

EXECUTION OF LOAN AND REDEVELOPMENT AGREEMENTS WITH HWA-850 EASTWOOD L.P. AND ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS (MERCY PRESERVATION PROJECT) 2010 SERIES.

[O2010-860]

The Committee on Finance submitted the following report:

CHICAGO, March 10, 2010.

To the President and Members of the City Council:

Your Committee on Finance, having had under consideration an ordinance authorizing the entering into and executing of a loan agreement with HWA -850 Eastwood L.P., the authority to issue Multi-Family Housing Revenue Bonds (Mercy Preservation Project) 2010 Series, and the authority to enter into and execute a redevelopment agreement with HWA - 850 L.P., amount of loan not to exceed: \$7,500,000 and amount of bonds not to exceed: \$35,000,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Alderman Burke abstained from voting pursuant to Rule 14 of the City Council's Rules of Order and Procedure.

Respectfully submitted,

(Signed) EDWARD M. BURKE,
Chairman.

On motion of Alderman Burke, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

Yeas -- Aldermen Fioretti, Dowell, Preckwinkle, Hairston, Lyle, Jackson, Harris, Beale, Pope, Balcer, Cárdenas, Olivo, Foulkes, Thompson, Thomas, Lane, Rugai, Cochran, Brookins, Muñoz, Zalewski, Dixon, Solís, Maldonado, Burnett, E. Smith, Reboyras, Suarez, Waguespack, Mell, Colón, Mitts, Allen, Laurino, Doherty, Reilly, Daley, Tunney, Shiller, Schulter, M. Smith, Moore -- 42.

Nays -- None.

Alderman Pope moved to reconsider the foregoing vote. The motion was lost.

Alderman Burke invoked Rule 14 of the City Council's Rules of Order and Procedure, disclosing that he had represented parties to this ordinance in previous and unrelated matters.

The following is said ordinance as passed:

WHEREAS, The City of Chicago (the "City") is a duly constituted and existing municipality within the meaning of Section 1 of Article VII of the 1970 Constitution of the State of Illinois (the "Constitution") having a population in excess of twenty-five thousand (25,000) and is a home rule unit of local government under Section 6(a) of Article VII of the Constitution; and

WHEREAS, The City has heretofore found and does hereby find that there exists within the City a serious shortage of decent, safe and sanitary rental housing available to persons of low- and moderate-income and has determined that the continuance of a shortage of affordable rental housing is harmful to the health, prosperity, economic stability and general welfare of the City; and

WHEREAS, As a home rule unit and pursuant to the Constitution, the City is authorized and empowered to issue multi-family housing revenue bonds for the purpose of financing the cost of acquiring, constructing, rehabilitating and equipping an affordable multi-family housing facility for low- and moderate-income families located in the City; and

WHEREAS, By this ordinance, the City Council of the City (the "City Council") has determined that it is necessary and in the best interest of the City to provide certain financing to HWA-850 Eastwood Limited Partnership (the "Borrower"), an Illinois limited partnership, the general partner of which is HWA-850 Eastwood GP Corp., NFP, an Illinois not-for-profit corporation (the "General Partner"), the sole member of which is Mercy Housing Lakefront, an Illinois not-for-profit corporation (the "Member"); and

WHEREAS, The Borrower desires that the City issue, sell and deliver the City's multi-family housing revenue bonds (Mercy Preservation Project) 2010 Series in one or more series in an aggregate principal amount not to exceed Thirty-five Million Dollars (\$35,000,000) (the "Bonds"), and lend the proceeds therefrom to the Borrower, to enable it to pay a portion of the costs of the acquisition, rehabilitation and equipping of an approximately three hundred (300) unit affordable multi-family housing project, and related improvements, situated in two buildings (the "Project") located at 850 West Eastwood Avenue (the "Eastwood Building") and 4946 North Sheridan Road (the "Sheridan Building"), Chicago, Illinois (collectively, the Eastwood Building and the Sheridan Building are referred to herein as the "Property"), and pay a portion of the costs of the issuance and other costs in connection with the Project; and

WHEREAS, By this ordinance, the City Council has determined that it is necessary and in the best interests of the City to borrow money for the purposes set forth above and to evidence its limited, special obligation to repay that borrowing, through the issuance of the Bonds; and

WHEREAS, The Bonds and the obligation to pay interest thereon do not now and shall never constitute an indebtedness of or an obligation of the City, the State of Illinois or any political subdivision thereof, within the purview of any Constitutional limitation or statutory provision, or a charge against the general credit or taxing powers of any of them. No owner of the Bonds shall have the right to compel the taxing power of the City, the State of Illinois or any political subdivision thereof to pay any principal installment of, premium, if any, or interest on the Bonds; and

WHEREAS, The Borrower will cause to be delivered to the Trustee (as defined below) a direct pay Credit Enhancement Agreement (the "Credit Enhancement Agreement") between the Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Trustee which will provide for draws in an amount sufficient to pay the principal and interest on the Bonds; and

WHEREAS, The principal and interest on the Bonds will be further secured by, among other things, a mortgage on the Property and certain other related collateral and by pledges and/or assignments of certain funds, personal property, and contractual rights of the Borrower and its affiliates; and

WHEREAS, In connection with the issuance of the Bonds, the City Council has determined by this ordinance that it is necessary and in the best interests of the City to enter into (i) one or more trust indentures to provide for the financing of the Project (the "Indenture") between the City and to a bank or trust company to be designated as herein provided (the "Trustee"), providing for the security for and terms and conditions of the Bonds to be issued thereunder, (ii) one or more Loan Agreements (the "Loan Agreement") between the City and the Borrower providing for the loan of the proceeds of the Bonds to the Borrower and the use of such proceeds, (iii) a Land-Use Restriction Agreement among the City, the Borrower and the Trustee (the "Land-Use Restriction Agreement"), (iv) one or more bond purchase agreements among the City, the Borrower and the underwriters named therein (the "Bond Purchase Agreement"), providing for the sale of the Bonds or placement of the Bonds (v) a Tax Agreement between the City and the Borrower (the "Tax Agreement"), (vi) one or more Intercreditor Agreements among the City, the Trustee, the Freddie Mac and Bank of America N.A., or such entity acceptable to the D.C.D. Commissioner (as defined below), as the construction phase credit facility provider (the "Intercreditor Agreement") which establishes the priorities of lien in the Property among the certain parties thereto; and

WHEREAS, There has been presented to this meeting of the City Council forms of the following documents in connection with the Bonds:

- (a) the form of Indenture, from the City to the Trustee, which includes a form of the Bonds to be issued by the City, attached as Exhibit B hereto;
- (b) the form of Loan Agreement, attached as Exhibit C hereto; and
- (c) the form of Land-Use Restriction Agreement, attached as Exhibit D hereto; and

WHEREAS, The Congress of the United States has enacted the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. Section 12701, et seq., authorizing, inter alia, the HOME Investment Partnerships Program (the "HOME Program") pursuant to which the United States Department of Housing and Urban Development ("H.U.D.") is authorized to make funds (the "HOME Funds") available to participating jurisdictions to increase the number of families served with decent, safe, sanitary and affordable housing and to expand the long-term supply of affordable housing; and

WHEREAS, The City has received an allocation from H.U.D. of HOME Funds to make loans and grants for the purposes enumerated above, and such HOME Funds are administered by the City's Department of Community Development ("D.C.D."); and

WHEREAS, The City may have available certain funds in Corporate Fund Number 100 (the "Corporate Funds") to be used as the local match of HOME Funds as required under the HOME Program; and

WHEREAS, The City may have available to it certain funds (the "Program Income") derived from repayments to the City of HOME Funds and/or other returns on the investment of HOME Funds; and

WHEREAS, The City has programmed certain funds (the "Multi-Program Funds") for its Multi-Family Loan Program (the "Multi-Program") under the Community Development Block Grant Program, wherein acquisition and rehabilitation loans are made available to owners of rental properties containing five or more dwelling units located in low- and moderate-income areas, and the Multi-Program is administered by D.C.D.; and

WHEREAS, D.C.D. has preliminarily reviewed and approved the making of a loan to the Borrower in an amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000) (the "Affordable Housing Loan"), to be funded from HOME Funds, Corporate Funds, Program Income and/or Multi-Program Funds, pursuant to the terms and conditions set forth in Exhibit A-1 attached hereto; and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 27, 2001, and published at pages 62342 through 62431 of the *Journal* for such date, a certain redevelopment plan and project (the "Wilson Yard Plan") for the Wilson Yard Tax Increment Financing Redevelopment Project Area (the "Wilson Yard Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 27, 2001 and published at pages 62433 through 62441 of the *Journal* for such date, the Wilson Yard Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "Wilson Yard T.I.F. Ordinance") adopted by the City Council on June 27, 2001, and published at pages 62443 through 62451 of the *Journal* for such date, tax increment allocation financing was adopted pursuant to the Act as a means

of financing certain Wilson Yard Area redevelopment project costs (as defined in the Act) incurred pursuant to the Wilson Yard Plan; and

WHEREAS, The Borrower, the General Partner and the Member (together, the "Developer") have proposed to undertake the redevelopment of the Eastwood Building in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Borrower and the City, with the Eastwood Building to be financed in part by certain pledged incremental taxes, if any, deposited from time to time in the Wilson Yard Tax Increment Financing Redevelopment Project Area Special Tax Allocation Fund (the "Wilson Yard Fund", as defined in the Wilson Yard T.I.F. Ordinance) pursuant to Section 5/11-74.4-8(b) of the Act ("Wilson Yard Incremental Taxes"), pursuant to Section 5/11-74.4-8(b) of the Act; and

WHEREAS, Pursuant to Resolution 10-CDC-6 adopted by the Community Development Commission of the City of Chicago (the "Commission") on January 12, 2010, the Commission has recommended that one or more of the Developer entities be designated as developer for the Project and that D.C.D. be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with one or more of the Developer entities; now, therefore,

Be It Ordained by the City Council of the City of Chicago, as follows:

SECTION 1. Incorporation Of Recitals. The recitals contained in the preambles to this ordinance are hereby incorporated into this ordinance by this reference. All capitalized terms used in this ordinance, unless otherwise defined herein, shall have the meanings ascribed thereto in the Indenture.

SECTION 2. Findings And Determinations. The City Council hereby finds and determines that the delegations of authority that are contained in this ordinance, including the authority to make the specific determinations described herein, are necessary and desirable because the City Council cannot itself as advantageously, expeditiously and conveniently exercise such authority and make such specific determinations. Thus, authority is granted to each Authorized Officer (as defined below) to determine to sell the Bonds on such terms as and to the extent such officer determines that such sale or sales are desirable and in the best interest of the City.

SECTION 3. Authorization Of Bonds. The issuance of the Bonds by the City in the principal amount of not to exceed Thirty-five Million Dollars (\$35,000,000) from time to time and in one or more series is hereby authorized, subject to the provisions of this ordinance and the Indenture hereinafter authorized.

The Bonds shall contain a provision that they are issued under authority of this ordinance. The Bonds shall mature not later than thirty-five (35) years from the first day of the month immediately succeeding the date of issue of the Bonds and shall bear interest at such rate or rates as shall be determined pursuant to the Indenture, which interest shall be payable on the interest payment dates set forth in the Indenture. The Bonds shall be dated, shall be subject to redemption prior to maturity, shall be payable in such places and in such manner

and shall have such other details and provisions as prescribed by the Indenture and the form of the Bonds therein. The interest rate on the Bonds shall not exceed the rate of twelve percent (12%).

The provisions for execution, signatures, authentication, payment and prepayment, with respect to the Bonds, shall be as set forth in the Indenture and in the form of the Bonds therein.

Each of (i) the Mayor of the City (the "Mayor"), the (ii) Chief Financial Officer of the City (as defined below) or (iii) any other officer designated in writing by the Mayor (the Mayor, the Chief Financial Officer or any such other officer being referred to as an "Authorized Officer") is hereby authorized to execute and deliver the Bonds and the Indenture on behalf of the City, in substantially the form attached hereto as Exhibit B, as determined in the Notification of Sale, and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval and the City Council's approval of any changes or revisions from the form of the Indenture attached to this ordinance.

As used herein, the term "Chief Financial Officer" shall mean the Chief Financial Officer of the City appointed by the Mayor, or, if there is no such officer then holding said office, the City Comptroller.

Each Authorized Officer is hereby authorized to act as an authorized issuer representative (each an "Authorized Issuer Representative") of the City for the purposes provided in the Indenture.

An Authorized Officer is hereby authorized to execute and deliver the Loan Agreement on behalf of the City, in substantially the form attached hereto as Exhibit C, and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Loan Agreement attached to this ordinance.

An Authorized Officer is hereby authorized to execute and deliver the Land-Use Restriction Agreement on behalf of the City, in substantially the form attached hereto as Exhibit D and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval of any changes or revisions from the form of Land-Use Restriction Agreement attached to this ordinance.

An Authorized Officer is hereby authorized to execute and deliver one or more Tax Agreements on behalf of the City, in substantially the form of tax agreements used in previous issuances of tax-exempt bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the applicable provisions of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, and with such other revisions in text as the Authorized Officer

executing the same shall determine are necessary or desirable in connection with the exclusion from gross income for federal income tax purposes of interest on the Bonds. The execution of a Tax Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the term provided in the Tax Agreement.

SECTION 4. Security For The Bonds. The Bonds shall be limited obligations of the City, payable solely from and/or secured by (a) the Bond Mortgage Note, (b) the Bond Mortgage; (c) the Credit Facility providing credit enhancement for the Bond Mortgage Loan, (d) certain funds pledged under the Indenture, (e) all right, title and interest of the City (other than certain reserved rights of the City, as described in the Loan Agreement) in the Loan Agreement, and (f) the proceeds of the Bonds and income from the temporary investment thereof, as provided in the Indenture. In order to secure the payment of the principal of, premium, if any, and interest on the Bonds, such rights, proceeds and investment income are hereby pledged to the extent and for the purposes as provided in the Indenture and are hereby appropriated for the purposes set forth in the Indenture. Nothing contained in this ordinance shall limit or restrict the subordination of the pledge of such rights, proceeds and investment income as set forth in the Indenture to the payment of any other obligations of the City enjoying a lien or claim on such rights, proceeds and investment income as of the date of issuance of the Bonds, all as shall be determined by the Authorized Officer at the time of the sale of the Bonds and the Authorized Officer is hereby authorized to enter into an Intercreditor Agreement which sets forth the priority of liens so determined. The execution of the Intercreditor Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the terms provided in the Intercreditor Agreement. The Indenture shall set forth such covenants with respect to the application of such rights, proceeds and investment income as shall be deemed necessary by the Authorized Officer in connection with the sale of the Bonds issued thereunder.

SECTION 5. Limited Obligations. The Bonds, when issued and outstanding, will be a limited obligation of the City, payable solely as provided in each Indenture. The Bonds and the interest thereon shall never constitute a debt or general obligation or a pledge of the faith, the credit or the taxing power of the City within the meaning of any constitutional or statutory provision of the State of Illinois. The City shall not be liable on the Bonds, nor shall the Bonds be payable out of any funds of the City other than those pledged therefor pursuant to the terms of each Indenture hereinafter described.

SECTION 6. Assignment Of Rights. The right, title and interest of the City (except for certain rights to notice, involvement in certain discussions related to the Bonds, indemnification, and reimbursement) in, to and under the Loan Agreement, and the revenues to be derived by the City thereunder will be assigned to the Trustee under the Indenture.

SECTION 7. Sale And Delivery Of Bonds. The Bonds shall be sold and delivered to, or at the direction of, one or more underwriters (the "Underwriters") to be selected by the Authorized Officer, subject to the terms and conditions of a Bond Purchase Agreement among the City, the Borrower and the Underwriters for the Bonds (the "Purchase Agreement"), or, alternatively, are hereby authorized to be sold and delivered directly to one or more investors to be selected by the Authorized Officer subject to the terms and conditions

of the Purchase Agreement. The Authorized Officer is authorized to execute and deliver on behalf of the City, with the concurrence of the Chairman of the Committee on Finance of the City Council, the Purchase Agreement in substantially the form of bond purchase agreements used in previous sales of bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the fact that the Bonds may be sold to certain institutional investors, and with such other revisions in text as the Authorized Officer shall determine are necessary or desirable in connection with the sale of the Bonds. The execution of the Purchase Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the terms provided in the Purchase Agreement. The distribution of the Preliminary Official Statement, if any, and the Official Statement or any other placement document to prospective purchasers of the Bonds and the use thereof by the Underwriters in connection with the offering and sale of the Bonds are hereby authorized, provided that the City shall not be responsible for the content of any Preliminary Official Statement or of the Official Statement or any other placement document, except as specifically provided in the Purchase Agreement executed by the Authorized Officer, and provided further that, if the Bonds are sold directly to institutional investors, the City may forego the use of an Official Statement, but only if such institutional investors execute and deliver to the City "sophisticated investor" letters satisfactory to the Authorized Officer. The compensation paid to the Underwriters in connection with the sale of the Bonds shall not exceed three percent (3%) of their aggregate principal amount. In connection with the offer and delivery of the Bonds, the Authorized Officer, and such other officers of the City as may be necessary, are authorized to execute and deliver such instruments and documents as may be necessary to implement the transaction and to effect the issuance and delivery of the Bonds. Any limitation on the amount of Bonds issued pursuant to this ordinance as set forth herein shall be exclusive of any original issue discount or premium.

SECTION 8. Notification Of Sale. Subsequent to the sale of the Bonds, the Authorized Officer shall file in the Office of the City Clerk a Notification of Sale for the Bonds directed to the City Council setting forth (i) the aggregate original principal amount of, maturity schedule, redemption provisions for and nature of the Bonds sold, (ii) the extent of any tender rights to be granted to the holder of the Bonds, including, without limitation, the right of the holder to tender the Bonds in exchange for one or more mortgage certificates held by the Trustee under the Indenture, (iii) the identity of the Trustee, (iv) the interest rates on the Bonds, (v) the identity of any Underwriters or institutional investors who purchase the Bonds directly from the City or through the Underwriters, and (vi) the compensation paid to the Underwriters in connection with such sale. There shall be attached to such notification the final form of the Indenture.

SECTION 9. Administrative Fee. D.C.D. is hereby authorized to charge an administrative fee or fees in connection with the issuance of the Bonds, which shall be collected under such terms and conditions as determined by the D.C.D. and which shall be in an amount as determined by the D.C.D. but not to exceed the maximum amount permitted under Section 148 of the Code to avoid characterization of the bonds as "arbitrage bonds" as defined in such Section 148. Such administrative fee or fees shall be used by D.C.D. for administrative expenses and other housing activities.

SECTION 10. Execution Of Bonds. The Bonds shall be executed by manual or facsimile signature of the Mayor of the City or the Authorized Officer, and the seal of the City shall be affixed or imprinted and attested to by the manual or facsimile signature of the City Clerk or any Deputy Clerk, as set forth in the related Indenture, and the same shall be delivered to the Trustee for proper authentication and delivery upon instructions to that effect.

SECTION 11. Appointment Of Trustee. Seaway Bank & Trust Company is hereby designated to serve as Trustee.

SECTION 12. D.C.D. Approval.

(a) Upon the approval and availability of the additional financing as shown on Exhibit A-1 hereto, the Commissioner of D.C.D. or the Acting Commissioner of D.C.D. (the "D.C.D. Commissioner") and any designee of the D.C.D. Commissioner are each hereby authorized, subject to approval by the Corporation Counsel, to enter into and execute such agreements and instruments, and perform any and all acts as shall be necessary or advisable in connection with the implementation of the Affordable Housing Loan and the terms and program objectives of the HOME Program and/or the Multi-Program. The execution of such agreements and instruments and the performance of such acts shall be conclusive evidence of such approval. The D.C.D. Commissioner is hereby authorized, subject to the approval of the Corporation Counsel, to negotiate any and all terms and provisions in connection with the Affordable Housing Loan, which do not substantially modify the terms described in Exhibit A-1 hereto. Upon the execution and receipt of proper documentation, the D.C.D. Commissioner is hereby authorized to disburse the proceeds to the Borrower.

(b) In connection with the Affordable Housing Loan by the City to the Borrower, the City shall waive those certain fees, if applicable, imposed by the City with respect to the Project and as more fully described in Exhibit A-2 attached hereto. The Project shall be deemed to qualify as "Affordable Housing" for purposes of Chapter 16-18 of the Municipal Code of Chicago (the "Municipal Code"). Section 2-45-110 of the Municipal Code shall not apply to the Project or the Property.

SECTION 13. Public Hearing. This City Council hereby directs that the Bonds shall not be issued unless and until the requirements of Section 147(1) of the United States Internal Revenue Code, including particularly the approval requirement following any required public hearing, have been fully satisfied, and that no contract, agreement or commitment to issue the Bonds shall be executed or undertaken prior to satisfaction of the requirements of said Section 147(f) unless the performance of said contract, agreement or commitment is expressly conditioned upon the prior satisfaction of such requirements. All such actions taken prior to the enactment of this ordinance are hereby ratified and confirmed.

SECTION 14. Further Assurances. The Authorized Officer, the D.C.D. Commissioner, the City Clerk and any Deputy Clerk of the City are hereby designated the authorized representatives of the City, and each of them is hereby authorized and directed to do any and

all things necessary to effect the performance of all obligations of the City under and pursuant to this ordinance and the performance of all other acts of whatever nature necessary to effect and carry out the authority conferred by this ordinance, including, but not limited to, the exercise following the delivery date of any of the Bonds of any power or authority delegated to such official of the City under this ordinance with respect to the Bonds upon the initial issuance thereof, but subject to any limitations on or restrictions of such power or authority as herein set forth. The Authorized Officer, the D.C.D. Commissioner, the City Clerk, any Deputy City Clerk and the other officers, agents and employees of the City are hereby further authorized, empowered and directed, for and on behalf of the City, to execute and deliver all papers, documents, certificates and other instruments that may be required to carry out the authority conferred by this ordinance or to evidence said authority, including, without limitation, any documents necessary to evidence the receipt or assignment of any collateral for the Bonds from the Borrower.

SECTION 15. Severability. The provisions of this ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereof; provided that no holding of invalidity shall require the City to make any payments from revenues other than those derived from the Loan Agreement.

SECTION 16. No Recourse. No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this ordinance, the Indenture, the Loan Agreement, the Purchase Agreement or the Tax Agreement against any past, present or future officer, member or employee of the City, or any officer, employee, director or trustee of any successor, as such, either directly or through the City, or any such successor, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such member, officer, employee, director or trustee as such is hereby expressly waived and released as a condition of and consideration for the execution of the Indentures, the Loan Agreement, the Purchase Agreement and the Tax Agreement and the issuance of the Bonds.

SECTION 17. Volume Cap. The Bonds are obligations taken into account under Section 146 of the Code in the allocation of the City's volume cap.

SECTION 18. Developer Designation. The Developer is hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 19. Redevelopment Agreement. The D.C.D. Commissioner or a designee of the D.C.D. Commissioner is each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between the Borrower, the General Partner and/or the Member, or any combination of the foregoing, and the City, substantially in the form attached hereto as Exhibit E and made a part hereof (the "Redevelopment Agreement"), with such modifications as may be required in connection with (i) the Freddie Mac credit enhancements related to the Bonds and (ii) the U.S. Department of Housing and Urban Development Green Retrofit

Program financing (each as further described in Exhibit A-1), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 20. Payment Of Wilson Yard Incremental Taxes. The City Council of the City hereby finds that the City is authorized to pay an amount not to exceed Three Million Dollars (\$3,000,000) from Wilson Yard Incremental Taxes as the City Funds (as defined in the Redevelopment Agreement) to finance a portion of the eligible costs included within the Project. The City Funds are hereby appropriated for the purposes set forth in this Section.

SECTION 21. Repealer. All ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 22. Effect Of Municipal Code. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to impair the rights of the owners of the Bonds to receive payment of the principal of, premium, if any, or interest on the Bonds or to impair the security for the Bonds; provided further that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code.

SECTION 23. Proxies. The Mayor and the Authorized Officer may each designate another to act as their respective proxy and to affix their respective signatures to, in the case of the Mayor, each Bond, whether in temporary or definitive form, and to any other instrument, certificate or document required or authorized to be signed by the Mayor or the Authorized Officer pursuant to this ordinance. In each case, each shall send to the City Council written notice of the person so designated by each, such notice stating the name of the person so selected and identifying the instruments, certificates and documents which such person shall be authorized to sign as proxy for the Mayor or the Authorized Officer, respectively. A written signature of the Mayor or the Authorized Officer, respectively, executed by the person so designated underneath, shall be attached to each notice. Each notice, with signatures attached, shall be recorded in the *Journal of the Proceedings of the City Council of the City of Chicago* and filed with the Office of the City Clerk. When the signature of the Mayor is placed on an instrument, certificate or document at the direction of the Mayor in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Mayor in person. When the signature of the Authorized Officer is placed on an instrument, certificate or document at the direction of the Authorized Officer in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Authorized Officer in person.

SECTION 24. Effective Date. This ordinance shall be in full force and effect immediately upon its passage and approval.

Exhibits "A-1", "A-2", "B", "C", "D" and "E" referred to in this ordinance read as follows:

Exhibit "A-1".
(To Ordinance)

Affordable Housing Loan.

Source: HOME Program, Corporate Funds, Program Income and/or Multi-Program Funds.

Amount: Not to exceed \$7,500,000.

Term: Not to exceed 42 years.

Interest: 0% per annum.

Security: For the Sheridan Building, a mortgage no lower priority than a fourth mortgage during the construction phase and a mortgage no lower priority than a third mortgage during the permanent period.

For the Eastwood Building, a mortgage no lower priority than a fifth mortgage during the construction phase and a mortgage no lower priority than a fourth mortgage during the permanent phase.

Additional Financing.

1. The Bonds, as described in this ordinance. The Bonds will be secured by a direct pay Credit Enhancement Agreement between Freddie Mac and the Trustee. In connection with such Credit Enhancement Agreement, the Borrower and Freddie Mac will enter into a Credit Enhancement Agreement ("Credit Enhancement Agreement"). The Borrower's obligations under the Credit Enhancement Agreement will be secured by a second mortgage on the Property.

In addition, Bank of America, N.A., or such entity acceptable to the D.C.D. Commissioner, will, during the construction phase, issue or arrange for issuance to Freddie Mac of an unconditional and irrevocable, standby letter of credit ("Construction Phase Credit Facility") to secure Freddie Mac against loss it may incur during the construction phase. In connection with such Construction Phase Credit Facility, the Borrower and Bank of America, N.A., or such entity acceptable to the D.C.D. Commissioner, will enter into a Reimbursement Agreement ("Reimbursement Agreement"). The Borrower's obligations under the Reimbursement Agreement will be secured by a third mortgage on the Property during the construction phase.

2. Low-Income Housing Tax Credits.

Amount: Approximately \$12,000,000 or such amount as acceptable to the D.C.D. Commissioner, a portion of which will be applied to the payment of a portion of Bonds.

Source: To be derived from the syndication of Low-Income Housing Tax Credits allocated to the Project.

3. Historic Tax Credits.

Amount: Approximately \$1,200,000 or such amount as acceptable to the D.C.D. Commissioner.

4. Tax Increment Financing ("T.I.F.").

Amount: Approximately \$3,000,000* of T.I.F. proceeds granted to the General Partner or the Member and contributed as capital to the Borrower or loaned to the Borrower, or another source acceptable to the D.C.D. Commissioner

Term: Not applicable.

Interest: None.

Security: None.

5. H.U.D. Green Retrofit Program Loan.

Amount: Approximately \$2,295,000 or such amount as acceptable to the D.C.D. Commissioner.

Source: U.S. Department of Housing and Urban Development or such entity acceptable to the D.C.D. Commissioner.

Interest: 1% per annum or such rate or rates acceptable to the D.C.D. Commissioner.

Term: Not to exceed 42 years.

Security: Non-recourse mortgage on the Eastwood Building with a fourth mortgage priority position during the construction phase and a third mortgage priority position during the permanent period.

* on the closing date, the Member will provide seller financing of Three Million Dollars (\$3,000,000) through the acceptance of a promissory note from the Borrower to be repaid in installments with the T.I.F. financing.

6. General Partner Capital, Subordinate Loans and/or Member Additional Seller Financing.

Amount: Approximately \$2,038,652 or such amount as acceptable to the D.C.D. Commissioner.

Source: A capital contribution by the General Partner to the Borrower or a loan or loans from the Member to the Borrower or, or any combination of the foregoing, derived from (i) proceeds granted to the Member by United Northeastwood Limited Partnership from the sale of donation tax credits allocated by the Illinois Housing Development Authority in connection with the Project in the amount of approximately \$966,875, (ii) proceeds from various energy grants in connection with the Project in the aggregate amount of approximately \$1,071,777; and or another source or sources acceptable to the D.C.D. Commissioner and (iii) seller financing from M.H.L. or the General Partner in such an amount acceptable to the D.C.D. Commissioner.

Interest: Any loan to bear interest at 0% per annum or such rate or rates acceptable to the D.C.D. Commissioner.

Term: Any loan not to exceed 42 years.

Security: Any loan to be secured by a mortgage on the Project junior to the lien of the City Mortgage.

Exhibit "A-2".

Fee Waivers.

Department Of Construction And Permits.

Waiver of Plan Review, Permit and Inspection Fees:

A. Building Permit.

Zoning.

Construction/Architectural/Structural.

Internal Plumbing.

H.V.A.C.

Water for Construction.

Smoke Abatement.

- B. Electrical Permit: Service and Wiring.
- C. Elevator Permit (if applicable).
- D. Wrecking Permit (if applicable).
- E. Fencing Permit (if applicable).
- F. Fees for the review of building plans for compliance with accessibility codes by the Mayor's Office for People with Disabilities imposed by Section 13-32-310(2) of the Municipal Code of Chicago.

Department Of Water Management.

Tap Fees.

Cut and Seal Fees.

(Fees to purchase B-boxes and remote readouts are not waived.)

Permit (connection) and Inspection Fees.

Sealing Permit Fees.

Department Of Transportation.

Street Opening Fees.

Driveway Permit Fees.

Use of Public Way Fees.

*Exhibit "B".
(To Ordinance)*

Trust Indenture.

THIS TRUST INDENTURE (this "Indenture"), made and entered into as of _____, 20__, by and between the **CITY OF CHICAGO, ILLINOIS** (the "Issuer"), an Illinois municipal corporation and home rule unit duly organized and existing under the laws of the State of Illinois (the "State"), and **SEAWAY BANK & TRUST COMPANY**, a state-chartered banking association, duly organized and existing under the laws of the State of Illinois and authorized to accept and execute trusts of the character herein set out, with its principal office in Chicago, Illinois, as trustee ("Trustee"),

WITNESSETH:

WHEREAS, pursuant to the Issuer's home rule powers and this Indenture, the Issuer has determined to issue its Multifamily Housing Revenue Bonds (Mercy Preservation Project) 20__ Series (the "Bonds") in the original aggregate principal amount of \$_____ to provide for the financing of a multifamily rental housing development located at 850 West Eastwood Avenue and a multifamily rental housing development located at 4946 N. Sheridan both located in the City of Chicago, Illinois (collectively, the "Project"); and

WHEREAS, pursuant to a Loan Agreement dated as of _____, 20__ (the "Loan Agreement") among the Issuer, HWA - 850 Eastwood Limited Partnership, an Illinois limited partnership duly organized and existing under the laws of the State of Illinois (the "Borrower"), and the Trustee, the Issuer has agreed to use the proceeds of the sale of Bonds to make a mortgage loan in the principal amount of \$_____ (the "Bond Mortgage Loan") to the Borrower in connection with the Project; and

WHEREAS, the Borrower has agreed to use the proceeds of the Bond Mortgage Loan to finance the acquisition, construction, rehabilitation and equipping of the Project and to pay certain costs of issuance of the Bonds; and

WHEREAS, the Borrower's repayment obligations in respect of the Bond Mortgage Loan will be evidenced by a Bond Mortgage Note dated _____, 20__ (together with all riders and addenda thereto, the "Bond Mortgage Note") delivered to the Issuer, which Bond Mortgage Note will be endorsed by the Issuer to the Trustee pursuant to this Indenture; and

WHEREAS, the Borrower will cause to be delivered to the Trustee on the date of initial issuance of the Bonds (the "Delivery Date") a direct pay Credit Enhancement Agreement dated as of _____, 20__ (the "Credit Enhancement Agreement") between the Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Trustee which will provide for draws in an amount equal to Guaranteed Payments with respect to the Bond Mortgage Loan; and

WHEREAS, the Borrower's reimbursement obligations to Freddie Mac for draws made under the Credit Enhancement Agreement will be evidenced by a Reimbursement and Security Agreement dated as of _____, 20__ (the "Reimbursement Agreement") between the Borrower and Freddie Mac; and

WHEREAS, to secure the Borrower's obligations under the Bond Mortgage Note, the Borrower will execute and deliver to the Issuer one or more Multifamily Mortgage, Assignment

of Rents and Security Agreement, dated as of _____, 20__ (the "Bond Mortgage") with respect to the Project, which Bond Mortgage will be assigned to the Trustee; and

WHEREAS, to secure the Borrower's reimbursement obligations under the Reimbursement Agreement, the Borrower will execute and deliver to Freddie Mac on the Delivery Date one or more [Multifamily Mortgage, Assignment of Rents and Security Agreement,] dated _____, 20__ (the "Reimbursement Mortgage") with respect to the Project; and

WHEREAS, the Issuer, the Trustee, the Construction Phase Credit Facility Provider and Freddie Mac have also entered into an Intercreditor Agreement dated as of _____, 20__ (the "Intercreditor Agreement") in connection with Freddie Mac's provision of credit enhancement; and

WHEREAS, at the request of the Borrower, the Construction Phase Credit Facility Provider will (a) enter into the Construction Phase Credit Reimbursement Agreement with the Borrower, (b) enter into the Construction Phase Loan Agreement with Freddie Mac, and (c) issue or arrange for issuance of the Construction Phase Credit Facility to Freddie Mac; and

WHEREAS, if the Servicer issues the Conversion Notice prior to the Forward Commitment Maturity Date, the Bond Mortgage Loan will convert from the Construction Phase to the Permanent Phase; and

WHEREAS, if the Conversion Notice is not issued on or prior to the Forward Commitment Maturity Date (a) Conversion will not occur, (b) the Bonds will be subject to mandatory redemption, unless the Bonds are purchased by or for the account of the Construction Phase Credit Facility Provider in accordance with Section 3.08 hereof, and (c) the Credit Facility will terminate; and

WHEREAS, the Bonds will be secured by, among other property comprising the Trust Estate and the security for the Bonds, the following: (a) the Bond Mortgage Note, (b) the Bond Mortgage; (c) the Credit Facility providing credit enhancement for the Bond Mortgage Loan, (d) the amounts on deposit in the Bond Mortgage Loan Fund, to the extent not disbursed pursuant to the terms and conditions hereof, (e) the Revenues and any other moneys received by the Trustee for the payment of the principal of and interest on the Bonds, (f) amounts otherwise on deposit in the funds and accounts (other than moneys on deposit from time to time, in the Rebate Fund, the Cost of Issuance Fund and the Administration Fund), and (g) investment income (excluding Investment Income earned on amounts on deposit in the Rebate Fund and Investment Income earned on amounts on deposit in the Costs of Issuance Fund); and

WHEREAS, the acquisition, rehabilitation, development and operation of the Project will be regulated by, among other documents, the terms of the Loan Agreement and the Tax Regulatory Agreement; and

WHEREAS, to further secure Freddie Mac against any loss Freddie Mac may incur as a result of advancing funds under the Credit Enhancement Agreement, and to facilitate the financing of the Bond Mortgage Loan, during the Construction Phase, Bank of America, N.A., or such entity as acceptable to the City's Commissioner of the Department of Community

Development (the "Construction Phase Credit Facility Provider"), at the request of the Borrower, will (a) enter into a _____ dated as of the date hereof (the "Construction Phase Credit Reimbursement Agreement") with the Borrower, (b) enter into a Construction Phase Financing Agreement dated as of the date hereof (the "Construction Phase Loan Agreement") with Freddie Mac, and (c) issue or arrange for issuance to Freddie Mac of a clean unconditional and irrevocable, standby letter of credit (the "Construction Phase Credit Facility"); and

WHEREAS, during the Construction Phase, the Construction Phase Credit Facility Provider shall serve as the construction loan administrator and be responsible for providing inspection oversight of the Project, including monitoring of disbursement of the Bond Mortgage Loan proceeds to the Borrower, in accordance with the terms of this Indenture, the Construction Phase Credit Reimbursement Agreement and the Construction Phase Loan Agreement; and

WHEREAS, during the Permanent Phase, PNC Bank, N.A. (the "Servicer") will act as servicer for the Bond Mortgage Loan; and

WHEREAS, the Issuer, the Trustee, Freddie Mac and the Construction Phase Credit Facility Provider have also entered into an Intercreditor Agreement dated as of the date hereof (the "Intercreditor Agreement") in connection with Freddie Mac's delivery of the Credit Enhancement Agreement and the Construction Phase Credit Facility Provider's provision of the Construction Phase Credit Facility; and

WHEREAS, the Issuer has determined that all things necessary to make the Bonds, when executed by the Issuer and authenticated by the Trustee and issued in accordance with this Indenture, valid, binding and legal obligations of the Issuer and to constitute this Indenture a valid lien on the properties, interests, revenues and payments herein pledged to the payment of the principal of, premium, if any, on, and interest on, the Bonds, have been duly taken, and the creation, execution and delivery of this Indenture and the execution and delivery of the Bonds, subject to the terms of this Indenture, have been duly authorized by the Issuer; and

WHEREAS, the Trustee has trust powers and the power and authority to enter into this Indenture, to accept trusts generally and to accept and execute the trust created by this Indenture; the Trustee has accepted the trust so created and, to evidence such acceptance, has joined in the execution of this Indenture.

NOW, THEREFORE, the Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and of the sum of one dollar, lawful money of the United States of America, to it duly paid by the Trustee at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Bonds according to their tenor and effect, the payment to Freddie Mac of the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee (as such terms are hereinafter defined) in accordance with the provisions hereof and of the Credit Enhancement Agreement and the Reimbursement Agreement, or the payment of amounts due and owing to any other Credit Facility Provider following termination of the Credit Enhancement Agreement, and the performance and observance by the Issuer of all the covenants expressed or implied herein

and in the Bonds, does hereby grant, bargain, sell, convey, pledge and assign a security interest, unto the Trustee, and its successors in trust and its and their assigns in and to the following (said property being herein referred to as the "Trust Estate"), to wit:

GRANTING CLAUSE FIRST

All right, title and interest of the Issuer in and to all Revenues.

GRANTING CLAUSE SECOND

All right, title and interest of the Issuer in and to the Loan Agreement, the Bond Mortgage Note, the Bond Mortgage and the Credit Facility (other than the Unassigned Rights), including all extensions and renewals of the terms thereof, if any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the money, income, revenues, issues, profits and other amounts payable or receivable thereunder (including all casualty insurance benefits or condemnation awards subject to the interest of the Credit Facility Provider under the Reimbursement Agreement and the Intercreditor Agreement), whether payable under the above-referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer or any other Person is or may become entitled to do under said documents.

GRANTING CLAUSE THIRD

Except for funds, money or securities in the Cost of Issuance Fund, the Administration Fund and the Rebate Fund, all funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Bonds by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

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

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Holders of the Bonds issued under and secured by this Indenture without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the other Bonds, except as set forth in this Indenture, and for the benefit, security and protection of the Credit Facility Provider to the extent of its interests hereunder and under the Reimbursement Agreement and the Intercreditor Agreement;

PROVIDED, HOWEVER, that if the Issuer or its successors or assigns shall pay or cause to be paid to the Holders of the Bonds the principal, interest and premium, if any, to become due thereon at the times and in the manner provided in Article IX hereof and shall discharge or cause to be discharged any and all obligations to the Credit Facility Provider hereunder and under the Reimbursement Agreement, and if the Issuer shall keep, perform and observe, or cause to be

kept, performed and observed, all of its covenants, warranties and agreements contained herein, then these presents and the estate and rights hereby granted shall, at the option of the Issuer, cease, terminate and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and, subject to the provisions of Sections 4.09, 4.11 and 4.12 hereof and Article IX hereof, reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any property at the time subject to the lien of this Indenture which may then be in its possession, except for the Rebate Fund and cash held by the Trustee for the payment of interest on and principal of the Bonds or for payment of amounts payable to the Credit Facility Provider; otherwise this Indenture to be and remain in full force and effect and upon the trusts and subject to the covenants and conditions hereinafter set forth.

AND IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto, that the terms and provisions upon which the Bonds are to be issued, executed, authenticated, delivered and secured, and the trusts and conditions upon which the Trust Estate is to be held and disposed of, which said trusts and conditions the said Trustee hereby accepts and agrees to discharge, are as follows (except that in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money shall not be a general obligation of the Issuer nor a debt or pledge of the faith and credit of the Issuer or the State, but shall be payable solely from the revenues and funds pledged for its payment in accordance with this Indenture):

ARTICLE I DEFINITIONS

Section 1.01. *Definitions.*

The terms used in this Indenture (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified below:

"Actual Bond Mortgage Loan Amount" means the amount of the Bond Mortgage Loan that shall be outstanding on the Conversion Date as determined by Freddie Mac in accordance with the Construction Phase Loan Agreement.

"Administration Fund" means the Administration Fund established by the Trustee pursuant to Section 4.01 hereof.

"Alternate Credit Facility" means a letter of credit, surety bond, insurance policy, standby purchase agreement, guaranty, mortgage-backed security or other credit facility, collateral purchase agreement or similar agreement issued by a financial institution (including without limitation Freddie Mac) which provides security for the payment of (a) the principal of and interest on the Bonds (but in no case less than all of the Outstanding Bonds when due) or (b) the Bond Mortgage Loan in an amount not less than the Guaranteed Payment, which Alternate Credit Facility is provided in accordance with Section 5.4 of the Loan Agreement.

"Alternate Credit Facility Provider" means the provider of an Alternate Credit Facility.

"Authorized Denomination" means \$5,000 principal amount or any integral multiple thereof.

"Authorized Officer" means (a) when used with respect to the Issuer, the Mayor, Chief Financial Officer or Comptroller and such additional Person or Persons, if any, duly designated by the Issuer in writing to act on its behalf, (b) when used with respect to the Borrower, the general partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (c) when used with respect to the Trustee, any authorized signatory of the Trustee, or any Person who is authorized in writing to take the action in question on behalf of the Trustee, (d) when used with respect to the Servicer, any Person or Persons duly designated by the Servicer in writing to act on its behalf, and (e) when used with respect to the Credit Facility Provider, any Person who is authorized in writing to take the action in question on behalf of the Credit Facility Provider.

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

"Bond Counsel" means (i) on the Delivery Date, the law firm or law firms delivering the approving opinion(s) with respect to the Bonds, or (ii) any other firm of attorneys selected by the Issuer that is experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer's Municipal Marketplace and is acceptable to the Credit Facility Provider.

"Bond Fee Component" means the regular, ongoing fees due from time to time to the Issuer, the Trustee, the Dissemination Agent, the Custodian and the Rebate Analyst, if any, expressed as a flat, fixed amount or in terms of a percentage of the principal amount of Outstanding Bonds on an annual basis.

"Bond Financing Documents" means, collectively, this Indenture, the Bonds, the Loan Agreement, the Tax Certificate, the Continuing Disclosure Agreement and the Bond Mortgage Loan Documents.

"Bond Fund" means the Bond Fund established by the Trustee pursuant to Section 4.01 hereof.

"Bondholder" or *"Holder"* or *"Owner"* means any Person who shall be the registered owner of any Outstanding Bond or Bonds.

"Bond Mortgage" means one or more Multifamily Mortgage, Assignment of Rents and Security Agreement dated as of _____, 20__, together with all riders and addenda thereto, granting a first priority mortgage and security interest in the Project to the Issuer to secure the repayment of the Bond Mortgage Loan which Bond Mortgage has been assigned by the Issuer to the Trustee as the same may be amended, supplemented or restated.

"Bond Mortgage Loan" means the loan made by the Issuer to the Borrower in the original principal amount of \$ _____ pursuant to the Loan Agreement.

"Bond Mortgage Loan Documents" means the Bond Mortgage, the Bond Mortgage Note, the Loan Agreement, the Tax Regulatory Agreement, any Custodial Escrow Agreement, the Credit Facility, the Reimbursement Agreement, the Reimbursement Mortgage, the Intercreditor Agreement, the Pledge Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Bond Mortgage Loan or any portion thereof, or evidencing, securing or otherwise relating to the Borrower's obligations to the Credit Facility Provider in connection with the delivery of the Credit Facility.

"Bond Mortgage Loan Fund" means the Bond Mortgage Loan Fund established by the Trustee pursuant to Section 2.11 hereof.

"Bond Mortgage Note" means the Bond Mortgage Note dated _____, 20__ from the Borrower, including all riders and addenda thereto, evidencing the Borrower's obligation to repay the Bond Mortgage Loan, as the same may be amended, supplemented or restated from time to time, which Bond Mortgage Note will be delivered to the Issuer and endorsed by the Issuer to the Trustee.

