

**COUNTY PLHA LOAN AGREEMENT
(\$325,000)**

Between

County of Santa Barbara

and

Good Samaritan Shelter

**PLHA Veterans Home Acquisition
2260 Tree Line Drive, Santa Maria, CA**



Permanent Local Housing Allocation (PLHA)

State of California, Senate Bill SB2

Building Homes and Jobs Act, January 1, 2018

California Health and Safety Code Section 50470

COUNTY PLHA LOAN AGREEMENT
(VETERANS PLHA, 2260 TREE LINE DRIVE - SANTA MARIA)

This agreement (“County PLHA Loan Agreement”) is made as of this 7th day of November, 2023, by and between the County of Santa Barbara, a political subdivision of the State of California (“Lender” or “County”), and Good Samaritan Shelter, a California nonprofit public benefit corporation, whose address is 245 East Inger Drive, Suite 103B, Santa Maria, California, 93454 (“Borrower” and, together with Lender, collectively, the “Parties” and each individually a “Party”).

RECITALS

A. Lender wishes to promote the development of affordable rental housing and provide a greater choice of housing opportunities for low-income persons and families.

B. There is a need to expand affordable rental housing to homeless persons, and to promote projects that combine supportive services with housing, as documented in the County’s 2020-2024 Consolidated Plan.

C. Borrower intends to acquire a single-family home located on that certain real property located at 2260 Tree Line Drive, in the City of Santa Maria, California, 93458, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference (“Property”), and to complete certain improvements thereon (the “Project”) to comply with the requirements of a grant provided by the U.S. Department of Veteran’s Affairs (“VA”). This County PLHA Loan Agreement will provide matching funds as required by the VA. is. The Project will be a group home that will include five (5) bedrooms, each with a private bathroom (upon completion of improvements), and common areas including a kitchen, living area, laundry room, and outdoor space ((the “PLHA Assisted Unit” or “Assisted Unit”).

D. Borrower wishes to borrow from Lender, and Lender wishes to extend to Borrower, a loan in the total amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000) to pay for certain acquisition and improvement costs of the Project (the “County PLHA Loan”). The terms of the County PLHA Loan are set out in this County PLHA Loan Agreement.

E. Concurrently herewith, the Parties are entering into that certain County PLHA Loan Regulatory Agreement and Declaration of Restrictive Covenants (“County PLHA Loan Regulatory Agreement”) restricting the use of the PLHA Assisted Unit for formerly homeless veterans.

F. The Parties desire to memorialize the terms of the County PLHA Loan in this County PLHA Loan Agreement, a promissory note in the original principal amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000), executed by Borrower in favor of Lender (“County PLHA Loan Note”), and secured by a deed of trust (“County PLHA Deed of Trust”).

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations set forth herein, and in further consideration for the making of the County PLHA Loan, Borrower and Lender hereby agree as follows:

ARTICLE 1 DEFINITIONS

1.1 **“AFFIRMATIVE MARKETING”** means actions taken to provide information to and otherwise attract eligible potential tenants in the housing market area to apply for tenancy in the Project who are not likely to apply without special outreach, without regard to race, color, national origin, sex, religion, familial status or disability, in conformance with 24 CFR 92.351.

1.2 **“ANNUAL FINANCIAL STATEMENT”** means the audited annual financial statement of Borrower’s Operating Expenses and Revenue, prepared at Borrower’s expense, by an independent certified accountant acceptable to Lender, which shall be provided as part of Borrower’s annual reporting to Lender for each Fiscal Year of the Term, in accordance with Section 2.10 and 5.12 below.

1.3 **“AREA MEDIAN INCOME”** means the area median income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined annually by HUD with adjustments for household size.

1.4 **“BORROWER”** means Good Samaritan Shelter, a California nonprofit public benefit corporation.

1.5 **“BUDGET”** means that certain budget for the acquisition and construction of the Project, attached hereto as Exhibit B, which is hereby incorporated into this County PLHA Loan Agreement by this reference and which identifies the sources and uses of funds for Project acquisition and improvement, and costs eligible to be paid or reimbursed with PLHA Funds.

1.6 **“COORDINATED ENTRY SYSTEM”** means the information system utilized by Lender under the Continuum of Care for coordinating, prioritizing and insuring to the greatest extent possible non-duplication of PLHA homeless programs and services, which accordingly identifies the most vulnerable homeless persons and households and serves as basis to inform priority provision of the PLHA Assisted Units to Qualifying Populations.

1.7 **“COUNTY”** means the County of Santa Barbara, a political subdivision of the State of California.

1.8 **“COUNTY PLHA LOAN”** means the loan of PLHA Funds in the total amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000) as provided in this County PLHA Loan Agreement and evidenced by the County PLHA Loan Note to finance certain development costs of the Project.

1.9 **“COUNTY PLHA LOAN AGREEMENT”** means this Loan Agreement entered into by and between Lender and Borrower.

1.10 **“COUNTY PLHA LOAN DEED OF TRUST”** means that certain Deed of Trust, Assignment of Rents, and Security Agreement dated on or about the date hereof, which is attached hereto as Exhibit C and hereby incorporated into this County PLHA Loan Agreement by this reference, to be recorded against the Property and the improvements to be constructed thereon as security for the County PLHA Loan by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said County PLHA Loan Deed of Trust.

1.11 **“COUNTY PLHA LOAN DOCUMENTS”** means, collectively, the County PLHA Loan Agreement, the County PLHA Loan Note, the County PLHA Loan Deed of Trust, and the County PLHA Loan Regulatory Agreement, as they may be amended, modified, or restated from time to time in

accordance with the provisions hereof and thereof, along with all exhibits and attachments hereto and thereto.

1.12 **“COUNTY PLHA LOAN NOTE”** means that certain promissory note executed by Borrower in favor of Lender on or about the date hereof in the amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000). in the form attached hereto as Exhibit D and incorporated into this County PLHA Loan Agreement by this reference, to evidence the County PLHA Loan, as well as any amendments to, modifications of, or restatements of said promissory note.

1.13 **“COUNTY PLHA LOAN REGULATORY AGREEMENT”** means that certain regulatory agreement executed by Borrower and Lender concurrently herewith, attached hereto as Exhibit E and included herein by this reference, to be recorded against the Property, which regulates the use of the PLHA -Assisted Unit.

1.14 **“COUNTY MONITORING FEE”** or **“FEE”** means a fee, in the initial amount of \$2,500 and increasing at a rate of 3% annually, which shall be paid to the County by the Borrower. The Fee shall be paid to the County annually within ninety (90) days following the end of each fiscal year of the Term.

1.15 **“FISCAL YEAR”** means the twelve (12) month accounting period, beginning July 1 and ending June 30 of each year during the Term.

1.16 **“HAZARDOUS MATERIALS”** means any hazardous or toxic substances, materials, wastes, pollutants, or contaminants which are defined, regulated, or listed as “hazardous substances,” “hazardous wastes,” “hazardous materials,” “pollutants,” “contaminants,” or “toxic substances,” under federal or state environmental and health and safety laws and regulations, including, but not limited to, petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos, and lead.

