidence to the contrary, if it certifies that it has followed the prioritization of effort set forth in subsection (i) above, and meets or exceeds the applicable Section 3 benchmark as described in 24 C.F.R. 75.23(b).

(3) Borrower shall maintain records of its Section 3 activities and cause such records to be accurate and current and in a form that allows the County to comply with the reporting requirements of 24 C.F.R. 75.25.

(4) Borrower shall require all contractors and subcontractors performing work on the Development to comply with the Section 3 requirements.

(xiii) Labor Standards. The labor requirements set forth in 24 C.F.R. 92.354; the prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended;

(xiv) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24;

(xv) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 C.F.R. Part 87;

(xvi) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800. If archeological, cultural, or historic period resources are discovered during construction, all construction work must come to a halt and Borrower shall immediately notify the County. Borrower shall not shall alter or move the discovered material(s) until all appropriate procedures for "post-review discoveries" set forth in Section 106 of the National Historic Preservation Act have taken place, which include, but are not limited to, consultation with the California State Historic Preservation Officer and evaluation of the discovered material(s) by a qualified professional archeologist;

(xvii) Religious Organizations. If the Borrower is a religious organization, as defined by the HOPWA requirements, the Borrower shall comply with all conditions prescribed by HUD for the use of HOPWA Funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. 574.300(c);

(xviii) Violence Against Women. The requirements of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113–4, 127 Stat. 54) applicable to HUD-funded programs;

(xix) Conflict of Interest. The conflict of interest provisions set forth in 24 C.F.R. Section 574.625;

(xx) Carbon Monoxide Alarms or Detectors. The requirements of 42 U.S.C. 12905(i) and Notice CPD-22-15 which require the installation of carbon monoxide alarms or detectors that meet or exceed the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council in the HOPWA-Assisted Units; and

(xxi) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the County Loan funds.

Section 4.16 Anti-Lobbying Certification.

(a) Borrower certifies, to the best of Borrower's knowledge or belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(b) This certification is a material representation of fact upon which reliance was placed when the Loan Documents were made or entered into. Submission of this certification is a prerequisite for making or entering into the Loan Documents imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BORROWER

Section 5.1 Representations and Warranties.

Borrower hereby represents and warrants to the County as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Article 5 are deemed to be continuing during all times when any portion of the Loan remains outstanding:

(a) Organization. Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Borrower. Borrower has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. The Loan Documents and all other documents or instruments executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of the Loan Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will: (i) conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Borrower, or conflict with any provision of the organizational documents of Borrower, or conflict with any agreement to which Borrower is a party; or (ii) result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. The Rehabilitation will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower or the Development, at law or in equity, before or by any court,

board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to repay the Loan or impair the security to be given to the County pursuant hereto.

(h) Title to Land. At the time of recordation of the Deed of Trust, Borrower will have good and marketable fee title to the Development and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens shown on the County's title policy, or approved in writing by the County.

(i) Financial Statements. The financial statements of Borrower and other financial data and information furnished by Borrower to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Borrower from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Borrower holds sufficient funds and/or binding commitments for sufficient funds to complete the acquisition of the Property and the Rehabilitation in accordance with the terms of this Agreement.

(k) Taxes. Borrower and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the Property otherwise due and payable, except those that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Borrower or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect on the property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Borrower and its subsidiaries, taken as a whole, or which could result in (i) a material impairment of the ability of Borrower to perform under any loan document to which it is a party, or (ii) a material adverse effect upon the legality, validity, binding effect or enforceability against Borrower of any Loan Document.

(l) Hazardous Materials. To the best of Borrower's knowledge, except as disclosed in writing by Borrower to the County prior to the date of this Agreement: (i) no Hazardous Material has been disposed of, stored on, discharged from, or released to or from, or otherwise now exists in, on, under, or around, the Property; (ii) neither the Property nor Borrower is in violation of any Hazardous Materials Law; and (iii) neither the Property nor Borrower is subject to any existing, pending or threatened Hazardous Materials Claims.

ARTICLE 6 DEFAULT AND REMEDIES

Section 6.1 Events of Default.

Any one or more of the following constitutes an "Event of Default" by Borrower under this Agreement:

(a) Failure to Construct. If Borrower fails to obtain permits, or to commence

and prosecute the Rehabilitation to completion, within the times set forth in Article 3 above.

(b) Failure to Make Payment. If Borrower fails to make any payment when such payment is due pursuant to the Loan Documents.