"Bond Ordinance" means the ordinance adopted by the City Council of the Issuer authorizing the issuance of the Bonds.

"Bond Register" means the books or other records maintained by the Bond Registrar setting forth the registered Holders from time to time of the Bonds.

"Bond Registrar" means the Trustee acting as such, and any other bond registrar appointed pursuant to this Indenture.

"Bonds" means the City of Chicago, Illinois Multifamily Housing Revenue Bonds (Mercy Preservation Project) 20__ Series issued pursuant to the provisions of this Indenture.

"Bond Year" means, with respect to an issue of Bonds, each one-year period that ends at the close of business on the day in the calendar year that is selected by Borrower as indicated in the Tax Certificate. The first and last Bond Years may be short periods. If no day is selected by Borrower before the earlier of the final maturity of an issue of Bonds or the date that is five years after the Delivery Date of such issue of Bonds, each Bond Year ends on each anniversary of the Delivery Date for such issue of Bonds and on the final maturity of such issue of Bonds.

"Borrower" means HWA – 850 Eastwood Limited Partnership, an Illinois limited partnership duly organized and existing under the laws of the State of Illinois, or any of its permitted successors or assigns, as owner of the Project.

"Borrower Default" has the meaning given to that term in the Construction Phase Loan Agreement.

"Business Day" means any day other than (a) a Saturday, (b) a Sunday, (c) a day on which the Federal Reserve Bank of New York (or other agent acting as the Credit Facility Provider's fiscal agent identified to the Trustee) is authorized or obligated by law or executive

order to remain closed, (d) a day on which the Principal Office of the Credit Facility Provider or the Construction Phase Credit Facility Provider is closed or (e) a day on which (i) banking institutions in the City of New York or in the city in which the Principal Office of the Trustee, the Credit Facility Provider or the Construction Phase Credit Facility Provider is located are authorized or obligated by law or executive order to be closed or (ii) the New York Stock Exchange is closed.

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

"Code" means the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

"Conditions to Conversion" has the meaning given to that term in the Construction Phase Loan Agreement.

"Construction Phase" has the meaning given to that term in the Construction Phase Loan Agreement.

"Construction Phase Credit Documents" means, individually and collectively, the Construction Phase Loan Agreement, the Construction Phase Credit Facility, the Construction Phase Credit Reimbursement Agreement and all other documents evidencing, securing or otherwise relating to the Construction Phase Credit Facility, including all amendments, modifications, supplements and restatements of such documents.

"Construction Phase Credit Facility" means the Letter of Credit or any replacement construction phase credit facility acceptable to the Credit Facility Provider.

"Construction Phase Credit Facility Provider" means Bank of America, N.A., a national banking association, organized and operating under the laws of the United States of America, and its successors and assigns, or such entity as acceptable to the City's Commissioner of the Department of Community Development, as provider of the Construction Phase Credit Facility.

"Construction Phase Credit Reimbursement Agreement" means the Reimbursement Agreement between the Borrower and the Construction Phase Credit Facility Provider, as such agreement may be amended, modified, supplemented or restated from time to time.

"Construction Phase Loan Agreement" means the Construction Phase Financing Agreement, dated as of _____, 20__, by and between the Freddie Mac and the Construction Phase Credit Facility Provider, as such agreement may be amended, modified, supplemented or restated from time to time.

“*Conversion*” means the conversion of the Bond Mortgage Loan from the Construction Phase to the Permanent Phase.

“*Conversion Date*” means the first day of the month following the month in which the Conversion Notice is issued by the Servicer or such other date as is approved by Freddie Mac.

“*Conversion Notice*” means a written notice by the Servicer to the Issuer, the Trustee, the Borrower, the Construction Phase Credit Facility Provider and the Credit Facility Provider given prior to the Forward Commitment Maturity Date (a) stating that each of the Conditions to Conversion has been satisfied prior to the Forward Commitment Maturity Date or, if any Condition to Conversion has not been satisfied prior to the Forward Commitment Maturity Date, has been waived in writing by the Credit Facility Provider prior to the Forward Commitment Maturity Date, and (b) specifying the Conversion Date.

“*Continuing Disclosure Agreement*” means the Continuing Disclosure Agreement dated as of the date hereof between the Borrower and the Dissemination Agent, as such Continuing Disclosure Agreement may from time to time be amended or supplemented.

“*Cost,*” “*Costs*” or “*Costs of the Project*” means costs paid with respect to the Project that are (i) properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general Federal income tax principles and in accordance with United States Treasury Regulations Section 1.103-8(a)(1), (ii) are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) are paid after the earlier of 60 days prior to the date of a resolution of the Issuer to reimburse costs of the Project with proceeds of Bonds or the date of issue of the Bonds, and (iv) if the Costs of the Project were previously paid and are to be reimbursed with proceeds of the Bonds such costs were (A) costs of issuance of the Bonds, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or rehabilitation of the Project that do not exceed twenty percent (20%) of the issue price of the Bonds (as defined in United States Treasury Regulations Section 1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid).

“*Cost of Issuance Fund*” means the Cost of Issuance Fund established by the Trustee pursuant to Section 4.01 hereof.

“*Costs of Issuance*” means (i) the fees (excluding ongoing fees), costs and expenses of (a) the Issuer, the Issuer’s counsel and the Issuer’s financial advisor, (b) the Underwriter (including discounts to the Underwriter or other purchasers of the Bonds, other than original issue discount, incurred in the issuance and sale of the Bonds) and the Underwriter’s counsel, (c) Bond Counsel, (d) the Trustee and the Trustee’s counsel, (e) the Servicer and the Servicer’s counsel, if any, (f) the Credit Facility Provider and the Credit Facility Provider’s counsel, (g) the

Borrower's counsel and the Borrower's financial advisor, if any, (h) the Construction Phase Credit Facility Provider and the Construction Phase Credit Facility Provider's counsel and (i) the Rating Agency, (ii) costs of printing the offering documents relating to the sale of the Bonds and (iii) all other fees, costs and expenses directly associated with the authorization, issuance, sale and delivery of the Bonds, including, without limitation, printing costs, costs of reproducing documents, filing and recording fees.

"Costs of Issuance Deposit" means the deposit to be made by the Borrower with the Trustee on the Delivery Date, which deposit shall equal \$[] comprised of sources other than the proceeds of the Bonds.

"Credit Enhancement Agreement" means the Credit Enhancement Agreement dated as of _____, 20__, between Freddie Mac and the Trustee, as such Credit Enhancement Agreement may from time to time be amended or supplemented.

"Credit Facility" means the Credit Enhancement Agreement or any Alternate Credit Facility at that time in effect.

"Credit Facility Provider" means, so long as the Credit Enhancement Agreement is in effect, Freddie Mac, or so long as any Alternate Credit Facility is in effect, the Credit Facility Provider then obligated under the Alternate Credit Facility.

"Custodial Escrow Account" means, collectively, the account or accounts established and held by the Servicer, from and after the Conversion Date in accordance with the Guide or otherwise, for the purpose of funding (a) escrows for taxes, insurance and related payments and costs, if required by the Credit Facility Provider, (b) a reserve for replacements for the Project, if required by the Credit Facility Provider, and (c) a debt service reserve for the Bond Mortgage Loan, if required by the Credit Facility Provider.

"Custodial Escrow Agreement" means any agreement (which agreement may be the Guide) pursuant to which a Custodial Escrow Account is established and maintained.

"Custodian" means Seaway Bank & Trust Company, not in its individual capacity but solely in its capacity as collateral agent for the Credit Facility Provider, under the Pledge Agreement.

"Dated Date" means the Delivery Date.

"Delivery Date" means _____, 20__, the date of initial delivery of the Bonds to the initial purchasers thereof against payment therefor.

"Direction to Draw" has the meaning given to that term in the Construction Phase Loan Agreement.

"Dissemination Agent" means initially _____, or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

“*Dissemination Agent’s Fee*” means the annual fee for the Dissemination Agent’s fees and expenses in rendering its services under the Continuing Disclosure Agreement during each twelve-month period, which fee is equal to (and shall not exceed) \$ _____ and shall be payable annually in arrears on each _____ commencing _____, 20__.

“*DTC*” means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds pursuant to Section 2.12 hereof or its successors.

“*Electronic Notice*” means delivery of notice in a Word format or a Portable Document Format (PDF) by electronic mail to the electronic mail addresses listed in Section 11.05; provided, that if a sender receives notice that the electronic mail is undeliverable, notice must be sent as otherwise required by Section 11.05.

“*Eligible Funds*” means (a) proceeds received pursuant to the Credit Facility, (b) proceeds of the Bonds received contemporaneously with the issuance and sale of the Bonds (including any Bond proceeds deposited to the Bond Mortgage Loan Fund on the Delivery Date), (c) proceeds from the investment or reinvestment of money described in clauses (a), (b) and (c) above, or (d) money delivered to the Trustee and accompanied by a written opinion of nationally recognized counsel experienced in bankruptcy matters to the effect that if the Borrower, any general partner, member or guarantor of the Borrower, or the Issuer were to become a debtor in a proceeding under the Bankruptcy Code: (i) payment of such money to holders of the Bonds would not constitute a voidable preference under Section 547 of the Bankruptcy Code and (ii) the automatic stay provisions of Section 362(a) of the Bankruptcy Code would not prevent application of such money to the payment of the Bonds.

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

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

“*Extraordinary Servicing Fees and Expenses*” means all fees and expenses of the Servicer during any Bond Year in excess of Ordinary Servicing Fees and Expenses.

“*Extraordinary Trustee’s Fees and Expenses*” means all those fees, expenses and disbursements earned or incurred by the Trustee as described under Section 7.06 during any Bond Year for Extraordinary Services, as set forth in a detailed invoice to the Borrower and the Credit Facility Provider.

"Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term *"Fair Market Value"* means the acquisition price in a bona fide arm's length transaction (as referenced above) if (a) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (b) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (c) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (d) any commingled investment fund in which the Issuer and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

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

"Forward Commitment" means the commitment from Freddie Mac to the Servicer pursuant to which Freddie Mac has agreed to provide credit enhancement for the Bond Mortgage Loan, as the same may be amended, modified or supplemented from time to time.

"Forward Commitment Maturity Date" means the date which is thirty (30) months following the Delivery Date, unless extended by Freddie Mac in its sole discretion.

"Freddie Mac Credit Enhancement Fee" shall have the meaning given to that term in the Reimbursement Agreement.

"Freddie Mac Credit Enhancement Payment" shall have the meaning given to that term in the Credit Enhancement Agreement.

"Freddie Mac Reimbursement Amount" shall have the meaning given to that term in the Reimbursement Agreement.

"Government Obligations" means investments meeting the requirements of clauses (a) or (b) of the definition of *"Qualified Investments"* herein.

"Guaranteed Payment" means the amount required to be paid to the Trustee pursuant to the Credit Facility, provided that so long as the Credit Enhancement Agreement is the Credit Facility, *"Guaranteed Payment"* shall have the meaning given to that term in the Credit Enhancement Agreement.

"Guide" means the Freddie Mac Delegated Underwriting for Targeted Affordable Housing Guide and Freddie Mac Multifamily Seller/Servicer Guide (as applicable), as the same may be amended, modified or supplemented from time to time.

"HOME Mortgage" means the mortgage securing the loan made by the City of Chicago under the HOME Investment Partnerships Program.

"Indenture" means this Trust Indenture, as the same may have been from time to time amended or modified, together with any other indentures supplemental hereto.

"Information Services" means in accordance with then-current guidelines of the Securities and Exchange Commission, one or more services selected by the Trustee which are then providing information with respect to called Bonds, or, if the Trustee does not select a service, then such service or services as the Issuer may designate in a certificate of the Issuer delivered to the Trustee.

"Intercreditor Agreement" means the Intercreditor Agreement dated as of _____, 20__, among the Issuer, the Trustee, Freddie Mac, and the Construction Phase Credit Facility Provider, as the same may be amended or supplemented.

"Interest Payment Date" means (i) [_____] 1 and [_____] 1 of each year, commencing on the [_____] , (ii) any Substitution Date and the Maturity Date of the Bonds, and (iii) for Bonds subject to redemption but only with respect to such Bonds, the date of redemption (or purchase in lieu of redemption).

"Interest Requirement" means 189 days' interest computed at the interest rate borne by the Bonds.

"Issuer" means the City of Chicago, Illinois, a municipal corporation and home rule unit duly organized and existing under the laws of the State of Illinois.

"Issuer Fee" means [_____].

"Letter of Credit" means the unconditional irrevocable standby letter or letters of credit delivered to Freddie Mac by the Construction Phase Credit Facility Provider in accordance with terms of the Construction Phase Loan Agreement.

"Loan Agreement" means the Loan Agreement dated as of the date hereof among the Borrower, the Issuer and the Trustee, as such Loan Agreement may from time to time be amended or supplemented.

"Maturity Date" means any maturity date of the Bonds set forth in Section 2.01(c) hereof.

"Net Proceeds" when used with respect to any insurance or condemnation award, means the proceeds from the insurance or condemnation award with respect to which that term is used

remaining after payment of all reasonable expenses incurred in the collection of such proceeds, or condemnation award, including reasonable attorney fees.

"Notice of Conversion" means a written notice to be delivered not less than fifteen (15) days prior to the Conversion Date by the Servicer to the Issuer, the Trustee, the Borrower, the Construction Phase Credit Facility Provider and Freddie Mac (i) stating that the Conditions to Conversion have been satisfied or, if any Condition to Conversion has not been satisfied stating that such Condition to Conversion has been waived in writing by Freddie Mac (if a waiver is permitted), (ii) confirming the Conversion Date and (iii) providing an update, as and if necessary, to the schedule of deposits to the Principal Reserve Fund provided for in the Reimbursement Agreement.

"Official Statement" means the Official Statement dated [_____] relating to the sale and issuance of the Bonds, as the same may be supplemented or amended.

"Ordinary Servicing Fees and Expenses" means the ordinary fees payable to the Servicer in connection with the servicing of the Bond Mortgage Loan, under the Guide, payable monthly in arrears as provided in the Reimbursement Agreement.

"Ordinary Trustee's Fees and Expenses" means the annual administration fee for the Trustee's ordinary fees and expenses in rendering its services under this Indenture as Trustee during each twelve month period, which fee is equal to (and shall not exceed) \$[_____] and shall be payable [semi-]annually [in arrears on] [in advance] on the Delivery Date and] each [_____] 1 and] [_____] [thereafter] commencing [_____].

"Outstanding" when used with respect to the Bonds or "Bonds Outstanding" means, as of any date, all Bonds that have been duly authenticated and delivered by the Trustee under this Indenture, except:

a) Bonds surrendered and replaced upon exchange or transfer, or cancelled because of payment or redemption, at or prior to such date;

b) Bonds for the payment, redemption or purchase for cancellation of which sufficient money has been deposited prior to such date with the Trustee (whether upon or prior to the maturity, amortization or redemption date of any such Bonds), or which are deemed to have been paid and discharged pursuant to the provisions of Section 9.01 hereof; provided that if such Bonds are to be redeemed prior to the maturity thereof, other than by scheduled amortization, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee; and

c) Bonds in lieu of which others have been authenticated (or payment, when due, of which is made without replacement) under Section 2.07 hereof; and also except that

d) For the purpose of determining whether the holders of the requisite amount of Bonds Outstanding have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or

pursuant to this Indenture, Bonds known to the Trustee to be owned by or for the account of the Borrower or any Person owned, controlled by, under common control with or controlling the Borrower shall be disregarded and deemed to be not Outstanding, unless all Bonds shall be so owned, and provided that the Trustee has knowledge of the foregoing; provided, further, that all Purchased Bonds shall be deemed to be Outstanding, and the Trustee shall follow any direction provided by the Credit Facility Provider with respect to Purchased Bonds for the purposes hereof (Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee shall establish, to the satisfaction of the Trustee, the pledgee's right to vote such Bonds, and in the event of a dispute as to the existence of such right, any decision by the Trustee taken upon the advice of counsel shall constitute full protection to the Trustee). The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. Beneficial ownership of 5% or more of a class of securities having general voting power to elect a majority of the board of directors of a corporation shall be conclusive evidence of control of such corporation.

"Paying Agent" means the Trustee acting as such, and any other paying agent appointed pursuant to this Indenture.

"Permanent Phase" has the meaning given to that term in the Construction Phase Loan Agreement.

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

"Pledge Agreement" means any Pledge, Security and Custody Agreement entered into by and between the Custodian and the Borrower pursuant to Section 3.06, as originally executed or as modified or amended from time to time, together with any similar agreement executed in connection with an Alternate Credit Facility, as originally executed or as amended or modified from time to time.

"Pre-Conversion Loan Equalization Payment" has the meaning given to that term in the Reimbursement Agreement.

"Principal Office of the Credit Facility Provider" means the office of Freddie Mac located at 8100 Jones Branch Drive, McLean, Virginia 22102 or such other office or offices as Freddie Mac may designate from time to time, or the office of any Alternate Credit Facility Provider where it principally conducts its business of serving as credit facility provider under indentures pursuant to which municipal or governmental obligations are issued, or such other office or offices as the Alternate Credit Facility Provider may designate from time to time.

"Principal Office of the Trustee" means the office of the Trustee referenced in Section 11.05(a) hereof or such other office or offices as the Trustee may designate from time to

time, or the office of any successor Trustee where it principally conducts its business of serving as trustee under indentures pursuant to which municipal or governmental obligations are issued.

"Principal Reserve Fund" means the Principal Reserve Fund established for the sole and exclusive benefit of Freddie Mac.

"Project" means the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements known as Mercy Preservation Project located at 850 West Eastwood Avenue and 4946 N. Sheridan in the City of Chicago, Illinois, including the real estate described in the Bond Mortgage.

"Project Account" means the Project Account of the Bond Mortgage Loan Fund established by the Trustee pursuant to Section 2.11 hereof.

"Purchase Price," mean the principal amount of such Bond plus interest accrued thereon to the Settlement Date plus any redemption premium due thereon.

"Purchased Bond" means any Bond during the period from and including the date of its purchase by the Trustee on behalf of the Borrower with amounts provided by the Credit Facility Provider under the Credit Facility. All Purchased Bonds are to be held in certificated form under and pursuant to the Pledge Agreement.

"Qualified Investments" means any of the following if and to the extent permitted by law: (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; (c) senior debt obligations of Freddie Mac; (d) senior debt obligations of Fannie Mae; (e) demand deposits or time deposits with, or certificates of deposit issued by, the Trustee or its affiliates or any bank organized under the laws of the United States or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000; provided that the Trustee or such other institution has been rated at least ["VMIG-1"/"A-1+"] by [Moody's/S&P] which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation; (f) investment agreements with Freddie Mac or a bank or any insurance company or other financial institution which has a rating assigned by [Moody's/S&P] to its outstanding long-term unsecured debt which is the highest rating (as defined below) for long-term unsecured debt obligations assigned by [Moody's/S&P], and which are approved by the Credit Facility Provider; or (g) shares or units in any money market mutual fund (including mutual funds of the Trustee or its affiliates) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the United States government, and which fund has been rated ["Aaa"/"AAA"] by [Moody's/S&P] [or (h) any other investments approved in writing by the Credit Facility Provider]. For purposes of this definition, the "highest rating" shall mean a rating of at least ["VMIG-1"/"A-1+"] for obligations with less than one year maturity; at least ["Aaa"/"VMIG-1"/"AAA"/"A-1+"] for obligations with a maturity of one year or greater but less than three years; and at least ["Aaa"/"AAA"] for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined

fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

“Qualified Project Costs” means costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to a capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general Federal income tax principles and in accordance with United States Treasury Regulations §1.103-8(a)(1), provided, however, that only such portion of the interest accrued during rehabilitation or construction of the Project (in the case of rehabilitation, with respect to vacated units only) shall be eligible to be Qualified Project Costs as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction or rehabilitation of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed or rehabilitated by an affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out-of-pocket costs incurred by such affiliate in constructing or rehabilitating the Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by such affiliate, and (C) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the rehabilitation or construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of 60 days prior to the date of a declaration of “official intent” to reimburse costs paid with respect to the Project (within the meaning of §1.150-2 of the United States Treasury Regulations) or the date of issue of the Bonds, and (iv) if the costs of the acquisition and construction or rehabilitation of the Project were previously paid and are to be reimbursed with proceeds of the Bonds such costs were (A) costs of issuance of the Bonds, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations §1.150-2 (F)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction or rehabilitation of the Project than do not exceed twenty percent (20%) of the issue price of the Bonds (as defined in United States Treasury Regulations §1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditures are paid).

“Rating Agency” means each national rating agency then maintaining a rating on the Bonds, or any successor or assign thereof.

“Rebate Analyst” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code,

selected by and retained by the Borrower, with the prior written consent of the Issuer, to make the computations required under this Indenture and the Loan Agreement.

"Rebate Fund" means the Rebate Fund established by the Trustee pursuant to Section 4.01 hereof.

"Record Date" means the 15th day of the month preceding the month in which any Interest Payment Date falls.

"Redemption Fund" means the Redemption Fund established by the Trustee pursuant to Section 4.01 hereof.

"Reimbursement Agreement" means the Reimbursement and Security Agreement dated as of the date hereof between the Borrower and Freddie Mac, as the same may be amended, supplemented or restated from time to time, and upon the effectiveness of any Alternate Credit Facility, any similar agreement between the Borrower and the Alternate Credit Facility Provider pursuant to which the Borrower agrees to reimburse the Alternate Credit Facility Provider for payments made under the Alternate Credit Facility, as such agreement may be amended, supplemented or restated from time to time.

"Reimbursement Mortgage" means one or more [Multifamily Mortgage, Assignment of Rents and Security Agreement, dated as of the date hereof, from the Borrower to Freddie Mac, together with all riders and addenda thereto, granting a second priority mortgage and security interest in the Project to the Freddie Mac to secure the obligations of the Borrower under the Reimbursement Agreement and all documents related thereto, and upon the effectiveness of any Alternate Credit Facility, any similar mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance granting a mortgage and security interest in the Project to the Alternate Credit Facility Provider to secure similar obligations of the Borrower to the Alternate Credit Facility Provider, as the same may be amended, supplemented or restated from time to time.

"Reimbursement Security Documents" has the meaning given to that term in the Reimbursement Agreement.

"Requisition" means, with respect to the Bond Mortgage Loan Fund, the requisition in the form of Exhibit B to this Indenture required to be submitted in connection with certain disbursements from the Project Account of Bond Mortgage Loan Fund, and with respect to the Cost of Issuance Fund, the requisition in the form of Exhibit C to this Indenture required to be submitted in connection with disbursements from the Cost of Issuance Fund.

"Responsible Officer" means any officer of the Trustee employed within or otherwise having regular responsibility in connection with the corporate trust department of the Trustee and the trusts created hereunder.

"Revenue Fund" means the Revenue Fund established by the Trustee pursuant to Section 4.01 hereof.

"Revenues" means (a) all payments made with respect to the Bond Mortgage Loan pursuant to the Loan Agreement, the Bond Mortgage Note or the Bond Mortgage, including all casualty or other insurance benefits and condemnation awards paid in connection therewith (subject in all events to the interests of the Credit Facility Provider therein under the terms of the Credit Facility and the Reimbursement Agreement), (b) payments made by the Credit Facility Provider pursuant to the Credit Facility and (c) all money and securities held by the Trustee in the funds and accounts established pursuant to this Indenture (excluding money or securities in the Cost of Issuance Fund, the Principal Reserve Fund and the Rebate Fund), together with all investment earnings thereon.

"Securities Depository" means (a) The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Facsimile: (516) 227-4039 or 4190; or (b) any replacement registered securities depository which has been designated in a certificate of the Issuer delivered to the Trustee and the Credit Facility Provider pursuant to Section 2.12 hereof.

"Servicer" means the eligible servicing institution designated by Freddie Mac from time to time (which may be Freddie Mac if Freddie Mac elects to service the Bond Mortgage Loan), or its successor, as servicer of the Bond Mortgage Loan. Initially, the Servicer shall be PNC Bank, N.A..

"Settlement Date" means any date on which any Bond is purchased or deemed purchased pursuant to Sections 3.06 and 3.08 hereof.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors and assigns.

"State" means the State of Illinois.

"Substitution Date" means any Business Day established for the in connection with the delivery to the Trustee of an Alternate Credit Facility pursuant to Section 2.13 hereof.

"Tax Certificate" means the Non-Arbitrage Certificate executed by the Issuer, the Trustee and the Borrower on the Delivery Date.

"Tax Regulatory Agreement" means the Land Use Restriction Agreement dated _____, 20___, among the Issuer, the Trustee and the Borrower.

"Trustee" means Seaway Bank & Trust Company and its successors in trust hereunder.

"Trust Estate" shall have the meaning given to that term in the Granting Clauses.

"Unassigned Rights" means all of the rights of the Issuer and its directors, officers, commissioners, elected officials, attorneys, accountants, employees, agents and consultants to be held harmless and indemnified, to be paid its fees and expenses, to give or withhold consent to

amendments, changes, modifications and alterations, to receive notices and the right to enforce such rights.

Section 1.02. Interpretation.

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

Section 1.03. Construction Phase Loan Agreement; Assignment of Rights to Construction Phase Credit Facility Provider.

a) *Assignment of Rights.* The Issuer and the Trustee acknowledge that, prior to the Conversion Date, and subject to the applicable terms and conditions of the Construction Phase Loan Agreement, the Construction Phase Credit Facility Provider may, by assignment from the Credit Facility Provider, succeed to the interests of the Credit Facility Provider under the Bond Financing Documents and the Bond Mortgage Loan Documents with the authority to exercise the rights otherwise granted to the Credit Facility Provider under the Bond Documents and the Bond Mortgage Loan Documents, subject, however, to the provisions of Section 3.08(f).

b) *Amounts Owed to Construction Phase Credit Facility Provider.* Any references in this Indenture to amounts owed to the Credit Facility Provider under the Credit Enhancement Agreement shall, on and after the effective date of the assignment referred in Section 1.03(a), be deemed to refer to amounts owed to the Construction Phase Credit Facility Provider under the Construction Phase Credit Documents.

c) *Release of Construction Phase Credit Facility.* Notwithstanding any other provision of this Indenture or the other Bond Financing Documents or the Construction Phase Credit Documents to the contrary, the Construction Phase Credit Facility Provider shall be entitled to the release and return of the Construction Phase Credit Facility on the Conversion Date.

Section 1.04 Termination of References.

All references in this Indenture to the Construction Phase Credit Facility Provider shall be of no force or effect and shall be disregarded for all purposes of this Indenture from and after the Conversion Date or during any period the Construction Phase Credit Facility Provider is in default in the performance of its obligations as and when due under the Construction Phase Loan Agreement.

ARTICLE II THE BONDS

Section 2.01 The Bonds.

The Bonds are authorized to be issued hereunder as revenue bonds of the Issuer in accordance with the Bond Ordinance. The Bonds shall initially be designated "City of Chicago, Illinois, Multifamily Housing Revenue Bonds (Mercy Preservation Project) 20__ Series." The Bonds shall be fully registered as to principal and interest, without coupons, and shall be numbered by series, if any, in the manner and with any additional designation as the Trustee, as Bond Registrar, deems necessary for the purpose of identification. All of the Bonds are equally and ratably secured. Bonds issued on the Delivery Date shall be dated such date; Bonds issued after the Delivery Date shall be dated the date they are authenticated by the Trustee.

a) Interest on the Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds shall be payable on each Interest Payment Date, in each case from the Interest Payment Date next preceding the date of authentication thereof to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of the Bond, or unless no interest has been paid or duly provided for on the Bonds, in which case from the Delivery Date, until payment of the principal of the Bond has been made or duly provided for. Notwithstanding the foregoing, if a Bond is authenticated after a Record Date and before the following Interest Payment Date, such Bond shall bear interest from such Interest Payment Date; provided, however, that if there shall be a default in the payment of interest due on such Interest Payment Date, then the Bonds shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on the Bonds, from the Delivery Date.

b) The Bonds shall be issued in Authorized Denominations and shall mature on the dates and in the principal amounts set forth below, subject to redemption prior to maturity as provided in Article III hereof. The Bonds shall bear interest payable on each Interest Payment Date at the rate per annum set forth below:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
_____ , ____	\$ _____	_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %
_____ , ____		_____ %

c) The Person in whose name any Bond is registered on the Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date (unless such Bond has been called for redemption on a redemption date

which is prior to such Interest Payment Date) notwithstanding the cancellation of such Bond upon any registration of transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date; provided, however, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such defaulted interest shall be paid as provided in the next paragraph.

d) Any interest on any Bond that is due and payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the person in whose name such Bond is registered on the relevant Record Date and shall be paid in the manner set forth in this paragraph. The Trustee may elect to make payment of any Defaulted Interest to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered at the close of business on a special record date for the payment of such Defaulted Interest (a "Special Record Date"), which shall be fixed in the following manner. The Trustee shall determine the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (a "Special Interest Payment Date"), shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the Special Interest Payment Date and shall cause notice of the proposed payment of such Defaulted Interest on the Special Interest Payment Date and the Special Record Date therefor to be mailed, first class, postage prepaid, to each Bondholder at such Bondholder's address as it appears in the Bond Register not less than 10 days prior to such Special Record Date; notice of the proposed payment of such Defaulted Interest on the Special Interest Payment Date and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Bonds (or their respective predecessor Bonds) are registered on such Special Record Date.

e) Payment of principal of, premium, if any, and interest on the Bonds shall be paid by check mailed on the Interest Payment Date to the registered Owner thereof at such registered Owner's address as it appears on the Bond Register on the Record Date. Upon written request of a registered Owner of at least \$1,000,000 in principal amount of Bonds Outstanding received by the Trustee at least five (5) Business Days prior to a Record Date, all payments of principal, premium, if any, and interest on the Bonds, less any reasonable wire transfer fees imposed by the Trustee, shall be paid by wire transfer in immediately available funds to an account within the United States designated by such registered Owner. Payment of the Purchase Price of any Bonds tendered for purchase on a Settlement Date shall be payable in lawful money of the United States of America only upon presentation thereof at the Principal Office of the Trustee.

f) On or before the date fixed for redemption, money shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such money to the payment of, the Bonds or portions thereof called for redemption, together with accrued interest thereon to the redemption date. CUSIP number identification with appropriate dollar amounts for each CUSIP number must accompany all payments of principal, redemption price, premium, if any, and interest, whether by check or by wire transfer.

g) No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total principal amount of Bonds that may be issued hereunder,

or in substitution for other Bonds pursuant to Section 2.07 hereof, is expressly limited to \$[_____].

Section 2.02. *Determination of Interest Rate on the Bonds.*

c) *Interest Rate.* The Bonds shall bear interest at the fixed rates and mature in the principal amounts as set forth in Subsection 2.01(b) above. Notwithstanding anything else contained herein, the Bonds may not be converted to another mode and are not subject to tender. Any references herein to a Tender Agent or Remarketing Agent are inapplicable.

Section 2.03. *Limited Obligations.*

The Bonds and the interest thereon are limited obligations of the Issuer, payable solely from the Trust Estate pledged therefor under this Indenture, including, without limitation, its interest in payments received under the Bond Mortgage Note and the Credit Facility. None of the United States of America, the State, the City of Chicago, nor any other political subdivision or body corporate and politic, or agency, of the United States of America, the State, the City of Chicago (except to the limited extent provided herein) shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, obligation or agreement of any kind whatsoever of the Issuer, and neither this Bond nor any of the Issuer's agreements or obligations shall be construed to constitute an indebtedness of the United States of America, the State, the City of Chicago, or any other political subdivision or body corporate and politic of the United States of America, the State, the City of Chicago (except to the limited extent provided herein), within the meaning of any constitutional or statutory provision whatsoever.

No agreement or obligation contained herein shall be deemed to be an agreement or obligation of any director, officer, employee, commissioner, servant or agent of the Issuer in his or her individual capacity, and neither the directors of the Issuer nor any officer thereof executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee, commissioner, servant or agent of the Issuer shall incur any personal liability with respect to any other action taken by him or her pursuant to this Indenture.

THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, OR ANY AGENCY OF THE UNITED STATES OF AMERICA, OR FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC. PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS IS NOT GUARANTEED BY FREDDIE MAC. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT ARE OBLIGATIONS SOLELY OF FREDDIE MAC AND ARE NOT BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

Section 2.04. *Indenture Constitutes Contract.*

In consideration of the purchase and acceptance of the Bonds issued hereunder by those who shall hold them from time to time, the provisions of this Indenture shall be part of the contract of the Issuer with the Holders of the Bonds and shall be deemed to be a contract between the Issuer and the Holders of the Bonds from time to time.

Section 2.05. *Form and Execution.*

The Bonds shall be in substantially the form attached as Exhibit A, with necessary and appropriate variations, omissions and insertions as are customary, permitted or required by this Indenture. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Mayor of the Issuer, and attested by the manual or facsimile signature of the City Clerk of the Issuer and sealed with an impression or a facsimile of the seal of the Issuer. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Bonds. Any reproduction of the official seal of the Issuer on the Bonds shall have the same force and effect as if the official seal of the Issuer had been impressed on the Bonds.

In case any officer of the Issuer whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also any Bond may bear the facsimile signatures of, or may be signed by, such Persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

Section 2.06. *Authentication.*

No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless a certificate of authentication on such Bond, substantially in the form set forth in Exhibit A, shall have been duly executed by an Authorized Officer of the Trustee; and such executed certificate of authentication upon any such Bond shall be conclusive evidence that such Bond has been duly executed, registered, authenticated and delivered under this Indenture. It shall not be necessary that the same Person sign the certificate of authentication on all of the Bonds.

Section 2.07. *Mutilated, Lost, Stolen or Destroyed Bonds.*

In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Bond of like denomination, interest rate, series, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond or in lieu of and in substitution for such lost, stolen or destroyed Bond, upon payment by the Owner thereof of any applicable tax or governmental charge and the reasonable expenses and charges of the Issuer and the Trustee in connection therewith, and in the case of a Bond lost, stolen or destroyed, the filing with the Trustee of evidence satisfactory to it that such Bond was lost, stolen or destroyed, and of the ownership thereof, and furnishing the Issuer and the Trustee with

indemnity satisfactory to each of them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond or Bonds the Issuer may pay the same without surrender thereof.

Section 2.08. *Transfer and Exchange of Bonds; Persons Treated as Owners.*

The Trustee as Bond Registrar shall cause a Bond Register to be kept for the registration of transfers of Bonds. Any Bond may be transferred only upon an assignment duly executed by the registered Owner or such registered Owner's duly authorized representative in such form as shall be satisfactory to the Bond Registrar and upon surrender of such Bond to the Trustee for cancellation. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the Trustee shall authenticate and deliver to the transferee a replacement fully registered Bond or Bonds, of Authorized Denomination or Denominations and for the amount of such Bond or Bonds so surrendered.

Any Bond may, in accordance with its terms, be exchanged, at the office of the Trustee, for a new fully registered Bond or Bonds, of the same maturity, of any Authorized Denomination or Denominations and for the aggregate amount of such Bond then Outstanding.

In all cases in which Bonds shall be transferred or exchanged hereunder, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer or exchange shall be paid by the Borrower.

The Person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of the registered Owner thereof, or such registered Owner's legal representative, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums to be paid.

Neither the Issuer nor the Trustee shall be required to make any such exchange, registration or transfer of Bonds during the period of fifteen (15) days immediately preceding an Interest Payment Date or, in the case of any proposed redemption of Bonds, during the period of fifteen (15) days immediately preceding the selection of Bonds for such redemption and after the giving of notice of redemption, the Trustee is not required to transfer or exchange any Bond or portion thereof which has been called for redemption.

Section 2.09. *Temporary Bonds.*

Until definitive Bonds are ready for delivery, there may be executed, and upon the request of the Issuer the Trustee shall authenticate and deliver, in lieu of definitive Bonds temporary printed, typewritten, engraved or lithographed Bonds, in such denomination or denominations as shall be determined by the Issuer, in fully registered form, in substantially the form hereinabove set forth and with such appropriate omissions, insertions and variations as may be required.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation to it at the Principal Office of the Trustee of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Owner thereof, a definitive Bond or Bonds, as the case may be, of an equal aggregate principal amount, of the same maturities and bearing interest at the same rates as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder. Interest on temporary Bonds, when due and payable, if the definitive Bonds shall not be ready for exchange, shall be paid on presentation of such temporary Bonds and notation of such payment shall be endorsed thereon by the Trustee.

Section 2.10. *Delivery of Bonds.*

Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate the Bonds and deliver them to or upon the order of the Issuer upon receipt by the Trustee of the following:

a) executed counterparts of this Indenture, the Loan Agreement, the Tax Regulatory Agreement, the Tax Certificate, the Continuing Disclosure Agreement, the Intercreditor Agreement, the Pledge Agreement, the Credit Enhancement Agreement, the Reimbursement Agreement and the Construction Phase Credit Reimbursement;

b) an opinion of Bond Counsel to the effect that the Issuer is duly organized and existing under the laws of the State and has duly authorized, executed and delivered this Indenture, other loan documents to which it is a party and the Bonds and that the Bonds are entitled to the benefits of this Indenture and are valid and binding special, limited obligations of the Issuer enforceable in accordance with their terms subject to customary exceptions;

c) sale proceeds of the Bonds, together with accrued interest thereon, if any;

d) the Bond Mortgage Note;

e) a copy of the Bond Mortgage and the Reimbursement Mortgage;

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

g) an opinion of Bond Counsel to the effect that the interest on the Bonds, under laws in effect on the date of such opinion, is excluded from gross income for federal income tax purposes;

h) a certified copy of the Bond Ordinance;

i) the written request and authorization to the Trustee by the Issuer to authenticate and deliver the Bonds to the initial purchasers thereof upon payment to the Trustee, for the account of the Issuer, of the sum specified as the purchase price therefor in such request and authorization; and

j) receipt by the Trustee of the amounts specified in Section 2.11 of this Indenture and Section 3.3 of the Loan Agreement.

Section 2.11. Establishment of Bond Mortgage Loan Fund; Application of Bond Proceeds and Other Money; Assignment of Bond Mortgage Loan to Trustee.

a) The Trustee shall establish, maintain and hold in trust and there is hereby established with the Trustee a Bond Mortgage Loan Fund and therein a Project Account. No amount shall be charged against the Bond Mortgage Loan Fund except as expressly provided in this Section 2.11 and Section 4.02.

b) The proceeds of the sale of the Bonds shall be delivered to the Trustee on the Delivery Date. The Trustee shall deposit such proceeds to the credit of the Bond Mortgage Loan Fund (except any proceeds representing accrued interest on the Bonds shall be deposited in the Bond Fund) and any proceeds used to pay costs of issuance shall be deposited in the Cost of Issuance Fund. Amounts in the Bond Mortgage Loan Fund shall be disbursed as provided in subparagraph (d) below, subject to the conditions set forth in Section 3.1 of the Loan Agreement. Upon the disbursement of all amounts in the Bond Mortgage Loan Fund, the Trustee shall close the Bond Mortgage Loan Fund.

c) The Issuer shall cause the Borrower to deliver to the Trustee, on or prior to the Delivery Date, \$ _____, the Costs of Issuance Deposit, for deposit to the credit of the Cost of Issuance Fund established pursuant to Section 4.01.

d) Upon the deposit of moneys to the credit of the Bond Mortgage Loan Fund, the Issuer shall originate the Bond Mortgage Loan pursuant to the Loan Agreement and the Trustee shall make disbursements of amounts in the Bond Mortgage Loan Fund to the Borrower as provided in this Indenture and the Loan Agreement.

Section 2.12. Book-Entry Only System of Registration.

a) Notwithstanding the foregoing provisions of this Article II, each of the Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Bonds of each maturity, which Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Except as provided in paragraphs (f) below, all of the Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC; provided that if

DTC shall request that the Bonds be registered in the name of a different nominee, the Trustee shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such nominee or nominees of DTC. No Person other than DTC or its nominee or any "FAST" agent for DTC shall be entitled to receive from the Issuer or the Trustee either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register in connection with discontinuing the book-entry system as provided in paragraphs (f) below or otherwise.

b) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or redemption price of or interest on such Bonds shall be made to DTC or its nominee in same day funds on the dates provided for such payments under this Indenture. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Trustee with respect to the principal or redemption price of or interest on the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds Outstanding of any series or maturity, the Trustee shall not require surrender by DTC or its nominee of the Bonds so redeemed, but DTC (or its nominee) may retain such Bonds and make an appropriate notation on the Bond certificate as to the amount of such partial redemption; provided that DTC shall deliver to the Trustee, upon request, a written confirmation of such partial redemption and thereafter the records maintained by the Trustee shall be conclusive as to the amount of the Bonds of such maturity which have been redeemed.

c) The Issuer and the Trustee may treat DTC or its nominee as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Indenture, registering the transfer of Bonds, obtaining any consent or other action to be taken by Holders and for all other purposes whatsoever; and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. Neither the Issuer nor the Trustee shall have any responsibility or obligation to any participant in DTC, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other Person which is not shown on the Bond Register as being a Bondholder, with respect to: (1) the accuracy of any records maintained by DTC or any such participant; (2) the payment by DTC or any such participant of any amount in respect of the principal or redemption price of or interest on the Bonds; (3) the delivery to any participant or to any other Person, other than the Holders as shown on the Bond Register, of any notice which is permitted or required to be given to Holders under this Indenture; (4) the selection by DTC or any such participant of any Person to receive payment in the event of a partial redemption of the Bonds; or (5) any consent given or other action taken by DTC as Holder.

d) So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Holders under this Indenture shall be given to DTC as provided in DTC's procedures, as the same may be amended from time to time.

e) In connection with any notice or other communication to be provided to Holders pursuant to this Indenture by the Issuer or the Trustee with respect to any consent or other action to be taken by Holders, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action, provided that the Issuer or the Trustee may establish a special record date for such consent or other action. The Issuer or the Trustee shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

f) The book-entry system for registration of the ownership of the Bonds may be discontinued at any time if either: (1) DTC determines to resign as securities depository for the Bonds; or (2) the Issuer determines (with the prior written consent of the Credit Facility Provider) to discontinue the system of book-entry transfers through DTC (or through a successor securities depository) subject to the rules and regulations of DTC regarding the discontinuation of the system of book-entry transfers in effect at such time. In either of such events (unless, in the case described in clause (2) above, the Issuer appoints a successor securities depository), the Bonds shall be delivered in registered certificate form to such Persons, and in such series, maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Trustee for the accuracy of such designation. Whenever DTC requests the Issuer and the Trustee to do so, the Issuer and the Trustee shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

g) The book-entry system for registration of the ownership of the Bonds shall be discontinued in the event that the Bonds are purchased in lieu of redemption pursuant to Section 3.06 or 3.08 hereof. In such event, the Bonds shall be in the form of a single registered Bond, subject to transfer only upon execution and delivery by the transferee of an investment letter in the form attached hereto as Exhibit C.

Section 2.13 Provisions of Alternate Credit Facility

(a) The Borrower, pursuant to Section 5.4 of the Loan Agreement, is permitted with the written confirmation to the Trustee of the Credit Facility Provider that the provisions of the Reimbursement Agreement have been satisfied, and, prior to the Conversion Date, the written consent of the Construction Phase Credit Facility Provider (but without the consent of the Issuer, the Trustee or the Bondholders), to provide an Alternate Credit Facility to replace the then outstanding Credit Facility on any Interest Payment Date occurring on or after the date that the Bonds may first be optionally redeemed at a price of not greater than par plus accrued interest to the redemption date, and without the consent of the Borrower (and without the consent of the Issuer, the Trustee or the Bondholders), the Credit Facility Provider may provide any other form of "credit support" in substitution for the then existing Credit Facility, provided that, the conditions of Section 5.4 of the Loan Agreement are satisfied.

(b) Upon receipt by the Trustee of the Alternate Credit Facility to be in effect on and after the Substitution Date, and the documents required pursuant to Section 5.4 of the Loan Agreement, the Trustee shall determine which Interest Payment Date shall be the Substitution Date. Such date shall be not less than fifteen (15) days following the Trustee's receipt of the

Alternate Credit Facility to be in effect on and after the Substitution Date (which Alternate Credit Facility may be delivered in escrow), the written approval of the Credit Facility Provider and such other required documents. The existing Credit Facility shall remain in effect until the effective date of the Alternate Credit Facility.

The Trustee shall give notice to the owners of the Bonds, by first class mail on the Substitution Date specifying: (i) the Substitution Date; (ii) the Alternate Credit Facility; and (iii) that the rating then assigned to the Bonds will not be adversely affected by such substitution.