1.17 **“PLHA AFFORDABILITY PERIOD”** means the period of time during which the PLHA-Assisted Unit must meet the affordability requirements imposed under the PLHA Program, commencing upon the earlier of (i) the date of issuance of a Notice of Completion (defined below), or (ii) the date of issuance of a final Certificate of Occupancy for the Project, and terminating on the date that is fifty-five (55) years after the date of issuance of such Notice of Completion. Absent a Notice of Completion or final Certificate of Occupancy when not required by the local building official, the PLHA Affordability Period will begin on the date that the Project is fully occupied as evidenced by inspection by the County.

1.18 **“PLHA-ASSISTED UNIT”** means the Project, which is subject to the requirements of the County PLHA Loan Regulatory Agreement.

1.19 **“PLHA FUNDS”** means the County PLHA Loan funds provided to Borrower by Lender pursuant to the terms of this County PLHA Loan Agreement and as evidenced by the County PLHA Loan Note.

1.20 **“HUD”** means the United States Department of Housing and Urban Development.

1.21 **“INSURANCE REQUIREMENTS”** means the insurance provisions set forth in Exhibit E, which is attached” hereto and hereby incorporated into this County PLHA Loan Agreement by this reference.

1.22 **“LENDER”** means the County of Santa Barbara, a political subdivision of the State of California.

1.23 **“OPERATING EXPENSES”** means actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, and management of the Project, including painting, cleaning, repairs and alterations, landscaping, utilities, rubbish removal, certificates, permits and licenses, sewer charges, real and personal property taxes and assessments, insurance, reasonable property management fee, County Monitoring Fee in the initial amount of two-thousand, five hundred dollars (\$2,500) and increasing three-percent (3%) annually, security, advertising, promotion and publicity, office, janitorial, cleaning and building supplies, lease payments if any, and cash deposited into reserves for operating expenses and capital replacements in accordance with Section 2.11 of this County PLHA Loan Agreement, The Operating Expenses shall be reported in each Annual Financial Statement.

1.24 **“PAYMENT DATE”** means ninety (90) days after the end of each Fiscal Year of the Term until the County PLHA Loan is repaid in full.

1.25 **“PROJECT”** means the acquisition, improvements, operation and management of the Property in accordance with the terms of this County PLHA Loan Agreement.

1.26 **“PROPERTY”** means that certain real property and improvements thereon located at 2260 Tree Line Drive, Santa Maria, California, 93458, as more particularly described in Exhibit A, which is attached hereto and hereby incorporated into this County PLHA Loan Agreement by this reference.

1.27 **“QUALIFYING HOUSEHOLD”** means a low-income household (i.e., a household with income at or below eighty percent (80%) of Area Median Income) that qualifies under the Department of Veterans Affairs Grant and Per Diem Program (“VA Program”). If such VA Program ceases to exist or does not define a qualifying household, then a Qualifying Household shall be defined in accordance with Section 103 (42 USC 11302) of the McKinney-Vento Homeless Assistance Act as amended by S. 896 The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 and in accordance with 24 CFR 609-6.12 for all household members. A Qualifying Household who meets the definition of Veteran must be given a preference to be first considered for a vacancy or may be moved to the top of a waiting list, if applicable. “Veteran” is defined as the Head of Household or Spouse who has served in active duty in the United States Armed Forces for a minimum of six (6) continuous months and, if separated from military service, received other than dishonorable discharge. The veteran preference will also be given to a surviving spouse or registered domestic partner of a deceased veteran, as defined herein. Verification of veteran status will be by the submittal of a copy of the veteran's DD-214. Housing in this Project is limited to Veterans.

1.28 **“QUALIFYING TENANT PAYMENT”** means the proportionate share of rent paid by each tenant with respect to the Property based on number of bedrooms counted in the total bedroom count at the Property, except that, if one bedroom is occupied by a house manager, then the house manager’s bedroom (“Manager Unit”) is not included in the total bedroom count. Each tenant household, except the house manager household, will pay its proportional share of the total unit rent, based on the Fair Market Rent (“FMR”) for the number of bedrooms in the Property. Qualifying Tenant Payment includes utilities, but does not include food or cost of any supportive services provided. Because a group home is a single unit, there is no low HOME rent. For example, the 2023 Fair Market Rent for a four-bedroom unit is \$4,001 including rent and utilities.

In accordance with 24 CFR 92.252(d), if the tenant pays for utilities and services (excluding telephone, television and Internet services), then the Qualifying Tenant Payment shall be reduced by the maximum monthly allowance for utilities and services using the annual HUD Utility Schedule Model or other annual utility schedule as determined by Lender.

1.29 **“TERM”** means the term of this Agreement as defined in Section 2.5 of this County PLHA Loan Agreement.

1.30 **“VERY LOW-INCOME HOUSEHOLD”** means a household, as defined in 24 CFR 92.2, whose annual income does not exceed fifty percent (50%) of Area Median Income.

ARTICLE 2 TERMS OF THE COUNTY PLHA LOAN

2.1 **COUNTY PLHA LOAN.** Subject to the terms and conditions of this County PLHA Loan Agreement and the other County PLHA Loan Documents, Lender agrees to make, and Borrower agrees to accept, the County PLHA Loan.

2.2 **AMOUNT.** The principal amount of the County PLHA Loan shall be an amount not to exceed Three Hundred Twenty-Five Thousand Dollars (\$325,000), and shall be evidenced by the County PLHA Loan Note. In the event Lender is unable to secure sufficient PLHA Funds for this County PLHA Loan Agreement for any reason at any time, Lender shall not be obligated to make payments to Borrower unless and until sufficient PLHA become available to Lender, and Borrower shall hold Lender harmless.

2.3 **INTEREST.** Subject to the provisions of Section 2.4, below, the County PLHA Loan Note shall bear simple interest at a rate of zero percent (0%) per annum from the date of the first disbursement under the County PLHA Loan Note.

2.4 **DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this County PLHA Loan Agreement, or any of the other County PLHA Loan Documents, and expiration of applicable cure periods, if any, Borrower shall pay to Lender interest on the outstanding principal of the County PLHA Loan at an annual rate equal to the lesser of (i) ten percent (10%), or (ii) the highest interest rate allowed by law (“Default Interest”), from the date of such default until the date that such default, if subject to and capable of cure, is cured in accordance with the terms of the County PLHA Loan Documents, or the County PLHA Loan is repaid in full (“Default Interest Period”). The Default Interest shall be paid to Lender monthly, due and payable on the first day of each month during the Default Interest Period.

2.5 **TERM OF COUNTY PLHA LOAN.** The term of this County PLHA Loan Agreement shall commence on the first date on which this County PLHA Loan Agreement is fully executed by all of the parties hereto (“Effective Date”), and shall terminate on the date that is fifty-five (55), years after the date of issuance of the Notice of Completion, unless earlier terminated in accordance with the provisions of this County PLHA Loan Agreement (“Term”).

2.6 **USE OF PLHA FUNDS.** PLHA Funds shall be used only for Property acquisition and Project improvements costs specified in the Budget, and shall only be disbursed in accordance with the provisions of Article 3, below. The Budget shall not be modified unless approved in writing in advance by Lender in each instance in accordance with Section 9.2 of this County PLHA Loan Agreement. PLHA Funds shall only be utilized for costs related to residential uses, and shall not be utilized for costs related to commercial uses or any other nonresidential uses associated with the Project.