(c) Breach of Covenants. If Borrower fails to duly perform, comply with, or observe any other condition, term, or covenant contained in this Agreement (other than as set forth in Section 6.1(a) through Section 6.1(b), and Section 6.1(d) through Section 6.1(k)), or in any of the other Loan Documents, and Borrower fails to cure such default within thirty (30) days after receipt of written notice thereof from the County to Borrower.

(d) Default Under Other Loans. If a default is declared under any other financing for the Development by the lender of such financing and such default remains uncured following any applicable notice and cure period.

(e) Insolvency. If a court having jurisdiction makes or enters any decree or order: (i) adjudging Borrower to be bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of Borrower, or seeking any arrangement for Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or insolvency or for any of their properties; (iv) directing the winding up or liquidation of Borrower if any such decree or order described in clauses (i) to (iv), inclusive, is unstayed or undischarged for a period of ninety (90) calendar days; or (v) Borrower admits in writing its inability to pay its debts as they fall due or will have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the Events of Default in this paragraph will act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(f) Assignment; Attachment. If Borrower assigns its assets for the benefit of its creditors or suffers a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon is returned or released within ninety (90) calendar days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(g) Suspension; Termination. If Borrower voluntarily suspends its business or, the partnership is dissolved or terminated, other than a technical termination of the partnership for tax purposes.

(h) Liens on Property and the Development. If any claim of lien (other than liens allowed pursuant to any Loan Document or approved in writing by the County) is filed against the Development or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds of the Loan and the continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to the County.

(i) Condemnation. If there is a condemnation, seizure, or appropriation of all or the substantial part of the Property and the Development other than by the County.

(j) Unauthorized Transfer. If any Transfer occurs other than as permitted pursuant to Section 4.14.

(k) Representation or Warranty Incorrect. If any Borrower representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the County in connection with any of the Loan Documents, proves to have been incorrect in any material respect when made.

Section 6.2 Remedies.

Upon the occurrence of an Event of Default and until such Event of Default is cured or waived, the County is relieved of any obligation to disburse any portion of the Loan. In addition, upon the occurrence of an Event of Default and following the expiration of all applicable notice and cure periods the County may proceed with any and all remedies available to it under law, this Agreement, and the other Loan Documents. Such remedies include but are not limited to the following:

(a) Acceleration of Note. The County may cause all indebtedness of Borrower to the County under this Agreement and the Note, together with any accrued interest thereon, to become immediately due and payable. Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Deed of Trust. Borrower is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(b) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Loan Documents.

(c) Right to Cure at Borrower's Expense. The County has the right (but not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. Upon demand therefor, Borrower shall reimburse the County for any funds advanced by the County to cure such monetary default by Borrower, together with interest thereon from the date of expenditure until the date of reimbursement at the Default Rate.

Section 6.3 Right of Contest.

Borrower may contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute an Event of Default hereunder. Any such contest is to be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County hereunder.

Section 6.4 Remedies Cumulative.

No right, power, or remedy given to the County by the terms of this Agreement or the other Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver thereof, nor does any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

ARTICLE 7
GENERAL PROVISIONS

Section 7.1 Relationship of Parties.

Nothing contained in this Agreement is to be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Borrower or its agents, employees or contractors, and Borrower will at all times be deemed an independent contractor and to be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Borrower has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the Rehabilitation and the operation of the Development, Borrower is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and must include requirements in each contract that contractors are solely responsible for similar matters relating to their employees. Borrower is solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the County by any person that Borrower may have employed or with whom Borrower may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the purchase of the Property, the Rehabilitation or the operation of the Development, and Borrower shall include similar requirements in any contracts entered into for the Rehabilitation or the operation of the Development.

Section 7.3 Amendments.

No alteration or variation of the terms of this Agreement is valid unless made in writing by the Parties. The County Director of the Department of Conservation and Development is authorized to execute on behalf of the County amendments to the Loan Documents or amended and restated Loan Documents as long as any discretionary change in the amount or terms of this Agreement is approved by the County's Board of Supervisors.

Section 7.4 Indemnification.

Borrower shall indemnify, defend and hold the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the purchase of the Property, the development, construction, marketing and operation of the Development, and the Rehabilitation, except to the extent such claim arises from the gross negligence or willful misconduct of the County, its agents, and its employees. This obligation to indemnify survives termination of this Agreement, repayment of the Loan, and the reconveyance of the Deed of Trust.

Section 7.5 Non-Liability of County Officials, Employees and Agents.

No member, official, employee or agent of the County is personally liable to Borrower in the event of any default or breach of this Agreement by the County or for any amount that may become due from the County pursuant to this Agreement.