To permit the substitution of an Alternate Credit Facility, the Trustee must receive at least fifteen (15) days prior to the Substitution Date: (i) an irrevocable commitment to deliver an Alternate Credit Facility meeting the requirements of Section 5.4 of the Loan Agreement, (ii) written confirmation by the close of business on the day preceding the Substitution Date from the Rating Agency that such substitution of the Alternate Credit Facility will not adversely affect the then current rating on the Bonds, (iii) an opinion of Bond Counsel to the effect that the substitution of the Alternate Credit Facility is authorized or permitted by this Indenture and will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for federal income tax purposes, and (iv) such other opinions and certificates of counsel to the Alternate Credit Facility Provider (including specifically the opinion referred to in Section 5.4 of the Loan Agreement) and the Borrower as are requested by the Trustee and the Issuer with respect to the due authorization, execution, delivery and enforceability of the Credit Facility and the Loan Documents. If any condition set forth in clauses (i) through (iv) of this paragraph is not met at the time and in the manner required, then the Bondholders and the Credit Facility Provider shall be restored to their former positions and no such substitution shall occur.

ARTICLE III REDEMPTION OF BONDS PRIOR TO MATURITY

Section 3.01. *Redemption of Bonds Prior to Maturity.*

(a) **Optional Redemption.** The Bonds are subject to optional redemption from Eligible Funds paid under the Credit Facility (subject to the limitations set forth in Section 3.01(a)(iii) or with other Eligible Funds deposited with the Trustee) as follows:

(i) The Bonds are subject to optional redemption with the prior written consent of the Credit Facility Provider, and, during the Construction Phase, the Construction Phase Credit Facility Provider, the Bonds are subject to optional redemption, in whole or in part, upon optional prepayments on the Bond Mortgage Loan in accordance with the prepayment restrictions set forth in the Bond Mortgage Note and Section 4.4 of the Loan Agreement from payments made under the Credit Facility or other Eligible Funds deposited with the Trustee as follows:

The Bonds maturing on or after _____, _____ are subject to optional redemption in whole or in part at any time at a redemption price equals 100% of the principal amount of the Bonds, plus accrued interest, if any, to the redemption date:

(ii) The Trustee shall effect a redemption of Bonds pursuant to this Section 3.01(a) at the earliest practical date for which notice may be given hereunder but in no event later than 35 days following its receipt of money representing an optional prepayment of the Bond Mortgage Loan.

(iii) While the Bonds are registered in the name of the Borrower pursuant to the Pledge Agreement, or on behalf of the Credit Facility Provider, in such other name as the Credit Facility Provider shall have directed, as a result of a purchase of the Bonds pursuant to Section 3.06 hereof, the Bonds are subject to redemption, in whole or in part, on any date, at the option of the Credit Facility Provider, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, from Eligible Funds or any moneys acceptable to the Credit Facility Provider deposited with the Trustee.

(iv) While the Bonds are registered in the name of the Construction Phase Credit Facility Provider as a result of a Special Purchase of the Bonds pursuant to Section 3.08 hereof, the Bonds are subject to redemption in whole or in part on any date, at the option of the Construction Phase Credit Facility Provider, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, from any moneys acceptable to the Construction Phase Credit Facility Provider deposited with the Trustee.

(b) **Mandatory Redemption.** The Bonds are subject to mandatory redemption on any Business Day, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, at the earliest practicable date from payments made under the Credit Facility upon the occurrence of any of the following:

(i) in whole or in part, on any date upon receipt by the Trustee of (1) proceeds of a draw under the Credit Facility, in the amount of Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Bond Mortgage Loan, such amount to be applied to reimburse the Credit Facility Provider for the draw under the Credit Facility as a result of casualty or condemnation of the Project and (2) a written direction by the Credit Facility Provider (with the consent of the Construction Phase Credit Facility Provider) to redeem such Bonds using money obtained as a result of a draw upon the Credit Facility; or

(ii) in whole or in part, on any date upon receipt by the Trustee of amounts from the Credit Facility Provider pursuant to the Credit Facility as a result of the occurrence of an event of default under any Bond Mortgage Loan Document and receipt by the Trustee of a written direction by the Credit Facility Provider (with the consent of the Construction Phase Credit Provider) to redeem the Bonds pursuant to the Credit Facility; or

(iii) in whole, on the last Business Day which is not less than five days before the date of expiration of any Credit Facility unless the Trustee receives a renewal or extension of or replacement for such Credit Facility meeting the requirements of

Section 5.4 of the Loan Agreement, not less than thirty (30) days before the expiration of the then-existing Credit Facility; or

(iv) in part, on each Interest Payment Date, with respect to the Bonds that have term maturities occurring during such period commencing on the first sinking fund mandatory redemption date established for the Bonds; provided that if less than all the Bonds shall have been redeemed pursuant to Section 3.01(a) or 3.01(b)(i), the amount of Bonds to be redeemed in each year from sinking fund installments as provided in this Section 3.01(b)(v) shall be decreased by an amount, in proportion, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Loan in such year as determined by the Trustee; or

(v) in whole, upon the occurrence of a "Borrower Default," a "Construction Lender Default", provided that no substitute construction lender is substituted in the place and stead of the Construction Phase Credit Facility Provider pursuant to the Construction Phase Loan Agreement, or a "Direction to Draw" as such terms are defined in the Construction Phase Loan Agreement, and upon receipt by the Trustee of written direction from the Credit Facility Provider to redeem the Bonds; or

(vi) in whole, at the direction of the Credit Facility Provider, on any date on or after the Forward Commitment Maturity Date, if the Conversion Notice is not issued by the Servicer prior to the Forward Commitment Maturity Date; or

(vii) in part, on any date in the event that the Borrower elects to make a Pre-Conversion Equalization Payment, in an amount equal to the amount prepaid by the Borrower; or

(viii) in part, in the event and to the extent that amounts remaining in the Bond Mortgage Loan Fund are transferred to the Redemption Fund pursuant to Section 4.02(e) for application to the redemption of Bonds; or

(c) **Mandatory Sinking Fund Redemption.** The Bonds maturing on _____, _____, are subject to mandatory sinking fund redemption on the dates and the principal amounts thereof set forth below:

<u>Redemption Date</u>	<u>Principal Amount</u>
_____, _____	\$ _____
_____, _____	\$ _____
_____, _____	\$ _____
_____, _____	\$ _____

Section 3.02 Selection of Bonds for Redemption.

a) The Trustee shall select Bonds subject to mandatory sinking fund redemption pursuant to Section 3.01(b)(v) hereof by lot within the appropriate maturity. If less than all the Bonds then Outstanding shall be called for redemption other than as a result of mandatory sinking fund redemption pursuant to Section 3.01(b)(v) hereof, the Trustee shall redeem an

amount of Bonds so that the resulting decrease in debt service on the Bonds in each semiannual period ending on an Interest Payment Date is proportional, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Note in each such semiannual period, as verified by the Servicer, and the Bonds shall be selected by lot within each maturity, the cost of such selection being at the Borrower's expense.

b) Bonds shall be redeemed pursuant to this Article III only in Authorized Denominations.

Section 3.03. *Notice of Redemption.*

Notice of the intended redemption of each Bond shall be given by the Trustee by first class mail, postage prepaid, or by facsimile transmission, to the registered Owner at the address of such Owner shown on the Bond Register. All such redemption notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional or mandatory sinking fund redemptions) nor more than sixty (60) days prior to the date fixed for redemption. The Trustee may provide a conditional notice of redemption upon the direction of the Credit Facility Provider or the Borrower (with the prior written consent of the Credit Facility Provider).

Notices of redemption shall state the redemption date and the redemption price, the place or places where amounts due upon such redemption will be payable, and, if less than all of the then Outstanding Bonds are called for redemption, shall state (i) the numbers of the Bonds to be redeemed by giving the individual certificate number of each Bond to be redeemed or shall state that all Bonds between two stated certificate numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption; only if bonds cease to be book-entry bonds; (ii) the CUSIP numbers of all Bonds being redeemed if available; (iii) the amount of each Bond being redeemed (in the case of a partial redemption); (iv) the date of issue of the Bond as originally issued; (v) the maturity date of each Bond being redeemed; (vi) the possibility of a purchase of Bonds in lieu of redemption, if applicable; (vii) the conditions, if any, which must be satisfied in order for the redemption to take place on the scheduled date of redemption, including, as provided in Section 3.01(a)(iii), that Eligible Funds are available to pay any redemption premium on the Bonds; and (ix) any other descriptive information needed to identify accurately the Bonds being redeemed.

Each notice of redemption shall state that further interest on such Bonds will not accrue from and after the redemption date and that payment of the principal amount and premium, if any, will be made upon presentation and surrender of the Bonds at the Principal Office of the Trustee unless the Bonds are then held in a book-entry only system of registration.

Notice of such redemption shall also be sent by first class mail, overnight delivery service, facsimile transmission or other secure means, postage prepaid, to the Credit Facility Provider (and, prior to the Conversion Date, the Construction Phase Credit Facility Provider), to the Servicer, to the Rating Agency, to all municipal registered Securities Depositories and to at least two of the national Information Services that disseminate securities redemption notices, when possible, at least two (2) Business Days prior to the mailing of notices required by the first paragraph above, and in any event no later than simultaneously with the mailing of notices required by the first paragraph above; provided, that neither failure to receive such notice nor any

defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of such Bonds.

In addition to providing notice of redemption as set forth above, if the Bonds are no longer held in book-entry form, the Trustee shall send a second notice of redemption within sixty (60) days following the redemption date, by certified mail, overnight delivery service, or other secure means, postage prepaid to the registered Owners of any Bonds called for redemption, at their addresses appearing on the Bond Register, who have not surrendered their Bonds for redemption within thirty (30) days following the redemption date.

Failure to give notice by mailing to the registered Owner of any Bond designated for redemption or to any depository or information service shall not affect the validity of the proceedings for the redemption of any other Bond if notice of such redemption shall have been mailed as herein provided.

Section 3.04. *Cancellation.*

All Bonds that have been redeemed shall be marked cancelled by the Trustee, and shall not be reissued. A counterpart of the certificate of cancellation evidencing such cancellation shall, upon request, be furnished by the Trustee to the Issuer.

Section 3.05. *Effect of Notice of Redemption.*

If a conditional notice of redemption has been provided pursuant to the terms of this Indenture and the conditions are not satisfied, such notice of redemption shall be of no force and effect and the Bondholders shall be restored to their former positions as though no such notice of redemption had been delivered. Notice of redemption having been given in the manner provided in this Article III and if either there were no conditions to such redemption or the conditions have been satisfied (or in the event no such notice is required under Section 3.03), and money for the redemption being held by the Trustee or Paying Agent for that purpose, thereupon the Bonds so called for redemption shall become due and payable on the redemption date, and interest thereon shall cease to accrue on such date; and such Bonds shall thereafter no longer be entitled to any security or benefit under this Indenture except to receive payment of the redemption price thereof.

Section 3.06. *Purchase of Bonds in Whole in Lieu of Redemption.*

Notwithstanding anything in this Indenture to the contrary, but subject to Section 3.08 hereof, at any time the Bonds are subject to redemption in whole pursuant to the provisions of this Indenture, all (but not less than all) of the Bonds to be redeemed may be purchased by the Trustee (for the account of the Borrower or the Credit Facility Provider or their respective designee, as directed by such party) on the date which would be the redemption date at the direction of the Credit Facility Provider or the Borrower, with the prior written consent of the Credit Facility Provider (which direction shall specify that such purchase is pursuant to this Section 3.06 and shall be given no later than 5:00 p.m., Washington, D.C., time on the Business Day prior to such redemption date), at a purchase price equal to the redemption price which would have been applicable to such Bonds on the redemption date. The Bonds shall be purchased

in lieu of redemption only from amounts provided by the Credit Facility Provider or from other Eligible Funds. In the event the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the holders of the Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purpose the funds in the Redemption Fund which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased. Such Bonds so purchased for the account of the Borrower shall for all purposes under this Indenture constitute Purchased Bonds held by the Custodian pursuant to the Pledge Agreement, The Credit Facility Provider shall have the right to direct the transfer of Purchased Bonds (without reinstatement of the then existing Credit Facility or delivery to the Trustee of an Alternate Credit Facility, which will result in such Bonds being unrated) to the Credit Facility Provider or any subsidiary of the Credit Facility Provider, or to a single Bondholder which has provided the Trustee with an investment letter in the form satisfactory to the Credit Facility Provider and the Issuer (and otherwise subject to the provisions of Section 2.12(g) hereof), provided that any transfer to a single Bondholder as described above shall require delivery of an opinion of Bond Counsel to the Trustee to the effect that such transfer will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. Such Purchased Bonds, if not remarketed or transferred as provided herein, shall be redeemed and cancelled automatically by the Trustee on the date which is not later than two (2) years from the date of purchase, unless an opinion of Bond Counsel is delivered to the Trustee to the effect that not redeeming and canceling such Purchased Bonds will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. Any purchase of Bonds hereunder is not intended as an extinguishment of the debt represented by the Bonds.

Section 3.07. *Cancellation of Purchased Bonds.*

Upon a redemption date on which all Bonds (other than Purchased Bonds) are redeemed or on a date on which all Bonds (other than Purchased Bonds) are presented to the Trustee for cancellation pursuant to Section 3.06, all Purchased Bonds shall be deemed cancelled provided that the Credit Facility Provider has consented in writing to such cancellation. No further money shall be required to be paid by the Issuer or the Credit Facility Provider in connection with such cancellation; provided, however, that such cancellation shall not release the obligation of the Borrower to reimburse the Credit Facility Provider for payments made in respect of principal of, interest or Purchase Price of the Bonds, including Purchased Bonds.

Section 3.08. *Special Purchase in Lieu of Redemption*

a) If all Bonds Outstanding are called for redemption in whole under Sections 3.01(b)(ii), 3.01(b)(vii) or 3.01(b)(viii) at any time that the Construction Phase Credit Facility is in effect, the Bonds may, in lieu of such redemption, be purchased ("Special Purchase Bonds") by the Trustee, at the written direction of the Construction Phase Credit Facility Provider to the Trustee, for the account of the Construction Phase Credit Facility Provider, so long as the Construction Phase Credit Facility Provider has fully and timely honored, and has paid the Credit Facility Provider the full amount drawn by the Credit Facility Provider under, the Construction Phase Credit Facility. Any purchase of Bonds pursuant to this Section 3.08(a) shall be in whole and not in part. Such purchase shall be made on the date the Bonds are otherwise scheduled to be redeemed (the "Special Purchase Date"). The purchase price of the Special Purchase Bonds

(the "Special Purchase Price") shall be equal to the principal amount of the Special Purchase Bonds, plus accrued interest, if any, on the Special Purchase Bonds to the Special Purchase Date. The payment source shall consist solely of funds to be advanced by the Credit Facility Provider under the Credit Facility.

b) Bonds to be purchased under Section 3.08(a) which are not delivered to the Trustee on the Special Purchase Date shall be deemed to have been so purchased and not redeemed on the Special Purchase Date and shall cease to accrue interest as to the former owner on the Special Purchase Date. Special Purchase Bonds shall be registered in the name of the Construction Phase Credit Facility Provider or any third party designated by the Construction Phase Credit Facility Provider and shall be delivered to the Construction Phase Credit Facility Provider or the party designated by the Construction Phase Credit Facility Provider. Following such purchase, the registered owner of the Special Purchase Bonds shall be the owner of such Bonds for all purposes under this Indenture and interest accruing on such Bonds from and after the Special Purchase Date shall be payable solely to the registered owner of the Special Purchase Bonds.

c) Notice of the election by the Construction Phase Credit Facility Provider to purchase Bonds otherwise called for redemption shall be delivered in writing to the Trustee, the Credit Facility Provider, the Servicer and the Rating Agency not less than one (1) Business Day prior to the date otherwise scheduled for redemption of the Bonds. In the event the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the holders of the Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purpose the funds in the Redemption Account which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased.

d) The Trustee shall proceed to take such action as is required under the Credit Facility to receive payments from the Credit Facility Provider under the Credit Facility as if the Special Purchase Bonds were to be redeemed pursuant to Section 3.01(b)(ii), 3.01(b)(vii) or 3.01(b)(viii) in order to pay the Special Purchase Price of the Bonds on the Special Purchase Date.

e) The purchase of Bonds pursuant to this Section 3.08 shall not constitute a merger or extinguishment of the indebtedness of the Issuer evidenced by the Bonds so purchased or of the indebtedness of the Borrower under the Bond Mortgage Loan; Special Purchase Bonds shall for all purposes be regarded as Outstanding under this Indenture, except as otherwise expressly provided in this Section 3.08 and in this Indenture.

f) Following any purchase of Bonds pursuant to subsection (a) or (d) of Section 3.08, in no event shall the Credit Facility (or any funds advanced under the Credit Facility) directly or indirectly secure, or provide a source of payment of amounts due from time to time with respect to, the Special Purchase Bonds. From and after the Special Purchase Date and until the Construction Phase Credit Facility Provider honors a draw upon the Construction Phase Credit Facility in order to accomplish a purchase of Bonds pursuant to this Section 3.08, the Credit Facility Provider shall continue to be entitled to all rights, privileges, benefits and security

granted to the Credit Facility Provider under the Bond Documents and the Bond Mortgage Loan Documents. In no event shall Freddie Mac be deemed to be the owner of any Special Purchase Bond whether pursuant to this Section 3.08 or otherwise unless such Bond is transferred to, and registered in the name of, Freddie Mac in accordance with the provisions of this Indenture and only at the written direction of Freddie Mac.

g) Bonds purchased in lieu of redemption may not be transferred to another Registered Owner without the written approval of the Issuer given in its sole discretion. Notwithstanding the foregoing, Special Purchase Bonds may be transferred without the requirement for any approval of the Issuer: (i) if the Special Purchase Bonds are transferred to [Construction Lender] or any subsidiary of [Construction Lender] (or any successor to [Construction Lender], whether by merger, acquisition of assets or otherwise); (ii) if the Special Purchase Bonds are transferred to one "accredited investor" as defined in Rule 501(a)(1), (2), (3), (7) or (8) of Regulation D under the Securities Act of 1933, as amended, who delivers to the Trustee an investor letter in the form satisfactory to the Credit Facility Provider and the Issuer; or (iii) to one or more bondholders following issuance by Standard & Poor's or another nationally recognized rating agency of a rating of such Bonds or such interests in such Bonds which places the same in one of the three highest rating categories (without regard to plus or minus designations) maintained by such agency; provided, however, that prior to any transfer the Commission and the Trustee shall have received an Opinion of Bond Counsel to the effect that the purchase and transfer of the Special Purchase Bonds will not adversely affected the exclusion from gross income for federal income tax purposes of the interest payable on the Special Purchase Bonds.

In the event the Borrower became the transferee of the Bonds, it would be required to agree in its investor letter that the Bonds could not be pledged as security for any obligation of the Borrower unrelated to the Bond financing except as pledged to the Credit Facility Provider or to the Construction Phase Credit Facility Provider.

ARTICLE IV REVENUES AND FUNDS

Section 4.01. *Pledge of Revenues and Assets; Establishment of Funds.*

The pledge and assignment of and the security interest granted in the Trust Estate pursuant to the Granting Clauses hereof shall attach, be perfected and be valid and binding from and after the time of the delivery of the Bonds by the Trustee or by any Person authorized by the Trustee to deliver the Bonds. The Trust Estate so pledged and then or thereafter received by the Trustee shall immediately be subject to the lien of such pledge and security interest without any physical delivery thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such parties have notice thereof.

In addition to the Bond Mortgage Loan Fund established pursuant to Section 2.11 hereof, the Trustee shall establish, maintain and hold in trust the following funds and accounts, each of which is hereby established and each of which shall be disbursed and applied only as herein authorized:

- a) Revenue Fund, and within the Revenue Fund a General Account and a Credit Facility Account;
- b) Bond Fund and within the Bond Fund a Purchased Bonds Account;
- c) Redemption Fund;
- d) Administration Fund;
- e) Cost of Issuance Fund; and
- f) Rebate Fund.

The funds and accounts established pursuant to this Section 4.01 shall be maintained in the corporate trust department of the Trustee as segregated trust accounts, separate and identifiable from all other funds held by the Trustee. The funds and accounts established hereunder shall bear a designation clearly indicating that the funds deposited therein are held for the benefit of (i) the Holders of the Bonds, respecting the Administration Fund, Costs of Issuance Fund and the Rebate Fund. The Trustee shall, at the written direction of an Authorized Officer of the Issuer, and may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Indenture with respect to a deposit or use of money in the funds established hereunder, or result in commingling of funds not permitted hereunder.

Section 4.02. *Bond Mortgage Loan Fund.*

- a) Deposit. The Trustee shall deposit the proceeds of the sale of the Bonds and shall deposit such proceeds into the Project Account of the Bond Mortgage Loan Fund as provided in Section 2.11(b).
- b) Disbursements. Amounts on deposit in the Bond Mortgage Loan Fund shall be disbursed from time to time by the Trustee for the purpose of paying (i) interest on the Bonds, (ii) the Bond Fee Component, and any fees due and payable to Freddie Mac, or (iii) Costs of the Project that are approved by the Construction Phase Credit Facility Provider pursuant to the terms, conditions and provisions of the Construction Phase Credit Documents. In addition, amounts in the Bond Mortgage Loan Fund may be used to pay the Purchase Price of Bonds or for transfer to the Redemption Fund and the Rebate Fund pursuant to the last sentence of Section 4.02(e).
- c) Transfers and Requisitions. The Trustee shall make disbursements from the respective accounts of the Bond Mortgage Loan Fund to appropriate party its accrued fees that are included in the Bond Fee Component, any fees due and payable upon receipt of an invoice,

and shall at the written direction of the Borrower pay to the Credit Facility Provider and the Construction Phase Credit Facility Provider and fees due and payable, without any need for a Requisition or other written direction. Unless the Trustee is instructed otherwise by the Construction Phase Credit Facility Documents, the Trustee shall automatically transfer amounts in the Project Account of the Bond Mortgage Loan Fund to the Bond Fund to pay interest on the Bonds, fees included in the Bond Fee Component, any fees due and payable to the Construction Credit Facility Provider under the Construction Phase Credit Facility Documents without any need to receive executed Requisitions. Except as set forth in the preceding sentence for a Requisition or other written direction. The Trustee shall make disbursements from the respective accounts of the Bond Mortgage Loan Fund for purposes described in Section 4.02(b)(iii) only upon the receipt of Requisitions, each in the form of Exhibit B attached to this Indenture, signed in all cases by an Authorized Borrower Representative and countersigned by an Authorized Officer of the Construction Phase Credit Facility Provider (signifying the approval of the Requisition by the Construction Phase Credit Facility Provider). The Trustee shall have no duty to determine whether any requested disbursement from the Bond Mortgage Loan Fund complies with the terms, conditions and provisions of the Construction Phase Credit Documents. A copy of all fully executed Requisitions shall be provided by the Trustee to the Issuer. The countersignature of the Authorized Officer of the Construction Phase Credit Facility Provider on a Requisition shall be deemed a certification and, insofar as the Trustee and the Issuer are concerned, constitute conclusive evidence that all of the terms, conditions and requirements of the Construction Phase Credit Documents applicable to such disbursement have been fully satisfied or waived. The Trustee shall, immediately upon each receipt of a completed Requisition signed by an Authorized Borrower Representative and countersigned by an Authorized Officer of the Construction Phase Credit Facility Provider, initiate procedures with the provider of a Qualified Investment to make withdrawals as necessary to fund the Requisition.

Notwithstanding anything to the contrary contained herein:

i) no signature of an Authorized Officer of the Borrower shall be required during any period in which a default has occurred and is then continuing under the Bond Mortgage Loan or any Construction Phase Credit Documents (notice of which default has been given in writing by an Authorized Officer of the Construction Phase Credit Facility Provider to the Trustee and the Issuer, and the Trustee shall be entitled to conclusively rely on any such written notice as to the occurrence and continuation of such a default); and

ii) the Trustee shall disburse amounts in the Bond Mortgage Loan Fund upon receipt of a Requisition signed only by the Construction Phase Credit Facility Provider (and without any need for any signature by an Authorized Officer of the Borrower or Issuer), with notice to the Borrower, so long as the amount to be disbursed is to be used solely to make payments of fees due under the Construction Phase Credit Documents.

d) If a Requisition signed by an Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Construction Phase Credit Facility Provider or (as permitted hereunder) solely by an Authorized Officer of the Construction Phase Credit Facility Provider, is received by the Trustee, the requested disbursement shall be paid by the Trustee as

soon as practicable, but in no event later than three (3) Business Days after receipt thereof by the Trustee. Upon final disbursement of all amounts on deposit in the Bond Mortgage Loan Fund, including all interest accrued therein, the Trustee shall close the Bond Mortgage Loan Fund.

e) Immediately prior to (a) any mandatory redemption of Bonds pursuant to Section 3.01(b)(ii), 3.01(b)(ix) or 3.01(b)(x) of this Indenture or (b) any mandatory redemption of Bonds in whole pursuant to Section 3.01(b)(vii) or 3.01(b)(viii) of this Indenture, any amounts then remaining in the Bond Mortgage Loan Fund shall, at the written direction of the Credit Facility Provider, be transferred to the Redemption Fund to be applied to (1) the redemption of Bonds pursuant to Sections 3.01(b)(ii) or (2) the redemption of Bonds pursuant to Sections 3.01(b)(vii) or 3.01(b)(viii).

Any amounts remaining on deposit in the Bond Mortgage Loan Fund upon the earlier of (a) the Conversion Date and not required to pay Costs of the Project not yet due and payable or being contested in good faith, in each case determined in accordance with the Construction Phase Credit Documents, or (b) the Forward Commitment Maturity Date shall be transferred to the Redemption Fund and applied to the redemption of Bonds pursuant to Section 3.01(b)(x), provided that if the Forward Commitment Maturity Date occurs prior to the Conversion Date and if the Trustee purchases the Bonds for the account of the Construction Phase Credit Facility Provider pursuant to Section 3.08, such transfer shall be made three (3) years after the Forward Commitment Maturity Date; provided that any amounts in the Bond Mortgage Loan Fund in excess of the amount needed to redeem the Bonds shall be transferred to the Rebate Fund.

f) Amounts on deposit in the Bond Mortgage Loan Fund shall be invested as provided in Section 4.08. All Investment Income earned on amounts on deposit in the Bond Mortgage Loan Fund shall be retained in and credited to and become a part of the amounts on deposit in the Bond Mortgage Loan Fund, including any transfers required by Section 4.02(b) or Section 4.02(e).

Section 4.03. *Application of Revenues.*

a) All Revenues shall be deposited by the Trustee, promptly upon receipt thereof, to the General Account of the Revenue Fund, except (i) the proceeds of the Bonds received by the Trustee on the Delivery Date, which shall be applied in accordance with the provisions of Section 2.11 hereof; (ii) amounts paid pursuant to the Credit Facility, which shall be deposited in the Credit Facility Account; (iii) the Bond Fee Component received from the Servicer or the Borrower, which shall be deposited to the Administration Fund; (iv) as otherwise specifically provided in subsection (c) of this Section with respect to certain deposits into the Redemption Fund; (v) as otherwise specifically provided in the second paragraph of Section 4.06 hereof with respect to deficiencies in the Administration Fund; (vi) with respect to investment earnings to the extent required under the terms hereof to be retained in the funds and accounts to which they are attributable; and (vii) with respect to amounts required to be transferred between funds and accounts as provided in this Article IV. Except as set forth in Section 4.02(f) hereof, all investment income earned on amounts on deposit in the Bond Mortgage Loan Fund shall be retained therein to be used for purposes of the Bond Mortgage Loan Fund, including any disbursements pursuant to Section 4.02(b) or transfers required by Section 4.02(e) hereof.

b) On each Interest Payment Date or any other date on which payment of principal of or interest on the Bonds becomes due and payable, the Trustee, out of money in the Credit Facility Account and the General Account of the Revenue Fund, shall credit the following amounts to the following funds, but in the order and within the limitations hereinafter indicated with respect thereto, as follows:

FIRST: to the Bond Fund from money in the Credit Facility Account of the Revenue Fund, an amount equal to the principal of and interest due on the Bonds on such date (excluding principal of or interest on any Purchased Bonds and excluding the principal constituting a mandatory sinking fund payment on any Bonds on such date); and

SECOND: to the Redemption Fund from money in the Credit Facility Account of the Revenue Fund, an amount equal to the principal amount due and payable on the Bonds with respect to mandatory sinking fund redemption (excluding principal of any Purchased Bonds) on such date; and

THIRD: to the Redemption Fund from money in the Credit Facility Account (i) amounts paid to the Trustee under the Credit Facility to be applied to the mandatory redemption of all or a portion of the Bonds pursuant to Section 3.01(b) hereof (other than a mandatory sinking fund redemption) and (ii) amounts paid to the Trustee under the Credit Facility to be applied to the optional redemption of all or a portion of the Bonds pursuant to Sections 3.01(a)(i) and 3.01(a)(ii) hereof; and

FOURTH: to the Purchased Bonds Account in the Bond Fund from money in the General Account, such amount as the Credit Facility Provider shall advise the Trustee is equal to the interest due on the Purchased Bonds on such date.

c) Promptly upon receipt, the Trustee shall deposit directly to the Redemption Fund (i) Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Bond Mortgage Loan, such amount to be applied to reimburse the Credit Facility Provider for a draw under the Credit Facility in such amount to provide for extraordinary mandatory redemption of all or a portion of the Bonds pursuant to Section 3.01(b)(i); (ii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the optional redemption of all or a portion of the Bonds pursuant to Section 3.01(a)(i) or 3.01(a)(ii); (iii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the payment of any redemption premium in connection with an optional redemption of all or a portion of the Bonds pursuant to Section 3.01(a)(i) hereof; and (iv) amounts transferred to the Redemption Fund from the Bond Mortgage Loan Fund pursuant to Section 4.02(e).

d) Should the amount in the Bond Fund be insufficient to pay the amount due on the Bonds on any given Interest Payment Date or other payment date after the transfers from the Credit Facility Account, the Trustee shall credit to the Bond Fund the amount of such deficiency by charging the following funds and accounts in the following order of priority: (1) the General Account of the Revenue Fund; (2) the Administration Fund; (3) the Redemption Fund, except no such charge to the Redemption Fund shall be made from money to be used to effect a redemption for which notice of redemption has been provided for or from money which are held for payment of Bonds which are no longer Outstanding.

e) At the written direction of the Borrower, and with the written consent of the Credit Facility Provider, interest earnings deposited into the General Account of the Revenue Fund shall be paid to the Borrower semi-annually on each ____ 1 and ____ 1 commencing ____, 20__, so long as (i) there I no deficiency in the Administration Fund, the Rebate Fund or any Custodial Account, (ii) no default exists under the Bond Mortgage Loan and (iii) no event of default exists under any of the Bond Mortgage Loan Documents.

Section 4.04. *Application of Bond Fund.*

The Trustee shall charge the Bond Fund, on each Interest Payment Date, an amount equal to the unpaid interest and principal due on the Bonds on such Interest Payment Date, and shall cause the same to be applied to the payment of such interest and principal when due (excluding principal on any Purchased Bond). Any money remaining in the Bond Fund on any Interest Payment Date after application as provided in the preceding sentence may, to the extent there shall exist any deficiency in the Redemption Fund to redeem Bonds called for mandatory sinking fund redemption on such Interest Payment Date, be transferred to the Redemption Fund to be applied for such purpose. Any balance remaining in the Bond Fund on the Business Day immediately succeeding an Interest Payment Date shall be transferred to the Servicer for payment to the Credit Facility Provider to be applied in accordance with the Reimbursement Agreement.

Income realized from the investment or deposit of money in the Bond Fund shall be deposited by the Trustee upon receipt thereof in the General Account of the Revenue Fund.

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

Section 4.05. *Application of Redemption Fund.*

Any money credited to the Redemption Fund shall be applied as set forth in Sections 4.03(b) and 4.03(c) hereof; provided, however, that to the extent any money credited to the Redemption Fund from Eligible Funds (other than draws under the Credit Facility) is in excess of the amount necessary to effect the redemptions described in Sections 4.03(b) and 4.03(c) it shall be applied to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent money then available in accordance with Section 4.03(d) hereof in the General Account of the Revenue Fund and the Administration Fund are insufficient to make up such deficiency, provided that no money to be used to effect a redemption for which a conditional notice of redemption, the conditions of which have been satisfied, or an unconditional notice of redemption has been provided or money which are held for payment of Bonds which are no longer Outstanding hereunder shall be so transferred to the Bond Fund.

On or before each Interest Payment Date, the income realized from the investment of money in the Redemption Fund shall be credited by the Trustee to the General Account of the Revenue Fund.

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

Section 4.06. *Application of Administration Fund.*

Prior to the earlier of the Conversion Date or the payment in full of all Bonds Outstanding, amounts on deposit in the Administration Fund shall be applied on each Interest Payment Date as follows: first, to the payment of accrued fees that are included in the Bond Fee Component that are due and payable; second, the payment of any fees due and payable to Freddie Mac under the Reimbursement Agreement; and third, to the Construction Phase Credit Facility Provider any fees due and payable under the Construction Phase Credit Reimbursement Agreement. Thereafter, amounts in the Administration Fund shall be withdrawn or maintained, as appropriate, by the Trustee and used **FIRST**, in accordance with Section 4.03(d), to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent money then available in the General Account of the Revenue Fund are insufficient to make up such deficiency; **SECOND**, to pay to the Trustee when due the Ordinary Trustee's Fees and Expenses; **THIRD**, to pay to the Issuer when due the Issuer Fee; **FOURTH**, to pay the reasonable fees and expenses of a Rebate Analyst when due in connection with the computations relating to arbitrage rebate required under this Indenture and the Loan Agreement, upon receipt of an invoice from the Rebate Analyst; **FIFTH**, to deposit to any Custodial Escrow Account any deficiency in the amount held therein as certified in writing by the Servicer (or subsequent holder of such an account) to the Trustee; **SIXTH**, to pay to the Trustee any Extraordinary Trustee's Fees and Expenses due and payable from time to time, as set forth in an invoice submitted to the Borrower and Freddie Mac; **SEVENTH**, to pay to the Issuer any extraordinary expenses it may incur in connection with the Bonds or this Indenture from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; **EIGHTH**, to pay to the Credit Facility Provider any unpaid portion of the amounts due under the Reimbursement Agreement, as certified in writing by the Credit Facility Provider to the Trustee; **NINTH**, to pay to the Servicer any unpaid portion of the Ordinary Servicing Fees and Expenses and any Extraordinary Servicing Fees and Expenses due and owing from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; **TENTH**, to make up any deficiency in the Redemption Fund on any redemption date of Bonds, to the extent money then available in accordance with Section 4.03(d) hereof in the Redemption Fund are insufficient to redeem Bonds called for redemption on such redemption date; **ELEVENTH**, to pay to the Dissemination Agent when due the Dissemination Agent's Fee; **TWELFTH**, pay to the Rating Agency when due the annual rating maintenance fee, if any; as set forth in an invoice submitted to the Trustee and **THIRTEENTH**, to transfer any remaining balance after application as aforesaid to the General Account of the Revenue Fund.

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

On or before each Interest Payment Date, the income realized from the investment of money in the Administration Fund not needed to pay the foregoing amounts shall be credited by the Trustee to the General Account of the Revenue Fund.

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

Section 4.07. *Reserved.*

Section 4.08. *Investment of Funds.*

The money held by the Trustee shall constitute trust funds for the purposes hereof. Any money attributable to each of the funds and accounts hereunder shall be invested by the Trustee, at the written direction of the Borrower, in Qualified Investments which mature on the earlier of (i) six months from the date of investment and (ii) the date such money is needed; provided, that if the Trustee shall have entered into any investment agreement requiring investment of money in any fund or account hereunder in accordance with such investment agreement and if such investment agreement constitutes a Qualified Investment, such money shall be invested in accordance with such requirements; provided, further, that amounts in all funds derived from draws on the Credit Facility Account of the Revenue Fund shall be held uninvested or shall be invested only in Government Obligations or in Qualified Investments of the type described in subparagraph (g) of the definition thereof which, in any case, shall mature or be subject to redemption at par on or prior to the earlier of: (i) 30 days from the date of investment or (ii) the date such money is required to be applied pursuant to the provisions of this Indenture. Except as otherwise provided in the preceding sentence, in the absence of written direction from the Borrower, the Trustee shall invest amounts on deposit in the funds and accounts established under this Indenture in investments described in subparagraph (g) of the definition of Qualified Investments. Such investments may be made through the investment or securities department of the Trustee. All such Qualified Investments purchased with money in any fund or account hereunder shall mature, or shall be subject to redemption or withdrawal without discount or penalty at the option of the Trustee, prior to the next succeeding Interest Payment Date.

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

The Issuer acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable agency grant the Issuer the right to receive brokerage confirmations

of the security transactions as they occur. To the extent permitted by law, the Issuer specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee hereunder, that no brokerage confirmations need be sent relating to the security transactions as they occur.

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

Section 4.09. *Money Held for Particular Bonds; Funds Held in Trust.*

The amounts held by the Trustee for the payment of the interest, principal or redemption price due on any date with respect to particular Bonds pending such payment, shall be set aside and held in trust by it for the Holders of the Bonds entitled thereto, and for the purposes hereof such interest, principal or redemption price, after the due date thereof, shall no longer be considered to be unpaid.

All money held by the Trustee, as such, at any time pursuant to the terms of this Indenture shall be and hereby are assigned, transferred and set over unto the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

Section 4.10. *Accounting Records.*

The Trustee shall maintain accurate books and records for all funds and accounts established hereunder and provide monthly statements (or such other electronic access as agreed to by the parties) of such funds and accounts to the Issuer, the Borrower and, prior to Conversion, the Construction Phase Credit Facility Provider.

Section 4.11. *Amounts Remaining in Funds.*

After full payment of the Bonds (or provision for payment thereof having been made in accordance with Section 9.01 hereof) and full payment of the fees, charges and expenses of the Issuer and the Trustee and other amounts required to be paid hereunder or under any Bond Mortgage Loan Document, including, but not limited to, the Credit Facility, the Reimbursement Agreement or the Construction Phase Credit Documents, any amounts remaining in any fund or account hereunder other than the Rebate Fund shall be paid to the Borrower; provided however, that if a default shall have occurred and remain uncured under any Bond Mortgage Loan Document of which the Trustee shall have received written notice from the Credit Facility Provider or the Servicer, then any such amounts remaining in any fund or account hereunder shall be paid to the Credit Facility Provider in accordance with the Reimbursement Agreement; provided, further, that if a default shall have occurred and remain uncured under the Construction Phase Credit Documents of which the Trustee shall have received written notice from the Construction Phase Credit Facility Provider, then following payment of any amounts due and payable to the Credit Facility Provider, any such amounts remaining in any fund or account hereunder shall be paid to the Construction Phase Credit Facility Provider in accordance with the Construction Phase Credit Documents.

Section 4.12. *Rebate Fund; Compliance with Tax Certificate.*

The Rebate Fund shall be established by the Trustee and held and applied as provided in this Section. On any date on which any amounts are required by applicable federal tax law to be rebated to the federal government, amounts shall be deposited into the Rebate Fund by the Borrower for such purpose. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the rebate requirement (as set forth in the Tax Certificate) and as calculated by the Rebate Analyst, for payment to the United States Government, and neither the Issuer, the Borrower, the Credit Facility Provider nor the Bondholders shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and by the Tax Certificate. The Trustee shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the Issuer, Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate, and shall not be required to take any actions under the Tax Certificate in the absence of written instructions from the Issuer, Bond Counsel or the Rebate Analyst.

Within 55 days of the end of each fifth Bond Year, the Borrower shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Treasury Regulations (taking into account any exceptions with respect to the computation of the rebatable arbitrage, described, if applicable, in the Tax Certificate (e.g., the temporary investments exceptions of Section 148(f)(4)(B) and (C) of the Code)), for this purpose treating the last day of the applicable Bond Year as a (computation) date, within the meaning of Section 1.148-1(b) of the Treasury Regulations (the "Rebatable Arbitrage"). Pursuant to Section 2.4 of the Loan Agreement, the Borrower shall cause the Rebate Analyst to provide such calculations to the Trustee and the Issuer. In the event that the Borrower fails to provide such information to the Trustee and the Issuer within 55 days of the end of each fifth Bond Year, the Trustee, at the expense of the Borrower, shall select the Rebate Analyst, with the prior written approval of the Issuer, and shall cause the Rebate Analyst to calculate the amount of rebatable arbitrage as required herein.

Within 55 days of the end of each fifth Bond Year, upon the written direction of the Issuer, Bond Counsel or the Rebate Analyst, an amount shall be deposited to the Rebate Fund by the Trustee from amounts provided by the Borrower, if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with the preceding paragraph.

The Trustee shall pay, as directed by the Issuer, Bond Counsel or the Rebate Analyst, to the United States Treasury, out of amounts in the Rebate Fund:

- (i) Not later than 60 days after the end of (A) the fifth Bond Year, and (B) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and
- (ii) Not later than 60 days after the payment of all the Bonds, an amount equal to 100% of the Rebatable Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatable Arbitrage, computed in accordance with Section 148(f) of the Code.

Each payment required to be made under this Section shall be made to the Internal Revenue Service Center, Ogden, Utah 84201, (or such other address provided in such direction) on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be prepared by the Rebate Analyst and provided to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the obligation to remit payment of the Rebatable Arbitrage to the United States and to comply with all other requirements of this Section 4.12, Sections 2.4 and 4.3 of the Loan Agreement and the requirements of the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Any funds remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the Borrower.

The Trustee shall obtain and keep such records of the computations made pursuant to this Section 4.12 as are required under Section 148(f) of the Code to the extent furnished to the Trustee. The Borrower shall or shall cause the Rebate Analyst to provide to the Issuer and the Trustee copies of all rebate computations made pursuant to this Section 4.12. The Trustee shall keep and make available to the Borrower such records concerning the investments of the gross proceeds of the Bonds and the investments of earnings from those investments made by the Trustee as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

Notwithstanding the foregoing, the computations and payments of Rebatable Arbitrage need not be made to the extent that neither the Issuer nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an opinion of Bond Counsel, to the effect that such failure will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, a copy of which shall be provided to the Trustee, at the expense of the Borrower.

Section 4.13. *Cost of Issuance Fund.*

The Trustee shall use moneys on deposit to the credit of the Cost of Issuance Fund to pay the costs of issuance on the Delivery Date or as soon as practicable thereafter in accordance with written instructions to be given to the Trustee by the Borrower, as set forth in the closing memorandum prepared by the underwriter for the Bonds and accepted and agreed to by the Issuer and the Borrower) on the Delivery Date or by Requisition, upon delivery to the Trustee of appropriate invoices for such expenses and a requisition in the form attached as Exhibit C. Amounts in the Costs of Issuance Fund funded with proceeds of the Bonds, if any, shall be expended prior to the application of the Costs of Issuance Deposit. Investment earnings on amounts in the Cost of Issuance Fund shall be retained in such fund. Amounts remaining on deposit in the Cost of Issuance Fund three (3) months after the Delivery Date shall be transferred to the Borrower. Upon such final disbursement, the Trustee shall close the Cost of Issuance Fund.

Section 4.14. *Reports from the Trustee.*

The Trustee shall, on or before the fifteenth (15th) day of each month, file with the Multifamily Loan Servicing Department of the Credit Facility Provider and the Issuer (at its written request) and, prior to the Conversion Date, the Construction Phase Credit Facility Provider and the Borrower a statement setting forth in respect of the preceding calendar month:

- (i) the amount withdrawn or transferred by it and the amount deposited within or on account of each fund and account held by it under the provisions of this Indenture, including the amount of investment income on each fund and account;
- (ii) the amount on deposit with it at the end of such month to the credit of each fund and account;
- (iii) a brief description of all obligations held by it as an investment of money in each such fund and account; and
- (iv) any other information which the Credit Facility Provider the Construction Phase Credit Facility Provider or the Issuer may reasonably request and to which the Trustee has access in the ordinary course of its operations.

Upon the written request of any Bondholder, the Trustee, at the cost of the Borrower, shall provide a copy of such statement to such Bondholder. All records and files pertaining to the Trust Estate shall be open at all reasonable times to the inspection of the Issuer, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider and their agents and representatives upon reasonable prior notice during normal business hours.

Section 4.15. *Payments Under Bond Mortgage Loan.*

The Trustee and the Issuer hereby expressly acknowledge that references in this Indenture to payments or prepayments of the Bond Mortgage Loan shall, for all purposes of this Indenture, refer solely to such portion of such payments or prepayments actually paid by the Credit Facility Provider to the Trustee as Guaranteed Payments pursuant to the Credit Facility for which the Borrower has correspondingly reimbursed the Credit Facility Provider in an amount equal to the Guaranteed Payments. Without in any way limiting the foregoing, the Trustee and the Issuer hereby acknowledge that, pursuant to the Guide following the Conversion Date, pursuant to the Guide, the Servicer will pay the Freddie Mac Credit Enhancement Fee, the Freddie Mac Reimbursement Amount and the Ordinary Servicing Fees and Expenses from payments under the Bond Mortgage Loan made by the Borrower prior to remitting the balance of such payments or prepayments to the Trustee for application as provided in this Indenture.

Section 4.16. *Drawings Under Credit Facility.*

The Credit Facility shall be held by the Trustee and drawn upon in accordance with its terms and the provisions of this Indenture. Money derived from draws upon the Credit Facility shall be deposited in the Credit Facility Account of the Revenue Fund and applied by the Trustee to pay the principal of and interest on the Bonds, and, in the event of a purchase of the Bonds, in

lieu of redemption pursuant to Section 3.06, to pay, to the extent provided in the Credit Facility, the Purchase Price of the Bonds in accordance with this Indenture.