2.7 **SECURITY.** Borrower shall secure its obligation to repay the County PLHA Loan by executing the County PLHA Loan Deed of Trust, in substantially the form attached hereto as Exhibit C and incorporated herein by reference, and recording it as a lien against the Property, subordinate only to the PLHA Regulatory Agreement. Upon closing of Borrower’s purchase of the Property, Borrower shall cause the recordation of the County PLHA Loan Deed of Trust and the County PLHA Loan Regulatory

Agreement with the Recorder for the County of Santa Barbara, and shall cause the delivery of conformed copies of such recorded documents to Borrower.

2.8 REPAYMENT OF THE COUNTY PLHA LOAN. The principal and interest of the County PLHA Loan shall be due and payable in accordance with the provisions of the County PLHA Loan Note. The principal and interest of the County PLHA Loan shall be due and payable in accordance with Section 9 of County PLHA Loan Note on the earlier of: (a) the date that is fifty-five (55) years after the date of Project completion in conformance with 92 CFR 92.2 and 24 CFR 92.252(e), and evidenced by a written notice of completion provided by Borrower to County, or (b) the date the Property is sold or otherwise transferred, or (c) the date when Borrower has failed to commence construction as set forth in Section 4.1 of this County PLHA Loan Agreement. In the event of default by Borrower, as defined below in Section 8.1, which, if subject to cure, has not been cured as provided for below in Section 8.2, the principal and all then-current and accrued interest shall be due and payable in accordance with Section 8.3, below. The foregoing notwithstanding, if Borrower remains compliant with the terms of the County PLHA Loan Documents, as determined by the County through periodic inspections of the Project and tenant files documenting occupancy by Qualifying Households, and as indicated with monitoring close-out letters from Lender to Borrower indicating compliance with the County PLHA Regulatory Agreement, for the entirety of the Term, then, upon the expiration of the Term, Lender may forgive the principal amount of the County PLHA Loan, excluding interest accrued pursuant to Section 2.4, above.

2.9 PREPAYMENT OF COUNTY PLHA LOAN. Prepayment of the County PLHA Loan shall not affect Borrower's obligations under the County PLHA Loan Regulatory Agreement.

2.10 ANNUAL OPERATING EXPENSES. Thirty (30) days prior to the end of each calendar year, Borrower shall submit to Lender, for Lender's review and approval, a proposed operating budget for the Project for the following calendar year. Each such annual proposed operating budget shall include scheduled payments to be made into operating and replacement reserve accounts. Actual Operating Expenses incurred by Borrower each year of the Term shall not exceed the amount of Operating Expenses set forth in the applicable Lender-approved operating budget for that year without Lender's prior written consent in each instance.

2.11 OPERATING AND CAPITAL REPLACEMENT RESERVE FUNDS. Prior to the first disbursement of PLHA Funds to Borrower, Borrower shall fund a capital replacement reserve account in the amount of not less than Three Thousand Dollars (\$3,000) per year, and shall capitalize an operating reserve in the amount equal to three months' worth of Project operating expenses. All funds for Project operating reserves and capital replacement reserves shall be held by Borrower in a separate interest-bearing account. Borrower shall request written approval from Lender prior to disbursing funds from the Project operating reserve account or capital replacement reserve account, and all such requests by Borrower shall be in writing and shall include supporting documentation demonstrating that the requested distribution is reasonable and necessary to cover the operating deficits or capital needs associated with the Project. No less than annually, Borrower shall submit to Lender, for Lender's review, operating reserve account and capital reserve account documentation sufficient for Lender to determine that such accounts are appropriately funded.

ARTICLE 3 COUNTY PLHA LOAN DISBURSEMENT

3.1 CONDITIONS PRECEDENT TO DISBURSEMENT. Lender shall not be obligated to make any disbursements of PLHA Funds, or take any other action under the County PLHA Loan Documents, unless the following conditions precedent are satisfied prior to the disbursement of PLHA Funds:

Thousand Dollars (325,000). All costs incurred in construction, development, and operation of the Project shall be the responsibility and obligation solely of Borrower.

Notwithstanding the foregoing, as a special disbursement condition, Lender shall retain Ten Thousand Dollars (\$10,000) of PLHA Funds until 30 days after Borrower has completed the acquisition of the Property and Project improvements, and provided to Lender beneficiary data for each PLHA Assisted Unit of the Project as required under the PLHA Program, and all liens against the Property, if any, are released.

ARTICLE 4 DEVELOPMENT OF PROJECT

4.1 COMMENCEMENT OF CONSTRUCTION. Borrower shall commence construction of the Project improvements no later than 12 months after the Effective Date of this County PLHA Loan Agreement. Commencement of Project improvements construction shall mean obtaining all final permits, entitlements, and approvals required by all permitting and regulatory authorities and jurisdictions, and commencing work at the Property on any task associated with the Budget that requires a permit, entitlement or approval. If Borrower fails to commence construction as set forth above, such failure shall constitute an Event of Default hereunder, and Lender may terminate this County PLHA Loan Agreement pursuant to Article 8, below, without affording Borrower any opportunity to cure such default.

4.2 COMPLETION OF CONSTRUCTION. Borrower shall diligently pursue construction of the Project to completion, and shall complete construction of the Project, and shall have each bedroom in the Property occupied by a Qualifying Household no later than six (6) months after completion of construction of the Project, except that one bedroom may be occupied by a property manager. Borrower shall deliver to Lender proof of Project Completion as evidenced by, *inter alia*, the recording of a notice of completion for the Property issued by the City of Santa Maria Building official for the Project (“Notice of Completion”).

4.3 FINANCING. Borrower shall promptly inform Lender in writing of any changes in the amount, terms, and/or sources of financing or funding for the Project.

4.4 CONTRACTS AND SUBCONTRACTS. All work and professional services for the Project shall be performed by persons or entities licensed or otherwise duly authorized to perform such work or service in the State of California.

Unless otherwise approved by Lender, to ensure that all construction costs incurred are reasonable and appropriate, all contracts entered into for construction in connection with the Project (each, a “Construction Contract”) shall be the result of either competitive or negotiated bids in compliance with 2 CFR Part 200.

All costs incurred in acquisition, construction, development, and operation of the Project shall be the responsibility and obligation solely of Borrower, except as provided herein in Section 3.2 for acquisition costs.

4.5 INSPECTIONS. Borrower shall permit and facilitate, and require all of its contractors and subcontractors to permit and facilitate, observation and inspection of the Project site by Lender and by public authorities during business hours for the purposes of determining compliance with this County PLHA Loan Agreement and the other County PLHA Loan Documents. Copies of monthly construction inspection reports completed by Borrower shall be provided to the County immediately upon completion of each such construction inspection report throughout the course of Project construction.

4.6 **SITE SUPERVISION.** During the construction of the Project, Borrower shall maintain a full-time Project site superintendent to supervise all construction work on the Property. The site superintendent shall be on site at all times during construction work on the Property.