Section 7.6 No Third Party Beneficiaries.

There are no third party beneficiaries to this Agreement.

Section 7.7 Discretion Retained By County.

The County's execution of this Agreement in no way limits any discretion the County may have in the permit and approval process related to the Rehabilitation.

Section 7.8 Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 7.8(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have a financial interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have immediate family or business ties, during, or at any time after, such person's tenure. Borrower shall exercise due diligence to ensure that the prohibition in this Section 7.8(a) is followed.

(b) The conflict of interest provisions of Section 7.8(a) above apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the County.

(c) In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Borrower, or immediate family member of any of the preceding, may make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Borrower. Interpretation of this section is governed by the definitions and provisions

used in the Political Reform Act, California Government Code Section 87100 et seq., its implementing regulations manual and codes, and California Government Code Section 1090.

Section 7.9 Notices, Demands and Communications.

All notices required or permitted by any provision of this Agreement must be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County: County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attention: Assistant Deputy Director

Borrower: Aspen Drive Housing, Inc.
2220 Oxford Street
Berkeley, CA 94704
Attention: Dan Sawislak

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.10 Applicable Law.

This Agreement is governed by the laws of the State of California.

Section 7.11 Parties Bound.

Except as otherwise limited herein, this Agreement binds and inures to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and to bind Borrower and its successors and assigns in the Property and the Development for the entire Term, and the benefit hereof is to inure to the benefit of the County and its successors and assigns.

Section 7.12 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.13 Force Majeure.

In addition to specific provisions of this Agreement, performance by either party will not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, quarantine restrictions, freight embargoes, lack of transportation, or court order. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other party within ten (10) days after receipt of the notice. In no event will the County be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 7.14 County Approval.

The County has authorized the County Director, Department of Conservation and Development to execute the Loan Documents and deliver such approvals or consents as are required by this Agreement, and to execute estoppel certificates concerning the status of the Loan and the existence of Borrower defaults under the Loan Documents.

Section 7.15 Waivers.

Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement does not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Borrower may not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

Section 7.16 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 7.17 Entire Understanding of the Parties.

The Loan Documents constitute the entire agreement of the parties with respect to the Loan.

Section 7.18 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

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The parties are entering into this Agreement as of the date set forth above.

COUNTY:

COUNTY OF CONTRA COSTA, a political
subdivision of the State of California

By: _____
John Kopchik
Director, Department of Conservation and
Development

APPROVED AS TO FORM:
Thomas L. Geiger
Chief Assistant County Counsel

By: _____
Kathleen Andrus
Deputy County Counsel

BORROWER:

ASPEN DRIVE HOUSING, INC.,
a California nonprofit public benefit corporation,

By: _____
Daniel Sawislak,
Executive Director

EXHIBIT A

LEGAL DESCRIPTION

Real Property in the unincorporated area of Pacheco, County of Contra Costa, State of California, described as follows:

PORTION OF THE RANCHO LAS JUNTAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF THE OLD COUNTY ROAD FROM MARTINEZ TO PACHECO WHICH BEARS ALONG SAID CENTER LINE NORTH 23° 34' 30" WEST, 50.57 FEET, AND NORTH 30° 18' WEST, 71.5 FEET FROM THE NORTHEAST CORNER OF THE 9.13 ACRE PARCEL OF LAND DESCRIBED IN THE DEED FROM CAROLINE M. CAVANAGH, ET AL, TO MARY L. LAWRENCE, ET AL, DATED SEPTEMBER 23, 1930 AND RECORDED SEPTEMBER 30, 1930, IN [VOLUME 258 OF OFFICIAL RECORDS, AT PAGE 41](#), SAID NORTHEAST CORNER BEING AT THE INTERSECTION OF THE CENTER LINE OF SAID COUNTY ROAD WITH THE SOUTH LINE OF DALTON LANE EXTENDED EASTERLY; THENCE FROM SAID POINT OF BEGINNING, NORTH 30° 18' WEST, ALONG THE CENTER LINE OF SAID COUNTY ROAD, 139.21 FEET; THENCE SOUTH 77° 21' WEST ALONG A FENCE LINE, 167.18 FEET TO AN IRON PIPE; THENCE SOUTH 12° 06' EAST ALONG A FENCE LINE, 112.69 FEET; THENCE NORTH 76° 15' 30" EAST, 50.96 FEET TO AN IRON PIPE; THENCE SOUTH 12° 58' EAST ALONG A FENCE LINE, 23.36 FEET TO AN IRON PIPE; THENCE NORTH 76° 29' EAST ALONG A FENCE LINE, 159.4 FEET TO THE POINT OF BEGINNING.