Beginning on the first Interest Payment Date and continuing through the Conversion Date, the Trustee shall transfer moneys from the Project Account of the Bond Mortgage Loan Fund, if any, to make timely payments of interest on the Bonds when due and payable (i.e., on Interest Payment Dates, at Bond maturity or upon the redemption or acceleration of the maturity of the Bonds) and to the extent such moneys are insufficient to pay such interest, the Trustee shall draw moneys under the Credit Facility in accordance with its terms in an amount sufficient to make timely payments of the interest, but not principal or premium, on the Bonds to be made from the Bond Fund. Prior to the Conversion Date, the Trustee shall draw moneys under the Credit Facility in accordance with the terms thereof in an amount sufficient to make timely payments of the principal of the Bonds when due and payable (i.e., on Interest Payment Dates, at Bond Maturity or upon the redemption or acceleration of the maturity of the Bonds).

Following the Conversion Date, the Trustee shall draw moneys under the Credit Facility in accordance with the terms thereof when needed and in amounts sufficient to make timely payments of the principal of and interest, but not premium, on the Bonds when due and payable (i.e. on any Interest Payment Date any Settlement Date, any redemption date or Maturity Date).

Should the Credit Facility Provider become the owner of the Project by foreclosure or otherwise, the Trustee shall nevertheless continue to make payments on the Bonds only from draws on the Credit Facility or from other Eligible Funds.

The Trustee shall send to the Borrower a copy of any documents which are presented to the Credit Facility Provider in connection with a drawing on the Credit Facility concurrently with its submission of those documents to the Credit Facility Provider, if requested to do so by the Borrower. The Borrower shall be permitted to provide the Trustee with an Alternate Credit Facility in accordance with this Indenture and the Loan Agreement.

Section 4.17. *Notices Under Credit Enhancement Agreement.*

The Trustee hereby agrees to provide to the Credit Facility Provider all such notices, including any notice of failure to receive a payment, as shall be required under the Credit Facility in the manner and within the periods of time provided therein and the Trustee and the Issuer each hereby acknowledges that certain notices constitute a condition precedent to payment by the Credit Facility Provider under the Credit Facility.

ARTICLE V GENERAL COVENANTS AND REPRESENTATIONS

Section 5.01. *Payment of Principal and Interest.*

The Issuer covenants that it will promptly pay or cause to be paid, but only from the sources identified herein, sufficient amounts to provide for the payment of the principal of, premium, if any, the Purchase Price of and interest on the Bonds at the place, on the dates and in the manner provided herein and in the Bonds, according to the true intent and meaning thereof.

Section 5.02. *Performance of Covenants.*

The Issuer covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto.

Section 5.03. *Instruments of Further Assurance.*

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

The Issuer will promptly notify the Trustee and, so long as Freddie Mac is the Credit Facility Provider, the Servicer in writing of the occurrence of any of the following:

- (i) the submission of any claim or the initiation of any legal process, litigation or administrative or judicial investigation against the Issuer with respect to the Bonds;
- (ii) any change in the location of the Issuer's principal office or any change in the location of the Issuer's books and records relating to the transactions contemplated hereby;
- (iii) the occurrence of any default or Event of Default of which the Issuer has actual knowledge;
- (iv) the commencement of any proceedings or any proceedings instituted by or against the Issuer in any federal, state or local court or before any governmental body or agency, or before any arbitration board, relating to the Bonds; or
- (v) the commencement of any proceedings by or against the Issuer under any applicable bankruptcy, reorganization, liquidation, rehabilitation, insolvency or other similar law now or hereafter in effect or of any proceeding in which a receiver, liquidator, conservator, trustee or similar official shall have been, or may be, appointed or requested for the Issuer or any of its assets relating to the Bonds.

Section 5.04. *Inspection of Project Books.*

The Issuer covenants and agrees that all books and documents in its possession relating to the Project shall, upon reasonable prior notice, during normal business hours, be open to inspection and copying by such accountants or other agents as the Trustee or the Credit Facility Provider or, prior to the Conversion Date, the Construction Phase Credit Facility Provider may from time to time reasonably designate may from time to time reasonably designate.

Section 5.05. *No Modification of Security; Additional Indebtedness.*

The Issuer covenants that it will not, without the written consent of the Trustee, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement to which the Issuer is a party, or which has been assigned to the Issuer, and which relates to or affects the security for the Bonds or the payment of any amount owed to the Credit Facility Provider. The Issuer further covenants not to create or suffer to be created any lien upon the Trust Estate or any part thereof other than the lien created hereby and by the Bond Mortgage, the Reimbursement Mortgage and the HOME Mortgage without the prior written consent of the Credit Facility Provider.

Section 5.06. *Damage, Destruction or Condemnation.*

Subject to the provisions of the Intercreditor Agreement and the Construction Phase Loan Agreement, Net Proceeds resulting from casualty to or condemnation of the Project shall be applied as provided in the Bond Mortgage Loan Documents and, to the extent consistent therewith, Section 3.01(b)(i) hereof.

Section 5.07. *Tax Covenant.*

a) *Issuer's Covenants.* The Issuer covenants to and for the benefit of the Holders of the Bonds that it will:

(vi) neither make or use nor cause to be made or used any investment or other use of the proceeds of the Bonds or the money and investments held in the funds and accounts in any manner which would cause the Bonds to be arbitrage bonds under Section 148 of the Code and the Regulations issued under Section 148 of the Code (the "Regulations") or which would otherwise cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes;

(vii) enforce or cause to be enforced all obligations of the Borrower under the Tax Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Tax Regulatory Agreement within a reasonable period after it first discovers or becomes aware of any such violation;

(viii) not take or cause to be taken any other action or actions, or fail to take any action or actions, if the same would cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes;

(ix) at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Issuer on the Bonds will be excluded from the gross income for federal income tax purposes, of the Bondholders pursuant to Section 103 of the 1954 Code, except in the event where any such owner of Bonds is a "substantial user" of the facilities financed with the Bonds or a "related person" within the meaning of the 1954 Code; and

(x) not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the Regulations.

In furtherance of the covenants in this Section, the Issuer and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Indenture and made a part of this Indenture as if set forth in this Indenture in full, and by its acceptance of this Indenture the Trustee acknowledges receipt of the Tax Certificate and acknowledges its incorporation into this Indenture by this reference and agrees to comply with the terms specifically applicable to it.

b) *Trustee's Covenants.* The Trustee agrees that it will invest funds held under this Indenture in accordance with the covenants and terms of this Indenture and the Tax Certificate (this covenant shall extend throughout the term of the Bonds, to all funds and accounts created under this Indenture and all money on deposit to the credit of any such fund or account). The Trustee covenants to and for the benefit of the Bondholders that, notwithstanding any other provisions of this Indenture or of any other Bond Financing Document, it will not knowingly make or cause to be made any investment or other use of the money in the funds or accounts created hereunder which would cause the Bonds to be classified as "arbitrage bonds" within the meaning of Sections 103(b) and 148 of the Code or would cause the interest on the Bonds to be includable in gross income for federal income tax purposes; provided that the Trustee shall be deemed to have complied with such requirements and shall have no liability to the extent it follows the written directions of the Borrower, the Issuer or the Rebate Analyst. This covenant shall extend, throughout the term of the Bonds, to all funds created under this Indenture and all money on deposit to the credit of any such fund. Pursuant to this covenant, with respect to the investments of funds and accounts under this Indenture, the Trustee obligates itself to comply throughout the term of the issue of the Bonds with the requirements of Section 103(b) and 148 of the Code; provided that the Trustee shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows the written directions of the Borrower, the Issuer, the Credit Facility Provider, Bond Counsel or the Rebate Analyst. The Trustee further covenants that should the Issuer or the Borrower file with the Trustee (it being understood that neither the Issuer nor the Borrower has an obligation to so file), or should the Trustee receive, an opinion of Bond Counsel to the effect that any proposed investment or other use of proceeds of the Bonds would cause the Bonds to become "arbitrage bonds," then the Trustee will comply with any written instructions of the Issuer, the Credit Facility Provider, the Borrower or Bond Counsel regarding such investment (which shall, in any event, be a Qualified Investment) or use so as to prevent the Bonds from becoming "arbitrage bonds," and the Trustee will bear no liability to the Issuer, the Borrower, the Holders of the Bonds or the Credit Facility Provider for investments made in accordance with such instructions.

Section 5.08. Representations and Warranties of the Issuer.

The Issuer hereby represents and warrants as follows:

a) The Issuer is a municipal corporation and home rule unit organized, and existing under the laws of the State.

b) The Issuer has all necessary power and authority to issue the Bonds and to execute and deliver this Indenture, the Loan Agreement and the other Bond Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.

c) The revenues and assets pledged for the repayment of the Bonds are and will be free and clear of any pledge, lien or encumbrance prior to, or equal with, the pledge created by this Indenture, and all action on the part of the Issuer to that end has been duly and validly taken.

d) The Bond Financing Documents to which the Issuer is a party have been validly authorized, executed and delivered by the Issuer, and assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.

ARTICLE VI DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS**Section 6.01. Events of Default.**

Each of the following shall be an event of default with respect to the Bonds (an "Event of Default") under this Indenture:

a) failure to pay the principal of or premium, if any, or interest on any Bond when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for redemption thereof, by acceleration or otherwise; or

b) failure by the Credit Facility Provider to make when due a required payment under the Credit Facility; or

c) failure to observe or perform any of the covenants, agreements or conditions on the part of the Issuer (other than those set forth in Section 5.01 hereof) set forth in this Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days (or such longer period, if any, as is specified herein for particular defaults) after written notice thereof (which notice shall be effective only with the written consent of the Credit Facility Provider if no Event of Default has occurred and is then continuing under Section 6.01(b) hereof) to the Issuer from the Trustee or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding at such time specifying such default and requiring the same to be remedied;

provided that if such default cannot be cured within such thirty (30) day period through the exercise of diligence and the Issuer commences the required cure within such thirty (30) day period and continues the cure with diligence and the Issuer reasonably anticipates that the default could be cured within sixty (60) days, the Issuer shall have sixty (60) following receipt of such notice to effect the cure.

The Trustee and the Issuer agree that, notwithstanding the provisions hereof, no default under the terms of this Indenture shall be construed as resulting in a default under the Bond Mortgage Note, the Bond Mortgage or any other Bond Mortgage Loan Document, unless such event also constitutes an event of default thereunder.

The Trustee will immediately notify the Issuer, the Servicer and the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider after a Responsible Officer obtains actual knowledge of the occurrence of an Event of Default or obtains actual knowledge of the occurrence of an event which would become an Event of Default with the passage of time or the giving of notice or both.

Section 6.02. *Acceleration; Other Remedies Upon Event of Default.*

a) Upon the occurrence of an Event of Default as provided in Section 6.01(a) hereof, the Trustee shall, but so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, only upon receipt from the Credit Facility Provider of a notice directing such acceleration (which notice may be given in the sole discretion of the Credit Facility Provider), by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable and interest on the Bonds shall cease to accrue, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

b) Upon the occurrence of an Event of Default as provided in Section 6.01(c) hereof, the Trustee may, but so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, only upon receipt of the written consent of the Credit Facility Provider (which consent may be given in the sole discretion of the Credit Facility Provider) and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable and interest on the Bonds shall cease to accrue, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

c) Upon the occurrence of an Event of Default under Section 6.01(b) hereof, the Trustee may, and upon the written request of the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding and receipt of indemnity satisfactory to it shall, by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable and interest on the Bonds shall cease to accrue upon such declaration, anything contained in this Indenture or in the Bonds to the contrary notwithstanding.

The payment on the Bonds resulting from a declaration of acceleration on the Bonds as the result of an Event of Default occurring under Section 6.01(a) or (c) shall be made from the Credit Facility.

If at any time after the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the money due shall have been obtained or entered, the Issuer, the Borrower, the Credit Facility Provider or, prior to the Conversion Date, the Construction Phase Credit Facility Provider, as applicable, shall pay to or deposit with the Trustee a sum sufficient to pay all principal of the Bonds then due (other than solely by reason of such declaration) and all unpaid installments of interest (if any) upon all the Bonds then due, with interest at the rate borne by the Bonds on such overdue principal and (to the extent legally enforceable) on such overdue installments of interest, and the reasonable fees and expenses of the Trustee shall have been made good or cured or adequate provision shall have been made therefor, and all outstanding amounts then due and unpaid under the Reimbursement Agreement (including with respect to Freddie Mac all outstanding Freddie Mac Reimbursement Amounts and all Freddie Mac Credit Enhancement Fees) shall have been paid in full, and all other defaults hereunder shall have been made good or cured or waived in writing by the Credit Facility Provider (or, if an Event of Default under Section 6.01(b) hereof has occurred and is then continuing, by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding), then and in every case, the Trustee on behalf of the Holders of all the Outstanding Bonds shall rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default, nor shall it impair or exhaust any right or power consequent thereon. Notwithstanding the foregoing provisions of this paragraph, in the event the Cure Amount (as defined in the Reimbursement Agreement) is derived in whole or in part from a draw on the Credit Facility, any such rescission or annulment of such declaration of acceleration shall not occur without the written consent of the Credit Facility Provider.

Upon the occurrence and during the continuance of an Event of Default, the Trustee in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Bonds with respect to which such an Event of Default has occurred and of the Credit Facility Provider (if no Event of Default has occurred and is continuing under Section 6.01(b)), may also proceed to protect and enforce any rights of the Trustee and, to the full extent that the Holders of such Bonds themselves might do, the rights of such Bondholders under the laws of the State or under this Indenture by such of the following remedies as the Trustee shall deem most effectual to protect and enforce such rights; provided that, so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee may undertake any such remedy only upon the receipt of the prior written consent of the Credit Facility Provider (which consent may be given in the sole discretion of the Credit Facility Provider) and, prior to the Conversion Date, the Construction Phase Credit Facility Provider:

(xi) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Bonds then Outstanding and to require the Issuer or the Credit Facility Provider to carry out any covenants or agreements with or for the benefit of the Bondholders and to perform its duties under this Indenture, the Loan Agreement, the Tax Regulatory Agreement or the

Credit Facility (as applicable) to the extent permitted under the applicable provisions thereof;

(xii) by pursuing any available remedies under the Loan Agreement, the Tax Regulatory Agreement or the Credit Facility or any other Bond Financing Document;

(xiii) by realizing or causing to be realized through sale or otherwise upon the security pledged hereunder; and

(xiv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Holders of the Bonds and execute any other papers and documents and do and perform any and all such acts and things as may be necessary or advisable in the opinion of the Trustee in order to have the respective claims of the Bondholders against the Issuer allowed in any bankruptcy or other proceeding.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the Credit Facility Provider or the Bondholders hereunder or under the Loan Agreement, the Tax Regulatory Agreement, the Credit Facility or the Reimbursement Agreement, or any other Bond Financing Document, as applicable, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Trustee, the Credit Facility Provider or the Bondholders, shall extend to or shall affect any subsequent default or event of default or shall impair any rights or remedies consequent thereto.

In all events the rights of the Trustee to exercise remedies under this Indenture upon the occurrence of an Event of Default shall be subject to the provisions of the Intercreditor Agreement.

Section 6.03. *Rights of Bondholders.*

If an Event of Default under Section 6.01(b) hereof shall have occurred and is then continuing, and if requested in writing so to do by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which there is a default, and if indemnified to its satisfaction, the Trustee shall exercise one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem to be in the best interests of the affected Bondholders. If an Event of Default under Section 6.01(b) hereof shall have occurred and is then continuing, the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which an Event of Default has occurred shall have the right at any time, subject to the provisions of Section 6.08 hereof, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Indenture.

Section 6.04. *Waiver by Issuer.*

Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Issuer nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Indenture; and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State and the United States.

Section 6.05. *Application of Money After Default.*

All money (other than amounts drawn from the Credit Facility under Section 6.02 hereof) collected by the Trustee at any time pursuant to this Article shall, except to the extent, if any, otherwise directed by a court of competent jurisdiction, be credited by the Trustee to the General Account of the Revenue Fund. Such money so credited to the General Account of the Revenue Fund and all other money from time to time credited to the General Account of the Revenue Fund shall at all times be held, transferred, withdrawn and applied as prescribed by the provisions of Article IV hereof and this Section 6.05.

In the event that at any time the money credited to the Revenue Fund, the Bond Fund, the Redemption Fund, the Administration Fund and the Principal Reserve Fund available for the payment of interest or principal then due with respect to the Bonds shall be insufficient for such payment, such money (other than money held for the payment or redemption of particular Bonds as provided in Section 4.09 hereof and amounts drawn from the Credit Facility under Section 6.02 hereof) shall be applied as follows and in the following order of priority:

(a) For payment of all amounts due to the Trustee incurred in performance of its duties under this Indenture, including, without limitation, the payment of all reasonable fees and expenses of the Trustee incurred in exercising any remedies under this Indenture.

(b) So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, first for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement (including with respect to Freddie Mac all Freddie Mac Credit Enhancement Fees and Freddie Mac Reimbursement Amounts) and second, prior to the Conversion Date, for the payment to the Construction Phase Credit Facility Provider of all amounts then due and unpaid under the Construction Phase Credit Reimbursement Agreement.

(c) Unless the principal of all Bonds shall have become or have been declared due and payable:

FIRST: to the payment to the Persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available is not sufficient to pay in full any installment, then to the

payment thereof ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference; and

SECOND: to the payment to the Persons entitled thereto of the unpaid principal of and premium, if any (which payment of premium shall not be restricted to Eligible Funds), on any Bonds which shall have become due, whether at maturity or by call for redemption, in the order in which they became due and payable, and, if the amount available is not sufficient to pay in full all the principal of and premium, if any, on the Bonds so due on any date, then to the payment of principal ratably, according to the amounts due on such date, to the Persons entitled thereto, without any discrimination or preference, and then to the payment of any premium due on the Bonds, ratably, according to the amounts due on such date, to the Persons entitled thereto, without any discrimination or preference.

(d) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal of, premium, if any (which payment of premium shall not be restricted to Eligible Funds), and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due, respectively, for principal, premium and interest, to the Persons entitled thereto without any discrimination or preference except as to any differences in the respective rates of interest specified in the Bonds.

(e) If an Event of Default has occurred and is then continuing under Section 6.01(b) hereof, for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement to the date of such Event of Default.

Section 6.06. *Rights of the Credit Facility Provider.*

If an Event of Default under Section 6.01(a) or (c) shall have occurred and so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, upon receipt of the written direction of the Credit Facility Provider (which direction may be given in the sole discretion of the Credit Facility Provider), the Trustee shall be obligated to exercise any right or power conferred by this Article in the manner set forth in such written direction of the Credit Facility Provider. If such written direction expressly states that the Trustee may exercise one or more of the rights and powers conferred in this Article as the Trustee shall deem to be in the interest of the Bondholders and the Credit Facility Provider, the Trustee shall exercise one or more of such rights and powers as the Trustee, being advised by counsel, shall deem to be in the best interests of the Bondholders and the Credit Facility Provider; provided, however, that in any event, so long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee may not undertake any action to realize, through sale or otherwise, upon the Bond Mortgage Loan without the express written direction of the Credit Facility Provider. So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, in the case of an Event of Default under Section 6.01(a) or (c) hereof, the Credit Facility Provider shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the

enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Indenture.

Section 6.07. Remedies Vested in Trustee.

All rights of action, including the right to file proof of claims, under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery or judgment shall be for the mutual benefit as provided herein of all of the Holders of the Outstanding Bonds.

Section 6.08. Remedies of Bondholders.

No Holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default shall have occurred of which the Trustee shall have been notified as provided herein; (b) such default shall have become an Event of Default under Section 6.01(b) hereof; (c) the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding with respect to which there is such an Event of Default shall have made written request to the Trustee and shall have offered reasonable opportunity to the Trustee either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (d) such Holders shall have offered to the Trustee indemnity as provided in this Indenture; and (e) the Trustee shall within sixty (60) days thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture or the rights of any other Holders of Bonds or to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided with respect to the equal and ratable benefit of all Holders of Bonds with respect to which there is a default. Nothing contained in this Indenture shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of, the premium, if any, and interest on any Bond at the maturity thereof or the obligation of the Issuer to pay the principal of, premium, if any, and interest on the Bonds issued hereunder to the respective holders thereof, at the time, in the place, from the sources and in the manner expressed herein and in said Bonds.

Section 6.09. Termination of Proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Trustee, the Credit Facility Provider, the Borrower and the Bondholders shall be restored to their former positions and rights hereunder with respect to the Trust Estate herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 6.10. *Waivers of Events of Default.*

So long as no Event of Default has occurred and is then continuing under Section 6.01(b) hereof, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of, premium, if any, and interest on the Bonds only upon the written direction of the Credit Facility Provider. If there shall have occurred and is then continuing an Event of Default under Section 6.01(b) hereof, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of, premium, if any, and interest on the Bonds upon the written request of the Holders of 100% of the Bonds then Outstanding with respect to which there is a default; provided, however, that there shall not be waived (a) any Event of Default in the payment of the principal of any Bonds (other than Purchased Bonds) at the date of maturity specified therein, or upon proceedings for mandatory redemption or in the Purchase Price of any Bonds (other than Purchased Bonds), (b) any default in the payment when due of the interest or premium on any such Bonds (other than Purchased Bonds), unless prior to such waiver or rescission all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal or premium, if any, when due (whether at the stated maturity thereof or upon proceedings for mandatory redemption) as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee, the Credit Facility Provider and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

Section 6.11. *Notice to Bondholders if Default Occurs.*

Upon the occurrence of an Event of Default, or if an event occurs which could lead to an Event of Default with the passage of time and of which the Trustee is required to take notice pursuant to Section 7.02(1) hereof, the Trustee shall, within thirty (30) days, give written notice thereof by first class mail to the registered Owners of all Bonds then Outstanding. Notwithstanding the foregoing, except in the case of an Event of Default with respect to the payment of principal of or premium, if any, and interest on the Bonds, the Trustee shall be protected in withholding such notice if and so long as the board of directors of the Trustee, the executive committee, or a trust committee of directors or officers of the Trustee in good faith determines that the withholding of such notice is in the best interests of the Holders of the Bonds.

ARTICLE VII CONCERNING THE TRUSTEE**Section 7.01. *Standard of Care.***

The Trustee, prior to an Event of Default as defined in Section 6.01 and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in this Indenture. The Trustee, during the existence of any

such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent Person would exercise or use under similar circumstances in the conduct of such Person's own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its breach of trust, own negligence or willful misconduct, except that:

a) prior to an Event of Default hereunder, and after the curing or waiver of all such Events of Default which may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee by the Person or Persons authorized to furnish the same;

b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Trustee shall not be liable for any error of judgment made in good faith by an officer or employee of the Trustee, except for willful misconduct or negligence by the officer or employee of the Trustee as the case may be; and

(ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Credit Facility Provider or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding (or such lesser or greater percentage as is specifically required or permitted by this Indenture) relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

Section 7.02. *Reliance Upon Documents.*

Except as otherwise provided in Section 7.01:

a) the Trustee may rely upon the authenticity or truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, notarial seal, stamp, acknowledgment, verification, request, consent, order, bond, or other paper or document of the proper party or parties, including any facsimile transmission as permitted hereunder or under the Loan Agreement;

b) any notice, request, direction, election, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Issuer by an Authorized Officer of the Issuer (unless other evidence in respect thereof be herein specifically prescribed), and any resolution of the Issuer may be evidenced to the Trustee by a copy of such resolution duly certified by the Authorized Officer of the Issuer;

c) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Borrower by any Authorized Officer of the Borrower (unless other evidence in respect thereof be herein specifically prescribed), and any resolution or certification of the Borrower may be evidenced to the Trustee by a copy of such resolution duly certified by a secretary or other authorized representative of the Borrower;

d) any notice, request, certificate, statement, requisition, direction, election, order or demand of the Servicer mentioned herein shall be sufficiently evidenced by an instrument signed in the name of the Servicer by an Authorized Officer of the Servicer (unless other evidence in respect thereof be herein specifically prescribed);

e) any notice, request, direction, election, order or demand of the Credit Facility Provider mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Credit Facility Provider by any Authorized Officer of the Credit Facility Provider (unless other evidence in respect thereof be herein specifically prescribed), and any notice, request, direction, election, order or demand of the Construction Phase Credit Facility Provider mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Construction Phase Credit Facility Provider by any Authorized Officer of the Credit Phase Credit Facility Provider (unless other evidence in respect thereof be herein specifically prescribed);

f) in the administration of the trusts of this Indenture, the Trustee may execute any of the trusts or powers hereby granted directly or through its agents, receivers or attorneys, and the Trustee may consult with counsel (who may be counsel for the Issuer, the Servicer or the Credit Facility Provider) and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or permitted by it hereunder in good faith and in accordance with the opinion of such counsel;

g) whenever in the administration of the trusts of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or permitting any action hereunder, such matters (unless other evidence in respect thereof be herein specifically prescribed), may in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by a certificate of an officer or authorized agent of the Issuer or the Borrower and such certificate shall in the absence of bad faith on the part of the Trustee be full warrant to the Trustee for any action taken or permitted by it under the provisions of this Indenture, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such further or additional evidence as it may deem reasonable;

h) the recitals herein and in the Bonds (except the Trustee's certificate of authentication thereon) shall be taken as the statements of the Issuer and the Borrower and shall not be considered as made by or imposing any obligation or liability upon the Trustee. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the title of the Issuer or the Borrower to the Trust Estate, or as to the security of this Indenture, or of the Bonds issued hereunder, and the Trustee shall incur no liability or responsibility in respect of any of such matters;

i) the Trustee shall not be personally liable for debts contracted or liability for damages incurred in the management or operation of the Trust Estate; and every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this subsection;

j) the Trustee shall not be required to ascertain or inquire as to the performance or observance of any of the covenants or agreements (except to the extent they obligate the Trustee) herein or in any contracts or securities assigned or conveyed to or pledged with the Trustee hereunder, except Events of Default that are evident under Section 6.01(a) or Section 6.01(b) hereof. The Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any default or Event of Default specified in Section 6.01 hereof (except defaults under Section 6.01(a) or Section 6.01(b) hereof) unless the Trustee shall receive from the Issuer, the Credit Facility Provider or the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding written notice stating that a default or Event of Default has occurred and specifying the same, and in the absence of such notice the Trustee may conclusively assume that there is not such default. Every provision contained in this Indenture or related instruments or in any such contract or security wherein the duty of the Trustee depends on the occurrence and continuance of such default shall be subject to the provisions of this subsection;

k) the Trustee shall be under no duty to confirm or verify any financial or other statements or reports or certificates furnished pursuant to any provisions hereof, except to the extent such statement or reports are furnished by or under the direction of the Trustee, and shall be under no other duty in respect of the same except to retain the same in its files and permit the inspection of the same at reasonable times by the Holder of any Bond; and

l) the Trustee shall be under no obligation to exercise those rights or powers vested in it by this Indenture, other than such rights and powers which it shall be obliged to exercise in the ordinary course of its trusteeship under the terms and provisions of this Indenture, and as required by law, at the request or direction of any of the Bondholders pursuant to Sections 6.03 and 6.08 of this Indenture, unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in the compliance with such request or direction.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

The Trustee is authorized and directed to execute in its capacity as Trustee the Loan Agreement, the Tax Regulatory Agreement and the Intercreditor Agreement and shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

The Trustee or any of its affiliates may act as advisor or sponsor with respect to any Qualified Investments.

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by such person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

Any resolution, certification, notice, request, direction, election, order or demand delivered to the Trustee pursuant to this Section 7.02 shall remain in effect until the Trustee receives written notice to the contrary from the party that delivered such instrument accompanied by revised information for such party.

The Trustee shall have no responsibility for the value of any collateral or with respect to the perfection or priority of any security interest in any collateral except as otherwise provided in Section 7.17 hereof.

Section 7.03. *Use of Proceeds.*

The Trustee shall not be accountable for the use or application of any of the Bonds authenticated or delivered hereunder or of the proceeds of the Bonds except as provided in herein.

Section 7.04. *Trustee May Hold Bonds.*

The Trustee and its officers and directors may acquire and hold, or become pledgees of Bonds and otherwise may deal with the Issuer and the Borrower in the same manner and to the same extent and with like effect as though it were not Trustee hereunder.

Section 7.05. *Trust Imposed.*

All money received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received.

Section 7.06. *Compensation of Trustee.*

The Trustee shall be entitled to its Ordinary Trustee's Fees and Expenses in connection with the services rendered by it in the execution of the trusts hereby created and in the exercise

and performance of any of the powers and duties of the Trustee hereunder or under any Bond Financing Document to the extent money is available therefor, in accordance with Section 4.06 hereof, exclusive of Extraordinary Services. The Trustee shall be entitled to Extraordinary Trustee's Fees and Expenses in connection with any Extraordinary Services performed consistent with the duties hereunder or under any of the Bond Financing Documents; provided the Trustee shall not incur any Extraordinary Trustee's Fees and Expenses without the consent of the Credit Facility Provider (except that no consent shall be required if an Event of Default under 6.01(b) has occurred and is continuing) and, prior to the Conversion Date, the Construction Phase Credit Facility Provider (except that no consent shall be required if the Trustee has received written notice from the Credit Facility Provider that the Construction Phase Credit Facility Provider has wrongfully failed to honor a draw under the Construction Phase Credit Facility). If any property, other than cash, shall at any time be held by the Trustee subject to this Indenture, or any supplemental indenture, as security for the Bonds, the Trustee, if and to the extent authorized by a receivership, bankruptcy, or other court of competent jurisdiction or by the instrument subjecting such property to the provisions of this Indenture as such security for the Bonds, shall be entitled to make advances for the purpose of preserving such property or of discharging tax liens or other liens or encumbrances thereon. Payment to the Trustee for its services and reimbursement to the Trustee for its expenses, disbursements, liabilities and advances, shall be limited to the sources described in Section 4.06, 4.11 and 6.05 hereof and in the Loan Agreement. The Issuer shall have no liability for Trustee's fees, costs or expenses. Subject to the provisions of Sections 7.09 and 7.10 hereof, the Trustee agrees that it shall continue to perform its duties hereunder (including, but not limited to, its duties as Paying Agent and Bond Registrar) and under the Bond Financing Documents even in the event that money designated for payment of its fees shall be insufficient for such purposes or in the event that the Borrower fails to pay the Ordinary Trustee's Fees and Expenses, as required by the Loan Agreement.

The Borrower shall indemnify and hold harmless the Trustee and its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants and servants, past, present or future, from and against (a) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Indenture or transactions contemplated thereby, the Project, or the issuance, offering, sale or remarketing of the Bonds; (b) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Project, or the issuance, offering, sale or remarketing of the Bonds; and (c) all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Borrower shall not be required to indemnify any person for damages caused by the gross negligence, willful misconduct or unlawful acts of such person or which arise from events occurring after the Borrower ceases to own the Project. In the event that any action or proceeding is brought or claim made against the Trustee, or any of its officers, directors, officials, employees, agents, receivers, attorneys, accountants, advisors, consultants or servants, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice thereof from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The indemnified party shall have the right to approve a settlement to which it is a party and to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the

Borrower shall pay the reasonable fees and expenses of such separate counsel. The provisions of this Section shall survive the termination of this Indenture.

Section 7.07. *Qualifications of Trustee.*

There shall at all times be a Trustee hereunder which shall be an association or a corporation organized and doing business under the laws of the United States or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Trustee shall have a combined capital and surplus of at least \$50,000,000 (or shall be a wholly owned subsidiary of an association or corporation that has such combined capital and surplus), and be subject to supervision or examination by federal or state authority, or shall have been appointed by a court of competent jurisdiction pursuant to Section 7.09. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this Section, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section and another association or corporation is eligible, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.09.

Section 7.08. *Merger of Trustee.*

Any association or corporation into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any association or corporation resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, ipso facto, be and become successor Trustee hereunder and vested with all the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding, and shall also be and become successor Trustee in respect of the beneficial interest of the Trustee in the Bond Mortgage Loan.

Section 7.09. *Resignation by the Trustee.*

The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving sixty (60) days written notice to the Issuer, the Borrower, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, and by giving notice by certified mail or overnight delivery service to each Holder of the Bonds then Outstanding. Such notice to the Issuer, the Borrower, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, may be served personally or sent by certified mail or overnight delivery service. The resignation of the Trustee shall not be effective until a successor Trustee has been appointed by the Issuer as provided herein and such successor Trustee shall have agreed in writing to be bound by the duties and obligations of the Trustee hereunder and under the Intercreditor Agreement. If no successor Trustee shall have been appointed and have accepted appointment within sixty (60) days following delivery of all

required notices of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

Section 7.10. *Removal of the Trustee.*

a) The Trustee may be removed at any time, either with or without cause, with the consent of the Credit Facility Provider (which consent of the Credit Facility Provider shall not be unreasonably withheld) and, prior to the Conversion Date, the Construction Phase Credit Facility Provider (which consent of the Construction Phase Credit Facility Provider shall not be unreasonably withheld), by a written instrument signed by the Issuer and delivered to the Trustee, the Borrower and the Borrower, and if an Event of Default shall have occurred and be continuing, other than an Event of Default under Section 6.01(b), by a written instrument signed by the Credit Facility Provider and delivered to the Trustee, the Issuer, and the Borrower. The Trustee may also be removed, if an Event of Default under Section 6.01(b) shall have occurred and be continuing, by a written instrument or concurrent instruments signed by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding and delivered to the Trustee, the Issuer, the Borrower, and the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider. The Trustee may also be removed, if an Event of Default under Section 6.01(b) shall have occurred and be continuing, by a written instrument or concurrent instruments signed by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding and delivered to the Trustee, the Issuer, the Borrower, the Credit Facility Provider and the Construction Phase Credit Facility Provider. The Trustee may also be removed by the Credit Facility Provider following notice to the Issuer and after a thirty (30) day period during which the Issuer may attempt to cause the Trustee to discharge its duties in a manner acceptable to Credit Facility Provider, and in each case written notice of such removal shall be given to the Servicer, the Borrower, and to each registered Owner of Bonds then Outstanding as shown on the Bond Registrar. Any such removal shall take effect on the day specified in such written instrument(s), but the Trustee shall not be discharged from the trusts hereby created until a successor Trustee has been appointed and has accepted such appointment and has agreed in writing to be bound by the duties and obligations of the Trustee under the Intercreditor Agreement.

Section 7.11. *Appointment of Successor Trustee.*

a) In case at any time the Trustee shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Trustee hereunder, and the Issuer, with the written consent of the Credit Facility Provider and, prior to Conversion, the Construction Phase Credit Facility Provider, shall promptly appoint a successor Trustee. Any such appointment shall be made by a written instrument executed by an Authorized Officer of the Issuer.

b) If, in a proper case, no appointment of a successor Trustee shall be made pursuant to subsection (a) of this Section within sixty (60) days following delivery of all required notices of resignation given pursuant to Section 7.09 or of removal of the Trustee pursuant to

Section 7.10, the retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. The court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Section 7.12. *Concerning Any Successor Trustee.*

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer a written instrument accepting such appointment hereunder, accepting assignment of the beneficial interest in the Bond Mortgage, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the Trust Estate and the rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, the Borrower or the Credit Facility Provider, or of its successor, and upon payment of all amounts due such predecessor, including but not limited to fees and expenses of counsel, execute and deliver such instruments as may be appropriate to transfer to such successor Trustee all the Trust Estate and the rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities, including, but not limited to, the existing Credit Facility, and money held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by a successor Trustee for more fully and certainly vesting in such successor the Trust Estate and all rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded. Each successor Trustee shall mail notice by first class mail, postage prepaid, at least once within 30 days of such appointment, to the Owners of all Bonds Outstanding at their addresses on the Bond Register.

Section 7.13. *Successor Trustee as Trustee, Paying Agent and Bond Registrar.*

In the event of a change in the office of Trustee, the predecessor Trustee which shall have resigned or shall have been removed shall cease to be trustee and paying agent on the Bonds and Bond Registrar, and the successor Trustee shall become such Trustee, Paying Agent and Bond Registrar.

Section 7.14. *Appointment of Co-Trustee or Separate Trustee.*

It is the intent of the Issuer and the Trustee that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under or connected with this Indenture, the Loan Agreement or any of the other Bond Financing Document, and, in particular, in case of the enforcement of any remedies on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein or therein granted to the Trustee or hold title to the properties in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the

Trustee, with the consent of the Issuer, appoint an additional individual or institution as a co-trustee or separate trustee.

In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee, in the event of the incapacity or lack of authority of the Trustee, by reason of any present or future law of any jurisdiction, to exercise any of the rights, powers, trusts and remedies granted to the Trustee herein or to hold title to the Trust Estate or to take any other action that may be necessary or desirable in connection therewith, each and every remedy, power, right, obligation, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be imposed upon, exercised by or vested in or conveyed to the Trustee with respect thereto shall be imposed upon, exercisable by and vest in such separate trustee or co-trustee, but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights, trusts and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them, subject to the remaining provisions of this Section. Such co-trustee or separate trustee shall deliver an instrument in writing acknowledging and accepting its appointment hereunder to the Issuer and the Trustee.

Should any instrument in writing from the Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer, the Trustee and the Borrower. If the Issuer shall fail to deliver the same with thirty (30) days of such request, the Trustee is hereby appointed attorney-in-fact for the Issuer to execute, acknowledge and deliver such instruments in the Issuer's name and stead. In case any co-trustee or separate trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such co-trustee or separate trustee.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

a) The Bonds shall be authenticated and delivered, and all rights, powers, trusts, duties and obligations by this Indenture conferred upon the Trustee in respect of the custody, control or management of money, papers, securities and other personal property shall be exercised solely by the Trustee;

b) all rights, powers, trusts, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon or exercised or performed by the Trustee, or by the Trustee and such co-trustee, or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under the law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such act or acts shall be performed by such co-trustee or separate trustee;

c) any request in writing by the Trustee to any co-trustee or separate trustee to take or to refrain from taking any action hereunder shall be sufficient warrant for the taking or the refraining from taking of such action by such co-trustee or separate trustee;

d) any co-trustee or separate trustee to the extent permitted by law shall delegate to the Trustee the exercise of any right, power, trust, duty or obligation, discretionary or otherwise;

e) the Trustee at any time by an instrument in writing with the concurrence of the Issuer evidenced by a certified resolution may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section and in case an Event of Default shall have occurred and be continuing, the Trustee shall have power to accept the resignation of or remove any such co-trustee or separate trustee without the concurrence of the Issuer, and upon the request of the Trustee, the Issuer shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section;

f) no Trustee or co-trustee hereunder shall be personally liable by reason of any act or omission of any other Trustee hereunder;

g) any demand, request, direction, appointment, removal, notice, consent, waiver or other action in writing executed by the Bondholders and delivered to the Trustee shall be deemed to have been delivered to each such co-trustee or separate trustee; and

h) any money, papers, securities or other items of personal property received by any such co-trustee or separate trustee hereunder shall forthwith, so far as may be permitted by law, be turned over to the Trustee.

The total compensation of the Trustee and co-trustee or separate trustee shall be as, and may not exceed the amount, provided in Section 7.06 hereof.

Section 7.15. *Notice of Certain Events.*

The Trustee shall give written notice to the Issuer, the Servicer, the Credit Facility Provider and the Construction Phase Credit Facility Provider of any failure by the Borrower to comply with the terms of the Tax Regulatory Agreement or any Market Risk Event of which a Responsible Officer has actual knowledge.

Section 7.16. *Record of Freddie Mac Credit Enhancement Payments and Freddie Mac Reimbursement Amounts.*

The Trustee shall maintain records of all Freddie Mac Credit Enhancement Payments received by it from Freddie Mac under the Credit Enhancement Agreement and of all Freddie Mac Reimbursement Amounts paid by the Trustee to Freddie Mac or known by the Trustee to be due to Freddie Mac but unpaid from time to time. The Trustee hereby agrees, upon receipt of a written request from Freddie Mac, to cooperate with Freddie Mac and the Servicer in connection

with the reconciliation of the Trustee's records maintained pursuant to this Section 7.16 and any similar records maintained by Freddie Mac or the Servicer.

Section 7.17. *Filing of Financing Statements.*

The Trustee shall file or record or cause to be filed or recorded all UCC continuation statements for the purpose of continuing without lapse the effectiveness of those financing statements which have been filed on or approximately on the Delivery Date in connection with the security for the Bonds pursuant to the authority of the UCC. Upon the filing of any such continuation statement the Trustee shall immediately notify the Issuer, the Borrower, the Credit Facility Provider and the Servicer that the same has been done. If direction is given by the Servicer or the Credit Facility Provider, the Trustee shall file all continuation statements in accordance with such directions.

**ARTICLE VIII SUPPLEMENTAL INDENTURES AND
AMENDMENTS OF CERTAIN DOCUMENTS**

Section 8.01. *Supplemental Indentures Not Requiring Consent of Bondholders.*

The Issuer and the Trustee may from time to time and at any time, without the consent of, or notice to, any of the Bondholders, but with the prior written consent of the Credit Facility Provider, and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, enter into an indenture or indentures supplemental to this Indenture for any one or more of the following purposes:

- a) to cure any formal defect, omission, inconsistency or ambiguity herein in a manner not materially adverse to the Holder of any Bond to be Outstanding after the effective date of the change;
- b) to grant to or confer upon the Trustee for the benefit of the Holders of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted or conferred and that are not contrary to or inconsistent with this Indenture or the rights of the Trustee hereunder as theretofore in effect;
- c) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;
- d) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under any state blue sky laws;
- e) to make such additions, deletions or modifications as may be necessary, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

f) to modify, amend or supplement this Indenture as required by the Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will adversely affect the interests of the Holders of the Bonds to be Outstanding after the effective date of the change;

g) to modify, alter, amend or supplement this Indenture in connection with the delivery of any Alternate Credit Facility;

h) to implement or modify any secondary market disclosure requirements; and

i) to modify, amend or supplement this Indenture in any other respect which is not materially adverse to the Holders of the Bonds to be Outstanding after the effective date of the change and which does not involve a change described in Section 8.02.

Section 8.02. *Supplemental Indentures Requiring Consent of Bondholders.*

With the prior written consent of the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided, however, that nothing in this Section contained shall permit, or be construed as permitting, (a) an extension of the time for payment of or reduction in the Purchase Price, or an extension of the time for payment of, or an extension of the stated maturity or reduction in the principal amount or reduction in the rate of interest on or extension of the time of payment, of interest on, or reduction of any premium payable on the redemption of, any Bonds, or a reduction in the Borrower's obligation on the Bond Mortgage Note, without the consent of the Holders of all of the Bonds then Outstanding, (b) the creation of any lien prior to or on a parity with the lien of this Indenture, (c) a reduction in the aforesaid percentage of the principal amount of Bonds which is required in connection with the giving of consent to any such supplemental indenture, without the consent of the Holders of all of the Bonds then Outstanding, (d) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, (e) a privilege or priority of any Bond over any other Bonds or (f) any action that results in the interest on the Bonds becoming included in gross income for federal income tax purposes.

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed, postage prepaid, to all registered Bondholders and to the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Bondholders.

Thirty (30) days after the date of the mailing of such notice, the Issuer and the Trustee may enter into such supplemental indenture substantially in the form described in such notice, but only if there shall have first been or is simultaneously delivered to the Trustee the required consents, in writing, of the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider and the Holders of not less than the percentage of Bonds required by this Section. If the Holders of not less than the percentage of Bonds required by this Section shall have consented to and approved the execution and delivery of a supplemental indenture as provided herein, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith. The Trustee may rely upon an opinion of counsel as conclusive evidence that execution and delivery of a supplemental indenture has been effected in compliance with the provisions of this Article

Anything in this Article VIII to the contrary notwithstanding, unless the Borrower shall then be in default of any of its obligations under the Loan Agreement, the Reimbursement Agreement, the Tax Regulatory Agreement, the Bond Mortgage Note, the Bond Mortgage or the Reimbursement Mortgage, a supplemental indenture under this Article which affects any rights of the Borrower shall not become effective unless and until the Borrower shall have expressly consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture to be mailed by certified or registered mail to the Borrower or the Borrower's attorney at least fifteen (15) days prior to the proposed date of execution and delivery of any supplemental indenture.

Notwithstanding any other provision of this Indenture, the Issuer and the Trustee may consent to any supplemental indenture upon receipt of the consent of the Credit Facility Provider, the Construction Phase Credit Facility Provider, the Holders of all Bonds then Outstanding and, as applicable, the Borrower.

Section 8.03. Amendments to Loan Agreement Not Requiring Consent of Bondholders.