4.7 **CONSTRUCTION RESPONSIBILITIES.** Borrower shall be solely responsible for all aspects of Borrower's conduct in connection with the Project, including, but not limited to, the quality and suitability of the construction work described in the Budget (Exhibit B), the supervision of construction work, and the qualifications, financial condition, and performance of all contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by Lender with reference to the Project is solely for the purpose of determining whether Borrower is properly discharging its obligations to Lender, and should not be relied upon by Borrower or by any third parties as a warranty or representation by Lender as to the quality of the construction of the Project.

4.8 **BARRIERS TO THE DISABLED.** The Project shall be developed, and the Property shall be maintained and operated, in compliance with all applicable federal, state, and local requirements for access for disabled persons, including, but not limited to, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with implementing regulations at 24 CFR, Part 8, and the Fair Housing Act (42 U.S.C. 3601-3619), implemented at 24 CFR Part 100, Subpart D. Within 30 days after Borrower has completed the construction of the Project, Borrower shall submit documentation of compliance with these requirements to Lender's satisfaction, including, but not limited to, a certification from the Project architect documenting the number and type of accessible units and the accessibility features of those units.

4.9 **LEAD-BASED PAINT AND ASBESTOS REMOVAL.** Borrower and its contractors and subcontractors shall not use lead-based paint or asbestos in the construction or maintenance of the Project, and shall comply with Federal regulations set forth in 24 CFR Part 35, subparts A, B, J, K, M and R, , 29 C.F.R., 40 C.F.R., the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X (42 U.S.C., 4851, et seq.), the Lead-Based Paint Poisoning Paint Provision Act (42 USC 4821, et seq.), California O.S.H.A., California Health and Safety Code, and all other applicable Federal, state and County standards. Borrower shall incorporate or cause to be incorporated this provision in all contracts and subcontracts for work performed on the Project which involve the application of paint or removal of asbestos.

4.10 **QUALITY OF WORK AND PROPERTY STANDARDS.** Borrower shall construct and operate the Project in conformance with all applicable laws ("Applicable Laws"), including, but not limited to:

- A. All applicable Federal, state and local statutes and regulations;
- B. All applicable Federal, state and local building codes and zoning ordinances;
- C. All permits, entitlements and approvals for the Project;
- D. International Energy Conservation Code and applicable Federal, state and local energy conservation codes; and
- E. Property standards set forth at 24 CFR 92.251.

4.11 **MECHANICS LIENS AND STOP NOTICES.** If any claim of lien is filed against the Property or a stop notice affecting the County PLHA Loan is served on Lender or any other lender or other third party in connection with the Project, Borrower shall, within sixty (60) days of 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 Lender a surety bond in sufficient form and amount, provide Lender with a lien-free endorsement or provide Lender with other assurance reasonably satisfactory to Lender that the claim of lien or stop notice will be paid or discharged.

If Borrower fails to discharge any lien, encumbrance, charge, or claim referred to herein, then in addition to any other right or remedy, Lender may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. Lender may use such deposit to satisfy any claim or lien that is adverse to or against Borrower.

Borrower shall record a valid notice of cessation or notice of completion upon cessation of construction work on the Project for a continuous period of 30 days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation on the part of Lender, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property.

4.12 COMPLIANCE WITH PLHA PROGRAM AND OTHER FEDERAL REQUIREMENTS. All requirements imposed on properties assisted under the PLHA Program Funds (collectively, the "PLHA Regulations") are incorporated herein by this reference. In the event of any conflict between this County PLHA Loan Agreement and the PLHA Regulations, the PLHA Regulations shall govern.

The laws and regulations governing the use of the PLHA Funds include and incorporate, but are not limited to, the following federal regulations and requirements:

A. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The applicable policies, guidelines, and requirements of 2 CFR Part 200.

B. Audit requirements. In accordance with 24 CFR 84.26 and 85.26, agencies that expend \$500,000 or more in federal funds in a year as calculated therein must undergo a single audit in compliance with OMB Circular A-133.

C. Architectural Barriers. The requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157).

D. Handicap Discrimination. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibits discrimination against the handicapped in any federally assisted program.

E. Environmental Review. If applicable, the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, et seq.), and applicable related environmental authorities at 24 CFR 50.4, and HUD's implementing regulations at 24 CFR Parts 50 and 58.

F. Fair Housing. The requirements of the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations at 24 CFR Parts 100, 109 and 110; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.

G. Prevailing Wages. If applicable, Borrower shall comply, and cause all contractors and subcontractors to comply with (1) Davis-Bacon and Related Acts (40 U.S.C. 3141, et seq.); (2) Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333); (3) Copeland Anti-Kickback Act (40 U.S.C. 3145); and (4) Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et. seq.).

H. Section 3. If applicable, the work to be performed under this County PLHA Loan is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (“Section 3”). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The regulations are found at 24 CFR Part 75 (“part 75”).

Borrower agrees to comply with HUD's regulations in part 75, which implement Section 3. Borrower agrees to comply with the requirements set forth in 24 CFR Sections 75.9 and 75.19, as applicable. As evidenced by their execution of this County PLHA Loan, Borrower certifies that it is under no contractual or other impediment that would prevent it from complying with the part 75 regulations.

Borrower shall, and shall cause its contractors and subcontractors to, implement part 75 regulatory requirements as described herein, and shall conduct its business practices in a manner that provides records and reports consistent with HUD Section 3 reporting and compliance under covered contracts, including, but not limited to: 1) certifications, records and documentation confirming contractor and business qualification as a Section 3 Business Concern, if applicable; 2) certifications, records and documentation confirming workers' qualification and status as a Section 3 and/or Targeted Section 3 Worker; if applicable; c) certified payroll records, reports and documentation reflecting time and hours for all labor performed on Section 3 covered contracts, including hours for certified Section 3 and Targeted Section 3 workers, if and as applicable; and d) any such additional records, documents and reports that Lender may request to confirm compliance with part 75 requirements.

The Borrower shall, and shall cause each of its contractors and subcontractors to, include this Section 3 clause in every contract or subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the contract or subcontract or in such Section 3 clause, upon a finding that the contractor or subcontractor is in violation of the regulations in part 75. The Borrower shall not contract with or permit its contractors to subcontract with any contractor or subcontractor where the Borrower has notice or knowledge that the contractor or subcontractor has been found in violation of the regulations in part 75.

In the event that Lender or HUD determines that it is necessary to deploy qualitative efforts in accordance with 24 CFR Sections 75.15(b) and/or 75.25(b), Borrower shall work in good faith with Lender in order to implement such qualitative efforts. Such efforts may include the qualitative efforts outlined in Lender's Section 3 Plan, Policies and Procedures, as it may be revised or amended from time to time. Lender's Section 3 Plan, Policies and Procedures are available upon request at HCD offices and provided electronically.

Noncompliance with HUD's regulations in part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

I. Minority and Women's Business Enterprise. The requirements of Executive Orders 11625, 12432 and 12138 and 24 CFR 85.36(e) whereby Borrower shall take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

J. Conditions for Faith-Based Organizations. Borrower shall comply with regulations pertaining to faith-based activities set forth at 24 CFR 92.257.