APN: [125-140-006-3](#)

EXHIBIT B

APPROVED REHABILITATION BUDGET

EXHIBIT C
APPROVED REHABILITATION SCHEDULE

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS AND EXHIBITS	2
Section 1.1 Definitions.....	2
Section 1.2 Exhibits	6
ARTICLE 2 LOAN PROVISIONS	6
Section 2.1 Loan.	6
Section 2.2 Interest.....	6
Section 2.3 Use of Loan Funds.....	7
Section 2.4 Security.	7
Section 2.5 Conditions Precedent to Disbursement of Initial Funding Amount for Predevelopment Activities.	7
Section 2.6 Conditions Precedent to Disbursement of Loan Funds for Construction Activities.	9
Section 2.7 Conditions Precedent to Disbursement of Retention.....	10
Section 2.8 Repayment Schedule.....	10
Section 2.9 Non-Recourse.	11
ARTICLE 3 THE REHABILITATION	11
Section 3.1 Permits and Approvals.....	11
Section 3.2 Bid Package.	11
Section 3.3 Construction Contract.	12
Section 3.4 Construction Bonds.....	12
Section 3.5 Commencement of the Rehabilitation.	12
Section 3.6 Completion of the Rehabilitation.....	12
Section 3.7 Changes; Construction Pursuant to Plans and Laws.....	13
Section 3.8 Prevailing Wages.	13
Section 3.9 Accessibility.....	15
Section 3.10 Relocation.	16
Section 3.11 Equal Opportunity.....	16
Section 3.12 Minority and Women-Owned Contractors.	16
Section 3.13 Progress Reports.	16
Section 3.14 Construction Responsibilities.	17
Section 3.15 Mechanics Liens, Stop Notices, and Notices of Completion.....	17
Section 3.16 Inspections.	17
Section 3.17 Approved Rehabilitation Budget; Revisions to Budget.....	18
ARTICLE 4 LOAN REQUIREMENTS.....	18
Section 4.1 Reserve Accounts.....	18
Section 4.2 Financial Accountings and Post-Completion Audits.....	18
Section 4.3 Approval of Annual Operating Budget.....	19
Section 4.4 Information.	19
Section 4.5 County Audits.	19
Section 4.6 Hazardous Materials.	19
Section 4.7 Maintenance; Damage and Destruction.....	22
Section 4.8 Fees and Taxes.....	22
Section 4.9 Notices.	23

TABLE OF CONTENTS

(continued)

	<u>Page</u>
Section 4.10 Operation of Development as Affordable Housing.	23
Section 4.11 Nondiscrimination.....	23
Section 4.12 Insurance Requirements.....	24
Section 4.13 Covenants Regarding Approved Financing.....	25
Section 4.14 Transfers.	25
Section 4.15 HOPWA Requirements.....	26
Section 4.16 Anti-Lobbying Certification.	29
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BORROWER.....	29
Section 5.1 Representations and Warranties.....	29
ARTICLE 6 DEFAULT AND REMEDIES.....	31
Section 6.1 Events of Default.	31
Section 6.2 Remedies.....	33
Section 6.3 Right of Contest.....	33
Section 6.4 Remedies Cumulative.	34
ARTICLE 7 GENERAL PROVISIONS	34
Section 7.1 Relationship of Parties.....	34
Section 7.2 No Claims.	34
Section 7.3 Amendments.	34
Section 7.4 Indemnification.....	34
Section 7.5 Non-Liability of County Officials, Employees and Agents.....	35
Section 7.6 No Third Party Beneficiaries.	35
Section 7.7 Discretion Retained By County.....	35
Section 7.8 Conflict of Interest.....	35
Section 7.9 Notices, Demands and Communications.....	36
Section 7.10 Applicable Law.....	36
Section 7.11 Parties Bound.....	36
Section 7.12 Severability.....	36
Section 7.13 Force Majeure.....	36
Section 7.14 County Approval.....	37
Section 7.15 Waivers.....	37
Section 7.16 Title of Parts and Sections.....	37
Section 7.17 Entire Understanding of the Parties.....	37
Section 7.18 Multiple Originals; Counterpart.....	37
EXHIBIT A	Legal Description of the Property
EXHIBIT B	Approved Rehabilitation Budget
EXHIBIT C	Approved Rehabilitation Schedule

HOPWA LOAN AGREEMENT

Between

COUNTY OF CONTRA COSTA

And

ASPEN DRIVE HOUSING, INC.

Aspen Court

dated June 1, 2023