The Trustee shall, without the consent of, or notice to, the Bondholders, but with the consent of the Borrower, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, consent to any amendment, change or modification of the Loan Agreement as follows:

- a) as may be required by the provisions of the Credit Facility, the Loan Agreement or this Indenture;
- b) to cure any formal defect, omission, inconsistency or ambiguity in the Loan Agreement in a manner not materially adverse to the Holder of any Bond to be Outstanding after the effective date of the change;

- c) to make such additions, deletions or modifications as may be necessary, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;
- d) to modify, amend or supplement the Loan Agreement as required by the Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will adversely affect the interests of the Holders of the Bonds to be Outstanding after the effective date of the change;
- e) to modify, alter, amend or supplement the Loan Agreement in connection with the delivery of an Alternate Credit Facility; or
- f) to modify, amend or supplement the Loan Agreement in any other respect which is not materially adverse to the Trustee or Holders of the Bonds to be Outstanding after the effective date of the change.

Section 8.04. *Amendments to Loan Agreement Requiring Consent of Bondholders.*

Except for the amendments, changes or modifications of the Loan Agreement as provided in Section 8.03 hereof, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Loan Agreement without the consent of the Credit Facility Provider, the Borrower and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, and without the giving of notice and the written approval or consent of the Holders of at least 51% of the aggregate principal amount of the Bonds then Outstanding given and procured in accordance with the procedure set forth in Section 8.02 hereof; provided, however, that nothing contained in this Section 8.04 shall permit, or be construed as permitting, any amendment, change or modification of the Borrower's obligation to make the payments required under the Loan Agreement without the consent of the Holders of all of the Bonds then Outstanding. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification of the Loan Agreement, the Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as provided in Section 8.02 hereof. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal office of the Trustee for inspection by Bondholders.

Section 8.05. *Amendments to the Credit Facility.*

The Trustee may, without the consent of, or notice to, any of the Bondholders enter into any amendment, change or modification of the Credit Facility (a) as may be required by the provisions of the Credit Facility (including but not limited to Section 3.4(b) of the Credit Enhancement Agreement), (b) to cure any formal defect, omission, inconsistency or ambiguity in the Credit Facility, (c) in a manner which is not prejudicial to the interests of the Bondholders (which shall be conclusively evidenced by an opinion of counsel delivered to the Trustee, the Issuer and the Credit Facility Provider or by a written confirmation from the Rating Agency of the then existing rating on the Bonds delivered to the Trustee, the Issuer and the Credit Facility

Provider), or (d) as required by the Rating Agency to maintain the then current rating on the Bonds.

Section 8.06. *Opinion of Bond Counsel Required.*

No supplement or amendment to the Loan Agreement or this Indenture, as described in this Article VIII shall be effective until the Issuer, the Trustee and the Credit Facility Provider shall have received an opinion of Bond Counsel to the effect that such supplement or amendment is authorized or permitted by this Indenture and, upon execution and delivery thereof, will be valid and binding upon the Issuer in accordance with its terms and will not cause interest on the Bonds to be includable in gross income of the Holders thereof for federal income tax purposes. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it as conclusive evidence that (i) any proposed supplemental indenture or amendment permitted by this Article VIII complies with the provisions of this Indenture, (ii) it is proper for the Trustee to join in the execution of that supplemental indenture or amendment under the provisions of this Article VIII and (iii) if applicable, any such proposed supplemental indenture or amendment is not materially adverse to the interests of the Bondholders.

ARTICLE IX SATISFACTION AND DISCHARGE OF INDENTURE

Section 9.01. *Discharge of Lien.*

If the Issuer shall pay or cause to be paid to the Holders of the Bonds the principal, interest and premium, if any, to become due thereon at the times and in the manner stipulated therein and herein, in any one or more of the following ways:

(a) by the payment of the principal of (including redemption premium, if any) and interest on all Bonds outstanding; or

(b) by (i) the deposit or credit to the account of the Trustee, in trust, of money or securities in the necessary amount (as provided in Section 9.04) to pay the principal, redemption price or Purchase Price and interest to the date established for purchase or redemption (calculated at the Maximum Rate whether by redemption, purchase or otherwise, and (ii) receipt by the Issuer and the Trustee of an opinion of Bond Counsel to the effect that such deposit will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes; or

(c) by the delivery to the Trustee, for cancellation by it, of all Bonds Outstanding;

and shall have paid all amounts due and owing to the Credit Facility Provider hereunder and under the Credit Facility and the Reimbursement Agreement, including but not limited to the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee, and shall have paid all fees and expenses of and other amounts due to the Trustee, the Servicer, each Paying Agent and the Construction Phase Credit Facility Provider, the Dissemination Agent, the Rebate Analyst and each Paying Agent, and if the Issuer shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept,

performed and observed by it or on its part, then these presents and the estates and rights hereby granted shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any interest in property at the time subject to the lien of this Indenture which may then be in its possession, except amounts held by the Trustee for the payment of principal of, interest and premium, if any, on the Bonds, the payment of any amounts owed to the United States pursuant to Section 4.12 or the payment of any amounts payable to the Credit Facility Provider or the Construction Phase Credit Facility Provider.

Any Outstanding Bond shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section if, under circumstances which do not cause interest on the Bonds to become includable in the Holders' gross income for purposes of federal income taxation, the following conditions shall have been fulfilled: (a) in case such Bond is to be redeemed on any date prior to its maturity, the Trustee shall have given to the Bondholder irrevocable notice of redemption of such Bond on said date; (b) there shall be on deposit with the Trustee, pursuant to Section 9.04 hereof, either money or direct obligations of the United States of America in an amount, together with anticipated earnings thereon (but not including any reinvestment of such earnings), which will be sufficient to pay, when due, the principal or redemption price, if applicable, and interest due and to become due on such Bond on the redemption date or maturity date thereof, as the case may be; (c) in the case of Bonds which do not mature or will not be redeemed within 60 days of such deposit, the Trustee shall have received a verification report of a firm of certified public accountants reasonably acceptable to the Trustee as to the adequacy of the amounts so deposited to fully pay the Bonds deemed to be paid; and (d) the Trustee shall have received an opinion of nationally recognized bankruptcy counsel, if required by subpart (e) of the definition of "Eligible Funds" herein, to the effect that such money constitutes Eligible Funds.

The Trustee shall in no event cause the Bonds to be optionally redeemed from money deposited pursuant to this Article IX unless the requirements of Article III have been met with respect to such redemption, including the requirements of Section 3.01(a)(iii) or (iv) hereof.

Section 9.01A. *Construction Phase Credit Facility Provider.*

If prior to the Conversion Date the Bonds have been defeased as described in Section 9.02 below, and the Trustee shall receive a written statement from the Construction Phase Credit Facility Provider stating that moneys are owed to the Construction Phase Credit Facility Provider on account of the Bonds and/or the Bond Mortgage Loan, whether with respect to the Construction Phase Credit Facility, any other Construction Phase Credit Document or otherwise in connection with the Bonds or the Bond Mortgage Loan, the Trustee shall, upon receipt of written notification from Freddie Mac that all amounts due and owing to Freddie Mac under the Reimbursement Agreement and the Reimbursement Mortgage have been paid in full, prior to cancellation and discharge of this Indenture and prior to any reconveyance, assignment and delivery to the Borrower of the Trust Estate or any part of it, pay over, assign and deliver to the Construction Phase Credit Facility Provider so much of (and not to exceed) the Trust Estate as shall be necessary to fully pay, satisfy and discharge all amounts due and owing to the Construction Phase Credit Facility Provider in respect of the Bonds and the Bond Mortgage

Loan, whether with respect to the Construction Phase Credit Facility Documents or otherwise in connection with the Bonds or the Bond Mortgage Loan, as determined by the Construction Phase Credit Facility Provider, in its sole and absolute discretion.

Section 9.02. *Discharge of Liability on Bonds.*

Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.01) to pay or redeem Outstanding Bonds (whether upon or prior to their maturity or the redemption date of such Bonds) provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article III provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, all liability of the Issuer in respect of such Bonds shall cease, terminate and be completely discharged, except only that thereafter the holders thereof shall be entitled to payment by the Issuer, and the Issuer shall remain liable for such payment, but only out of the money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 9.03.

Section 9.03. *Payment of Bonds After Discharge of Indenture*

Notwithstanding any provisions of this Indenture, and subject to applicable unclaimed property laws of the State, any money deposited with the Trustee or any paying agent in trust for the payment of the principal of, interest or premium on the Bonds remaining unclaimed for five (5) years after the payment thereof to the extent permitted by applicable law, shall be paid to [the Issuer][the Borrower], whereupon all liability of the Issuer and the Trustee with respect to such money shall cease, and the holders of the Bonds shall thereafter look solely to the Borrower for payment of any amounts then due. All money held by the Trustee and subject to this Section shall be held uninvested and without liability for interest thereon.

Section 9.04. *Deposit of Money or Securities with Trustee.*

Whenever in this Indenture it is provided or permitted that there be deposited with or credited to the account of or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held shall be Eligible Funds (or Government Obligations purchased with Eligible Funds) consisting of:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which there shall have been furnished to the Trustee proof satisfactory to it that notice of such redemption on a specified redemption date has been duly given or provision satisfactory to the Trustee shall be made for such notice, the amount so to be deposited or held shall be the principal amount of such Bonds and interest thereon to the redemption date, together with the redemption premium, if any; or

(b) noncallable and nonprepayable direct obligations of the United States of America or noncallable and nonprepayable obligations which as to principal and interest constitute full faith and credit obligations of the United States of America, in such amounts and maturing at such times that the proceeds of said obligations received upon their respective maturities and

interest payment dates, without further reinvestment, will provide funds sufficient, in the opinion of a nationally recognized firm of certified public accountants, to pay the principal, premium, if any, and interest to maturity, or to the redemption date, as the case may be, with respect to all of the Bonds to be paid or redeemed, as such principal, premium and interest become due; provided that the Trustee shall have been irrevocably instructed by the Issuer to apply the proceeds of said obligations to the payment of said principal, premium, if any, and interest with respect to such Bonds.

ARTICLE X PURCHASED BONDS

Section 10.1 *Purchased Bonds Held in Certificated or Book Entry Form.*

All Purchased Bonds shall be held under and pursuant to the Pledge Agreement in either certificated form or book-entry form, provided that Purchased Bonds held in book entry form shall be transferred immediately to, and continuously held through the Securities Depository under, the Purchased Bond CUSIP Number. The Trustee shall, upon written direction of the Credit Facility Provider, withdraw purchased Bonds from the Securities Depository and issue registered certificated purchase Bonds to be held by the Custodian pursuant to the Pledge Agreement.

ARTICLE XI MISCELLANEOUS

Section 11.01. *Consents and Other Instruments of Bondholders.*

Any consent, request, direction, approval, waiver, objection, appointment or other instrument required by this Indenture to be signed and executed by the Bondholders may be signed and executed in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such instrument, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such instrument, namely:

a) the fact and date of the execution by any Person of any such instrument may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the Person signing such instrument acknowledged the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such affidavit or certificate shall also constitute sufficient proof of such authority;

b) the ownership of registered Bonds shall be proved by the Bond Register; and

c) any request, consent or vote of the Holder of any Bond shall bind every future Holder of the same Bond and the Holder of every Bond issued in exchange therefor or in lieu

thereof, in respect of anything done or permitted to be done by the Trustee or the Issuer in pursuance of such request, consent or vote.

Section 11.02. *Servicing the Bond Mortgage Loan.*

There shall be engaged at all times that Freddie Mac is the Credit Facility Provider an eligible servicing institution designated by Freddie Mac as the Servicer (which may be Freddie Mac if Freddie Mac elects to service the Bond Mortgage Loan) to service the Bond Mortgage Loan pursuant to the Guide.

Section 11.03. *Limitation of Rights.*

With the exception of rights herein expressly conferred, nothing expressed or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the Parties hereto, the Credit Facility Provider, the Construction Phase Credit Facility Provider, the Servicer, the Borrower and the Holders of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions hereof.

Section 11.04. *Construction of Conflicts; Severability.*

Notwithstanding anything provided herein, or in any of the documents referred to herein, in the event that any contracts or other documents executed by the Borrower or any other arrangements agreed to by the Borrower in order to finance or refinance the Project with the proceeds of the Bonds, the interest on which is excluded from gross income for federal income tax purposes under Section 103 of the 1954 Code and Section 103(a) of the Code are inconsistent with the Bond Mortgage Loan Documents, then the Bond Mortgage Loan Documents shall be controlling in all respects. If any provision of this Indenture shall be held or deemed to be, or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part thereof.

Section 11.05. *Notices.*

a) Any provision of this Indenture relating to the mailing of notice or other communication to Bondholders shall be deemed fully complied with if such notice or other communication is mailed, by first class mail, postage prepaid, to each registered Owner of any Bonds then Outstanding at the address of such registered Owner as it appears on the Bond Register. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and

in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Issuer, the Trustee, the Credit Facility Provider, the Borrower, the Construction Phase Credit Facility Provider, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth below or as may be required or permitted by this Indenture by Electronic Notice or by a facsimile transmission for which a confirmation of receipt has been delivered. The Issuer, the Trustee, the Credit Facility Provider, the Borrower, the Construction Phase Credit Facility Provider or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

The Issuer: City of Chicago, Illinois
Office of the Chief Financial Officer
33 N. LaSalle Street, Room 600
Chicago, Illinois 60602
Attention: Chief Financial Officer
Telephone:
Telecopier:

With copy to:

City of Chicago, Illinois
Office of Corporation Counsel
City Hall, Room 600
121 N. LaSalle Street
Chicago, Illinois 60602
Attention: Finance and Economic Development Director
Telephone:
Telecopier:

The Trustee: Seaway Bank & Trust Company
645 East 87th St.
Chicago, IL 60619
Attention: Lois Jenkins
Telephone: (773) 602-4156
Telecopier: (773) 846-4256

The Borrower: HWA – 850 Eastwood Limited Partnership
c/o Mercy Housing Lakefront
120 S LaSalle Street Suite 1850

Chicago, IL 60603

Attention:

Telephone:

Telecopier:

with a copy to:

Applegate & Thorne-Thomsen

322 South Green Street, Suite 400

Chicago, Illinois 60607

(which copy shall not constitute notice to Borrower)

Attention: Ben Applegate

Telephone: 312.491-3322

Telecopier:

Construction Phase

Credit Facility

Provider:

Attention:

Facsimile: ()

Telephone: ()

Credit Facility

Provider:

Federal Home Loan Mortgage Corporation

8100 Jones Branch Drive

Mail Stop B4Q

McLean, Virginia 22102

Attention: Director of Multifamily Loan Accounting

Facsimile: (703) 714-3273

Telephone: (703) 903-2000

with a copy to:

Federal Home Loan Mortgage Corporation

8200 Jones Branch Drive

McLean, Virginia 22102

Attention: Associate General Counsel – Multifamily
Legal Department

Facsimile: (703) 903-2885

Telephone: (703) 903-2000

with a copy to:

Federal Home Loan Mortgage Corporation

8100 Jones Branch Drive

Mail Stop B4F

McLean, Virginia 22102

Attention: Director of Multifamily Loan Servicing

Facsimile: (703) 714-3003

Telephone: (703) 903-2000

The Servicer: [NAME AND ADDRESS OF SERVICER]
Attention:
Telephone:
Telecopier:

Rating Agency: Standard & Poor's Ratings Services
38th Floor
55 Water Street
New York, NY 10041-0003
Attention: Public Finance Surveillance

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Credit Facility Provider and by any party to the Credit Facility Provider to the Servicer.

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture, provided, however, that subsequent to such facsimile transmission of written instructions, the originally executed instructions and/or directions shall be provided to the Trustee in a timely manner.

b) The Trustee shall provide to the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider (i) prompt notice of the occurrence of any Event of Default pursuant to Section 6.01 hereof and (ii) any written information or other communication received by the Trustee hereunder within ten (10) Business Days of receiving a written request from the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider for any such information or other communication. The Trustee shall provide to the Rating Agency any information requested by the Rating Agency needed to maintain the rating on the Bonds.

c) The Trustee shall provide to the Rating Agency at the address specified in Section 11.05(a), notice of (i) any change in Trustee hereunder, (ii) any material amendment to any of the Bond Financing Documents, (iii) any substitution, termination, expiration or extension of the Credit Facility, and (iv) any acceleration or redemption in whole or defeasance of the Bonds.

Section 11.06. Credit Facility Provider.

Following the release of the Credit Enhancement Agreement by the Trustee pursuant to the terms of this Indenture and the provision of an Alternate Credit Facility, all notices to be provided Freddie Mac and/or the Servicer hereunder shall be provided to the Alternate Credit Facility Provider and payments to be made to Freddie Mac or the Servicer from the Administration Fund shall be paid to the Alternate Credit Facility Provider.

Section 11.07. Trustee as Paying Agent and Bond Registrar.

The Trustee is hereby designated and agrees to act as Paying Agent and Bond Registrar for and in respect to the Bonds. When acting in either such capacity, the Trustee will receive the same rights, protections and indemnifications afforded to the Trustee hereunder.

Section 11.08. *Payments Due on Non-Business Days.*

In any case where a date of payment with respect to any Bonds shall be a day other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such date, and no interest shall accrue for the period after such date providing that payment is made on such next succeeding Business Day.

Section 11.09. *Counterparts.*

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

Section 11.10. *Laws Governing Indenture and Administration of Trust.*

The effect and meanings of this Indenture and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State without regard to conflicts of laws principles.

Section 11.11. *No Recourse.*

No recourse under or upon any obligation, covenant or agreement contained in this Indenture or in any Bond shall be had against any member, officer, commissioner, director or employee (past, present or future) of the Issuer, either directly or through the Issuer or its governing body or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Holder of any Bond issued hereunder, or otherwise, of any sum that may be due and unpaid by the Issuer or its governing body upon any such Bond. Any and all personal liability of every nature whether at common law or in equity or by statute or by constitution or otherwise of any such member, officer, commissioner, director or employee, as such, to respond by reason of any act of omission on his/her part or otherwise, for the payment for or to the Holder of any Bond issued hereunder or otherwise of any sum that may remain due and unpaid upon any Bond hereby secured is, by the acceptance hereof, expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of the Bonds.

Section 11.12. *Successors and Assigns.*

All the covenants and representations contained in this Indenture by or on behalf of the parties hereto shall bind and inure to the benefit of their successors and assigns, whether so expressed or not.

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

CITY OF CHICAGO

By: _____
Chief Financial Officer

SEAL

ATTEST:

By _____
City Clerk

SEAWAY BANK & TRUST COMPANY,
as Trustee

By: _____
Name:
Title:

(Sub)Exhibits "A", "B" and "C" referred to in this Trust Indenture read as follows:

(Sub)Exhibit "A"
(To Ordinance)

Form Of Bond.

United States Of America

State Of Illinois

City Of Chicago

Multi-Family Housing Revenue Bonds
(Mercy Preservation Project)
20__ Series.

Number R-

\$[_____]

Notice: Unless this bond certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., Any Transfer, Pledge Or Other Use Hereof For Value Or Otherwise By Or To Any Person Is Wrongful since the registered owners hereof, Cede & Co., has an interest herein.

Interest Rate: _____%

Maturity Date: _____

Dated Date: _____

Delivery Date: _____

C.U.S.I.P. Number: _____

Registered Owner: Cede & Co.

Principal Amount: _____ and no/100 Dollars

The City of Chicago (the "Issuer"), a municipal corporation and home rule unit of the State

of Illinois (the "State"), for value received, hereby promises (but solely from the sources and in the manner provided for in the hereinafter defined Indenture) to pay to the registered owner identified above, or registered assigns, on the maturity date set forth above, unless previously called for redemption, the principal sum as set forth above, together with interest thereon at the rate provided in the Indenture (as defined below) from the Interest Payment Date (as defined below) next preceding the date of authentication of this Bond to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of this Bond, or unless no interest has been paid or duly provided for on this Bond, in which case from the Delivery Date identified above, until the principal amount hereof shall have been fully paid, at the rate per annum provided in the Indenture, payable on [] 1 and [] 1 of each year, commencing _____, 20__ (c) on any Substitution Date, (d) the maturity date, and (e) the date of redemption of this Bond (each, an "Interest Payment Date"), calculated as provided in the Indenture. Notwithstanding the foregoing, if this Bond is authenticated after a Record Date and before the following Interest Payment Date, this Bond shall bear interest from such Interest Payment Date; provided, however, that if there shall be a default in the payment of interest due on such Interest Payment Date, then this Bond shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on this Bond, from the Delivery Date. Payment of principal, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. Payment of principal of this Bond and premium, if any, will be made only upon presentation and surrender hereof at the Principal Office of the Trustee. Payment of interest on this Bond will be made by check mailed to the registered owner of this Bond as such address shall appear on the registration books for the Bonds on the fifteenth (15th) day of the month preceding each Interest Payment Date (a "Record Date"). Upon written request of a registered owner of at least One Million Dollar (\$1,000,000) aggregate principal amount of the Bonds received by Seaway Bank & Trust Company, as trustee (together with any successor trustee appointed in accordance with the terms of the hereinafter defined Indenture, the "Trustee"), at least five (5) days prior to a Record Date, all payments of principal, premium, if any, and interest will be paid by wire transfer of immediately available funds to an account designated by such owner, less any reasonable wire transfer fees imposed by the Trustee. All capitalized terms not defined herein shall have the meaning set forth in the Trust Indenture dated as of _____, 20 __, by and between the Issuer and the Trustee (the "Indenture").

The Bonds Are Not A Debt Of The United States Of America, Or Any Agency Of The United States Of America, Or The Federal Home Loan Mortgage Corporation ("Freddie Mac"), And Are Not Guaranteed By The Full Faith And Credit Of The United States Of America Or By Freddie Mac, Payment Of The Principal Of, Premium, If Any, Or Interest On The Bonds Is Not Guaranteed By Freddie Mac The Obligations Of Freddie Mac Under The Credit Enhancement Agreement (As Hereinafter Defined) Are Obligations Solely Of Freddie Mac And Are Not Backed By The Full Faith And Credit Of The United States Of America.

The Bonds And The Interest Thereon Are Limited Obligations Of The Issuer, Payable Solely From The Trust Estate Pledged Therefor Under The Indenture. None Of The State, The City

Of Chicago, Nor Any Other Political Subdivision Or Body Corporate And Politic, Or Agency, Of The State, The City Of Chicago (Except To The Limited Extent Provided Herein) Shall In Any Event Be Liable For The Payment Of The Principal Of, Premium, If Any, Or Interest On The Bonds Or For The Performance Of Any Pledge, Obligation Or Agreement Of Any Kind Whatsoever Of The Issuer, And Neither This Bond Nor Any Of The Issuer's Agreements Or Obligations Shall Be Construed To Constitute An Indebtedness Of The State, The City Of Chicago, Or Any Other Political Subdivision Or Body Corporate And Politic Of The State, The City Of Chicago Or The Issuer (Except To The Limited Extent Provided Herein), Within The Meaning Of Any Constitutional Or Statutory Provision Whatsoever.

This Bond is one of a duly authorized issue of bonds of the issuer known as its Multi-Family Housing Revenue Bonds (Mercy Preservation Project) 20__ Series, issued in the original aggregate principal amount of \$ _____ (the "Bonds") under and pursuant to the Constitution And the laws of the State, particularly the Issuer's home rule charter (the "Act"), and a Bond Ordinance adopted by the Issuer on March _____, 20 _____. The Bonds are special, limited obligations of the Issuer payable solely from and secured By the Trust Estate pledged therefor pursuant to the Indenture. The Bonds are issued to provide funds to finance of a multifamily rental housing development known as the Mercy Preservation Project located in the City of Chicago owned By HWA-850 Eastwood Limited Partnership, an Illinois limited partnership (the "Borrower").

The Bonds are issuable as fully registered bonds in Authorized Denominations of Five Thousand Dollars (\$5,000) or integral multiples thereof.

To secure its obligation to make payments on the Bond Mortgage Note in accordance with its terms, the Borrower has caused to be delivered to the Issuer a [Name of Bond Mortgage] dated as of _____, 20__ (the "Bond Mortgage"), which has been assigned by the Issuer to the Trustee, and a direct pay Credit Enhancement Agreement dated as of _____, 20__ (the "Credit Enhancement Agreement") between Freddie Mac and the Trustee. Under the Credit Enhancement Agreement, Freddie Mac has agreed to make advances to the Trustee (against proper draw requests made by the Trustee thereunder) in the amounts necessary to pay principal of and interest due under the Bond Mortgage Loan.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the Trust Estate under the Indenture, the nature and extent of the security, the terms and conditions upon which the Bonds are issued and secured and the rights of the holders thereof, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees. This Bond is equally and ratably secured under the Indenture with all other Bonds issued thereunder.

Redemption. The Bonds are subject to optional and mandatory redemption or purchase in lieu of redemption in accordance with the provisions of the Indenture.

Purchase In Lieu Of Redemption. At any time that Bonds are subject to redemption in whole pursuant to the Indenture the Trustee may purchase such Bonds for the account of the Borrower or the Credit Facility Provider. The Purchase Price of such Bonds, excluding

accrued interest, shall not exceed the applicable redemption price of the Bonds that would otherwise have been redeemed.

In the event of a redemption of less than all of the Bonds, the Bonds shall be selected by lot Bonds shall only be redeemed in Authorized Denominations.

Unless notice of redemption is not required under this Bond and the terms of the Indenture, notice of redemption of this Bond shall be given by first class mail, postage prepaid, to the registered owner hereof at the address of such owner shown on the registration books maintained by the Trustee, as bond registrar. All such notices shall be given not less than ten (10) days (not less than thirty (30) days in the case of optional or mandatory sinking fund redemptions) nor more than sixty (60) days prior to the date fixed for redemption. Notice shall also be sent by certified mail, overnight delivery service or other secure means, postage prepaid, to the Credit Facility Provider and to certain information services as described in the Indenture. Failure to give notice by mailing to the registered owner of any Bond designated for redemption shall not affect the validity of the proceedings for the redemption of any other Bond if notice shall have been mailed as herein provided. The Trustee may provide a conditional notice of redemption upon the direction of the Credit Facility Provider or the Borrower (with the prior written consent of the Credit Facility Provider).

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Modifications or alterations of the Indenture or of any indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond is transferable by the registered owner hereof in Person or by such owner's attorney duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond or Bonds of the same series, maturity and interest rate and of authorized denomination or denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Bonds are issuable only as fully registered Bonds without coupons.

The Issuer and the Trustee may deem and treat the registered holder hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until this Bond shall have been authenticated by the certificate of the Trustee endorsed hereon.

In the event of a conflict between the terms of this Bond and the Indenture, the terms of the Indenture shall control.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in the time, form and manner as required by law and that this Bond and the issue of which it forms a part does not exceed or violate any constitutional or statutory limitation.

In Witness Whereof, The Issuer has caused this Bond to be duly executed by the manual or facsimile signature of its Chief Financial Officer and attested by the manual or facsimile signature of its City Clerk.

Chicago of Chicago

[Seal]

By: _____
Chief Financial Officer

Attest:

By: _____
City Clerk

Certificate Of Authentication.

This Bond is one of the Bonds issued under the provisions of and described in the within-mentioned Indenture.

Date of Authentication _____

Seaway Bank & Trust Company

By: _____
Authorized Signer

Assignment.

For Value Received, The undersigned hereby sells, assigns and transfers unto

(Please insert Social Security Number of other identifying number of Assignee)

(Please print or Typewrite Name and Address of Assignee)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

 Signature Guaranteed

Notice: Signature(s) must be guaranteed
 by an eligible guaranty institution.

Signature: _____

Notice: The signature to this assignment
 must correspond with the name
 as it appears upon the face of
 the within Bond in every particular,
 without alteration or enlargement
 or any change whatever.

*(Sub)Exhibit "B".
 (To Trust Indenture)*

Form Of Requisition.

Costs Of Issuance Requisition.
 (Cost Of Issuance Fund)

Seaway Bank & Trust Company
 645 East 87th Street
 Chicago, Illinois 60619

Re: \$ _____ City of Chicago Multi-Family Housing Revenue
 Bonds (Mercy Preservation Project) 20__ Series

Trustee:

You are requested to disburse funds from the Costs of Issuance Fund pursuant to Section 4.13 of the Indenture in the amount(s), to the person(s) and for the purpose(s) set forth in the requisition (the "Requisition"). The terms used in this Requisition shall have the

meanings given to those terms in the Trust Indenture (the "Indenture"), dated as of _____, 20__, by and between the City of Chicago and Seaway Bank & Trust Company, as trustee, securing the above referenced Bonds.

Requisition Number: _____

Payment Due To: _____

Amount To Be Disbursed: \$ _____

The undersigned, on behalf of HWA-850 Eastwood Limited Partnership, an Illinois limited partnership, duly organized and existing under the laws of the State of Illinois (the "Borrower"), certifies that:

(a) the expenditures for which monies are requisitioned by this Requisition represent proper charges against the Costs of Issuance Fund, have not been included in any previous requisition and are set forth in the Schedule attached to this Requisition, with invoices attached for any sums for which reimbursement is requested; and

(b) the monies requisitioned are not greater than those necessary to meet obligations due and payable or to reimburse the applicable party for funds actually advanced for Costs of Issuance.

Attached to this Requisition is a Schedule, together with copies of invoices or bills of sale covering all items for which payment is being requested.

Date of Requisition: _____

HWA - 850 Eastwood Limited Partnership,
an Illinois limited partnership,

By: HWA - 850 Eastwood GP Corp., NFP,
an Illinois limited not-for-profit
corporation, its general partner

By: _____

Name: _____

Its: _____

(Sub)Exhibit "C".
(To Indenture)

Bond Mortgage Loan Fund Requisition.

(Bond Mortgage Loan Fund)

Seaway Bank & Trust Company, as Trustee

Re: \$_____ City of Chicago Multi-Family Housing Revenue
Bonds (Mercy Preservation Project) 20__ Series

You are requested to disburse funds from the Bond Mortgage Loan Fund pursuant to Section 4.02 of the Indenture in the amount(s), to the person(s) and for the purpose(s) set forth in the requisition (the "Requisition"). The terms used in this Requisition shall have the meaning given to those terms in the Trust Indenture (the "Indenture"), dated as of _____, 20__, by and between the City of Chicago and Seaway Bank & Trust Company, as trustee, securing the above referenced Bonds.

Requisition No: _____

Payment Due To: _____

Amount(s) To Be Disbursed: \$_____ from the Project Account.

The undersigned Borrower hereby represents and warrants that the following information and certification provided in connection with this Requisition are true and correct as of the date hereof and authorizes Servicer to submit the Requisition to Bond Trustee on behalf of Borrower:

1) Purposes for which disbursement is requested are specified in the attached Schedule.

2) Party or parties to whom the disbursements shall be made are specified in the attached Schedule (may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned); provided, that no reimbursement shall be made for advances and payments made prior to _____, 20__.

3) The undersigned certifies that:

- a. the conditions precedent to disbursement set forth in the Construction Phase Credit Documents have been satisfied;
- b. the disbursement requested pursuant to this Requisition will be solely to pay a cost or costs allowable under the Indenture and the Construction Phase Credit Documents;

- c. none of the items for which disbursement is requested pursuant to this Requisition has formed the basis for any disbursement previously made from the Bond Mortgage Loan Fund and all such items have been properly recorded in Borrower's books and are set forth on the Schedule attached hereto, along with paid invoices attached for any sum for which reimbursement is requested and invoices or bills of sales for all other items;
- d. all labor and materials for which disbursements have been requested have been incorporated into the Project in accordance with reasonable and standard building practices, the Construction Phase Credit Documents and all Applicable Legal Requirements (as defined in the Construction Phase Credit Documents);
- e. the materials, supplies and equipment furnished or installed for the Improvements are not subject to any lien or security interest or that the funds to be disbursed pursuant to this Requisition are to be used to satisfy any such lien or security interest;
- f. the amount remaining in the Bond Mortgage Loan Fund, together with expected investment income on the Bond Mortgage Loan Fund, in addition to those funds identified in the Construction Phase Credit Reimbursement Agreement that remain available to the Borrower for the payment of Costs of the Project, will, after payment of the amount requested by this Requisition, be sufficient to pay the costs of completing the Project substantially in accordance with the construction/rehabilitation contracts, plans and specifications and building permits therefor, if any, currently in effect;
- g. all of the funds being requisitioned are being used in compliance with all tax covenants set forth in this Indenture, the Loan Agreement and the Tax Certificate, including that none of the proceeds of the Bonds (including investment earnings thereon) will be used to provide an airplane, a skybox or any other private luxury box, any facility primarily used for gambling, health club facility or any store the principal business of which is the sale of alcoholic beverages for consumption off premises;
- h. with respect to amounts from the Project Account of the Bond Mortgage Loan Fund, not less than ninety-five percent (95%) of the sum of:
 - (A) the amounts requisitioned by this Requisition; plus
 - (B) all amounts previously requisitioned and disbursed from the Project Account of the Bond Mortgage Loan Fund;
 - (C) have been or will be applied by Borrower to pay the Costs of the Project;
- i. Borrower is not in default under the Loan Agreement, any Bond Mortgage Loan Document or any Construction Phase Credit Document to which it is a party and nothing has occurred to the knowledge of Borrower that would prevent the performance of its obligations under such documents;

- j. no amounts being requisitioned hereby will be used to pay, or reimburse, any Costs of Issuance incurred in connection with the issuance of the Bonds or pay debt service with respect to the Bond Mortgage Loan;
- k. Funds deposited with Borrower for further disbursement to third parties shall be paid to such third parties by check dated the date of such deposit and Borrower reasonably expects such funds will be disbursed from its account within five (5) business days of such deposit; and
- l. the Construction Phase Credit Facility has been issued and delivered to Freddie Mac and is in full force and effect in accordance with the terms and conditions of the Construction Phase Loan Agreement.

[Following items may not required for Initial Disbursement.]

4) Estimated costs of completing the uncompleted construction/rehabilitation of the Project as of the date of this Requisition: _____.

5) Percent of the construction/rehabilitation of the Project completed as of the date this request: _____%.

In Witness Whereof, The undersigned has executed this Requisition as of the day and date first above written.

Date: _____

HWA-850 Eastwood Limited Partnership,
an Illinois limited partnership,

By: HWA-850 Eastwood GP Corp., NFP,
an Illinois limited not-for-profit
corporation, its general partner

By: _____

Name: _____

Its: _____

Consented to by the Construction Phase
Credit Facility Provider

By: _____

Name: _____

Title: _____

Exhibit "C".
(To Ordinance)

LOAN AGREEMENT

among

CITY OF CHICAGO, ILLINOIS,
as Issuer

SEAWAY BANK & TRUST COMPANY,
as Trustee

and

HWA – 850 EASTWOOD LIMITED PARTNERSHIP,
as Borrower

Relating to

\$ _____*
CITY OF CHICAGO, ILLINOIS
MULTIFAMILY HOUSING REVENUE BONDS
(MERCY HOUSING LAKEFRONT PROJECT)
2010 SERIES

Dated as of _____, 20__

All of the right, title and interest of the City of Chicago (except for its Unassigned Rights) in and to this Loan Agreement are being assigned to Seaway Bank & Trust Company, as Trustee, as security for the above-referenced bonds pursuant to a certain Trust Indenture dated as of _____, 20__.

THIS LOAN AGREEMENT (this "Loan Agreement"), made and entered into as of _____, 20__ , by and among the CITY OF CHICAGO, ILLINOIS (the "Issuer"), an Illinois municipal corporation and home rule unit duly organized and existing under the laws of the State of Illinois (the "State"), located in Cook and DuPage Counties, Illinois; **SEAWAY BANK & TRUST COMPANY**, a state-chartered banking association, duly organized and existing under the laws of the State of Illinois (together with any successor trustees appointed under the Indenture, the "Trustee"), and **HWA – 850 EASTWOOD LIMITED PARTNERSHIP**, an Illinois limited partnership duly organized and existing under the laws of the State of Illinois (together with its successors and assigns permitted hereunder, the "Borrower"),

WITNESSETH:

WHEREAS, pursuant to its home rule powers and the Trust Indenture dated as of _____, 20__ (the "Indenture") between the Issuer and the Trustee, the Issuer has determined to issue its Multifamily Housing Revenue Bonds (Mercy Preservation Project) 2010 Series (the "Bonds") in the original aggregate principal amount of \$[_____] to provide for the financing of a multifamily rental housing developments located at 850 West Eastwood Avenue in the City of Chicago, Illinois, and a multifamily rental housing developer located at 4946 North Sheridan Road in the City of Chicago, Illinois, known as Mercy Preservation Project (the "Project"); and

WHEREAS, the Issuer has agreed to use the proceeds of the sale of Bonds to make a mortgage loan in the principal amount of \$[_____] (the "Bond Mortgage Loan") to the Borrower in connection with the Project on the terms specified in this Loan Agreement and upon the satisfaction of various conditions contained herein and in the Indenture; and

WHEREAS, the Borrower has agreed to use the proceeds of the Bond Mortgage to finance, or to reimburse the Borrower for amounts expended for, the acquisition and rehabilitation of the Project and to pay certain costs of issuance of the Bonds; and

WHEREAS, the Borrower's repayment obligations in respect of the Bond Mortgage Loan will be evidenced by a Bond Mortgage Note dated _____, 20__ (together with all riders and addenda thereto, the "Bond Mortgage Note") delivered to the Issuer, which Bond Mortgage Note will be endorsed by the Issuer to the Trustee pursuant to the Indenture; and

WHEREAS, the Borrower will cause to be delivered to the Trustee on the date of initial issuance of the Bonds (the "Delivery Date") a direct pay Credit Enhancement Agreement dated as of the date hereof (the "Credit Enhancement Agreement") between the Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Trustee which will provide for (i) draws in an amount equal to Guaranteed Payments with respect to the Bond Mortgage Loan and (ii) the payment of the Purchase Price of the Bonds on the Settlement Date; and

WHEREAS, to evidence the Borrower's reimbursement obligations to Freddie Mac for draws made under the Credit Enhancement Agreement the Borrower and Freddie Mac will enter into a Reimbursement and Security Agreement dated as of _____, 20__ (the "Reimbursement Agreement"); and

WHEREAS, to secure the Borrower's obligations under the Bond Mortgage Note, the Borrower will execute and deliver to the Issuer a Multifamily Mortgage, Assignment of Rents and Security Agreement, dated _____, 20__ (the "Bond Mortgage") with respect to the Project, which Bond Mortgage will be assigned to the Trustee pursuant to the Indenture; and

WHEREAS, to secure the Borrower's reimbursement obligations to Freddie Mac under the Reimbursement Agreement, the Borrower will execute and deliver to Freddie Mac on the Delivery Date a [Multifamily Mortgage, Assignment of Rents and Security Agreement] dated as of even date herewith (the "Reimbursement Mortgage") with respect to the Project; and

WHEREAS, to further secure Freddie Mac against any loss Freddie Mac may incur as a result of advancing funds under the Credit Enhancement Agreement, and to facilitate the financing of the Bond Mortgage Loan, during the Construction Phase, Bank of America, N.A., or such entity as acceptable to the City's Commissioner of the Department of Community Development (the "Construction Phase Credit Facility Provider"), at the request of the Borrower, will (a) enter into a _____ dated as of _____, 20__ (the "Construction Phase Credit Reimbursement Agreement") with the Borrower, (b) enter into a Construction Phase Loan Agreement dated as of the date hereof (the "Construction Phase Loan Agreement") with Freddie Mac, and (c) issue or arrange for issuance to Freddie Mac of a clean unconditional and irrevocable, standby letter of credit (the "Construction Phase Credit Facility"); and

WHEREAS, during the Construction Phase, the Construction Phase Credit Facility Provider shall serve as the construction loan administrator and be responsible for providing inspection oversight of the Project, including monitoring of disbursement of the Bond Mortgage Loan proceeds to the Borrower, in accordance with the terms of the Indenture, the Construction Phase Credit Reimbursement Agreement and the Construction Phase Loan Agreement at the request of the Borrower, the Construction Phase Credit Facility Provider will (a) enter into the Construction Phase Credit Reimbursement Agreement with the Borrower, (b) enter into the Construction Phase Loan Agreement with Freddie Mac, and (c) issue or arrange for issuance of the Construction Phase Credit Facility to Freddie Mac; and

WHEREAS, during the Permanent Phase, PNC BANK, N.A. (the "Servicer") will act as servicer for the Bond Mortgage Loan; and

WHEREAS, the Issuer, the Trustee, the Construction Phase Facility Provider and Freddie Mac have also entered into an Intercreditor Agreement dated of even date herewith (the "Intercreditor Agreement") in connection with Freddie Mac's provision of credit enhancement, the Construction Phase Credit Facility Provider's provision of the Construction Phase Credit Facility and the Issuer's provision of the HOME Loan and TIF Note;

NOW, THEREFORE, for and in consideration of the mutual covenants and representations hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. *Definitions.*

All words and phrases (except for Event of Default) defined in the Indenture shall have the same meanings for the purposes of this Loan Agreement. In addition to the words and phrases defined in the Indenture and elsewhere herein, the following words and phrases shall have the following meanings:

"Event of Default" means any of those events specified in and defined by the applicable provisions of Article VII hereof to constitute an event of default.

"Loan Agreement" means this Loan Agreement, together with any amendments hereto.

"Taxes" means all taxes, water rents, sewer rents, assessments and other governmental or municipal or public or private dues, fees, charges and levies and any liens (including federal tax liens) which are or may be levied, imposed or assessed upon the Project or any part thereof, or upon any leases pertaining thereto, or upon the rents, issues, income or profits thereof, whether any or all of the aforementioned be levied directly or indirectly or as excise taxes or as income taxes.

"Wrongful Dishonor" means the failure of the Credit Facility Provider to honor a draw made in accordance with the terms of the Credit Facility (which draw strictly complies with, and conforms to, the terms and conditions of the Credit Facility).

Section 1.2. *Interpretation.*

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. Words importing persons include firms, partnerships, limited liability companies, joint ventures, associations and corporations. References to Articles, Sections and other subdivisions of this Loan Agreement are the Articles, sections and other subdivisions of this Loan Agreement as originally executed.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Loan Agreement; the term "heretofore" means before the date of execution of this Loan Agreement; and the term "hereafter" means after the date of execution of this Loan Agreement.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.1. *Representations, Warranties and Covenants of the Issuer.*

The Issuer makes the following representations, warranties and covenants:

- a) The Issuer is an Illinois municipal corporation and home rule unit duly organized, validly existing and in good standing under the constitution and the laws of the State.
- b) The Issuer has all necessary power and authority to issue the Bonds and to execute and deliver this Loan Agreement, the Indenture, and the other Bond Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.
- c) The Issuer has taken all action on its part for the issuance of the Bonds and for the sale, execution and delivery thereof.
- d) Each of the Bond Financing Documents to which the Issuer is a party has been duly validly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its respective terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium or other laws affecting creditors' rights generally and the application of equitable principles.
- e) The Issuer has complied with the provisions of the laws of the State, including, but not limited to, the Act, which are prerequisites to the consummation of the transactions on the part of the Issuer described or contemplated in the Bond Financing Documents. The execution and delivery of the Bonds and the Bond Financing Documents to which the Issuer is a party, the consummation of the transactions on the part of the Issuer contemplated thereby and the fulfillment of or compliance with the terms and conditions thereof do not conflict with or result in the breach of any of the terms, conditions or provisions of any agreement or instrument or judgment, order or decree to which the Issuer is now a party or by which it is bound, nor do they constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature upon any property or assets of the Issuer under the terms of any instrument or agreement.
- f) No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority, other than those already obtained, is required for the due execution and delivery by the Issuer of, and performance by the Issuer of its obligations under, the Bond Financing Documents.
- g) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or body, nor, to the Issuer's knowledge, is there any basis therefor, which (i) affects or questions the existence or the territorial jurisdiction of the Issuer or the title to office of any member of the governing body of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any Bond Financing Documents or the issuance, sale, execution or delivery of the Bonds; (iii) affects or questions the validity or enforceability of the

Bonds or any Bond Financing Document; (iv) questions the tax-exempt status of the Bonds; or (v) questions the power or authority of the Issuer to perform its obligations under the Bonds or any Bond Financing Document, or to carry out the transactions contemplated by the Bonds and the Bond Financing Documents.

h) No officer or other official of the Issuer has any personal financial interest in the Project or the Borrower or in the transactions contemplated by this Loan Agreement.

i) Upon the discovery by the Issuer of any noncompliance by the Borrower with this Loan Agreement or the Tax Regulatory Agreement, the Issuer will notify the Trustee, the Servicer and the Credit Facility Provider of such noncompliance and will, subject to the provisions of Article VII hereof, promptly institute action, or cause the Trustee to institute action, to correct such noncompliance, will diligently pursue such action and will attempt to correct such noncompliance within sixty (60) days after such discovery, subject to the provisions of the Indenture, this Loan Agreement and the Tax Regulatory Agreement.

It is expressly acknowledged that the Issuer makes no representation as to the financial position or business condition of the Borrower and does not represent or warrant as to any of the statements, materials (financial or otherwise), representations or certifications furnished or to be made and furnished by the Borrower in connection with the issuance, sale, execution and delivery of the Bonds, or as to the correctness, completeness or accuracy of such statements.