K. Debarred Contractors. Borrower shall ensure that no contractors, subcontractors, or consultants in connection with the Project are debarred or otherwise prohibited from participation in a federal project pursuant to 2 CFR Part 2424. Borrower shall furnish Lender with evidence of compliance with this Section 4.12.K generated from the System for Award Management (SAM) at www.sam.gov.

L. Anti-Lobbying. Borrower hereby certifies that: (1) No Federal appropriated funds have been paid or shall be paid, by or on behalf of Borrower, 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; (2) 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 this 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; and (3) Borrower shall require that the language of subparagraphs (1) and (2) of this paragraph (L) and the paragraph (M), immediately below, of this certification be included in the award documents for all awards and subawards at all tiers (including subcontracts, subgrants, contracts, and grants under grants, loans, and cooperative agreements), and that Borrower and all contractors and subcontractors shall certify and disclose accordingly.

M. Lobbying Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

N. HUD Regulations. Any other HUD regulations present or as may be amended in the future as may pertain to PLHA.

4.13 RELOCATION. If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, PLHA owners, or businesses, Borrower shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits, including but not limited to the Uniform Relocation and Real Property Acquisitions Act As Amended (42 USC 4601, et seq.) ("URA"), Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d)), regulations at 24 CFR Part 42 and 49 CFR part 24, and HUD Handbook 1378. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws. If, upon audit review by Lender or by any Federal agency, it is determined that additional relocation payments are due, then Borrower consents to make such payments. In the event Borrower does not make payments as requested by Lender, then this shall constitute an Event of Default, and Lender may require immediate repayment by Borrower to Lender of the County PLHA Loan plus any and all relocation payments due. Without limiting or otherwise affecting any of the standard indemnity and insurance provisions set forth in Article 6 and/or Exhibit F, Borrower hereby agrees to indemnify, defend, and hold harmless Lender for any action brought against Lender arising out of any alleged failure to comply with relocation obligations with respect to this Project.

4.14 UNAVOIDABLE DELAY IN PERFORMANCE. The time for performance of provisions of this County PLHA Loan Agreement by a Party shall be extended for a period equal to the period of any delay directly affecting such Party which is in no way attributable to the acts or omissions

of such Party and is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; applicable government-mandated quarantine restrictions; freight embargoes, or other events beyond the reasonable control of, and in no way attributable to the acts or omissions of, such Party claiming the delay (the foregoing, collectively “Force Majeure Events”). An extension of time for any of the above-specified Force Majeure Events will be deemed granted only if written notice by the Party claiming such extension is sent to the other Party within ten (10) calendar days from the commencement of such Force Majeure Events, and such extension of time is either accepted by the other Party in writing, or is not rejected in writing by the other Party within ten (10) calendar days of receipt of the notice. Times of performance under this County PLHA Loan Agreement may otherwise be extended only by the mutual written agreement of Lender and Borrower, duly executed by both Parties. Notwithstanding the foregoing or any other provision of this County PLHA Loan Agreement or any other County PLHA Loan Document, the Borrower shall immediately repay to Lender all PLHA funds invested in Units that are not rented to eligible Qualifying Households within 12 months of Project Completion, and the time for such performance shall not be subject to extension due to Force Majeure Events or otherwise, or subject to cure.

ARTICLE 5 OPERATION

5.1 OPERATION OF PROJECT. Borrower shall operate and manage the Project after Project Completion in full conformance with the terms of the County PLHA Loan Regulatory Agreement.

Borrower shall maintain and operate the PLHA Assisted Unit so as to provide decent, safe, and sanitary housing. Optional services provided must be available to all Project residents under the same terms and conditions.

5.2 MANAGEMENT PLAN. In the leasing and operation of the Project, Borrower shall comply with the Management Plan attached hereto as Exhibit G and incorporated herein (“Management Plan”). No change shall be made to the Management Plan without Lender’s prior written approval in each instance. Borrower agrees that during the Term of the PLHA Regulatory Agreement, Lender shall have the right to review, approve, and request material changes to the Management Plan as described in Section 5.2, below, and attached hereto as Exhibit G and incorporated herein by reference (“Management Plan”), operation of the Project and property management entity, in order to preserve the affordability, physical appearance and condition of the Project. Any changes to the Management Plan requested by Lender and not reasonably disapproved by Borrower within thirty (30) days after Borrower’s receipt of such request shall be deemed approved and shall be promptly implemented by Borrower. In the event that Borrower refuses to comply with Lender’s recommended changes to the Management Plan, such refusal shall constitute an Event of Default.

5.3 AFFIRMATIVE MARKETING PLAN. In the marketing of the Project, Borrower shall comply with the affirmative marketing provisions of the Management Plan. The Management Plan includes information on affirmative marketing efforts and compliance with fair housing laws. At a minimum, the Project must at all times during the Term meet the affirmative marketing requirements set forth in 24 CFR 92.351, as such may be amended from time to time. Notwithstanding the above, Borrower must first obtain referrals from the County Coordinated Entry system for Qualifying Households to be considered for tenancy.

5.4 TENANT SELECTION. In the selection of tenants, Borrower shall comply with the written tenant selection provisions of the Management Plan (“Tenant Selection Plan”). Tenant selection must, at a minimum, meet the requirements for tenant selection set forth in 24 C.F.R. 92.253(d), as amended from time to time.

Borrower shall rent the rooms in the Assisted Unit to Qualifying Populations according to the Tenant Selection Plan. Borrower shall verify each prospective tenant's eligibility as a Qualifying Household, and shall require from each prospective tenant a statement that such prospective tenant's household income from all sources does not exceed allowable limits as described in the County PLHA Loan Regulatory Agreement. In selecting tenants for residence of the Project, if and where relevant, Borrower will utilize and coordinate with the County Homeless Management Information System (HMIS) Coordinated Entry System (CES), and rent Assisted Units to Qualifying Households who are so determined and referred under the Department of Veterans Affairs Grant and Per Diem Program, such Veterans shall be provided priority preference.

5.5 INCOME CERTIFICATION. Each Applicant applying for tenancy in the Assisted Unit shall be certified as a Qualifying Household by Borrower no earlier than sixty (60) calendar days prior to such Qualifying Household's Borrower-scheduled occupancy of the Assisted Unit, and shall be recertified annually thereafter by the Borrower as a Qualifying Household. If the household size of a Qualifying Household occupying the Assisted Unit changes, the Borrower shall obtain additional information and documentation to determine such tenant's continued eligibility as a Qualifying Household.

A. Initial Annual Income Verification. Before a Qualifying Household occupies the Assisted Unit, the Borrower shall verify that the Annual Household Income provided in an Annual Income certification for such Qualifying Household is accurate by taking both of the following steps as a part of the verification process, and this Initial Annual Income Certification will serve as basis for determining the tenant rent portion for payment of monthly rent as well as eligibility for occupancy:

- (1) **Third-Party Verification:** Borrower shall contact all third parties in writing (*e.g.*, employer, Social Security Administration, public assistance agency) to request that such third parties provide information in writing to verify such Qualifying Household's Annual Income. Written requests and responses are required; and
- (2) **Review of Documents:** Borrower shall require such Qualifying Household to provide documents verifying such Qualifying Household's Annual Income (*e.g.*, pay stubs, tax returns), and shall then retain such documents in the Project files.