Section 2.2. *Representations, Warranties and Covenants of the Borrower.*

The Borrower makes the following representations, warranties and covenants, all of which, together with the other representations and agreements of the Borrower contained in this Loan Agreement, are relied upon by the Issuer, the Servicer, the Credit Facility Provider, the Construction Phase Credit Facility Provider and the Trustee and serve as a basis for the undertakings of the Issuer, the Servicer and the Trustee contained in this Loan Agreement:

a) The Borrower is an Illinois limited partnership duly organized, validly existing and in good standing under the laws of the state in which it has been organized and duly qualified to conduct its business under the laws of the State and in every other state in which the nature of its business requires such qualification, has full legal right, power and authority to enter into this Loan Agreement, the other Bond Financing Documents and the Construction Phase Credit Documents, and to carry out and consummate all transactions contemplated hereby, by the other Bond Financing Documents and by the Construction phase Credit Documents, and by proper action has duly authorized the execution, delivery and performance of this Loan Agreement, the other bond Financing Documents and the Construction Phase Credit Documents. All corporate general partners, if any, of the Borrower are duly incorporated, organized and in good standing under the laws of their respective states of incorporation and are duly qualified to transact business in the State. All partnership general partners, if any, are duly formed and in good standing under the laws of their respective states of formation and, to the extent required by the laws of the State, are duly qualified to transact business in the State.

b) The Borrower has the legal right, power and authority to (i) own its properties and assets, including, but not limited to, the Project, (ii) to carry on its business as now being conducted and the Borrower contemplates it to be conducted with respect to the Project and (iii) execute and deliver, carry out its obligations under, and close the transactions provided for in, the Bond Financing Documents and the Construction Phase Credit Documents to which it is a party.

c) Each of the Bond Financing Documents and the Construction Phase Credit Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general principles of equity;

d) No authorization, consent, approval, order, registration, declaration or withholding of objection on the part of, or filing of or with any governmental authority, other than those already obtained or those necessary to be obtained during the course of rehabilitation of the Project, is required for the due execution and delivery or approval, as the case may be, by the Borrower of, and the performance by the Borrower of its obligations under, the Bond Financing Documents or the Construction Phase Credit Documents.

e) None of the execution and delivery of the Bond Financing Documents and the Construction Phase Credit Documents to which the Borrower is a party, the consummation of the transactions provided for in the Bond Financing Documents, the Construction Phase Credit Documents, or the Borrower's fulfillment of or compliance with the terms and conditions of the Bond Financing Documents and the Construction Phase Credit Documents (i) violates or will violate any law, rule or regulation of any governmental agency or body having jurisdiction over the Borrower, or any of its activities or properties, or any judgment, order, writ, injunction or decree to which the Borrower is subject, or any of the organizational or other governing documents of the Borrower, (ii) conflicts or will conflict with any agreement, instrument or license to which the Borrower is now a party or by which it or any of its properties or assets is bound or results or will result in a breach of, or constitutes or will constitute a default (with due notice or the passage of time or both) under, any such agreement, instrument or license, (iii) contravenes or will contravene any such law, rule or regulation or any such judgment, order, writ, injunction or decree, or (iv) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, except for any lien, charge or encumbrance permitted under the terms of the Bond Financing Documents.

f) Within the six (6) month period preceding the Delivery Date, subject to the provisions of Section 147(d) of the Code, the Borrower has not acquired the Project or any interest therein, nor has the Borrower transferred or acquired any capital interest in the owner of the Project. The Borrower shall not cause or permit the Project, or any interest therein, to be sold, assigned or transferred, except as provided in the Bond Financing Documents and shall not sell the Project or any interest therein or in its ownership structure for a period of six (6) months following the Delivery Date.

g) There is no action, suit, proceeding, inquiry or investigation pending or, to the Borrower's knowledge, threatened against or affecting the Borrower or any of its properties (including, without limitation, the Project), which, if adversely determined, would (i) impair the right of the Borrower to carry on its business substantially as now conducted and as contemplated by the Bond Financing Documents or the Construction Phase Credit Documents, (ii) adversely affect the financial condition of the Borrower, (iii) prohibit, restrain or enjoin the issuance, sale or delivery of the Bonds or the loaning of the proceeds of the Bonds to the Borrower or the execution and delivery of the Bonds or any of the Bond Financing Documents or the Construction Phase Credit Documents, (iv) adversely affect the validity or enforceability of the Bonds or any of the Bond Financing Documents or any of the Construction Phase Documents, or, (v) adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

h) The Project and the operation of the Project (in the manner contemplated by the Bond Financing Documents) conform and following completion of the rehabilitation of the Project, will continue to conform in all material respects with the requirements of the Act as well as all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project.

i) The Borrower has filed or caused to be filed all federal, state and local tax returns which are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

j) The Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party which default would materially adversely affect the transactions contemplated by the Bond Financing Documents or the Construction Phase Credit Documents or the operations of the Borrower or the enforceability of the Bond Financing Documents or the Construction Phase Credit Documents to which the Borrower is a party or the ability of the Borrower to perform all obligations thereunder.

k) The Borrower agrees to pay all costs of maintenance and repair, all Taxes and assessments, insurance premiums (including public liability insurance and insurance against damage to or destruction of the Project) concerning or in any way related to the Project, or any part thereof, and any expenses or renewals thereof, and any other governmental charges and impositions whatsoever, foreseen or unforeseen, and all utility and other charges and assessments concerning or in any way related to the Project.

l) If the Borrower is a partnership, all of the partnership interests in the Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests. If the Borrower is a limited liability company, all of the ownership interests in the Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests. Nothing in this Loan Agreement shall prevent the Borrower from issuing

additional partnership interests or ownership interests if such units are issued in accordance with all applicable securities laws.

m) The representations and warranties of the Borrower contained in the Tax Certificate and Tax Regulatory Agreement are true and accurate.

n) The information, statements or reports furnished in writing to the Issuer, the Credit Facility Provider and the Construction Phase Credit Facility Provider by the Borrower in connection with this Loan Agreement or the consummation of the transactions contemplated hereby and by the Construction Phase Credit Documents (including, without limitation, any written information furnished by the Borrower in connection with the preparation of the Official Statement for the Bonds and of any other materials related to the issuance, delivery or offering of the Bonds on the Delivery Date) do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading; and the representations and warranties of the Borrower and the statements, information and descriptions contained in the Borrower's closing certificates, as of the Delivery Date, are true and correct in all material respects, do not contain any untrue statement of a material fact, and do not omit to state a material fact necessary to make the representations, warranties, statements, information and descriptions contained therein, in the light of the circumstances under which they were made, not misleading; and any estimates or the assumptions contained in any certificate of the Borrower delivered as of the Delivery Date are reasonable.

o) To the knowledge of the Borrower, no commissioner, member, officer or employee of the Issuer has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other person, in the Bond Financing Documents, the Construction Phase Credit Documents, the Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Bond Financing Documents or the Construction Phase Credit Documents.

p) The Borrower intends to hold the Project for its own account and has no current plans to sell, and has not entered into any agreement, to sell all or any portion of the Project.

q) The Project is located wholly within the boundaries of Cook County, Illinois.

r) The Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act.

s) The information contained in the Official Statement, insofar as such information relates to the Borrower, the developer, the property manager and the Project, is accurate in all material respects and does not contain any untrue statement of a material fact or omit to state a material fact pertaining to the Borrower, the developer, the property manager and the Project necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

t) The Indenture and the Credit Enhancement Agreement have been submitted to the Borrower for examination, and the Borrower, by execution of this Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Indenture and has reviewed the Credit Enhancement Agreement and that it is bound by, shall adhere to the provisions of, covenants and agrees to perform all obligations required of the Borrower pursuant to, and shall have the rights set forth by the applicable terms and conditions of, the Indenture.

u) The Borrower will have a fee simple interest in the land and improvements on the Project, subject only to liens permitted under the Bond Mortgage, the Reimbursement Mortgage and the HOME Mortgage.

v) The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA") to the extent applicable to the Project.

w) All necessary utilities are available to the Project in adequate supply.

x) The Borrower has obtained or will obtain in due course, when needed, all requisite zoning, planning, building and environmental and other permits which may become necessary with respect to the rehabilitation, use and occupancy of the Project.

y) The Borrower has obtained or will obtain in due course, when needed, all licenses, permits and approvals necessary for the ownership, operation and management of the Project, including compliance with the ADA, and further including all approvals essential to the transactions contemplated by the Bond Documents, and the Construction Phase Credit Documents.

z) The Project will satisfy all requirements of this Loan Agreement, the Regulatory Agreement, the Act and the Code with respect to multifamily rental housing and/or qualified residential rental facilities.

aa) The Project will be in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable on the Delivery Date and the Borrower will make no change to the Project which would result in a violation of the Regulatory Agreement.

bb) The Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code, and pursuant to leases which comply with all applicable laws.

cc) The Borrower acknowledges that (i) it understands the nature and structure of the transactions relating to the financing of the Project, (ii) it is familiar with the provisions of all of the documents and instruments relating to the financing, (iii) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (iv) it has not relied on the Issuer, the Trustee, the Credit Facility Provider or the Servicer for any guidance or

expertise in analyzing the financial or other consequences of the transactions contemplated by the Bond Financing Documents or otherwise relied on the Issuer, the Trustee, the Credit Facility Provider or the Servicer in any manner.

Section 2.3. *Representations and Warranties of the Trustee.*

The Trustee makes the following representations and warranties:

a) The Trustee is a state-chartered banking association, duly organized and existing under the laws of the State. The Trustee is duly authorized to act as a fiduciary and to execute the trust created by the Indenture, and meets the qualifications to act as Trustee under the Indenture.

b) The Trustee has complied with the provisions of law which are prerequisite to the consummation of, and has all necessary power (including trust powers) and authority (i) to execute and deliver this Loan Agreement and the other Bond Financing Documents to which it is a party, (ii) to perform its obligations under this Loan Agreement and the other Bond Financing Documents to which it is a party, and (iii) to consummate the transactions contemplated by this Loan Agreement and the other Bond Financing Documents to which it is a party.

c) The Trustee has duly authorized (i) the execution and delivery of this Loan Agreement and the other Bond Financing Documents to which it is a party, (ii) the performance by the Trustee of its obligations under this Loan Agreement and the other Bond Financing Documents to which it is a party, and (iii) the actions of the Trustee contemplated by this Loan Agreement and the other Bond Financing Documents to which it is a party.

d) Each of the Bond Financing Documents to which the Trustee is a party has been duly executed and delivered by the Trustee, and assuming due authorization, execution and delivery by the other parties thereto, constitute a valid and binding obligations of the Trustee, enforceable against the Trustee in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting rights of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding equity or at law).

e) No approval, permit, consent, authorization or order of any court, governmental agency or public board or body not already obtained is required to be obtained by the Trustee as a prerequisite to (i) the execution and delivery of the Bond Financing Documents to which the Trustee is a party, (ii) the authentication or delivery of the Bonds, (iii) the performance by the Trustee of its obligations under this Loan Agreement and the other Bond Financing Documents to which it is a party, or (iv) the consummation of the transactions contemplated by this Loan Agreement and the other Bond Financing Documents to which it is a party. The Trustee makes no representation or warranty relating to compliance with any federal or state securities laws.

Section 2.4. *Arbitrage and Rebate Fund Calculations.*

The Borrower shall (a) take or cause to be taken all actions necessary or appropriate in order to fully and timely comply with Section 4.12 of the Indenture, and (b) if required to do so

under Section 4.12 of the Indenture, select at the Borrower's expense, a Rebate Analyst reasonably acceptable to the Issuer for the purpose of making any and all calculations required under Section 4.12 of the Indenture. Such calculations, if required, shall be made in the manner and at such times as specified in Section 4.12 of the Indenture. The Borrower shall cause the Rebate Analyst to provide such calculations to the Trustee and the Issuer at such times and with such directions as are necessary to comply fully with the arbitrage and rebate requirements set forth in the Indenture and to comply fully with Section 148 of the Code, including the timely payment of any arbitrage rebate owed.

Section 2.5. Tax Covenants of the Borrower.

The Borrower covenants and agrees that:

- a) It will at all times comply with the terms of the Tax Certificate and the Tax Regulatory Agreement;
- b) It will not take, or permit to be taken on its behalf, any action which would cause the interest payable on the Bonds to be included in gross income, for federal income tax purposes, and will take such action as may be necessary in the opinion of Bond Counsel to continue such exclusion from gross income, including, without limitation, the preparation and filing of all statements required to be filed by it in order to maintain the exclusion (including, but not limited to, the filing of all reports and certifications required by the Tax Regulatory Agreements;
- c) No changes will be made to the Project, no actions will be taken by the Borrower and the Borrower will not omit to take any actions, which will in any way adversely affect the tax-exempt status of the Bonds;
- d) It will comply with the requirements of Section 148 of the 1986 Code and the Regulations issued thereunder throughout the term of the Bonds and will not make any use of the proceeds of the Bonds, or of any other funds which may be deemed to be proceeds of the Bonds under the Treasury Regulations, which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code;
- e) If the Borrower becomes aware of any situation, event or condition which would, to the best of its knowledge, result in the interest on the Bonds becoming includable in gross income for purposes of federal income tax purposes, it will promptly give written notice of such circumstance, event or condition to the Issuer, the Trustee, the Credit Facility Provider, the Servicer and the Construction Phase Credit Provider.
- f) The full amount of each disbursement from the Project Account of the Bond Mortgage Loan Fund will be applied to pay or to reimburse the Borrower for the payment of Costs of the Project and, after taking into account any proposed disbursement, (i) at least 95% of the net proceeds of the Bonds (as defined in Section 150 of the Code) will be used to provide a qualified residential rental project (as defined in Section 142(d) of the Code) and (ii) less than 25% of the net proceeds of the Bonds will have been disbursed to pay or to reimburse the

Borrower for the cost of acquiring land; none of the proceeds of the Bonds (as defined for purposes of Section 147(g) of the Code) will be disbursed to provide working capital;

g) The Borrower will cause all of the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Code and the Tax Regulatory Agreement;

h) All leases will comply with all applicable laws and the Tax Regulatory Agreement;

i) In connection with any lease or grant by the Borrower of the use of the Project, the Borrower will require that the lessee or user of any portion of the Project not use that portion of the Project in any manner which would violate the covenants set forth in this Loan Agreement or the Tax Regulatory Agreement;

j) The Borrower covenants that no proceeds of the Bonds shall be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property is pursuant to such acquisition; provided, however, that this limitation shall not apply with respect to any building (and the equipment therefor) if rehabilitation expenditures (as defined in Section 147(d) of the Code) with respect to such building equal or exceed 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the proceeds; and provided, further, that this limitation shall not apply with respect to any structure other than a building if rehabilitation expenditures with respect to such structure equal or exceed 100 percent of the portion of the cost of acquiring such structure financed with the proceeds;

k) The Borrower covenants that, from the proceeds of the Bonds and investment earnings thereon, an amount not in excess of two percent (2%) of the proceeds of the Bonds, will be used for Costs of Issuance of the Bonds, all within the meaning of Section 147(g)(1) of the Code; and

l) The Borrower covenants that no proceeds of the Bonds shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility, facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

Section 2.6. *Enforcement of Bond Financing Documents.*

The Trustee may enforce and take all reasonable steps, actions and the proceedings necessary for the enforcement of all terms, covenants and conditions of the Bond Financing Documents as and to the extent set forth therein.

ARTICLE III

THE BOND MORTGAGE LOAN

Section 3.1. *Conditions to Funding the Bond Mortgage Loan.*

Upon initial delivery of the Bonds, the Issuer shall cause the Bond proceeds to be deposited with the Trustee in accordance with Section 2.11 of the Indenture and Section 3.3 hereof. The Trustee shall use such proceeds as provided in Article IV of the Indenture; provided that no such disbursements of proceeds of the Bonds shall be made until the following conditions have been met:

a) The Borrower shall have executed and delivered to the Trustee the Bond Mortgage Note in the form attached hereto as Exhibit A, with only such changes therein as shall be approved in writing by the Credit Facility Provider;

b) The Bond Mortgage and the Reimbursement Mortgage, with only such changes therein as shall be approved in writing by Credit Facility Provider, shall have been executed and delivered by the Borrower and delivered to the title company for recording in the appropriate office for officially recording real estate documents in the jurisdiction in which the Project is located (the "Recorder's Office");

c) The Tax Regulatory Agreement shall have been executed and delivered by the parties thereto and shall have been delivered to the title company for recording in the Recorder's Office, and the Trustee shall have received evidence satisfactory to it of such delivery;

d) The Credit Facility and all other Bond Financing Documents not listed above shall have been executed and delivered by all parties thereto and delivered to the Trustee; and

e) The Borrower shall have delivered to the Trustee, the Issuer, the Credit Facility Provider, the Servicer and the Construction Phase Credit Facility Provider a certificate confirming, as of the Delivery Date, the matters set forth in Section 2.2 and an opinion of its counsel or other counsel satisfactory to the Trustee, the Issuer, the Servicer and the Credit Facility Provider.

Section 3.2. *Terms of the Bond Mortgage Loan; Servicing.*

a) The Bond Mortgage Loan shall (i) be evidenced by the Bond Mortgage Note; (ii) be initially secured by the Credit Facility; (iii) be in the principal amount of \$[_____]; (iv) bear interest as provided in the Bond Mortgage Note; (v) provide for principal and interest payments in accordance with the Bond Mortgage Note; and (vi) be subject to optional and mandatory prepayment at the times, in the manner and on the terms, and have such other terms and provisions, as provided herein and in the Bond Mortgage Note.

b) From and after the Conversion Date, the Servicer shall service the Bond Mortgage Loan pursuant to the Commitment and the *Guide*. The Issuer, the Trustee and the Borrower acknowledge and agree that (i) selection or removal of any Servicer is in the sole and absolute discretion of the Credit Facility Provider; (ii) neither the Issuer nor the Trustee shall terminate or attempt to terminate any Servicer as the servicer for the Bond Mortgage Loan or appoint or attempt to appoint a substitute servicer for the Bond Mortgage Loan; (iii) the Commitment and the *Guide* are each subject to amendment without the consent of the Trustee, the Issuer or the Borrower; and (iv) none of the Trustee, the Issuer or the Borrower shall have any rights under, or

be a third party beneficiary of, the *Guide*. The Servicer shall have the right to collect all payments made by the Borrower in connection with the Bond Mortgage Loan (from and after the Conversion Date) and to receive copies of all reports and notices provided for by the Bond Financing Documents.

Section 3.3. *Initial Deposits.*

On the Delivery Date, proceeds of the Bonds in the amount of \$_____ shall be deposited in the Project Account of the Bond Mortgage Loan Fund [and shall be deposited in the Costs of Issuance Fund]. The Borrower will deposit with the Trustee the sum of \$_____ for credit to the Cost of Issuance Fund and \$_____ for credit to the Borrower Equity Account of the Bond Mortgage Loan Fund. Subject to the conditions listed in Section 3.1 hereof, amounts on deposit in the Bond Mortgage Loan Fund are to be disbursed to the Borrower or otherwise as provided in Section 2.11(d) of the Indenture.

To the extent that amounts in the Cost of Issuance Fund from the above-mentioned sources are insufficient to pay all costs of issuing the Bonds, the Borrower shall cause the payment of such additional costs of issuing the Bonds to be made on its behalf as such amounts become due.

Section 3.4. *Assignment to Trustee.*

The parties hereto acknowledge, and the Borrower consents to, the assignment by the Issuer to the Trustee pursuant to the Indenture of all of the Issuer's right, title and interest in this Loan Agreement (excluding the Unassigned Rights), the Bond Mortgage Loan, the Bond Mortgage, the Revenues and the Credit Facility as security for the payment of the Purchase Price of, principal of, premium, if any, and interest on the Bonds and the payment of the Freddie Mac Credit Enhancement Fee and Freddie Mac Reimbursement Amount.

Section 3.5. *Investment of Funds.*

Except as otherwise provided in the Indenture, any money held as a part of any fund or account established under the Indenture shall be invested or reinvested by the Trustee in Qualified Investments in accordance with Section 4.08 of the Indenture.

Section 3.6. *Damage; Destruction and Eminent Domain.*

If, prior to payment in full of the Bonds, the Project or any portion thereof is destroyed or damaged in whole or in part by fire or other casualty, or title to, or the temporary use of, the Project or any portion thereof shall have been taken by the exercise of the power of eminent domain, and the Issuer, the Borrower, the Trustee or the Servicer receives Net Proceeds from insurance or any condemnation award in connection therewith, such Net Proceeds shall be utilized as provided in the Bond Mortgage Loan Documents and the Indenture and, prior to the Conversion Date, the Construction Phase Credit Documents.

Section 3.7. *Continuing Disclosure Requirement.*

The Borrower hereby covenants and agrees that it will promptly execute and deliver to the Trustee and the Issuer and maintain in effect therewith, a continuing disclosure agreement complying with Securities and Exchange Commission Rule 15c2-12, as amended (the "Rule"). Notwithstanding any other provision of this Loan Agreement, failure of the Borrower to comply with any continuing disclosure agreement shall not be considered an Event of Default hereunder; however, the Trustee, at the written request of any underwriter of the Bonds required to comply with the Rule or the Owners of at least 25% aggregate principal amount in Outstanding Bonds or the Credit Facility Provider, shall, but only to the extent indemnified to its satisfaction, or any Bondholder may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower to comply with its obligations under this Section.

ARTICLE IV

LOAN PAYMENTS

Section 4.1. *Payments Under the Bond Mortgage Note; Independent Obligation of Borrower.*

a) The Borrower agrees to repay the Bond Mortgage Loan at the times and in the amounts necessary to enable the Trustee, on behalf of the Issuer, to pay all amounts payable with respect to the Bonds, when due, whether at maturity or upon redemption (with premium, if applicable), acceleration, tender, purchase or otherwise. The obligation of the Borrower to make the payments set forth in this Article IV shall be an independent and separate obligation of the Borrower from its obligation to make payments under the Bond Mortgage Note, provided that in all events payments made by the Borrower under and pursuant to the Bond Mortgage Note shall be credited against the Borrower's obligations hereunder on a dollar for dollar basis. If for any reason the Bond Mortgage Note or any provision of the Bond Mortgage Note shall be held invalid or unenforceable against the Borrower by any court of competent jurisdiction, the Bond Mortgage Note or such provision of the Bond Mortgage Note shall be deemed to be the obligation of the Borrower pursuant to this Loan Agreement to the full extent permitted by law and such holding shall not invalidate or render unenforceable any of the provisions of this Article IV and shall not serve to discharge any of the Borrower's payment obligations hereunder or eliminate the credit against such obligations to the extent of payments made under the Bond Mortgage Note.

The Borrower acknowledges and agrees the Servicer, from and after the Conversion Date, may collect monthly payments from the Borrower with respect to the Bond Mortgage Loan in accordance with the Reimbursement Agreement, but such payments shall not be credited against the principal or interest due with respect to the Bond Mortgage Loan or the Bond Mortgage Note until and only to the extent such amounts are used to reimburse the Credit Facility Provider for amounts paid under the Credit Facility to pay principal of or interest on the Bonds.

b) The obligations of the Borrower to repay the Bond Mortgage Loan, to perform all of its obligations under the Bond Mortgage Loan Documents, to provide indemnification pursuant to Section 6.1 hereof, to pay costs, expenses and charges pursuant to Section 4.2 hereof

and to make any and all other payments required by this Loan Agreement, the Indenture or any other documents contemplated by this Loan Agreement or by the Bond Mortgage Loan Documents shall, subject to the limitations set forth in Section 5.1 hereof, be absolute and unconditional and shall not be subject to diminution by setoff, recoupment, counterclaim, abatement or otherwise.

c) Notwithstanding anything contained in any other provision of this Loan Agreement to the contrary (but subject to the provisions of Section 5.1 hereof and the Intercreditor Agreement), the following obligations of the Borrower shall be and remain the joint and several full recourse obligations of the Borrower and the Borrower's general partner, payable from and enforceable against any and all income, assets and properties of the Borrower: (i) the Borrower's obligations to the Issuer and the Trustee under Section 4.2(b)(ii), (iv), (vi) and (vii) of this Loan Agreement; (ii) the Borrower's obligations under Section 6.1 of this Loan Agreement; (iii) the Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Bonds as provided in this Loan Agreement and the Tax Certificate; and (iv) the Borrower's obligation to pay legal fees and such expenses under Section 7.4 of this Loan Agreement.

Section 4.2. *Payment of Certain Fees and Expenses Under the Bond Mortgage Note.*

a) In addition to the payments set forth in Section 4.1, payments to be made by the Borrower under the Bond Mortgage Note include certain money to be paid in respect of, among others, the Bond Fee Component, the Ordinary Servicing Fees and Expenses, the Freddie Mac Credit Enhancement Fee, any annual rating maintenance fees of the Rating Agency and amounts required to be deposited in any Custodial Escrow Account pursuant to the Bond Mortgage Loan Documents, as set forth in subsection (b). To the extent that any portion of the Bond Fee Component, the Ordinary Servicing Fees and Expenses, the Freddie Mac Credit Enhancement Fee, any annual rating maintenance fees of the Rating Agency and amounts required to be deposited in a Custodial Escrow Account remain due and owing at any time, such amounts remaining due and owing shall be payable from money on deposit in the Administration Fund as provided in Section 4.06 of the Indenture or from other money of the Borrower, to the extent that money in the Administration Fund is insufficient for such purposes. All other fees and expenses shall be payable from money of the Borrower as provided in subsection (b).

b) The Borrower shall pay (or cause to be paid by the Trustee, to the extent paid from money on deposit in the Administration Fund or the Cost of Issuance Fund, as applicable), in consideration of the funding of the Bond Mortgage Loan, the following fees, expenses and other money payable in connection with the Bond Mortgage Loan:

i) On the Delivery Date, from moneys on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other moneys of the Borrower, (A) to Freddie Mac, the closing fee of Freddie Mac set forth in Section 3.1 of the Reimbursement Agreement, together with all third party and out-of-pocket expenses of Freddie Mac (including but not limited to the fees and expenses of counsel to Freddie Mac) in connection with the Bond Mortgage Loan and the Credit Enhancement

Agreement, and (B) to the Construction Phase Credit Provider, together with all third party and out-of-pocket expenses of the Construction Phase Credit Provider (including but not limited to the fees and expenses of counsel to the Construction Phase Credit Facility Provider) in connection with the Bond Mortgage Loan and the issuance of the Construction Phase Credit Facility Agreement.

ii) On the Delivery Date, from moneys on deposit in the Cost of Issuance Fund or, to the extent such moneys are insufficient for such purpose, from other moneys of the Borrower, to the Issuer, an initial financing fee in an amount equal to \$ _____, together with all third party and out-of-pocket expenses of the Issuer (including but not limited to the fees and expenses of counsel to the Issuer) in connection with the Bond Mortgage Loan and the issuance of the Bonds.

iii) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Issuer, an initial financing fee in an amount equal to \$[_____], together with all third party and out-of-pocket expenses of the Issuer (including but not limited to the fees and expenses of counsel to the Issuer) in connection with the Bond Mortgage Loan and the issuance of the Bonds.

iv) On the Delivery Date, from money on deposit in the Cost of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Trustee, an acceptance fee in an amount equal to \$[_____], together with all third party and out-of-pocket expenses of the Trustee (including but not limited to the fees and expenses of counsel to the Trustee) in connection with the Bond Mortgage Loan and the issuance of the Bonds.

v) From money of the Borrower, to the Trustee, within two (2) Business Days of receipt from the Trustee of a notice of deficiency in the Administration Fund as provided in Section 4.06 of the Indenture, the amount of any such deficiency in the Administration Fund.

vi) From money on deposit in the Administration Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Trustee, the Ordinary Trustee's Fees and Expenses and the Extraordinary Trustee's Fees and Expenses when due from time to time.

vii) From money on deposit in the Administration Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Issuer, the Issuer Fee when due and any extraordinary expenses not covered by the Issuer Fee the Issuer may incur in connection with the Bond Financing Documents or the Project from time to time.

viii) From money on deposit in the Administration Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Rebate Analyst, the reasonable fees and expenses of such Rebate Analyst in connection with the

computations relating to arbitrage rebate required under the Indenture and this Loan Agreement when due from time to time.

ix) Prior to the Conversion Date, from money on deposit in the Bond Mortgage Loan Fund or, to the extent such money is insufficient for such purposes, from other money of the Borrower and, from and after the Conversion Date, from amounts withheld by the Servicer as provided in the Guide, to Freddie Mac, the Freddie Mac Credit Enhancement Fee due and owing from time to time.

x) From moneys on deposit in the Administration Fund or, to the extent such money is insufficient for such purpose, from other moneys of the Borrower, to Freddie Mac, the amount of any Freddie Mac Reimbursement Amount due and owing from time to time but unpaid and any portion of the Freddie Mac Credit Enhancement Fee remaining unpaid as provided in Section 4.06 of the Indenture.

xi) From and after the Conversion Date, from amounts withheld by the Servicer as provided in the Guide, to the Servicer, the Ordinary Servicing Fees and Expenses due from time to time.

xii) From moneys on deposit in the Administration Fund or, to the extent such moneys are insufficient for such purpose, from other moneys of the Borrower, to the Servicer, the amount of any portion of the Ordinary Servicing Fees and Expenses remaining unpaid and any Extraordinary Servicing Fees and Expenses.

xiii) From amounts withheld by the Servicer as provided in the Guide, to the Servicer, the amounts required to be deposited in a Custodial Escrow Account pursuant to the Bond Mortgage Loan Documents from time to time.

xiv) From money on deposit in the Administration Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Servicer, the amounts required to be deposited in the Custodial Escrow Account remaining unpaid.

xv) From money on deposit in the Administration Fund, or to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Dissemination Agent, the Dissemination Agent's Fee when due from time to time.

xvi) From money on deposit in the Administration Fund, or to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Rating Agency, the annual rating maintenance fee, if any, of the Rating Agency.

xvii) From money of the Borrower on the Delivery Date, the Costs of Issuance Deposit.

xviii) From money of the Borrower on the Delivery Date, the Borrower Equity Deposit.

xix) Prior to any Settlement Date, from money of the Borrower, an amount as the Trustee reasonably determines may be required in connection with the establishment of the Reset Rate or delivery of the Alternate Credit Facility, including, but not limited to, the Remarketing Agent's Fees and its own fees and expenses (including those of their counsel).

xx) Prior to the Conversion Date, from money on deposit in the Bond Mortgage Loan Fund or, to the extent such money is insufficient for such purpose, from other money of the Borrower, to the Construction Phase Credit Facility Provider, the fees of the Construction Phase Credit Facility Provider due from time to time.

Section 4.3. *Payments to Rebate Fund.*

The Borrower shall pay when due to the Trustee at the Principal Office of the Trustee any amount required to be deposited in the Rebate Fund in accordance with Section 4.12 of the Indenture.

Section 4.4. *Prepayment of Bond Mortgage Loan.*

The Borrower shall have the option to prepay the Bond Mortgage Loan in full or in part prior to the payment and discharge of all the outstanding Bonds in accordance with the provisions of the Indenture, this Loan Agreement and the Bond Mortgage Note, and only with the prior written consent of the Credit Facility Provider and the payment of any amount due under the next succeeding paragraph. The Borrower shall be required to prepay the Bond Mortgage Loan in each case that Bonds are required to be redeemed in accordance with the terms and conditions set forth in the Indenture.

The Bonds are subject to redemption in accordance with the terms and conditions set forth in the Indenture. In connection with any prepayment, whether optional or mandatory, in addition to all other payments required under the Bond Mortgage Note, the Borrower shall pay, or cause to be paid to the Servicer (from and after the Conversion Date) or other party as directed by the Credit Facility Provider (or, if no Credit Facility is then in effect, to the Trustee), an amount sufficient to pay the redemption price of the Bonds to be redeemed, including principal, interest and premium (if any), such premium to be paid with Eligible Funds not consisting of funds drawn under the Credit Facility, and further including any interest to accrue with respect to the Bond Mortgage Loan and such Bonds between the prepayment date and the redemption date, together with a sum sufficient to pay all fees, costs and expenses in connection with such redemption and, in the case of redemption in whole, to pay all other amounts payable under this Loan Agreement, the Indenture and the Reimbursement Agreement. The Borrower shall provide notice of the prepayment to the Issuer, the Trustee, the Credit Facility Provider, the Servicer and the Construction Phase Credit Facility Provider in writing forty-five (45) days, or such shorter time as is possible in the case of mandatory prepayments, prior to the date on which the Borrower will make the prepayment. Each such notice shall state, to the extent such information is available (a) the amount to be prepaid, (b) the date on which the prepayment will be made by the Borrower, and (c) the cause for the prepayment, if any.

Section 4.5. *Borrower's Obligations Upon Redemption or Tender.*

In the event of any redemption, the Borrower will timely pay, or cause to be paid through the Servicer, to the Trustee an amount equal to the principal amount of such Bonds or portions thereof called for redemption, together with interest accrued to the redemption date and premium, if any, such premium to be paid with Eligible Funds not consisting of funds drawn under the Credit Facility. In addition, the Borrower will timely pay all fees, costs and expenses associated with any redemption of Bonds. In connection with any reset of the interest rate borne on the Bonds pursuant to Section 2.02 of the Indenture, the Borrower shall provide the items required by the provisions of Section 2.02(c) of the Indenture. On any mandatory tender date under and as provided in Sections 10.02 or 3.06 of the Indenture, the Borrower will cause to be paid, under and subject to the terms of the Credit Facility and the Reimbursement Agreement, to the Trustee by the applicable times provided in the Indenture an amount equal to the principal amount of such Bonds required to be tendered, together with interest accrued thereon to the mandatory tender date. The Borrower acknowledges that Purchased Bonds will be purchased by the Trustee for and on behalf of, and registered in the name of, the Borrower and will be pledged to the Credit Facility Provider pursuant to the Pledge Agreement.

ARTICLE V

SPECIAL COVENANTS OF BORROWER

Section 5.1. *Performance of Obligations.*

The Borrower shall keep and faithfully perform all of its covenants and undertakings contained herein and in the Bond Financing Documents, including, without limitation, its obligations to make all payments set forth herein and therein in the amounts, at the times and in the manner set forth herein and therein.

Except with respect to the obligations of the Borrower set forth in Sections 2.4, 2.5, 4.2(b)(ii), (iv), (vi) and (vii), 6.1 and 7.4, but otherwise notwithstanding any other provisions of this Loan Agreement, the obligations of the Borrower under this Loan Agreement are non-recourse liabilities of the Borrower. However, nothing in this Section shall limit the right of the Issuer, the Trustee, the Credit Facility Provider, the Servicer or the Construction Phase Credit Facility Provider to proceed against the Borrower to recover any fees owing to any of them or any actual out-of-pocket expenses (including but not limited to actual out-of-pocket attorneys' fees incurred by any of them) incurred by any of them in connection with the enforcement of any rights under this Loan Agreement or the other Bond Financing Documents. In any action or proceeding brought with respect to the Bond Mortgage Loan or the Bonds, no deficiency or other money judgment shall be enforced against the Borrower or any partner of the Borrower or any successor or assign of the Borrower, and any judgment obtained shall be enforced only against the Project and other property of the Borrower encumbered by the Bond Mortgage Loan Documents and not against the Borrower or any partner of the Borrower or any successor or assign of the Borrower. Nothing in this Section shall limit any right that the Credit Facility Provider, the Servicer or the Construction Phase Credit Facility Provider may have to enforce the

Bond Mortgage Note, the Bond Mortgage, or any other Bond Mortgage Loan Document in accordance with their terms.

Section 5.2. *Compliance With Applicable Laws.*

All work performed in connection with the Project shall be performed in strict compliance with all applicable federal, state, county and municipal laws, ordinances, rules and regulations now in force or that may be enacted hereafter.

Section 5.3. *Indenture Provisions.*

The execution of this Loan Agreement shall constitute conclusive evidence of approval of the Indenture by the Borrower. Whenever the Indenture by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Indenture, and the Borrower shall carry out and perform all of its obligations under the Indenture as fully as if the Borrower were a party to the Indenture.

Section 5.4. *Alternate Credit Facility.*

The Borrower, with the prior written confirmation of the Credit Facility Provider that the provisions of the Reimbursement Agreement have been satisfied (but without the consent of the Issuer, the Trustee or the Bondholders), may, on any Interest Payment Date occurring on or after the date that the Bonds may first be optionally redeemed at a price of not greater than par plus accrued interest to the redemption date and subject to the terms of the existing Credit Facility, arrange for the delivery to the Trustee of an Alternate Credit Facility in substitution for the Credit Facility then in effect (referred to in this Section 5.4 as "credit support") and, if applicable, for payment of the Purchase Price of Bonds delivered or deemed delivered in accordance with Article X of the Indenture (referred to in this Section 5.4 as "liquidity support"); provided that, without the consent of the Borrower (and without the consent of the Issuer, the Trustee or the Bondholders), the Credit Facility Provider may provide any other form of "credit support" or "liquidity support" (or combination thereof) issued by the Credit Facility Provider in substitution for then existing Credit Facility if (A) the conditions of Section 8.05 of the Indenture are satisfied or (B)(i) the Rating Agency confirms in writing that such substitution will not adversely affect the current rating on the Bonds, (ii) the Credit Facility Provider delivers to the Issuer and the Trustee an opinion of counsel satisfying the requirements of subsection (c) of this Section and (iii) such substitute "credit support" or "liquidity support" (or combination thereof) does not increase the amounts required to be paid by, or other obligations of, the Borrower. Any Alternate Credit Facility shall satisfy the following conditions, as applicable:

a) An Alternate Credit Facility may be issued to provide only credit support or only liquidity support so long as a separate Credit Facility provides, at all times while such Alternate Credit Facility is in effect, complementary credit support or liquidity support, as the case may be, so that at all times while the Bonds bear interest at the Variable Rate or the Reset Rate such Bonds shall be entitled to credit support and to the liquidity support required by such mode;

provided that in no event shall Freddie Mac be obligated to provide only liquidity or credit support if any Person other than Freddie Mac provides either liquidity or credit support.

b) The Alternate Credit Facility shall (i) be in an amount equal to the aggregate principal amount of the Bonds Outstanding from time to time plus the Interest Requirement (or otherwise provide coverage satisfactory to the Rating Agency); (ii) provide for payment in immediately available funds to the Trustee upon receipt of the Trustee's request for such payment with respect to any Interest Payment Date, purchase date or mandatory redemption date pursuant to the Indenture; (iii) provide an expiration date no earlier than the earliest of (A) the day following the Initial Reset Period or the Reset Adjustment Date immediately succeeding the Reset Period (as applicable); (B) ten (10) days after the Trustee receives notice from the Credit Facility Provider of an Event of Default hereunder or a default under and as defined in the Reimbursement Agreement and a direction to redeem all Outstanding Bonds; (C) the date on which all Bonds are paid in full and the Indenture is discharged in accordance with its terms; and (D) the date on which the Bonds become secured by an Alternate Credit Facility in accordance with the terms of the Indenture and the Reimbursement Agreement; (iv) unless waived by the Issuer in its sole discretion, result in the Bonds receiving a long-term rating or short-term rating, or both, as applicable for the mode then in effect, for the long term rating in one of the two highest rating categories of the Rating Agency without regard to pluses or minuses, and for the short term rating in the highest rating category of the Rating Agency without regard to pluses or minuses; and (v) have a stated expiration or termination date not sooner than one year following its effective date.

c) In connection with the delivery of an Alternate Credit Facility, the Trustee must receive (i) an opinion of counsel to the Credit Facility Provider issuing the Alternate Credit Facility, in form and substance satisfactory to the Issuer and the Trustee, relating to the due authorization and issuance of the Alternate Credit Facility, its enforceability, that the statements made relating to the Alternate Credit Facility and Reimbursement Agreement contained in any disclosure document or supplement to the existing disclosure document related to the Bonds are true and correct, that the Alternate Credit Facility is not required to be registered under the Securities Act of 1933, as amended and, if required by the Rating Agency, that payments made by the Credit Facility Provider pursuant to the Credit Facility will not be voidable under Section 547 of the Bankruptcy Code and would not be prevented by the automatic stay provisions of Section 362(a) of the Bankruptcy Code, in the context of a case or proceeding by or against the Borrower, a general partner of the Borrower or by the Issuer under the Bankruptcy Code; and (ii) an opinion of Bond Counsel to the effect that the substitution of such Alternate Credit Facility will not adversely affect the exclusion from gross income, for federal income tax purposes, of the interest payable on the Bonds.

Section 5.5. *Borrower to Maintain Its Existence; Certification of No Default.*

a) The Borrower agrees to maintain its existence and maintain its current legal status with authority to own and operate the Project.

b) In addition to performing all other similar requirements under the Bond Financing Documents to which the Borrower is a party, the Borrower shall, within 30 days after the end of

each calendar year, render to the Trustee a certificate executed by an Authorized Officer of the Borrower to the effect that the Borrower is not, as of the date of such certificate, in default of any of its covenants, agreements, representations or warranties under any of the Bond Financing Documents to which the Borrower is a party and that, to the best of the Borrower's knowledge after reasonable investigation, there has occurred no default or Event of Default (as such terms are defined in each respective Bond Financing Document) under any of the Bond Financing Documents.

Section 5.6. *Borrower to Remain Qualified in State and Appoint Agent.*

The Borrower will remain duly qualified to transact business in the State and will maintain an agent in the State on whom service of process may be made in connection with any actions against the Borrower.

Section 5.7. *Sale or Other Transfer of Project.*

Subject to the Intercreditor Agreement, the Borrower may convey and transfer the Project only upon strict compliance with the provisions of the Bond Mortgage Loan Documents and upon receipt of the prior written consent of the Issuer, the Credit Facility Provider and the Construction Phase Credit Facility Provider.

Section 5.8. *Right to Perform Borrower's Obligations.*

In the event the Borrower fails to perform any of its obligations under this Loan Agreement, the Issuer, the Trustee and/or the Servicer, after giving requisite notice, if any, and subject to the Intercreditor Agreement, may, but shall be under no obligation to, perform such obligation and pay all costs related thereto, and all such costs so advanced by the Issuer, the Trustee or the Servicer shall become an additional obligation of the Borrower hereunder, payable on demand and if not paid on demand with interest thereon at the default rate of interest payable under the Bond Mortgage Loan Documents.

Section 5.9. *Notice of Certain Events.*

The Borrower shall promptly advise the Issuer, the Trustee and the Servicer in writing of the occurrence of any Event of Default hereunder or any event which, with the passage of time or service of notice or both, would constitute an Event of Default, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

Section 5.10. *Survival of Covenants.*

The provisions of Sections 2.4, 2.5, 4.2, 4.3, 6.1 and 7.4 of this Loan Agreement shall survive the expiration or termination of this Loan Agreement

Section 5.11. *Access to Project; Records.*

Subject to reasonable notice, the Issuer, the Trustee, the Servicer and the Credit Facility Provider, and the respective duly authorized agents of each, shall have the right (but not any duty or obligation) at all reasonable times and during normal business hours to enter the Project and any other location containing the records relating to the Borrower, the Project, the Bond Mortgage Loan and the Borrower's compliance with the terms and conditions of the Bond Financing Documents, and to inspect and audit any and all of the Borrower's records or accounts pertaining to the Borrower, the Project, the Bond Mortgage Loan and the Borrower's compliance with the terms and conditions of the Bond Financing Documents, and shall have the right to require the Borrower, at the Borrower's sole expense, to furnish such documents to the Issuer, the Trustee, the Servicer and the Credit Facility Provider, as the Issuer, the Trustee, the Servicer or the Credit Facility Provider, as the case may be, from time to time, deems reasonably necessary in order to determine that the provisions of the Bond Financing Documents have been complied with and to make copies of any records that Issuer, the Trustee, the Servicer or the Credit Facility Provider or the respective duly authorized agents of each, may reasonably require. The Borrower shall make available to the Issuer, the Trustee, the Servicer and the Credit Facility Provider, such information concerning the Project, the Bond Mortgage and the Bond Financing Documents as any of them may reasonably request.

Section 5.12. *Regulatory Agreement.*

The covenants of the Borrower in the Tax Regulatory Agreement shall be deemed to constitute covenants of the Borrower running with the land and an equitable servitude for the benefit of the owners of the Bonds and shall be binding upon any owners of the Project until such time as such restrictions expire as provided in the Tax Regulatory Agreement. The Borrower covenants to file of record the Tax Regulatory Agreement and such other documents and take such other steps as are necessary in order to assure that the restrictions contained in the Tax Regulatory Agreement will, subject to the terms of the Tax Regulatory Agreement, be binding upon all owners of the Project. The Borrower covenants to include such restrictions or a reference to such restrictions in any documents transferring any interest in the Project to another to the end that such transferee has notice of, and is bound by, the Tax Regulatory Agreement. Subject to the provisions of the Intercreditor Agreement, the Issuer and the Trustee shall have the right to seek specific performance of or injunctive relief to enforce the requirements of any covenants of the Borrower contained in the Tax Regulatory Agreement or this Loan Agreement.

Section 5.13. *Damage, Destruction and Condemnation.*

If prior to full payment of the Bonds (or provision for payment of the Bonds in accordance with the provisions of the Indenture) the Project or any portion of it is destroyed (in whole or in part) or is damaged by fire or other casualty, or title to, or the temporary use of, the Project or any portion of it shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, or shall be transferred pursuant to an agreement or settlement in lieu of eminent domain proceedings, the Borrower shall nevertheless be obligated to continue to pay the amounts specified in this Loan Agreement and in the Bond Mortgage Note to the extent the Bond Mortgage Loan is not prepaid in accordance with the terms of the Bond Mortgage Loan Documents.

Section 5.14. *Obligation of the Borrower To Acquire and Rehabilitate the Project.*

The Borrower shall proceed with reasonable dispatch to complete the acquisition, rehabilitation, development and equipping of the Project. If amounts on deposit in the Bond Mortgage Loan Fund designated for the Project and available to be disbursed to the Borrower are not sufficient to pay the costs of such acquisition, rehabilitation, development and equipping, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Issuer, the Trustee, the Servicer, the Credit Facility Provider or the Bondholders in respect of any such costs or to any diminution or abatement in the repayment of the Bond Mortgage Loan. Neither of the Trustee nor the Issuer makes any representation or warranty, either express or implied, that money, if any, which will be paid into the Bond Mortgage Loan Fund or otherwise made available to the Borrower will be sufficient to complete the Project, and neither of the Trustee nor the Issuer shall be liable to the Borrower, the Bondholders or any other person if for any reason the Project is not completed.

Section 5.15. *Filing of Financing Statements.*

The Borrower shall file or record or cause to be filed or recorded on or prior to the Delivery Date all UCC financing statements which are required to be filed or recorded in order fully to protect and preserve the security interests relating to the priority of the Bond Mortgage Loan, the Trust Estate and the Bond Mortgage, and the rights and powers of the Issuer, the Trustee and the Credit Facility Provider in connection with such security interests. The Borrower shall co-operate with the Trustee in connection with the filing of any continuation statements for the purpose of continuing without lapse the effectiveness of those UCC financing statements.

ARTICLE VI

INDEMNIFICATION

Section 6.1. *Indemnification.*

The Borrower shall indemnify and hold harmless the Issuer, and the Trustee and their respective officers, directors, officials, employees, agents, attorneys, accountants, advisors, consultants and servants, past, present or future (each an "Indemnified Party"), from and against (a) any and all claims by or on behalf of any person arising from any cause whatsoever in connection with the Bond Mortgage Loan, any of the Bond Financing Documents, the Project, the Remarketing Agreement or the issuance, offering, sale or remarketing of the Bonds; (b) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Bond Mortgage Loan, any of the Bond Financing Documents, the Project, the Remarketing Agreement or the issuance, offering, sale or remarketing of the Bonds; and (c) all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon.

While the Borrower has possession of the Project, the Borrower also shall pay and discharge and shall indemnify and hold harmless the Issuer and the Trustee from (a) any lien or

charge upon payments by the Borrower to the Issuer and the Trustee hereunder, and (b) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges other than income and other similar taxes in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges other than income and other similar taxes, are sought to be imposed, the Issuer and the Trustee shall give prompt notice to the Borrower and the Borrower shall have the sole right and duty to assume, and will assume, the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion.

This indemnification shall extend to and include, without limitation, all costs, counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought with respect to such claim, except:

(i) in the case of the foregoing indemnification of Trustee and any of its Indemnified Parties, to the extent such damages are caused by the negligence or willful misconduct of such Person;

(ii) in the case of the foregoing indemnification of the Issuer and any of its Indemnified Parties, to the extent such damages are caused by the willful misconduct of such Person; and

(iii) such indemnification shall not include claims arising out of or relating to any act or omission that occurs after the Borrower ceases to own the Project.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought under this Article, the Borrower, upon written notice from the Indemnified Party, will assume the investigation and defense of the action or proceeding, including the engagement of counsel selected by the Borrower, subject to the approval of the Indemnified Party in such party's sole discretion, and shall assume the payment of all expenses related to the action or proceeding, with full power to litigate, compromise or settle the same in its sole discretion; provided, however, that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to engage separate counsel in any such action or proceeding and participate in the investigation and defense of such action or proceeding, and the Borrower shall pay the reasonable fees and expenses of such separate counsel if (i) the Indemnified Party determines that a conflict exists between the interests of the Indemnified Party and the interests of the Borrower or (ii) such separate counsel is engaged with the approval of the Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

The provisions of this Section shall survive the termination of this Loan Agreement.

Section 6.2. *Limitation With Respect to the Credit Facility Provider.*

Notwithstanding anything in this Loan Agreement to the contrary, in the event that the Credit Facility Provider shall become the owner of the Project as a result of a foreclosure or a deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan, the Credit

Facility Provider shall not be liable for any breach or default of any prior owner of the Project under this Loan Agreement and shall only be responsible for defaults and obligations incurred or occurring during the period that the Credit Facility Provider is the owner of the Project. Accordingly, during any period that the Credit Facility Provider owns the Project and that this Article VI is applicable to the Credit Facility Provider, the Credit Facility Provider's obligations under this Article VI shall be limited to acts and omissions of the Credit Facility Provider occurring during the period of the Credit Facility Provider's ownership of the Project.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. *Events of Default.*

The following shall be "Events of Default" under this Loan Agreement and the terms "Event of Default" shall mean, whenever they are used in this Loan Agreement, one or all of the following events:

a) Any representation or warranty made by the Borrower, subject to any applicable cure periods, in the Bond Financing Documents or any certificate, statement, data or information furnished by the Borrower in connection therewith or included by the Borrower in its application to the Issuer for assistance proves at any time to have been incorrect when made in any material respect;

b) Failure by the Borrower to pay any amounts due under this Loan Agreement, the Bond Mortgage Note or the Bond Mortgage at the times and in the amounts required by this Loan Agreement, the Bond Mortgage Note and the Bond Mortgage, as applicable;

c) The Borrower's failure to observe and perform any of its other covenants, conditions or agreements contained herein, other than as referred to in clause (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given by the Issuer or the Trustee to the Borrower; provided, however, that if the failure shall be such that it can be corrected but not within such period, the Issuer and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Borrower within such period and diligently pursued until the failure is corrected;
or

d) The occurrence of a default under the Reimbursement Agreement shall at the discretion of the Credit Facility Provider constitute an Event of Default under this Loan Agreement but only if the Trustee is provided written notice thereof by the Credit Facility Provider that an Event of Default has occurred under the Reimbursement Agreement and the Trustee is instructed by the Credit Facility Provider that such default constitutes an Event of Default hereunder. The occurrence of an Event of Default hereunder shall in the discretion of the Credit Facility Provider constitute a default under the Bond Mortgage Loan Documents and the Reimbursement Agreement.

Nothing contained in this Section is intended to amend or modify any of the provisions of the Bond Financing Documents or to bind the Issuer, the Trustee, the Credit Facility Provider, the Servicer or the Construction Phase Credit Facility Provider to any notice and cure periods other than as expressly set forth in the Bond Financing Documents.

Section 7.2. Remedies on Default.

Subject to Section 7.6 and provisions of the Intercreditor Agreement, whenever any Event of Default hereunder shall have occurred and be continuing, the Trustee or the Issuer where so provided may take any one or more of the following remedial steps:

a) The Issuer shall cooperate with the Trustee as the Trustee acts pursuant to Section 6.02 of the Indenture.

b) In the event any of the Bonds shall at the time be Outstanding and not paid and discharged in accordance with the provisions of the Indenture, the Issuer or the Trustee may have access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Borrower.

c) The Issuer or the Trustee may, without being required to give any notice (other than to the Issuer or the Trustee, as applicable), except as provided herein, pursue all remedies of a creditor under the laws of the State, as supplemented and amended, or any other applicable laws.

d) The Issuer or Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the payments due under this Loan Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement.

Any amounts collected pursuant to Article IV and any other amounts which would be applicable to payment of principal of and interest and any premium on the Bonds collected pursuant to action taken under this Section shall be applied in accordance with the provisions of the Indenture.

The provisions of this Section are subject to the further limitation that if, after any Event of Default hereunder all amounts which would then be payable hereunder by the Borrower if such Event of Default had not occurred and was not continuing shall have been paid by or on behalf of the Borrower, and the Borrower shall have also performed all other obligations in respect of which it is then in default hereunder, and shall have paid the reasonable charges and expenses of the Issuer, the Trustee, the Servicer and the Credit Facility Provider, including reasonable attorneys' fees paid or incurred in connection with such default, and shall have paid all amounts then due to the Credit Facility Provider, including, but not limited to, any Freddie Mac Reimbursement Amounts and Freddie Mac Credit Enhancement Fees, and if there shall then be no default existing under the Indenture, then and in every such case such Event of Default shall be waived and annulled, but no such waiver or annulment shall affect any subsequent or other Event of Default or impair any right consequent thereon.

Section 7.3. *No Remedy Exclusive.*

No remedy conferred upon or reserved to the Issuer or the Trustee by this Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Loan Agreement.

Section 7.4. *Agreement to Pay Attorneys' Fees and Expenses.*

In the event the Borrower should default under any of the provisions of this Loan Agreement and the Issuer, the Trustee, the Servicer or the Credit Facility Provider should employ attorneys or incur other expenses for the collection of loan payments or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in this Loan Agreement or in the Bond Mortgage Note, the Borrower shall on demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred.

Section 7.5. *No Additional Waiver Implied by One Waiver.*

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

Section 7.6. *Rights of Credit Facility Provider.*

Notwithstanding anything herein to the contrary, as long as a Wrongful Dishonor has not occurred with respect to the Credit Facility, none of the Issuer, the Trustee or any other person shall, upon the occurrence of an Event of Default hereunder or a default under any other the Bond Financing Document, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bond Mortgage Loan, except at the written direction of the Credit Facility Provider; provided that this prohibition shall not be construed to limit the rights of the Issuer or the Trustee to specifically enforce the Tax Regulatory Agreement in order to provide for operation of the Project in accordance with the Code and the laws of the State, including the Act; and provided further that this prohibition shall not be construed to limit the rights of the Issuer, the Trustee or the Servicer or any indemnified party under Section 6.1 to enforce its rights against the Borrower under Sections 2.4, 2.5, 4.2, 4.3, 6.1 and 7.4 by mandamus or other suit, action or proceeding at law or in equity where such suit, action or proceeding does not seek any remedies under or with respect to the Bond Mortgage or cause acceleration of the Bond Mortgage Loan.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. *Notices.*

a) Whenever in this Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to the Issuer, the Trustee, the Credit Facility Provider, the Borrower or the Servicer shall be sufficiently given and shall be deemed given (unless another form of notice shall be specifically set forth herein) on the Business Day following the date on which such notice or other communication shall have been delivered to a national overnight delivery service (receipt of which to be evidenced by a signed receipt from such overnight delivery service) addressed to the appropriate party at the addresses set forth in Section 11.05 of the Indenture, or upon receipt of such notice or other communication delivered by facsimile transmission as required or permitted by this Loan Agreement (receipt of which shall be evidenced by confirmation of transmission). The Issuer, the Trustee, the Credit Facility Provider, the Borrower or the Servicer may, by notice given as provided in this paragraph, designate any further or different address to which subsequent notices or other communication shall be sent.

A duplicate copy of each notice or other communication given hereunder by any party to the Servicer shall also be given to the Credit Facility Provider and the Construction Phase Credit Facility Provider and a duplicate copy of each notice or other communication given hereunder by any party to the Credit Facility Provider shall be given to the Servicer and the Construction Phase Credit Facility Provider.

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Loan Agreement, provided, however, that subsequent to such facsimile transmission of written instructions, shall provide the originally executed instructions and/or directions shall be provided to the Trustee in a timely manner.

b) The Trustee shall provide to the Credit Facility Provider, the Construction Phase Credit Facility Provider and the Servicer (i) prompt notice of the occurrence of any Event of Default hereunder and (ii) any written information or other communication received by the Trustee hereunder within ten (10) Business Days of receiving a written request from the Credit Facility Provider or the Construction Phase Facility Provider for any such information or other communication.

Section 8.2. *Concerning Successors and Assigns.*

All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the financing herein contemplated and shall

continue in full force and effect so long as the obligations hereunder are outstanding. Whenever in this Loan Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Loan Agreement shall bind its successors and assigns and inure to the benefit of the successors and assigns of the Issuer, the Trustee, the Servicer, the Credit Facility Provider and the Construction Phase Credit Facility Provider.

Section 8.3. *Governing Law.*

This Loan Agreement and the Exhibits attached hereto shall be construed in accordance with and governed by the laws of the State and, where applicable, the laws of the United States of America.

Section 8.4. *Modifications in Writing.*

Modification or the waiver of any provisions of this Loan Agreement or consent to any departure by the parties therefrom, shall in no event be effective unless the same shall be in writing approved by the parties hereto and shall require the prior written consent of the Credit Facility Provider and the Construction Phase Credit Facility Provider and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given and so long as the interests of any Bondholders are not adversely affected and the Trustee consents in writing thereto. No notice or demand on the Borrower in any case shall entitle it to any other or further notice or demand in the same circumstances.

Section 8.5. *Further Assurances and Corrective Instruments.*

The Issuer, the Trustee and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required (including such supplements or further instruments requested by the Credit Facility Provider) for correcting any inadequate or incorrect description of the performance of this Loan Agreement.

Section 8.6. *Captions.*

The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Loan Agreement.

Section 8.7. *Severability.*

The invalidity or unenforceability of any provision of this Loan Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

Section 8.8. *Counterparts.*

This Loan Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 8.9. *Amounts Remaining in Bond Fund or Other Funds.*

It is agreed by the parties hereto that any amounts remaining in the Bond Fund or other funds and accounts established under the Indenture upon expiration or sooner termination of the term hereof, shall be paid in accordance with the Indenture.

Section 8.10. *Effective Date and Term.*

This Loan Agreement shall become effective upon its execution and delivery by the parties hereto, shall be effective and remain in full force from the date hereof, and, subject to the provisions hereof, shall expire on such date as the Indenture shall terminate.

Section 8.11. *Cross References.*

Any reference in this Loan Agreement to an "Exhibit," an "Article," a "Section," a "Subsection" or a "Paragraph" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit attached to this Loan Agreement, an article of this Loan Agreement, a section of this Loan Agreement, a subsection of the section of this Loan Agreement in which the reference appears and a paragraph of the subsection within this Loan Agreement in which the reference appears. All exhibits attached to or referred to in this Loan Agreement are incorporated by reference into this Loan Agreement.

Section 8.12. *Credit Facility Provider, the Construction Phase Credit Facility Provider and Servicer as Third-Party Beneficiaries.*

The parties hereto agree and acknowledge that the Credit Facility Provider, the Construction Phase Credit Facility Provider and the Servicer are third-party beneficiaries of this Loan Agreement.

Section 8.13. *Credit Facility Provider.*

Following the release of the Credit Enhancement Agreement by the Trustee pursuant to the terms of the Indenture and the provision of an Alternate Credit Facility, all notices to be provided Freddie Mac hereunder shall be provided to the Alternate Credit Facility Provider and payments to be made to Freddie Mac by the Servicer or from the Administration Fund shall be paid to the Alternate Credit Facility Provider.

Section 8.14. *Non-Liability of Issuer.*

The Issuer shall not be obligated to pay the principal (or redemption price) of or interest on the Bonds, except from Revenues and other moneys and assets received by the Trustee on behalf of the Issuer pursuant to this Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, nor the faith and credit of the Issuer or any member is pledged to the payment of the principal (or redemption price) or interest on the Bonds.

The Issuer shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Loan Agreement, the Bonds or the Indenture, except only to the extent amounts are received for the payment thereof from the Borrower under this Loan Agreement.

The Borrower hereby acknowledges that the Issuer's sole source of moneys to repay the Bonds will be provided by the payments made by the Borrower pursuant to this Loan Agreement, together with investment income on certain funds and accounts held by the Trustee under the Indenture, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or redemption price) and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or redemption price) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

Section 8.15. *No Liability of Officers.*

No recourse under or upon any obligation, covenant, or agreement or in any Bonds, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, director, commissioner or officer, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Owner of any Bonds, of any sum that may be due and unpaid by the Issuer upon any of the Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director, commissioner or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Owner of any Bonds, of any sum that may remain due and unpaid upon the Bonds or any of them, is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement and the issuance of the Bonds.

Section 8.16. *Capacity of the Trustee.*

The Trustee is entering into this Loan Agreement solely in its capacity as Trustee and shall be entitled to the rights, protections, limitations from liability and immunities afforded it as Trustee under the Indenture. The Trustee shall be responsible only for the duties of the Trustee expressly set forth herein and in the Indenture.

Section 8.17. *Reliance.*

The representations, covenants, agreements and warranties set forth in this Loan Agreement may be relied upon by the Issuer, the Trustee, Bond Counsel, the Servicer, the

Remarketing Agent, the Credit Facility Provider and the Construction Phase Credit Facility Provider. In performing their duties and obligations under this Loan Agreement and under the Indenture, the Issuer and the Trustee may rely upon statements and certificates of the Borrower, upon certificates of tenants believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Borrower pertaining to occupancy of the Project. In addition, the Issuer and the Trustee may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Issuer or the Trustee under this Loan Agreement and under the Indenture in good faith and in conformity with the opinion of such counsel. It is expressly understood and agreed by the parties to this Loan Agreement (other than the Issuer) that:

a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Trustee, any Bondholder or the Borrower as to the existence of a fact or state of affairs required under this Loan Agreement to be noticed by the Issuer;

b) the Issuer shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Trustee, the Credit Facility Provider, the Servicer, the Construction Phase Credit Facility Provider or the Borrower, as applicable; and

c) none of the provisions of this Loan Agreement shall require the Issuer or the Trustee to expend or risk its own funds (apart from the proceeds of Bonds issued under the Indenture) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Loan Agreement, unless it shall first have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

Section 8.18. *Termination of References.*

All references in this Loan Agreement to the Construction Phase Credit Facility Provider shall be of no force or effect and shall be disregarded for all purposes of this Loan Agreement from and after the Conversion Date or during any period the Construction Phase Credit Facility Provider is in default in the performance of its obligations as and when due under the Construction Phase Loan Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Loan Agreement and the Issuer has caused its corporate seal to be affixed hereto and to be attested, all as of the date first

set forth above.

The foregoing is hereby accepted as of

the date first written above:

CITY OF CHICAGO

By: _____

SEAL

ATTEST:

Concur:

By _____

City Clerk

By _____

Edward M. Burke

Chairman, Committee on

Finance, Chicago City Council

**SEAWAY BANK & TRUST COMPANY, as
Trustee**

**HWA - 850 EASTWOOD LIMITED PARTNERSHIP,
an Illinois limited partnership,**

By: _____

By: HWA - 850 EASTWOOD GP CORP., NFP,
an Illinois not-for-profit corporation,
its general partner

Name:

Title:

By: _____

Name: _____

Its: _____

(Sub)Exhibit "A" referred to in this Loan Agreement reads as follows:

(Sub)Exhibit "A".
(To Loan Agreement)

Form Of Bond Mortgage Note.

\$ _____ *

City Of Chicago, Illinois

Multi-Family Housing Revenue Bonds

(Mercy Preservation Project)

2010 Series

Bond Mortgage Note.

US \$[_____]

[_____] , 20[___]

For Value Received, The undersigned, HWA - 850 Eastwood Limited Partnership (the "Borrower"), promises to pay to the order of the City of Chicago (the "Issuer"), and its assigns, the principal sum of [Amount of Bonds] (US \$[_____]), plus premium, if any, and interest thereon and to pay the other amounts owing from time to time hereunder, all as set forth below.

This Note is issued pursuant to that certain Loan Agreement dated as of _____, 20___, among the Issuer, Seaway Bank & Trust Company (the "Trustee") and the Borrower (together with any and all amendments, modifications, supplements and restatements, the "Loan Agreement") pursuant to which the Issuer has made a mortgage loan in the principal amount of this Note to the Borrower (the "Bond Mortgage Loan"), and this Note is entitled to the benefits of the Loan Agreement and subject to the terms, conditions and provisions thereof. The Bond Mortgage Loan was funded with proceeds from the Issuer's \$ _____ * Multi-Family Housing Revenue Bonds (Mercy Preservation Project) 2010 Series (the "Bonds") issued pursuant to the Trust Indenture dated as of _____, 20___ (the "Indenture") between the Issuer and the Trustee.

1. Defined Terms. As used in this Note, (i) the term "Lender" means the holder of this Note, and (ii) the term "Indebtedness" means the principal of, premium, if any, and interest on or any other amounts due at any time under this Note. "Event of Default" and other capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Loan Agreement or the Indenture.

2. Payments Of Principal And Interest. The Borrower shall pay, on the first Business Day of each month commencing [_____], interest on this Note in an amount equal to the accrued and unpaid interest on the Bonds during the prior month, and shall also pay in the event of an optional or mandatory prepayment of this Note with respect to a corresponding optional or mandatory redemption or purchase or acceleration of all or part of

the Bonds, interest on this Note in an amount equal to the accrued and unpaid interest on such Bonds to the date of redemption, purchase or acceleration, as applicable. The Borrower shall pay the principal of this Note at the interest rates and in accordance with the maturity schedule set forth below:

Maturity Date	Principal Amount	Interest Rate
_____, ____	\$ _____	_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %
_____, ____		_____ %

(each a "Maturity Date") or at such earlier times and in such amounts as may be required, in the event of an optional or mandatory prepayment of this Note with respect to a corresponding optional or mandatory redemption or purchase or acceleration of all or part of the Bonds, to pay the principal that equals the principal due with respect to the Bonds at such times.

The Borrower's repayment obligations under the Loan Agreement and this Note shall be reduced from time to time by and to the extent of any amounts drawn under the Credit Facility (as defined in the Indenture) and applied to the payment of debt service on the Bonds, provided that such reductions shall be credited only at the times and to the extent the Borrower has reimbursed the Credit Facility Provider (as defined in the Indenture) fully for such amounts. The outstanding principal hereof is subject to acceleration at the same time or times and under the same terms and conditions, and with the same notice, if any, as provided under the Indenture for the acceleration of payment of the Bonds. Notwithstanding anything to the contrary contained herein or the Loan Agreement, the payments in respect of the Bond Mortgage Loan evidenced hereby shall be sufficient to pay, when due (whether at stated maturity, upon redemption before maturity, upon acceleration of stated maturity, upon tender and purchase or otherwise), the principal of and premium, if any, and interest on the Bonds at any time outstanding.

3. Payment Of Fees And Expenses; Other Required Payments. The Borrower shall also pay fees and expenses under Section 4.2 of the Loan Agreement; rebate amounts under Section 4.3 of the Loan Agreement and indemnification-related amounts under Section 6.1

of the Loan Agreement, as well as any other amounts owed under the Loan Agreement, when due and in accordance with the terms and provisions set forth therein.

4. Manner Of Payment; Deficiencies. All payments under this Note shall be made in lawful currency of the United States and in immediately available funds. The Borrower shall make its payments under this Note in Eligible Funds if and to the extent that the Indenture, the Loan Agreement or this Note requires such amount to be available to the Trustee in Eligible Funds. In the event of any deficiency in the funds available under the Indenture for payment of the principal of, premium, if any, or interest on the Bonds when due, the Borrower shall immediately pay the amount of the deficiency to the Trustee upon notice of the deficiency from the Issuer, the Servicer or the Trustee. The Borrower shall be obligated to pay the deficiency regardless of the reason for the deficiency, including any deficiency resulting from any shortfall in payments made or to be made by the Borrower under this Note, any loss due to a default under any investment held by the Trustee, a change in value of any such investment or otherwise.

5. Application Of Payments. If at any time the Lender receives, from the Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, the Lender may apply that payment to amounts then due and payable in any manner and in any order determined by the Lender in the Lender's discretion. The Borrower agrees that neither the Lender's acceptance of a payment from the Borrower in an amount that is less than all amounts then due and payable nor the Lender's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

6. Security. The Indebtedness is secured, among other things, by a multifamily mortgage, assignment of rents and security agreement dated as of the date of this Note (the "Bond Mortgage"). Reference is made to the Bond Mortgage for other rights of the Lender as to collateral for the Indebtedness.

7. Acceleration. If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, and all other amounts payable under this Note shall at once become due and payable, at the option of the Lender, as governed by the Indenture, without any prior notice to the Borrower. The Lender may exercise this option to accelerate regardless of any prior forbearance.

8. Limits On Personal Liability. Except as otherwise provided in Section 5.1 of the Loan Agreement, payments under this Note are a nonrecourse obligation of the Borrower and the Lender's only recourse for the satisfaction of the Indebtedness shall be the Lender's exercise of its rights and remedies with respect to the Project and any other collateral held by the Lender as security for the Indebtedness. This limitation on the Borrower's liability shall not limit or impair the Lender's enforcement of its rights against any guarantor of the Indebtedness or any guarantor of any obligations of the Borrower.

9. Prepayment. This Note is subject to prepayment as specified in the Loan Agreement and the Indenture.

10. Costs And Expenses. The Borrower shall pay all expenses and costs, including reasonable fees and out-of-pocket expenses of attorneys, and fees and out-of-pocket expenses of expert witnesses and costs of investigation, incurred by the Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Bond Mortgage Loan Documents,

including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or nonjudicial foreclosure proceeding.

11. Forbearance. Any forbearance by the Lender in exercising any right or remedy under this Note any other document evidencing or securing the Bond Mortgage Loan or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by the Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of the Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by the Lender of any security for the Borrower's obligations under this Note shall not constitute an election by the Lender of remedies so as to preclude the exercise of any other right or remedy available to the Lender.

12. Waivers. Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace and diligence in collecting the Indebtedness are waived by the Borrower and all endorsers and guarantors of this Note and all other third party obligors.

13. Loan Charges. If any applicable law limiting the amount of interest or other charges permitted to be collected from the Borrower in connection with the Bond Mortgage Loan is interpreted so that any interest or other charge provided for herein or in any other document evidencing or securing the Bond Mortgage Loan whether considered separately or together with other charges provided for in any such other document, violates that law, and the Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation.

14. Commercial Purpose. The Borrower represents that the Indebtedness is being incurred by the Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family or household purposes.

15. Governing Law. This Note shall be governed by the law of the State of Illinois (the "Property Jurisdiction").

16. Captions. The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

17. Address For Payment. All payments due under this Note shall be payable at [address] [City] [State], Attention: [_____], or such other place as may be designated by written notice to the Borrower from or on behalf of the Lender.

18. Consent To Jurisdiction And Venue. The Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in the Property Jurisdiction in which the Project is located. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. The Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

19. Waiver Of Trial By Jury. To The Extent Permitted By Applicable Law, Each Of The Borrower And The Lender (a) Agrees Not To Elect A Trial By Jury With Respect To Any Issue

Arising Out Of This Note Or The Relationship Between The Parties As The Lender And The Borrower That Is Triable Of Right By A Jury And (b) Waives Any Right To Trial By Jury With Respect To Such Issue To The Extent That Any Such Right Exists Now Or In The Future. Each Party Separately Gives This Waiver Of Right To Trial By Jury, Knowingly And Voluntarily With The Benefit Of Competent Legal Counsel.

20. Assignment. The Borrower acknowledges that this Note is being assigned by the Issuer to the Trustee for the Bonds.

In Witness Whereof, The Borrower has signed and delivered this Note or has caused this Note to be signed and delivered by its duly authorized representative.

HWA - 850 Eastwood Limited Partnership,
an Illinois limited partnership,

By: HWA - 850 Eastwood GP Corp., NFP,
an Illinois not-for-profit corporation,
its general partner

By: _____

Name: _____

Its: _____

Borrower's Employer ID No.

Assignment.

Pay to the order of Sea Way Bank & Trust Company, without recourse or warranty, as Trustee under the Indenture referred to in the attached Note.

City of Chicago

By: _____
Chief Financial Officer

[Seal]

Attest:

By _____
City Clerk

*Exhibit "D".
(To Ordinance)*

Land-Use Restriction Agreement.

THIS LAND USE RESTRICTION AGREEMENT (this "Agreement"), entered into as of _____, 20__ among the **CITY OF CHICAGO, ILLINOIS**, a municipality and a home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "Issuer"), **SEAWAY BANK & Trust Company**, a state-chartered banking association, as trustee (the "Trustee") under a Trust Indenture, dated as of _____, 20__ (the "Indenture"), from the Issuer to the Trustee, and **HWA - 850 EASTWOOD LIMITED PARTNERSHIP**, an Illinois limited partnership (the "Borrower"),

WITNESSETH:

WHEREAS, the Issuer has issued its Multifamily Housing Revenue Bonds (Mercy Preservation Project) 2010 Series A (the "Bonds") for the purpose, among others, of financing a mortgage loan (the "Mortgage Loan") to the Borrower pursuant to a Loan Agreement, dated as of _____, 20__ (the "Loan Agreement"), between the Issuer and the Borrower, to pay a portion of the cost of financing the acquisition, construction and equipping, on the real property described in Exhibit A attached hereto, of an approximately 300-unit multifamily rental housing project in the City of Chicago, Illinois (the "Project"); and

WHEREAS, in order to assure the Issuer and the owners of the Bonds that interest on the Bonds will be excluded from gross income for Federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), and to further the public purposes of the Issuer, certain restrictions on the use and occupancy of the Project under the Code must be established;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Borrower, the Issuer and the Trustee agree as follows:

Section 1. Term of Restrictions.

(a) Occupancy Restrictions: The term of the Occupancy Restrictions set forth in Section 3 hereof shall commence on the first day on which at least ten percent (10%) of the units in the Project are first occupied, and shall end on the latest of (i) the date which is 15 years after the date on which at least fifty percent (50%) of the units in the Project are first occupied; (ii) the first date on which no Bond (including any refunding bond with respect thereto) issued with respect to the Project is outstanding; or (iii) the date on which any housing assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates (which period is hereinafter referred to as the "Qualified Project Period").

(b) Rental Restrictions: The Rental Restrictions with respect to the Project set forth in Section 4 hereof shall remain in effect during the Qualified Project Period set forth in paragraph (a) of this Section 1.

(c) Involuntary Loss or Substantial Destruction: The Occupancy Restrictions set forth in Section 3 hereof, and the Rental Restrictions set forth in Section 4 hereof, shall cease to apply to the Project in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in Federal law or an action of a Federal agency (with respect to the Project) after the date of delivery of the Bonds, which prevents the Issuer and the Trustee from enforcing the Occupancy Restrictions and the Rental Restrictions (with respect to the Project), or condemnation or similar event (with respect to the Project), but only if, within a reasonable time, (i) all of the Bonds are promptly retired, or amounts received as a consequence of such event are used to provide a new project which meets all of the requirements of this Agreement, which new project is subject to new restrictions substantially equivalent to those contained in this Agreement, and which is substituted in place of the Project by amendment of this Agreement; and (ii) an opinion from nationally recognized bond counsel (selected by the Issuer) is received to the effect that noncompliance with the Occupancy Restrictions and the Rental Restrictions applicable to the Project as a result of such involuntary loss or substantial destruction resulting from an unforeseen event with respect to the Project will not adversely affect the exclusion of the interest on the Bonds from the gross incomes of the owners thereof for purposes of Federal income taxation; provided, however, that the preceding provisions of this paragraph shall cease to apply in the case of such involuntary noncompliance caused by foreclosure, transfer of title by deed in lieu of foreclosure or similar event if at any time during the Qualified Project Period with respect to the Project subsequent to such event the Borrower or any Affiliated Party (as hereinafter defined) obtains an ownership interest in the Project for Federal income tax purposes. "Affiliated Party" means a person whose relationship to another person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code; or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(d) Termination: This Agreement shall terminate with respect to the Project upon the earliest of (i) termination of the Occupancy Restrictions and the Rental Restrictions with respect to the Project, as provided in paragraphs (a) and (b) of this Section 1; or (ii) delivery to the Issuer, the Trustee and the Borrower of an opinion of nationally recognized bond counsel (selected by the Issuer) to the effect that continued compliance of the Project with the Rental Restrictions and Occupancy Restrictions applicable to the Project is not required in order for interest on the Bonds to remain excludible from gross income for Federal income tax purposes.

(e) Certification: Upon termination of this Agreement in whole or in part, the Borrower, the Issuer and the Trustee shall execute and cause to be recorded (at the Borrower's expense), in all offices in which this Agreement was recorded, a certificate of termination, specifying which of the restrictions contained herein has terminated, and the portion of the Project to which such termination relates.

Section 2. Project Restrictions.

The Borrower represents, warrants and covenants that:

(a) The Borrower has reviewed the provisions of the Code and the Treasury Regulations thereunder (the "Regulations") applicable to this Agreement (including, without limitation, Section 142(d) of the Code and Section 1.103-8(b) of the Regulations) with its counsel and understands said provisions.

(b) The Project is being acquired, constructed and equipped for the purpose of providing a "qualified residential rental project" (as such phrase is used in Section 142(d) of the Code) and will, during the term of the Rental Restrictions and Occupancy Restrictions hereunder applicable to the Project, continue to constitute a "qualified residential rental project" under Section 142(d) of the Code and any Regulations heretofore or hereafter promulgated thereunder and applicable thereto.

(c) Substantially all (not less than 95%) of the Project will consist of a "building or structure" (as defined in Section 1.103-8(b)(8)(iv) of the Regulations), or several proximate buildings or structures, of similar construction, each containing one or more similarly constructed residential units (as defined in Section 1.103-8(b)(8)(i) of the Regulations) located on a single tract of land or contiguous tracts of land (as defined in Section 1.103-8(b)(4)(ii)(B) of the Regulations), which will be owned, for Federal tax purposes, at all times by the same person, and financed pursuant to a common plan (within the meaning of Section 1.103-8(b)(4)(ii) of the Regulations), together with functionally related and subordinate facilities (within the meaning of Section 1.103-8(b)(4)(iii) of the Regulations). If any such building or structure contains fewer than five (5) units, no unit in such building or structure shall be Borrower-occupied.

(d) None of the residential units in the Project will at any time be used on a transient basis, nor will the Project itself be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home or trailer park or court for use on a transient basis; nor will any portion of the Project be operated as a facility which provides continual or frequent nursing, medical or psychiatric services.

(e) All of the residential units in the Project will be leased or rented, or available for lease or rental, on a continuous basis to members of the general public (other than (i) units for resident managers or maintenance personnel, (ii) units for Qualifying Tenants as provided for in Section 3 hereof, and (iii) units which may be rented under the Section 8 assistance program, which units (subject to the Section 8 assistance program) shall be leased to eligible tenants in accordance with Section 8 requirements), subject, however, to the requirements of Section 3(a) hereof; and provided that, to the extent compliance therewith is not inconsistent with the foregoing, nothing in the foregoing shall be read to constrain the Borrower from complying with the requirements of Section 42 of the Code to the extent applicable to the Project. Each Qualifying Tenant occupying a residential unit in the Project shall be required to execute a written lease with a stated term of not less than 30 days.

(f) Any functionally related and subordinate facilities (e.g., parking areas, swimming pools, tennis courts, community rooms, etc.) which are financed by the Bonds, and are included as part of the Project, will be of a character and size commensurate with the character and size of the Project, and will be made available to all tenants in the Project on an equal basis;

fees will only be charged with respect to the use thereof if the charging of fees is customary for the use of such facilities at similar residential rental properties in the surrounding area (i.e., within a one-mile radius), or, if none, then within comparable urban settings in Chicago, Illinois, and then only in amounts commensurate with the fees being charged at similar residential rental properties within such area. In any event, any fees charged will not be discriminatory or exclusionary as to the Qualifying Tenants. No functionally related and subordinate facilities will be made available to persons other than tenants or their guests.

(g) Each residential unit in the Project will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family.

(h) No portion of the Project will be used to provide any health club facility (except as provided in (f) above), any facility primarily used for gambling, or any store, the principal business of which is the sale of alcoholic beverages for consumption off premises, in violation of Section 147(e) of the Code.

Section 3. Occupancy Restrictions.

The Borrower represents, warrants and covenants with respect to the Project that:

(a) Pursuant to the election of the Issuer in accordance with the provisions of Section 142(d)(1)(B) of the Code, at all times during the Qualified Project Period with respect to the Project at least 40% of the completed residential units in the Project shall be continuously occupied (or treated as occupied as provided herein) or held available for occupancy by Qualifying Tenants as herein defined. For purposes of this Agreement, "Qualifying Tenants" means individuals or families whose aggregate adjusted incomes do not exceed 60% of the applicable median gross income (adjusted for family size) for the area in which the Project is located, as such income and area median gross income are determined by the Secretary of the United States Treasury in a manner consistent with determinations of income and area median gross income under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, under such program as in effect immediately before such determination).

(b) Prior to the commencement of occupancy of any unit to be occupied by a Qualifying Tenant after the date of issuance of the Bonds, the eligibility of prospective tenants shall be established by execution and delivery of an Income Computation and Certification in the form attached hereto as Exhibit B (the "Income Certification") evidencing that the aggregate adjusted income of such prospective tenants does not exceed the applicable income limit. In addition, such prospective tenants shall be required to provide whatever other information, documents or certifications are reasonably deemed necessary by the Borrower, the Issuer or the Trustee to substantiate the Income Certification.

(c) Not less frequently than annually, the Borrower shall determine whether the current aggregate adjusted income of each tenant occupying any unit being treated by the Borrower as occupied by a Qualifying Tenant exceeds the applicable income limit. For such purpose the Borrower shall require each such tenant to execute and deliver an Income Certification.

(d) Any unit vacated by a Qualifying Tenant shall be treated as continuing to be occupied by such Qualifying Tenant until reoccupied, other than for a temporary period not to

exceed 31 days, at which time the character of such unit as a unit occupied by a Qualifying Tenant shall be redetermined.

(e) If an individual's or family's income exceeds the applicable income limit as of any date of determination, the income of such individual or family shall be treated as continuing not to exceed the applicable limit; provided that the income of an individual or family did not exceed the applicable income limit upon commencement of such tenant's occupancy or as of any prior income determination; and provided, further, that if any individual's or family's income as of the most recent income determination exceeds 140% of the applicable income limit, such individual or family shall cease to qualify as a Qualifying Tenant if, prior to the next income determination of such individual or family, any unit in the Project of comparable or smaller size to such individual's or family's unit is occupied by any tenant other than a Qualifying Tenant.

(f) For purposes of satisfying the requirement that 40% of the completed residential units be occupied by Qualifying Tenants, the following principles shall apply: (i) at the time 10% of the residential units in the Project are occupied, 40% of that 10% of the units must be occupied by Qualifying Tenants; and (ii) after 10% of the residential units in the Project are occupied, non-Qualifying Tenants may occupy units in the Project in the number set forth in Exhibit D hereto, but only if the Qualifying Tenants' occupancies predate the non-Qualifying Tenants' occupancies.

(g) The lease to be utilized by the Borrower in renting any residential units in the Project to a prospective Qualifying Tenant shall provide for termination of the lease and consent by such person to eviction following 30 days' written notice, subject to applicable provisions of Illinois law, for any material misrepresentation made by such person with respect to the Income Certification with the effect that such tenant is not a Qualifying Tenant.

(h) All Income Certifications will be maintained on file at the Project as long as any Bonds are outstanding and for five years thereafter with respect to each Qualifying Tenant who occupied a residential unit in the Project during the period the restrictions hereunder are applicable, and the Borrower will, promptly upon receipt, file a copy thereof with the Issuer and the Trustee.

(i) On the first day of the Qualified Project Period with respect to the Project, on the fifteenth days of January, April, July and October of each year during the Qualified Project Period with respect to the Project, and within 30 days after the final day of each month in which there occurs any change in the occupancy of a residential unit in the Project, the Borrower will submit to the Issuer and the Trustee a "Certificate of Continuing Program Compliance," in the form attached hereto as Exhibit C, executed by the Borrower with respect to the Project.

(j) The Borrower shall submit to the Secretary of the United States Treasury (at such time and in such manner as such Secretary shall prescribe) with respect to the Project an annual certification on Form 8703 as to whether the Project continues to meet the requirements of Section 142(d) of the Code. Failure to comply with such requirement may subject the Borrower to the penalty provided in Section 6652(j) of the Code.

Section 4. Rental Restrictions.

The Borrower represents, warrants and covenants with respect to the Project that once

available for occupancy, each residential unit in the Project will be rented or available for rental on a continuous basis to members of the general public (other than (a) units for resident managers or maintenance personnel, (b) units for Qualifying Tenants as provided for in Section 3 hereof, and (c) units which may be rented under the Section 8 assistance program, which units (subject to the Section 8 assistance program) shall be leased to eligible tenants in accordance with Section 8 requirements); to the extent compliance therewith is not inconsistent with the foregoing, nothing in the foregoing shall be read to constrain the Borrower from complying with the requirements of Section 42 of the Code. If a Housing Assistance Payments Contract is entered into with respect to the Project under the Section 8 assistance program, in administering the restrictions hereunder with respect to the Project the Borrower will comply with all applicable Section 8 requirements.

Section 5. Transfer Restrictions.

The Borrower covenants and agrees that, other than with respect to foreclosure or transfer of title by deed in lieu of foreclosure as referred to in Section 1(c) hereof, no conveyance, transfer, assignment or any other disposition of title to the Project (a "Transfer") shall be made prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project, unless the transferee pursuant to the Transfer assumes in writing (the "Assumption Agreement"), in a form acceptable to the Issuer, all of the executory duties and obligations hereunder of the Borrower with respect to the Project, including those contained in this Section 5, and agrees to cause any subsequent transferee to assume such duties and obligations in the event of a subsequent Transfer by the transferee prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project. The Borrower shall deliver a fully executed counterpart of an Assumption Agreement to the Issuer and the Trustee at least 30 days prior to each proposed Transfer.

Section 6. Enforcement.

(a) The Borrower shall permit, upon reasonable advance written notice, all duly authorized representatives of the Issuer and the Trustee to inspect any books and records of the Borrower regarding the Project and the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Agreement and Section 142(d) of the Code and the Regulations heretofore or hereafter promulgated thereunder.

(b) In addition to the information provided for in Section 3(i) hereof, the Borrower shall submit any other information, documents or certifications reasonably requested by the Issuer or the Trustee, which the Issuer or the Trustee deems reasonably necessary to substantiate continuing compliance with the provisions of this Agreement and Section 142(d) of the Code and the Regulations heretofore or hereafter promulgated thereunder.

(c) The Issuer, the Trustee and the Borrower each covenants that it will not take or permit to be taken any action within its control that it knows would adversely affect the exclusion of interest on the Bonds from the gross income of the owners thereof for purposes of Federal income taxation pursuant to Section 103 of the Code. Moreover, each covenants to take any lawful action within its control (including amendment of this Agreement as may be necessary in the opinion of nationally recognized bond counsel selected by the Issuer) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time

pertaining to obligations issued under Section 142(d) of the Code and affecting the Project.

(d) The Borrower covenants and agrees to inform the Issuer and the Trustee by written notice of any violation of its obligations hereunder (each such violation constituting a "default" hereunder) within five days of first discovering any such violation. If any such violation is not corrected to the satisfaction of the Issuer and the Trustee within the period of time specified by either the Issuer or the Trustee, which shall be (A) 60 days from the date such violation was first discovered, or would have been discovered by the Borrower by the exercise of reasonable diligence, or (B) such longer period as is specified in an opinion of bond counsel (selected by the Issuer) of nationally recognized standing in matters pertaining to the exclusion of interest on municipal bonds from gross income for purposes of Federal income taxation, and as in such opinion will not result in the loss of such exclusion of interest on the Bonds, without further notice, the Issuer or the Trustee shall declare a default under this Agreement effective on the date of such declaration of default, and the Issuer or the Trustee shall apply to any court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, or any other remedies at law or in equity or any such other actions as shall be necessary or desirable so as to correct noncompliance with this Agreement.

(e) The Borrower, the Trustee and the Issuer each acknowledges that the primary purposes for requiring compliance with the restrictions provided in this Agreement are to preserve the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation, and that the Issuer and the Trustee, on behalf of the owners of the Bonds, who are declared to be third-party beneficiaries of this Agreement, shall be entitled for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

(f) In the enforcement of this Agreement, the Issuer and the Trustee may rely on any certificate delivered by or on behalf of the Borrower or any tenant with respect to the Project.

(g) Nothing in this Section shall preclude the Issuer or the Trustee from exercising any remedies they might otherwise have, by contract, statute or otherwise, upon the occurrence of any violation hereunder.

(h) Notwithstanding anything to the contrary contained herein, the Issuer and the Trustee hereby agree that any cure of any default made or tendered by one or more of the Borrower's limited partners shall be deemed to be a cure by the Borrower, and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 7. Covenants to Run With the Land.

The Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Agreement. The Issuer, the Trustee and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants, reservations and restrictions running with the land to the extent permitted by law, and shall pass to and be binding upon the Borrower's successors in title to the Project throughout the term of this Agreement. Each and every contract, deed, mortgage, lease or other instrument hereafter executed covering or conveying the Project or any portion thereof or interest therein shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed, mortgage, lease or other instrument.

Section 8. Recording.

The Borrower shall cause this Agreement and all amendments and supplements hereto to be recorded in the conveyance and real property records of Cook County, Illinois, and in such other places as the Issuer or the Trustee may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

Section 9. Agents of the Issuer and the Trustee.

The Issuer and the Trustee shall each have the right to appoint agents to carry out any of its duties and obligations hereunder, and shall, upon written request, certify in writing to the other parties hereto any such agency appointment.