B. Annual Income Recertification. At the time of such Qualifying Household's lease renewal, or pursuant to an annual schedule adopted by the Borrower, and no later than the one-year anniversary of the initial Annual Income verification for such Qualifying Household, and annually thereafter, Borrower shall recertify the Annual Income of each Tenant occupying a PLHA Assisted Unit using the method as described in Sections 1.27 and 5.5.A, above.

5.6 INITIAL LEASING THE PROJECT. Before leasing any room or unit in the PLHA Assisted Unit, Borrower shall submit its proposed form of lease for units in the PLHA Assisted Unit for Lender's review and approval ("Lease Form"). The term of each lease for a room or unit in the PLHA Assisted Unit (each, a "Lease") shall be for no less than one year, and no Lease shall contain any provision which is prohibited by 24 C.F.R. Section 92.253(b), as may amended from time to time. No rent increase shall occur at any time during the term of any Lease. Any termination of any Lease or refusal to renew must be in conformance with 24 C.F.R. 92.253(c), and must be preceded by not less than 30 days' prior written notice to the tenant by the Borrower specifying the grounds for such action. Thirty (30) days prior to leasing any room or unit in the PLHA Assisted Units in the Project, Borrower shall submit its proposed rents and utility allowance schedule to Lender for Lender's review and approval. Within six (6) months of Project Completion ("Occupancy Deadline"), Borrower shall lease all rooms and units in the PLHA Assisted Unit to Qualifying Populations, and shall deliver to Lender detailed occupancy data and demographic information on the tenants occupying the PLHA Assisted Unit.

In the event that any room or unit in the PLHA Assisted Unit is not occupied by a Qualifying Household as of the Occupancy Deadline (each, a “PLHA Assisted Unit Vacancy”), Borrower may cure such breach by (i) providing to Lender within five (5) days after the Occupancy Deadline written notice of each such PLHA Assisted Unit Vacancy, (ii) providing to Lender within ten (10) days after the Occupancy Deadline a detailed record of Borrower’s marketing efforts with respect to the Project and the PLHA Assisted Unit, and (iii) comply with all of Lender’s requests for additional information pertaining to such marketing efforts.

In the event that any room or unit in the PLHA Assisted Unit is not occupied by a Qualifying Household within eleven (11) months after the date of Project Completion (“Occupancy Default Deadline”), such occurrence shall constitute an Event of Default by Borrower hereunder. On or before the date that is three (3) days after the last day of the eleventh (11th) month after the date of Project Completion, Borrower shall provide to Lender written notice of each such PLHA Assisted Unit Vacancy. Within five (5) days of receipt of such notice of PLHA Assisted Unit Vacancy from Borrower, Lender shall give written notice to Borrower of such Event of Default in accordance with Section 6.2, below, and Borrower shall have the opportunity to cure such Event of Default before the last day of the twelfth (12th) month after the date of Project Completion.

Notwithstanding any other provision of this County PLHA Loan Agreement, or of any provision of any other County PLHA Loan Document or subordination agreement, to the contrary, Borrower shall immediately repay to Lender, upon Lender’s request, all PLHA Funds invested in Units that are not rented to eligible Qualifying Households within 12 months of Project Completion.

5.7 AFFORDABILITY RESTRICTIONS. Each room and Unit of the PLHA Assisted Unit, other than the Manager Unit, shall only be occupied by Qualifying Households, as set forth in the County PLHA Loan Regulatory Agreement.

5.8 PLHA -ASSISTED UNIT RENTS. The rent for each bedroom occupied by a Qualifying Household shall not exceed the Qualifying Tenant Payment.

5.9 CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY. Any conflicts between the restrictive provisions contained in this County PLHA Loan Agreement, the County PLHA Loan Note, the County PLHA Loan Deed of Trust, the County PLHA Loan Regulatory Agreement, and any other agreements in connection with the County PLHA Loan which affect the Property are to be resolved by applying the more restrictive covenants or restrictions herein or therein.

5.10 NONDISCRIMINATION. Borrower shall not discriminate or segregate in the development, construction, use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Property on the basis of race, color, ancestry, national origin, religion, sex, sexual preference or orientation, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC) acquired or perceived, or any basis prohibited by law. Borrower shall otherwise comply with all applicable local, state, and federal laws concerning discrimination and equal opportunity in housing.

5.11 RECORDS AND REPORTS. Borrower shall be accountable to Lender for all PLHA Funds disbursed to Borrower pursuant to the County PLHA Loan Documents. Borrower agrees to maintain records that accurately and fully reflect the date, amount, purpose, and payee of all expenditures for expenditures reimbursed from PLHA Funds, and to keep all invoices, receipts, and other documents related to such expenditures reimbursed by PLHA Funds for five (5) years after Project Completion. On each first day of April during the Term following Project Completion, Borrower shall submit reports to Lender with information regarding tenant income, rent and Unit inspection information. Tenant income, rent, Unit

inspection information, and all records related to revenue received in connection with the Project must be kept until five (5) years after the Term ends. Borrower shall keep all such records accurate and current. Borrower shall retain all records of individual tenant income verifications, project rents, and project inspections for five (5) years after the creation of such records, including such records created less than five (5) years prior to the expiration or termination of this Agreement. This Section 5.11 shall survive the termination or expiration of this County PLHA Loan Agreement.

Borrower shall promptly comply with all requirements and conditions of the County PLHA Loan Documents relating to notices, extensions, and other events required to be reported or requested. Borrower shall promptly provide to Lender, upon the request of Lender, any and all information and documentation which involves the Project, and shall cooperate with Lender in the development and oversight of the Project.

Borrower shall submit monthly to Lender written Project construction progress reports and an updated construction schedule within ten (10) days following the end of each month during the period commencing upon the Effective Date and concluding upon Project Completion.

Within 30 days following Project Completion, Borrower shall submit to Lender records of all permits, entitlements and approvals, inspections and sign-offs required by all permitting and regulatory authorities and jurisdictions .

Copies of the Certificate of Occupancy shall be submitted by Borrower to Lender upon receipt of same by Borrower.

Data on the initial lease-up of the bedrooms in the Assisted Unit sufficient to close out the Project in the federal Integrated Disbursement and Information System shall be submitted by Borrower to Lender within 10 days following the first date on which all of the bedrooms in the Assisted Unit are subject to fully executed leases.

5.12 REVERSION OF ASSETS. Upon the expiration or termination of this County PLHA Loan Agreement, the Borrower shall transfer to the Lender all PLHA funds, if any, Borrower has on hand at the time of expiration or termination, and all accounts receivable attributable to the use of such funds, if any.

5.13 REPORT ON OCCUPANCY BY VETERANS. In addition to the requirements set forth above in Section 5.11, above, on or before March 1 of each year during the Term, the Borrower shall submit directly to the County Board of Supervisors, with a copy to the Director of the County's Community Services Department ("CSD"), a report on the number of bedrooms in the PLHA Assisted Unit that were occupied by veterans during any portion of the immediately preceding calendar year.

5.14 AUDITS. Borrower shall conduct annual audits in accordance with 24 CFR 84.26 and 85.26, and OMB Circular A-133, and shall submit to Lender an Annual Financial Statement each year during the Term. Borrower shall make available to Lender for examination at reasonable intervals and during normal business hours all books, accounts, reports, files, data, and other papers and property with respect to all matters covered by these County PLHA Loan Documents, and shall permit Lender to audit, examine, and make excerpts and transcripts from such records. Lender may make audits of any conditions relating to the County PLHA Loan.

Lender shall notify Borrower of any records Lender deems to be insufficient. Borrower shall have fifteen (15) calendar days from the date of said notice to correct any deficiency in the records specified by Lender in said notice, or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Borrower shall submit a written request to Lender for an extension specifying the requested additional time,

explaining in detail the reason such extension is necessary, and providing supporting documentation evidencing the necessity of the requested extension; provided that Borrower shall begin to correct the deficiency within such initial fifteen (15) day period, and shall diligently proceed to correct the deficiency as soon as possible. Lender shall respond to such extension requests within fifteen (15) days of Lender's receipt of such extension request.

5.15 ENCUMBRANCE OF PROPERTY. Except as otherwise provided in this County PLHA Loan Agreement, Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon or against the Property or any part thereof or any interest therein, whether directly or indirectly, by operation of law or otherwise, or allow any encumbrance or lien to be made on, against, or attached to the Property, except with the prior written consent of Lender in each instance. Borrower shall notify Lender in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and of any encumbrance or lien on or attached to the Property whether by voluntary act of Borrower, operation of law, or otherwise.

5.16 TRANSFERS. Borrower has not made or created, and shall not at any time during the Term make or permit any sale, assignment, conveyance, or other transfer of the Property or any part thereof or any interest therein, the Project, this County PLHA Loan Agreement, or of any of Borrower's rights or obligations hereunder, directly or indirectly, whether by operation of law or otherwise, including, but not limited to, the sale or transfer of any partnership interests, or other change of control of Borrower, or merger involving Borrower, without the prior written consent of Lender in each instance.

5.17 ANNUAL OCCUPANCY SUITABILITY CERTIFICATION. The Borrower shall annually certify to Lender that each bedroom and unit in the Assisted Unit in the Project is suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the County to meet the requirements of 24 CFR 92.251.

5.18 FEES, TAXES, AND OTHER LEVIES. Borrower shall be 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 Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate legal proceedings, and (b) upon request by Lender, Borrower deposits with Lender any funds or other forms of assurance requested by Lender in good faith from time to time to protect Lender from the consequences of such contest being unsuccessful.

5.19 DAMAGE TO PROPERTY. If any building or improvement erected by Borrower on the Property is damaged or destroyed by an insurable cause, Borrower shall, at its sole cost and expense, diligently undertake to repair or restore said buildings or improvements consistent with the original plans and specifications for the Project, if Lender reasonably determines that such restoration or repair is economically feasible. Such work or repair shall be commenced within 120 days after such damage or loss occurs, and shall be completed within one year thereafter, subject to any extensions of time granted pursuant to the provisions of Section 4.14, above. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs and restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall be responsible for paying for the deficiency.

If Lender determines that such restoration or repair is not economically feasible, then Lender may declare an Event of Default pursuant to Section 8.1.G, below, which Borrower shall not have opportunity to cure, and, upon request by Lender to repay the then-outstanding principal of and all accrued interest on the

County PLHA Loan, Borrower shall apply all available insurance proceeds thereto until the County PLHA Loan is repaid, subject to the rights of Senior Lender as provided in the Subordination Agreement.

5.20 **EQUAL EMPLOYMENT OPPORTUNITY.** Borrower and all contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal employment opportunity. Borrower and all contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal opportunities for business and lower-income persons (referred to as the Section 3 clause of the HUD Act of 1968, 12 U.S.C. 1701u).

ARTICLE 6 INDEMNITY AND INSURANCE

6.1 **INDEMNITY.** Borrower shall comply with the indemnification provisions set forth in Exhibit F “Standard Indemnification and Insurance Provisions,” attached hereto and incorporated herein by reference.

6.2 **INSURANCE.** Borrower shall, at all time during the Term, comply with the insurance provisions set forth in Exhibit F.

6.3 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officials, officers, representatives, directors, employees, or agents of Lender shall be personally liable to Borrower for any obligation created hereunder or under any of the other County PLHA Loan Documents.

ARTICLE 7 HAZARDOUS MATERIALS

7.1 **REPRESENTATIONS AND WARRANTIES.** After reasonable investigation and inquiry, Borrower hereby represents and warrants that, as of the Effective Date and except as previously disclosed by Borrower to Lender in writing and acknowledged in writing by Lender, or as disclosed in the written reports based on environmental audit(s) performed on the Property and submitted to Lender by Borrower, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, and administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to soil and groundwater conditions (“Hazardous Materials Laws”); (c) there are no claims or actions pending or threatened with respect to the Property by any governmental entity or agency or any other person relating to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Property (including in the soil, surface water, or groundwater under the Property), or any other occurrences or conditions on the Property or on any other real property that could cause the Property or any part thereof to be classified as a “hazardous waste property” or as a “buffer zone property” under California Health and Safety Code Sections 25100, et seq., or regulations adopted in connection therewith.

7.2 **NOTIFICATION TO LENDER.** Borrower shall promptly notify Lender in writing of: (a) the discovery of any concentration or amount of Hazardous Materials on or under the Property during the Term requiring or which may require notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge of Borrower, or of any of Borrower’s officials, officers, representatives, partners, employees, or agents that the Property is not in compliance with any Hazardous Materials Laws at any time during the Term; (c) the receipt by Borrower of notice of any Hazardous Materials claims during the Term; and (d) the discovery by or knowledge of Borrower or of any of Borrower’s officials, officers, partners, representatives, employees, or agents, at any time during the Term, of any occurrence or condition on the Property, or on any real property located within 2,000 feet of the

Property, that could cause the Property or any part thereof to be designated as a “hazardous waste property” or as a “buffer zone property” under California Health and Safety Code Sections 25100, et seq., or regulations adopted in connection therewith.

7.3 **USE AND OPERATION OF PROPERTY.** Borrower shall not, and shall not permit any of its agents, employees, or contractors, or any other person to, use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. At all times during the Term, Borrower shall comply and shall cause the Project and the Property to be in compliance with Hazardous Materials Laws.

7.4 **REMEDIAL ACTIONS.** If Borrower or any of Borrower’s officials, officers, partners, representatives, employees, or agents knows or has reason to know of the presence of any Hazardous Materials on or under the Property, Borrower shall take, at no cost or expense to Lender, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal and other remedial action, if any, required by any Hazardous Materials Laws or by any orders or requests of any governmental entity or agency, or any judgment, consent decree, settlement or compromise with respect to any Hazardous Materials claims. The foregoing, however, shall be subject to Borrower’s right of contest as described below.

7.5 **RIGHT OF CONTEST.** Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws, and such contest shall not be deemed to constitute an Event of Default, if: (a) such contest is based on a material question of law or fact raised by Borrower in good faith and reasonably objectively substantiated, (b) Borrower promptly commences and thereafter diligently pursues such contest, (c) such contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) upon request by Lender, Borrower deposits with Lender any funds or other forms of assurance requested by Lender in good faith from time to time as Lender determines appropriate to protect Lender from the consequences of such contest being unsuccessful and to cover the costs of any remedial action then reasonably necessary.

7.6 **ENVIRONMENTAL INDEMNITY.** Without limiting or otherwise affecting any of the standard indemnity and insurance provisions set forth in Article 6 and/or Exhibit F, Borrower shall defend, indemnify, and hold Lender free and harmless against all claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including all costs of legal proceedings and reasonable attorney’s fees, that Lender may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this County PLHA Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not Borrower knew of same) of any Hazardous Materials occurring prior to or during Borrower’s use or occupancy of the Property.

ARTICLE 8 DEFAULT AND REMEDIES

8.1 **EVENTS OF DEFAULT.** The occurrence of any of the following events shall constitute an “Event of Default” under this County PLHA Loan Agreement:

A. Monetary. (1) Borrower’s failure to pay when due any sums payable under the County PLHA Loan Note or any advances made by Lender under the County PLHA Loan Deed of Trust or this County PLHA Loan Agreement; (2) Borrower’s use of PLHA Funds for costs other than approved construction costs or for uses inconsistent with other terms and restrictions in the County PLHA Loan Documents; (3) Borrower’s failure to obtain and maintain the insurance coverage required under this County PLHA Loan Agreement; (4) Borrower’s failure to make any other payment or assessment due under

the County PLHA Loan Documents; (5) Borrower's failure to pay taxes when due; (6) Borrower's default under other debt secured by the Property after the applicable notice and cure periods have expired;

B. Construction. (1) Borrower's deviation from the Budget, without Lender's prior written consent; (2) the use of defective or unauthorized materials or defective workmanship in constructing the Project; (3) Borrower's failure to commence or complete construction and improvement work pursuant to Section 4.1 or 4.2, above; (4) the cessation of construction and improvement work prior to completion of the Project for a period of more than thirty (30) consecutive calendar days without prior written approval from Lender; (5) Borrower's failure to remedy any deficiencies in recordkeeping or failure to provide records to Lender upon Lender's request; (6) Borrower's failure to substantially comply with any applicable federal, state, or local laws or Lender policies governing construction, development, or operation of the Project, including, but not limited to, provisions of this County PLHA Loan Agreement pertaining to affirmative action and equal employment opportunity, minority and women-owned business enterprises, disabled access, lead paint, Hazardous Materials, and provision or relocation benefits and assistance;

C. Operation. (1) Discrimination by Borrower on any basis prohibited by this County PLHA Loan Agreement or applicable law, or (2) the imposition of any encumbrances or liens on the Property without Lender's prior written approval that have the effect of invalidating, reducing the priority of, or materially impairing the value of the County's interest in the Security (as defined in the PLHA Loan Deed of Trust);

D. General performance of County PLHA Loan obligations. Any breach by Borrower of any provision of any of the County PLHA Loan Documents and which, if subject to cure, is not cured by Borrower within the applicable cure period;

E. General performance of other obligations. Any breach by Borrower of any provision of any other agreements, including any grant agreements, with respect to the financing, construction, or operation of the Project or the Property, whether or not Lender is a party to such agreement, and which breach may materially impair Lender's interest in the Security (as defined in the County PLHA Loan Deed of Trust);

F. Representations and warranties. A determination by Lender that the Security has or will be materially impaired due to the fact that any of Borrower's representations or warranties made in the County PLHA Loan Documents, or in any certificates, documents, or schedules supplied to Lender by Borrower, were untrue in any material respect when made, or that Borrower concealed or failed to disclose a material fact from Lender;

G. Damage to or failure to maintain Property. Material damage to or destruction of the Property by fire or other casualty if Borrower does not take steps to reconstruct the Project as required by the County PLHA Loan Documents or if Borrower fails to maintain the Property pursuant to Section 5.1, above;

H. Bankruptcy, dissolution, and insolvency. Borrower's: (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; (4) insolvency; (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

I. Program compliance. In the event of any non-compliance with PLHA Requirements by or on behalf of Borrower, including, but not limited to, the provisions of Section 4.12, above, and the County PLHA Loan Regulatory Agreement, Borrower shall be required to repay the funds disbursed to Borrower hereunder if the Project does not meet the requirements set forth for the time period specified therein, and such an Event of Default shall not be subject to cure.

J. Relocation Benefits. Failure to make any payments requested by Lender pursuant to Section 4.13, above.

8.2 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. For each Event of Default, Borrower shall give written notice to Lender of such Event of Default as soon as possible (“Borrower Default Notice”), which Default Notice shall specify: (a) the nature of the event or deficiency giving rise to the Event of Default, (b) whether Borrower believes that such Event of Default is curable, and, if so, how Borrower proposes to cure such Event of Default, and (c) Borrower’s estimate of the time required for Borrower to cure such Event of Default. In response to a Borrower Default Notice, Lender may request from Borrower, and Borrower shall promptly provide to Lender, any additional information as Lender may specify regarding such Event of Default.

Lender shall reply to each Borrower Default Notice by stating (a) Lender’s determination of whether such Event of Default is subject to cure, and the action required to cure the Event of Default, if applicable, and (b) if subject to cure, a date, which shall not be less than thirty (30) calendar days from the date of such Borrower Default Notice, by which such action to cure must be taken, or if Lender determines that a cure is not possible within thirty (30) days, by which Borrower must begin such cure and diligently perform such cure to completion within the additional period of time specified by Lender in such notice, and in no event later than the date that is ninety (90) days after the date of such notice.

For each Event of Default of which Lender is aware and for which Lender has not received a Borrower Default Notice, Lender shall give written notice to Borrower of such Event of Default (“Lender Default Notice”) specifying: (a) the nature of the event or deficiency giving rise to the Event of Default, (b) whether such Event of Default is subject to cure, and the action required to cure the Event of Default, if applicable, and (c) if subject to cure, a date, which shall not be less than thirty (30) calendar days from the date of such Lender Default Notice or the date such Lender Default Notice was refused, by which such action to cure must be taken, or if Lender determines that a cure is not possible within thirty (30) days, by which Borrower must begin such cure and diligently perform such cure to completion within the additional period of time specified by Lender in such Lender Default Notice, and in no event later than the date that is ninety (90) days after the date of such Lender Default Notice. The Lender has the sole discretion to determine whether an Event of Default is curable and, if curable the reasonable time needed to cure.

8.3 LENDER’S REMEDIES. Upon the happening of an Event of Default by Borrower and a failure to cure said Event of Default, if applicable, in accordance with Section 8.2 above, Lender’s obligation to disburse PLHA Funds shall terminate, and Lender may also, in addition to other rights and remedies afforded to the County PLHA Loan Documents and applicable law, proceed with any or all of the following remedies in any order and combination Lender may choose in its sole discretion:

A. Terminate this County PLHA Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the County PLHA Loan Note, as well as any other monies advanced to Borrower by Lender under the County PLHA Loan Documents, including, but not limited to, administrative costs and relocation benefits described in Section 4.13, above, shall immediately become due and payable by Borrower at the option of Lender;

B. Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the County PLHA Loan Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;