Section 10. No Conflict With Other Documents.

The Borrower warrants and covenants that it has not and will not execute any other agreement with provisions inconsistent or in conflict with the provisions hereof (except documents that are subordinate to the provisions hereof), and the Borrower agrees that the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth, which supersede any other requirements in conflict herewith.

Section 11. Interpretation.

Capitalized terms not defined in this Agreement shall have the same meaning as terms defined in the Indenture or Section 142(d) of the Code and the Regulations.

Section 12. Amendment.

Subject to any restrictions set forth in the Indenture, this Agreement may be amended by the parties hereto to reflect changes in Section 142(d) of the Code, the Regulations and revenue rulings promulgated thereunder, or in the interpretation thereof.

Section 13. Severability.

The invalidity of any portion of this Agreement shall not affect the validity of the remaining portions hereof.

Section 14. Notices.

Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered and receipted for, or, if sent by private courier service or sent by overnight mail service, shall be deemed to have been given if and when received (unless the addressee refuses to accept delivery, in which case it shall be deemed to have been given when first presented to the addressee for acceptance), or on the first day after being sent by telegram, or on the third day after being deposited in United States registered or certified mail, postage prepaid. Any such notice, demand or other communication shall be addressed to a party at its address set forth below or to such other address the party to receive such notice may have designated to all other parties by notice in

accordance herewith:

If to the Issuer:

City of Chicago
Office of the Chief Financial Officer
33 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attention: Chief Financial Officer

With a copy to:

City of Chicago, Illinois
Office of Corporation Counsel
City Hall, Room 600
121 N. LaSalle Street
Chicago, Illinois 60602
Attention: Finance and Economic Development Director
Telephone:
Telecopier:

If to the
Borrower:

HWA – 850 Eastwood Limited Partnership
c/o Mercy Housing Lakefront
120 S LaSalle Street Suite 1850
Chicago, IL 60603
Attention:
Telephone:
Telecopier:

With a copy to

Applegate & Thorne-Thomsen
322 South Green Street, Suite 400
Chicago, Illinois 60607
(which copy shall not constitute notice to Borrower)
Attention: Ben Applegate
Telephone: 312.491-3322
Telecopier:

If to the Trustee:

Seaway Bank & Trust Company
645 East 87th St.
Chicago, IL 60619

Section 15. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois, and where applicable, the laws of the United States of America.

Section 16. Limited Liability of Borrower.

Notwithstanding any other provision or obligation stated in or implied by this Agreement to the contrary, any and all undertakings and agreements of the Borrower contained herein shall not

(other than as expressly provided hereinafter in this paragraph) be deemed, interpreted or construed as the personal undertaking or agreement of, or as creating any personal liability upon, any past, present or future partner (limited or general) of the Borrower, and no recourse (other than as expressly provided hereinafter in this paragraph) shall be had against the property of the Borrower or any past, present or future partner (limited or general) of the Borrower, personally or individually for the performance of any undertaking, agreement or obligation, or the payment of any money, under this Agreement or any document executed or delivered by or on behalf of the Borrower pursuant hereto or in connection herewith, or for any claim based thereon. It is expressly understood and agreed that the Issuer, the Trustee and the registered owners of the Bonds, and their respective successors and assigns, shall have the right to sue for specific performance of this Agreement and to otherwise seek equitable relief for the enforcement of the obligations and undertakings of the Borrower hereunder, including, without limitation, obtaining an injunction against any violation of this Agreement or the appointment of a receiver to take over and operate all or any portion of the Project in accordance with the terms of this Agreement. This Section shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first above written.

CITY OF CHICAGO, ILLINOIS

By: _____,
 _____, Chief Financial Officer

SEAWAY BANK & TRUST COMPANY, as
 Trustee

By: _____
 Name: _____
 Title: _____

HWA – 850 EASTWOOD LIMITED
 PARTNERSHIP,
 an Illinois limited partnership,

By: HWA – 850 EASTWOOD GP CORP., NFP,
 an Illinois not-for-profit corporation,
 its general partner

By: _____
 Name: _____
 Its: _____

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

BEFORE ME, the undersigned notary, on this day personally appeared _____, Chief Financial Officer of the City of Chicago, Illinois, a municipality and a home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "Issuer"), known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of said Issuer.

GIVEN UNDER MY HAND and seal of office, this _____ day of _____, 20__.

[SEAL]

Notary Public in and for the State of Illinois

My commission expires on: _____

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

BEFORE ME, the undersigned notary, on this day personally appeared _____ and _____, _____ and _____, respectively, of HWA - 850 EASTWOOD GP CORP., NFP, an Illinois not-for-profit corporation, general partner of HWA - 850 Eastwood Limited Partnership, an Illinois limited partnership (the "Borrower"), known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of said general partner of said Borrower.

GIVEN UNDER MY HAND and seal of office, this _____ day of _____,

20__.

[SEAL]

Notary Public in and for the State of Illinois

My commission expires on: _____

STATE OF ILLINOIS)

COUNTY OF COOK) ss)

BEFORE ME, the undersigned notary, on this day personally appeared _____, _____ of SEAWAY BANK & TRUST COMPANY, a national banking association (the "Trustee"), known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she [he] executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of such officer of the Trustee.

GIVEN UNDER MY HAND and seal of office, this _____ day of _____, 20__.

[SEAL]

Notary Public in and for the State of Illinois

My commission expires on: _____

(Sub)Exhibits "A", "B", "C", "D" and Freddie Mac Rider referred to in this Land-Use Restriction Agreement read as follows:

(Sub)Exhibit "A".
(To Land-Use Restriction Agreement)

Legal Description Of Project Site.

Description Of Land:

Lots 6, 7, 8, 9, 10 and the east 20 feet of Lot 11 in Horace A. Goodrich's Subdivision of the south 10 rods of the north 60 rods of the east half of the northeast quarter of Section 17, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Known As:

850 West Eastwood Avenue
Chicago, Illinois.

and

Lots 24, 25 and 26 (except the east 7 feet of said lots) in Block 3 in Conarroe's Resubdivision of that part of Argyle lying south of the centerline of Argyle Street in the southeast fractional quarter of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois, according to the plat thereof recorded October 29, 1885 in Book 20 of plats, page 49, in Cook County, Illinois.

Known As:

4946 North Sheridan Road
Chicago, Illinois.

(Sub)Exhibit "B".
(To Land-Use Restriction Agreement)

Income Computation And Certification.*

Note To Project Owner: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development ("H.U.D.") Regulations (24 CFR Part 5). You should make certain that this form

* The form of Income Computation and Certification shall be conformed to any amendments made to 24 CFR Part 5, or any regulatory provisions promulgated in substitution therefor.

(d) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum payment for the delayed start of a periodic payment;

(e) payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay;

(f) the amount of any public welfare assistance payment; if the welfare assistance payment includes any amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(i) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus;

(ii) the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities (if the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph 6(f) shall be the amount resulting from one application of the percentage);

(g) periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from persons not residing in the dwelling; and

(h) all regular pay, special pay and allowances of a member of the Armed Forces.

Excluded from such anticipated total income are:

(a) income from employment of children (including foster children) under the age of eighteen (18) years;

(b) payment received for the care of foster children or foster adults;

(c) lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;

(d) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(e) income of a live-in aide;

(f) the full amount of student financial assistance paid directly to the student or to the educational institution;

(g) special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(h) amounts received under training programs funded by the United States Department of Housing and Urban Development ("H.U.D.");

(i) amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (P.A.S.S.);

(j) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(k) a resident service stipend in a modest amount (not to exceed Two Hundred Dollars (\$200) per month) received by a resident for performing a service for the Borrower, on a part-time basis, that enhances the quality of life in the Project, including, but not limited to, fire patrol, hall monitoring, lawn maintenance and resident initiatives coordination (no resident may receive more than one stipend during the same period of time);

(l) compensation from state or local employment training programs in training of a family member as resident management staff, which compensation is received under employment training programs (including training programs not affiliated with a local government) with clearly defined goals and objectives, and which compensation is excluded only for the period during which the family member participates in the employment training program;

(m) reparations payment paid by a foreign government pursuant to claims filed under the laws of that government for persons who were persecuted during the Nazi era;

(n) earnings in excess of Four Hundred Eighty Dollars (\$480) for each full-time student, eighteen (18) years or older, but excluding the head of household and spouse;

(o) adoption assistance payments in excess of Four Hundred Eighty Dollars (\$480) per adopted child;

(p) deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;

(q) amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

(r) amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;

(s) temporary, nonrecurring or sporadic income (including gifts); and

(t) amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R. 5.609(c) apply.

7. Assets. (A) Do the persons whose income or contributions are included in item 6 above:

(i) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles, equity in a housing cooperative unit or in a manufactured home in which such family resides, and interests in Indian trust land)? Yes ____ No ____.

(ii) have they disposed of any assets (other than at a foreclosure or bankruptcy sale during the last two (2) years at less than fair market value? Yes ____ No ____.

(B) If the answer to (i) or (ii) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than Five Thousand Dollars (\$5,000)? Yes ____ No ____.

(C) If the answer to (B) above is yes, state:

(i) the total value of all such assets: \$_____

(ii) the amount of income expected to be derived from such assets in the twelve (12) month period beginning on the date of initial occupancy of the unit that you propose to rent: \$_____, and

(iii) the amount of such income, if any, that was included in Item 6 above: \$_____

8. Full-Time Students. (a) Are all of the individuals who propose to reside in the unit full-time students? Yes ____ No ____.

A full-time student is an individual enrolled as a full-time student (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended) during each of five (5) calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

(b) If the answer to 8(a) is yes, are at least two (2) of the proposed occupants of the unit a husband and wife entitled to file a joint Federal income tax return? Yes ____ No ____.

9. Relationship To Project Borrower. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter the "Borrower"), has any family relationship to the Borrower, or owns directly or indirectly any interest in the Borrower. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member; ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

10. Reliance. This certificate is made with the knowledge that it will be relied upon by the Borrower to determine maximum income for eligibility to occupy the unit and is relevant to the status under Federal income tax law of the interest on obligations issued to provide financing for the apartment development for which application is being made. I/We consent to the disclosure of such information to the Issuer of such obligations, the holders of such obligations, any trustee acting on their behalf and any authorized agent of the Treasury Department or the Internal Revenue Service. I/We declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable, and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

11. Further Assistance. I/We will assist the Borrower in obtaining any information or documents required to verify the statements made herein, including, but not limited to, either an income verification from my/our present employer(s) or copies of Federal tax returns for the immediately preceding two (2) calendar years.

12. Misrepresentation. I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Borrower to lease the unit, and may entitle the Borrower to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/We declare under penalty of perjury that the foregoing is true and correct.

Executed this ____ day of _____, in _____, Illinois.

Applicant

Applicant

Applicant

Applicant

[Signature of all persons over the age of 18 years listed in number 2 above required.]

Subscribed and sworn to before me this ____ day
of _____, _____

[Notary Seal]

Notary Public in and for the State of _____.

My commission expires: _____

For completion by project owner only:

1. Calculation of eligible income:

- a. Enter amount entered for entire household in 6 above: \$ _____
- b. (1) if the amount entered in 7(C)(i) above is greater than Five Thousand Dollars (\$5,000), enter the total amount entered in 7(C)(ii), subtract from that figure the amount entered in 7(C)(iii) and enter the remaining balance (\$ _____);
- (2) multiply the amount entered in 7(C)(i) times the current passbook savings rate as determined by H.U.D. to determine what the total annual earnings on the amount in 7(C)(ii) would be if invested in passbook savings (\$ _____), subtract from that figure the amount entered in 7(C)(iii) and enter the remaining balance (\$ _____); and
- (3) enter at right the greater of the amount calculated under (1) or (2) above: \$ _____.
- c. Total Eligible Income (Line 1.a plus line 1.b(3)): \$ _____

2. The amount entered in 1.c is:

____ Less than sixty percent (60%) of Median Gross Income for Area.**

____ More than sixty percent (60%) of Median Gross Income for the Area.***

3. Number of apartment unit assigned:

Bedroom Size: _____ Rent: \$ _____

** "Median Gross Income for the Area" means the median income for the area where the Project is located as determined by the Secretary of Housing and Urban Development under Section 8(0(3) of the United States Housing Act of 1937, as amended, or if programs under Section 8(f) are terminated, median income determined under the method used by the Secretary prior to the termination. "Median Gross Income for the Area" shall be adjusted for family size.

*** See footnote 2.

- 4. The last tenants of this apartment unit for a period of thirty-one (31) consecutive days [had/did not have] aggregate anticipated annual income, as certified in the above manner upon their initial occupancy of the apartment unit, of less than eighty percent (80%) of Median Gross Income for the Area.
- 5. Method used to verify applicant(s) income:

- ___ Employer income verification.
- ___ Copies of tax returns.
- ___ Other _____ ()

Owner or Manager

Income Verification.
(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed by the City of Chicago, Illinois. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages

Overtime

Bonuses

Commissions

Total current income

I hereby certify that the statements above are true and complete to the best of my knowledge.

Signature

Date

Title

3. Based on Certificates of Tenant Eligibility on file with the Borrower, as of the date of this Certificate the following number of completed residential units in the Project (i) are occupied by Qualifying Tenants (as such term is defined in the Regulatory Agreement), or (ii) were previously occupied by Qualifying Tenants and have been vacant and not reoccupied except for a temporary period of no more than thirty-one (31) days:

Occupied by Qualifying Tenants****: _____ Number of Units

Previously occupied by Qualifying Tenants
(vacant and not reoccupied except for a
temporary period of no more than 31 days) _____ Number of Units

4. The total number of completed residential units in the referenced Project is ____.

5. No default (as defined in Section 6 of the Regulatory Agreement) has occurred and is subsisting under the Regulatory Agreement, except as set forth in Schedule A attached hereto.

HWA-850 Eastwood Limited Partnership,
an Illinois limited partnership

By: HWA-850 Eastwood GP Corp., NFP,
an Illinois corporation, general
partner

By: _____

Name: _____

Title: _____

(Sub)Exhibit "D".
(To Land-Use Restriction Agreement)

Ratable Rent-Up Schedule.

Units Occupied by Qualifying Tenants	Units Available for Tenants Other than Qualifying Tenants	Total Completed Units

**** A unit all of the occupants of which are full-time students does not qualify as a unit occupied by Lower-Income Tenants, unless one or more of the occupants was entitled to file a joint tax return.

Freddie Mac Rider.
(To Land-Use Restriction Agreement)

This Freddie Mac Rider (the "Rider") is attached to and forms a part of the Land-Use Restriction Agreement (the "Regulatory Agreement"), dated as of _____ 1, 20____, by and among the City of Chicago, Illinois (the "Issuer"), Seaway Bank & Trust Company, as bond trustee (together with any successor in such capacity, the "Trustee"), and HWA-850 Eastwood Limited Partnership, an Illinois limited partnership, (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the "Borrower").

1. Definitions. Terms used in this Rider as defined terms shall have the meanings given those terms in the Regulatory Agreement. In addition, the following terms shall have the following meanings:

"Bonds" means Multi-Family Housing Revenue Bonds (Mercy Preservation Project) 20____ Series.

"Bond Mortgage" means the Multi-Family Mortgage, Assignment of Rents and Security Agreement, together with all riders thereto, securing the Bond Mortgage Note, to be executed by the Borrower with respect to the Project, as it may be amended, modified, supplemented or restated from time to time.

"Bond Mortgage Loan" means the loan to the Borrower pursuant to the Bond Mortgage Loan Documents, which Bond Mortgage Loan is to be assigned to the Trustee.

"Bond Mortgage Loan Documents" means the Bond Mortgage Note, the Bond Mortgage, the Financing Agreement, the Tax Regulatory Agreement, any Custodial Escrow Agreement, the Credit Enhancement Agreement, the Reimbursement Agreement, the Reimbursement Mortgage, the Intercreditor Agreement and any and all other instruments documenting, evidencing, securing or otherwise relating to the Bond Mortgage Loan.

"Bond Mortgage Note" means the Bond Mortgage Note, including applicable addenda, to be executed by the Borrower in favor of the Issuer, evidencing the Borrower's financial obligations under the Bond Mortgage Loan, and to be endorsed by the Issuer, without recourse, to the order of the Trustee, as the same may be amended, modified, supplemented or restated from time to time.

"Financing Agreement" means the Loan Agreement dated as of _____ 1, 20____, among the Borrower, the Issuer and the Trustee, as such Loan Agreement may from time to time be amended or supplemented.

"Freddie Mac" means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States.

"Indenture" means the Trust Indenture, dated as of _____ 1, 20____, between the Issuer and the Trustee, pursuant to which the Bonds are issued, as amended, modified, supplemented or restated from time to time.

"Servicer" means PNC Bank, N.A., or any successor Servicer selected by Freddie Mac.

2. Applicability. The provisions of this Rider shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. Indemnification. Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in the Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither Freddie Mac nor any successor in interest to Freddie Mac will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to Freddie Mac, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan. The Borrower shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to Freddie Mac. Freddie Mac shall indemnify the Issuer following acquisition of the Project by Freddie Mac, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan, during, and only during, any ensuing period that Freddie Mac owns and operates the Project, provided that Freddie Mac's liability shall be strictly limited to acts and omissions of Freddie Mac occurring during the period of ownership and operation of the Project by Freddie Mac. Freddie Mac shall have no indemnification obligations with respect to the Bonds or the Bond Mortgage Loan Documents. The Borrower shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to Freddie Mac.

4. Sale Or Transfer. Restrictions on sale or transfer of the Project or of any interest in the Borrower, Issuer and/or Trustee consents, transferee agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to Freddie Mac or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan or to any subsequent transfer by Freddie Mac following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Bond Mortgage or any of the other Bond Mortgage Loan Documents that requires the Borrower to obtain the consent of Freddie Mac as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Borrower, excluding transfers permitted by the Bond Mortgage. No covenant obligating the Borrower to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to Freddie Mac upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan by Freddie Mac, or to any subsequent transfer by Freddie Mac following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan. Any written consent to a sale or transfer obtained from the Issuer must be deemed to constitute conclusive evidence that the sale or transfer is not a violation of the transfer provisions.

5. Enforcement. Notwithstanding anything contained in the Regulatory Agreement or the Indenture to the contrary:

(i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Bond

Mortgage Loan Documents, except as may be otherwise specified in the Bond Mortgage Loan Documents;

(ii) neither the Issuer nor the Trustee may, upon the occurrence of an event of default under the Regulatory Agreement, seek, in any manner, to (a) cause or direct acceleration of the Bond Mortgage Loan, (b) enforce the Bond Mortgage Note, (c) foreclose on the Bond Mortgage, (d) cause the Trustee to redeem the Bonds or to declare the principal of the Bonds and the interest accrued on the Bonds to be immediately due and payable or (e) cause the Trustee to take any other action under any of the Bond Mortgage Loan Documents or any other documents which action would or could have the effect of achieving anyone or more of the actions, events or results described in the preceding clauses (a) through (d); and

(iii) the occurrence of an event of default under this Regulatory Agreement shall not impair, defeat or render invalid the lien of the Bond Mortgage.

No person other than Freddie Mac shall have the right to (a) declare the principal balance of the Bond Mortgage Note to be immediately due and payable or (b) commence foreclosure or other like action with respect to the Bond Mortgage. The Issuer and the Trustee acknowledge the foregoing limitations.

The foregoing prohibitions and limitations are not intended to limit the rights of the Issuer or the Trustee to specifically enforce the Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Internal Revenue Code and state law. Accordingly, upon any default by the Borrower, the Issuer or the Trustee may seek specific performance of the Regulatory Agreement or enjoin acts which may be in violation of the Regulatory Agreement or unlawful, but neither the Issuer nor the Trustee may seek any form of monetary recovery from the Borrower, although the Issuer may seek to enforce a claim for indemnification, provided that no obligation of the Borrower under the Regulatory Agreement, including, without limitation, any indemnification obligation, any other obligation for the payment of money, any claim and any judgment for monetary damages against the Borrower, occasioned by breach or alleged breach by the Borrower of its obligations under the Regulatory Agreement or otherwise, shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Issuer, the Trustee or any other person, and all such obligations shall be, and by this Rider are, subordinate in priority, in right to payment and in all other respects to the obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Bond Mortgage Loan Documents. Accordingly, neither the Issuer nor the Trustee shall have the right to enforce any monetary obligation other than directly against the Borrower, without recourse to the Project. In addition, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

∫ The obligations of any owner under the Regulatory Agreement shall be personal to the person who was the owner at the time that an event, including, without limitation, any default or breach of the Regulatory Agreement, occurred or was alleged to have occurred, and such person shall remain liable for any and all such obligations, including damages occasioned by a default or breach, even after such person ceases to be the owner of the Project.

Accordingly, no subsequent owner of the Project shall be liable or obligated for the obligation of any prior owner (including the Borrower), including, but not limited to, any obligation for payment, indemnification or damages, for default or breach of the Regulatory Agreement or otherwise. The owner of the Project at the time the obligation was incurred, including any obligation arising out of a default or breach of the Regulatory Agreement, shall remain liable for any and all payments and damages occasioned by the owner even after such person ceases to be the owner of the Project and no person seeking such payments or damages shall have recourse against the Project.

Under no circumstances shall the Issuer or the Trustee:

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

(ii) interfere with or attempt to influence the exercise by Freddie Mac of any of its rights under the Bond Mortgage Loan, including, without limitation, Freddie Mac's remedial rights under the Bond Mortgage Loan Documents upon the occurrence of an event of default by the Borrower under the Bond Mortgage Loan; or

(iii) upon the occurrence of an event of default under the Bond Mortgage Loan, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bond Mortgage Loan.

6. Notice Of Violations. Promptly upon determining that a violation of the Regulatory Agreement has occurred, the Issuer or the Trustee shall, by notice in writing to the Borrower, the Servicer and Freddie Mac, inform the Borrower, the Servicer and Freddie Mac that such violation has occurred, the nature of the violation and that the violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such violation, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Bond Mortgage Loan, to enforce the Bond Mortgage Note or to foreclose on the Bond Mortgage.

7. Amendments. The Regulatory Agreement shall not be amended without the prior written consent of Freddie Mac.

8. Fees; Penalties. Freddie Mac shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Borrower or any subsequent owner of the Project prior to the date of acquisition of the Project by Freddie Mac, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan.

9. Subordination. The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections [] through [] [list section(s) related to set asides], are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Bond Mortgage Loan Documents.

10. Third-Party Beneficiary. The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of Freddie Mac and are entered into for the benefit of various parties, including

Freddie Mac. Freddie Mac shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Issuer and/or the Trustee, or to cause the Issuer or the Trustee to enforce, the terms of the Regulatory Agreement. In addition, Freddie Mac is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

11. Notices. Copies of all notices under the Regulatory Agreement shall be sent to the Servicer at the address set forth below or to such other address as the Servicer may from time to time designate:

[Name of Servicer]
 [Street]
 [City, State and Zip]
 Attention: _____
 Facsimile: () ____-____
 Telephone: () ____-____

Any notice to be given to Freddie Mac shall be sent to Freddie Mac at the address set forth below or to such other address as Freddie Mac may from time to time designate:

Federal Home Loan Mortgage Corporation
 8100 Jones Branch Drive
 Mail Stop B4Q
 McLean, Virginia 22102
 Attention: Director of Multi-Family Loan
 Accounting
 Facsimile: (571) 382-4798
 Telephone: (703) 714-4177

with a copy to:

Federal Home Loan Mortgage Corporation
 8200 Jones Branch Drive
 McLean, Virginia 22102
 Attention: Managing Associate General
 Counsel -- Multi-Family
 Legal Division
 Facsimile: (703) 903-2885
 Telephone: (703) 903-2000

with a copy to:

Federal Home Loan Mortgage Corporation
 8100 Jones Branch Drive
 Mail Stop B4F
 McLean, Virginia 22102
 Attention: Director of Multi-Family Loan
 Servicing
 Facsimile: (703) 714-3003
 Telephone: (703) 903-2000

*Exhibit "E".
(To Ordinance)*

*Mercy Preservation Housing
Redevelopment Agreement.*

This Mercy Preservation Housing Redevelopment Agreement (this "**Agreement**") is made as of this ____ day of _____, 2010, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Community Development ("**DCD**"), HWA 850 Eastwood Limited Partnership, an Illinois limited partnership (the "**Partnership**"), and HWA- 850 Eastwood GP Corp., NFP, an Illinois not-for-profit corporation (the "**General Partner**"), and Mercy Housing Lakefront, an Illinois not-for-profit corporation ("**MHL**" and sometimes collectively with the Partnership, and the General Partner, the "**Developer**").

RECITALS

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "**State**"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The City is authorized under the provisions of the **Tax Increment Allocation Redevelopment Act**, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "**Act**"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on June 27, 2001: (1) "Approval of Wilson Yard Redevelopment Project Area Tax Increment Finance Program

Redevelopment Plan and Project;" (2) "Designation of Wilson Yard Redevelopment Project Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act;" and (3) "Adoption of Tax Increment Allocation Financing for the Wilson Yard Redevelopment Project Area" (the "TIF Adoption Ordinance"), (collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: The General Partner intends to purchase (the "Acquisition"), and immediately resale to the Partnership, certain property located within the Redevelopment Area at 850 West Eastwood Avenue, Chicago, Illinois and legally described on Exhibit B hereto (the "Eastwood Building") and improvements thereof consisting of certain commercial space and approximately 231 residential units in a multi-story residential building. In addition, the Partnership intends to purchase from the General Partner property located outside of the Redevelopment Area at 4946 North Sheridan Road, Chicago, Illinois and legally described on Exhibit B (the "Sheridan Building") and the improvements thereon consisting of certain commercial space on the ground level and approximately 69 residential units in a multi-story residential building. The Eastwood Building and the Sheridan Building shall collectively be described herein as the "Property." Within the time frames set forth in Section 3.01 hereof, the Developer shall commence and complete rehabilitation on the Property of approximately 300 residential units, including approximately 280 residential units available for occupancy to and to be occupied solely by one or more persons qualifying as Low Income Families (as defined below). The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Wilson Yard Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") attached hereto as Exhibit D. Although the Sheridan Building is located outside of the Redevelopment Area, the Acquisition of the Eastwood Building shall be the only TIF-Funded Improvement in the Project. Although the Sheridan Building is located outside of the Redevelopment Area, the Acquisition of the Eastwood Building shall be the only TIF-Funded Improvement in the Project.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.03 hereof, Incremental Taxes (as defined below), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("TIF Bonds") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "TIF Bond Ordinance") at a later date as described in Section 4.03(d) hereof, the proceeds of which (the "TIF Bond Proceeds") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, or in order to reimburse the City for the costs of TIF-Funded Improvements.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

Act shall have the meaning set forth in the Recitals hereof.

Acquisition shall have the meaning set forth in the Recitals hereof.

Affiliate shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer.

Bond(s) shall have the meaning set forth for such term in **Section 8.05** hereof.

Bond Ordinance shall mean the City ordinance authorizing the issuance of Bonds.

Certificate shall mean the Certificate of Completion of Rehabilitation described in **Section 7.01** hereof.

Change Order shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in **Section 3.03**, **Section 3.04** and **Section 3.05**, respectively.

City Council shall have the meaning set forth in the Recitals hereof.

City Fee shall mean the fee described in **Section 4.05(c)** hereof.

City Funds shall mean the funds described in **Section 4.03(b)** hereof.

Closing Date shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

“Construction Contract” shall mean that certain contract, substantially in the form attached hereto as **Exhibit E**, to be entered into between the Developer and the General Contractor providing for construction of the Project.

“Corporation Counsel” shall mean the City's Office of Corporation Counsel.

“Employer(s)” shall have the meaning set forth in **Section 10** hereof.

“Environmental Laws” shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called “Superfund” or “Superlien” law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago, including but not limited to the Municipal Code of Chicago, Sections 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

“Equity” shall mean funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.06** (Cost Overruns) or **Section 4.03(b)**.

“Event of Default” shall have the meaning set forth in **Section 15** hereof.

“Facility” shall have the meaning set forth in the Recitals hereof.

“Financial Statements” shall mean complete audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

“General Contractor” shall mean the general contractor(s) hired by the Developer pursuant to **Section 6.01**.

“Hazardous Materials” shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

Incremental Taxes shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Wilson Yard TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof, as adjusted to reflect the amount of the City Fee described in Section 4.05(c) hereof and not pledged to prior obligations in the Redevelopment Area.

Lender Financing shall mean funds borrowed by the Developer from lenders and available to pay for Costs of the Project, in the amount set forth in Section 4.01 hereof.

MBE(s) shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

Municipal Code shall mean the Municipal Code of the City of Chicago.

Non-Governmental Charges shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Property or the Project.

Permitted Liens shall mean those liens and encumbrances against the Property and/or the Project set forth on Exhibit G hereto.

Plans and Specifications shall mean final construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project.

Prior Expenditure(s) shall have the meaning set forth in Section 4.05(a) hereof.

Project shall have the meaning set forth in the Recitals hereof.

Project Budget shall mean the budget attached hereto as Exhibit H, showing the total cost of the Project by line item, furnished by the Developer to DCD, in accordance with Section 3.03 hereof, subject to changes in the sources and/or uses as the DCD Commissioner may allow in her sole discretion.

Property shall have the meaning set forth in the Recitals hereof.

Redevelopment Area shall have the meaning set forth in the Recitals hereof.

Redevelopment Plan shall have the meaning set forth in the Recitals hereof.

“Redevelopment Project Costs” shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

“Requisition Form” shall mean the document, in the form attached hereto as Exhibit F, to be delivered by the Developer to DCD pursuant to Section 4.04 of this Agreement.

“Scope Drawings” shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

“Survey” shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

“Term of the Agreement” shall mean the period of time commencing on the Closing Date and ending on December 31, 2024, the date on which the Redevelopment Area is no longer in effect.

“TIF Adoption Ordinance” shall have the meaning set forth in the Recitals hereof.

“TIF Bonds” shall have the meaning set forth in the Recitals hereof.

“TIF Bond Ordinance” shall have the meaning set forth in the Recitals hereof.

“TIF-Funded Improvements” shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. Exhibit C lists the TIF-Funded Improvements for the Project.

“TIF Ordinances” shall have the meaning set forth in the Recitals hereof.

“Title Company” shall mean [_____].

“Title Policy” shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

"WARN Act" shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

"WBE(s)" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

"Wilson Yard TIF Fund" shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

SECTION 3. THE PROJECT

3.01 The Project. With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence rehabilitation no later than sixty (60) days after the Closing Date, and (ii) complete redevelopment construction no later than the second (2nd) anniversary of the Closing Date, subject to the provisions of **Section 18.17** (Force Majeure).

3.02 Scope Drawings and Plans and Specifications. The Developer has delivered the Scope Drawings and Plans and Specifications to DCD and DCD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DCD as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan as in effect on the date of this Agreement and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. The Developer has furnished to DCD, and DCD has approved, a Project Budget showing total costs for the Project in an amount not less than Sixty-One Million Two Hundred Fifty-Nine Thousand Seven Hundred Thirty-Eight Dollars (\$61,259,738). The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DCD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DCD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DCD for DCD's prior written approval: (a) a reduction in the

square footage of the Facility; (b) a change in the use of the Property to a use other than multi-family residential housing, including the affordable units described in Section 8.19; (c) a delay in the completion of the Project; or (d) Change Orders costing more than \$50,000 each, to an aggregate amount of \$150,000. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DCD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing less than \$50,000 each, to an aggregate amount of \$150,000, do not require DCD's prior written approval as set forth in this Section 3.04, but DCD shall be notified in writing of all such Change Orders prior to the implementation thereof and the Developer, in connection with such notice, shall identify to DCD the source of funding therefor.

3.05 DCD Approval. Any approval granted by DCD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DCD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals. Any DCD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to DCD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Progress Reports and Survey Updates. The Developer shall provide DCD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DCD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DCD upon the request of DCD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DCD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DCD, prior to requests for disbursement for costs related to the Project pursuant to the Escrow Agreement.

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DCD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 Permit Fees. In connection with the Project and subject to waivers authorized by City Council, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be not less than \$61,259,738, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u>)	
Section 42 Tax Credit Equity	\$12,135,719*
Historic Tax Credits	1,322,000
Donations Tax Credits	966,875
Rental Income During Construction	1,500,000
Energy Grants	1,071,777
Deferred Developer Fee	<u>6,638,979</u>
TOTAL Equity	\$23,635,350
Lender Financing	
Bonds	\$25,000,000
DCD HOME Loan	7,329,388
HUD Green Retrofit Loan	2,295,000
Total Lender Financing	\$34,624,388
Estimated City Funds (subject to <u>Section 4.03</u>)	\$ 3,000,000**
ESTIMATED TOTAL	\$61,259,738

*includes \$8,000,000 of Section 42 tax credit equity to be bridged with bond funds during construction

**on the Closing Date, MHL will provide seller financing of \$3,000,000 through acceptance of a promissory note from the Partnership. This seller financing will be repaid in installments upon receipt of installments of the City Funds.

4.02 Developer Funds. Equity and/or Lender Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs.

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.05(d)), contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to provide City funds (the "City Funds") from Incremental Taxes to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements, provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed Three Million Dollars (\$3,000,000).

The City Funds shall be paid in three (3) installments as follows: (i) \$2,000,000 on the Closing Date, (ii) \$500,000 on the first (1st) anniversary of the Closing Date and (iii) \$500,000 on the second (2nd) anniversary of the Closing Date, provided, however, that payments to the Developer under this Agreement are subject to the amount of Incremental Taxes and/or TIF Bond proceeds, if any, deposited into the Wilson Yard TIF Fund being sufficient for such payments.

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements is contingent upon the fulfillment of the conditions set forth above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to Section 4.01 hereof shall increase proportionately.

4.04 Requisition Form. On the Closing Date and prior to the dates that the Developer anticipates the City to make payment of the subsequent installments of City Funds, the Developer will provide DCD with a Requisition Form, along with the documentation described therein.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DCD and approved by DCD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). DCD shall have the right, in its

sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by DCD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to **Section 4.01** hereof.

(b) **Allocation Among Line Items.** Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DCD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DCD.

(c) **City Fee.** Annually, the City may allocate an amount not to exceed ten percent (10%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to **Section 4.03** hereof, or if the cost of completing the Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07 Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder, the Developer shall submit documentation regarding the applicable expenditures to DCD, which shall be satisfactory to DCD in its sole discretion. Delivery by the Developer to DCD of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the Acquisition or the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("**In Balance**") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "**Available Project Funds**" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement and/or the Escrow Agreement.

4.08 Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed if the Property, or any portion thereof, ceases to be utilized as multi-family residential housing, including the affordable units described in **Section 8.19** within 15 years following the date of the Certificate.

SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

5.01 Project Budget. The Developer has submitted to DCD, and DCD has approved, a Project Budget in accordance with the provisions of **Section 3.03** hereof.

5.02 Scope Drawings and Plans and Specifications. The Developer has submitted to DCD, and DCD has approved, the Scope Drawings and Plans and Specifications accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DCD.

5.04 Financing. The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with other sources set forth in Section 4.01) to complete the Project. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

5.05 Acquisition and Title. On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Partnership as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer has provided to DCD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DCD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches under the Developer's name (and the following trade names of the Developer: None) as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court,	Pending suits and judgments

Cook County

showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 Surveys. The Developer has furnished the City with three (3) copies of the Survey.

5.08 Insurance. The Developer, at its own expense, has insured the Property in accordance with **Section 12** hereof, and has delivered certificates required pursuant to **Section 12** hereof evidencing the required coverages to DCD.

5.09 Opinion of the Developer's Counsel. On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as **Exhibit J**, with such changes as required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in **Exhibit J** hereto, such opinions were obtained by the Developer from its general corporate counsel.

5.10 Evidence of Prior Expenditures. The Developer has provided evidence satisfactory to DCD in its sole discretion of the Prior Expenditures in accordance with the provisions of **Section 4.05(a)** hereof.

5.11 Financial Statements. The Developer has provided Financial Statements to DCD for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12 Documentation. The Developer has provided documentation to DCD, satisfactory in form and substance to DCD, with respect to current employment matters.

5.13 Environmental. The Developer has provided DCD with copies of that certain phase I environmental audit completed with respect to the Property and any phase II environmental audit with respect to the Property required by the City. The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 Organizational Documents; Economic Disclosure Statement. The Developer has provided a copy of its Articles of Incorporation or Certificate of Limited Partnership containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; by-laws of the corporation or Limited Partnership Agreement; and such other organizational documentation as the City has requested. The Developer has provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

5.15 Litigation. The Developer has provided to Corporation Counsel and DCD, a description of all pending or threatened litigation or administrative proceedings involving the Developer, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. Prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago, and shall submit all bids received to DCD for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to DCD in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DCD and all requisite permits have been obtained.

6.02 Construction Contract. Prior to the execution thereof, the Developer shall deliver to DCD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with **Section 6.01** above, for DCD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to DCD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in a form acceptable to DCD or a letter of credit. The City shall be named as obligee or co-obligee on any such bonds.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of **Section 10** hereof.

6.05 Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.08 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Rehabilitation. Upon completion of the rehabilitation of the Project in accordance with the terms of this Agreement and after the final disbursement from the Escrow, and upon the Developer's written request, DCD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DCD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The Certificate relates only to the rehabilitation of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.02, 8.18 and 8.19 as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in Section 8.02 shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 Failure to Complete. If the Developer fails to complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to **Section 4.01**, the Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of the TIF Bonds.

7.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, DCD shall provide the Developer, at the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER.

8.01 General. The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) the Partnership is an Illinois limited partnership and the General Partner is an Illinois not-for-profit corporation, each duly organized, validly existing, qualified to do business in Illinois, and each licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) each of the Partnership and the General Partner has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary action, and does not and will not violate (as applicable) its Articles of Incorporation, by-laws or partnership agreement as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof);

(e) the Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DCD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DCD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

(l) has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or

pursuant to City ordinance, for services to any City agency ("**City Contract**") as an inducement for the City to enter into the Agreement or any City Contract with the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City; and

(m) neither the Developer nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

8.02 Covenant to Redevelop. Upon DCD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in **Sections 3.02** and **3.03** hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

8.03 Redevelopment Plan. The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

8.04 Use of City Funds. City Funds disbursed to the Developer shall be used by the Developer solely to pay for (or to reimburse the Developer for its payment for) the TIF-Funded Improvements as provided in this Agreement.

8.05 Other Bonds. The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "**Bonds**"); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the

Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

8.06 Employment Opportunity; Progress Reports. The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of **Sections 8.08, 10.02 and 10.03** of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DCD which shall outline, to DCD's satisfaction, the manner in which the Developer shall correct any shortfall.

8.07 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DCD, from time to time, statements of its employment profile upon DCD's request.

8.08 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "**Department**"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this **Section 8.08**.

8.09 Arms-Length Transactions. Unless DCD has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DCD's request, prior to any such disbursement.

8.10 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area.

8.11 Disclosure of Interest. The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

8.12 Financial Statements. The Developer shall obtain and provide to DCD Financial Statements for the Developer's fiscal year ended December 31, 2005 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DCD may request.

8.13 Insurance. The Developer, at its own expense, shall comply with all provisions of **Section 12** hereof.

8.14 Non-Governmental Charges. (a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DCD, within thirty (30) days of DCD's request, official receipts from the appropriate entity, or other proof satisfactory to DCD, evidencing payment of the Non-Governmental Charge in question.

(b) **Right to Contest.** The Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this **Section 8.14**); or

(ii) at DCD's sole option, to furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.15 Developer's Liabilities. The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity.

The Developer shall immediately notify DCD of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

8.16 Compliance with Laws. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

8.17 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.18 Real Estate Provisions.

(a) **Governmental Charges.**

(i) **Payment of Governmental Charges.** The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) **Right to Contest.** The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DCD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DCD's sole option,

(i) the Developer shall demonstrate to DCD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(ii) the Developer shall furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DCD thereof in writing, at which time DCD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DCD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DCD deems advisable. All sums so paid by DCD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DCD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes.

(i) Real Estate Tax Exemption. Subject to the ability of the Sheridan Building to continue to qualify for a 100% real estate tax exemption on its residential components, and the Eastwood Building to continue to qualify for a tax abatement under the Cook County Class 9 Program, with respect to the Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect, provided, however, nothing contained in this provision shall preclude Developer from applying for and receiving abatements of real estate taxes for the Project.

(ii) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.18(c) are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be

released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this **Section 8.18(c)** to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this **Section 8.18(c)**.

8.19 Affordable Housing Covenant. The Developer agrees and covenants to the City that, prior to any foreclosure of the Property by a lender providing Lender Financing, the provisions of that certain Regulatory Agreement executed by the Developer and DCD as of the date hereof shall govern the terms of the Developer's obligation to provide affordable housing. Following foreclosure, if any, and from the date of such foreclosure through the Term of the Agreement, the following provisions shall govern the terms of the obligation to provide affordable housing under this Agreement:

(a) The Facility shall be operated and maintained solely as residential rental housing;

(b) Approximately 280 residential units in the Facility shall be available for occupancy to and be occupied solely by one or more persons qualifying as Low Income Families (as defined below) upon initial occupancy; and

(c) Approximately 280 residential units in the Facility have monthly rents not in excess of thirty percent (30%) of the maximum allowable income for a Low Income Family (with the applicable Family size for such units determined in accordance with the rules specified in Section 42(g)(2) of the Internal Revenue Code of 1986, as amended); provided, however, that for any unit occupied by a Family (as defined below) that no longer qualifies as a Low Income Family due to an increase in such Family's income since the date of its initial occupancy of such unit, the maximum monthly rent for such unit shall not exceed thirty percent (30%) of such Family's monthly income.

(d) As used in this **Section 8.19**, the following terms has the following meanings:

(i) "Family" shall mean one or more individuals, whether or not related by blood or marriage; and

(ii) "Low Income Families" shall mean Families whose annual income does not exceed sixty percent (60%) of the Chicago-area median income, adjusted for Family size, as such annual income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development, and thereafter such income limits shall apply to this definition.

(e) The covenants set forth in this **Section 8.19** shall run with the land and be binding upon any transferee.

(f) The City and the Developer may enter into a separate agreement to implement the provisions of this Section 8.19.

8.20 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01 General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 Employment Opportunity. The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive

consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this **Section 10.01** shall be a basis for the City to pursue remedies under the provisions of **Section 15.02** hereof.

10.02 City Resident Construction Worker Employment Requirement. The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DCD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DCD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

At the direction of DCD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. **Any retainage to**

cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246 " and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project.

10.03. MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during the Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 *et seq.*, Municipal Code of Chicago (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 *et seq.*, Municipal Code of Chicago (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the Project Budget (as set forth in Exhibit H hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" or a "construction contract" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General

Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DCD.

(d) The Developer shall deliver quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five Business Days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a

timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, [the Bond Ordinance] and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

The Developer must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

- (a) Prior to execution and delivery of this Agreement.
 - (i) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident, illness or disease.

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) All Risk Property

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, subcontractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$ 500,000 each accident, illness or disease.

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Automobile Liability Insurance with limits of not less than \$2,000,000 per

occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk /Builders Risk

When Developer undertakes any construction, including improvements, betterments, and/or repairs, the Developer must provide or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. The City of Chicago is to be named as an additional insured and loss payee/mortgagee if applicable.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$ 1,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, the Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced,

the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City of Chicago is to be named as an additional insured.

(c) Post Construction:

(i) All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements:

The Developer must furnish the City of Chicago, Department of Community Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to closing. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Developer is not a waiver by the City of any requirements for the Developer to obtain and maintain the specified coverages. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

The insurance must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Developer and Contractors.

The Developer hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Developer in no way limit the Developer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Developer under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Developer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Developer must require Contractor and subcontractors to provide the insurance required herein, or Developer may provide the coverages for Contractor and subcontractors. All Contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in this Agreement.

If Developer, any Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or

(ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or

(iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 shall survive the termination of this Agreement.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 Books and Records. The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

14.02 Inspection Rights. Upon three (3) business days' notice, any authorized representative of the City has access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by the Developer hereunder:

(a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;

(b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, which default is not cured within any applicable cure period;

(i) the dissolution of the Developer or the death of any natural person who owns a material interest in the Developer;

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or any natural person who owns a material interest in the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer or any natural person who owns a material interest in the Developer, for any crime (other than a misdemeanor);or

(k) prior to the issuance of the Certificate, the sale or transfer of a majority of the ownership interests of the Developer without the prior written consent of the City.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City

may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

15.03 Curative Period. In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured, provided further, notwithstanding anything to the contrary contained herein, the City hereby agrees that any cure of and default made or tendered by one of Developer's limited partners shall be deemed to be a cure by the Developer and shall be accepted or rejected on the same basis as if made or tendered by Developer.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Partnership may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Partnership may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Partnership 's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to **Section 7** hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DCD.

SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

If to the City:	City of Chicago Department of Community Development 121 North LaSalle Street, Room 1000 Chicago, IL 60602 Attention: Commissioner
With Copies To:	City of Chicago Department of Law Finance and Economic Development Division 121 North LaSalle Street, Room 600 Chicago, IL 60602
If to the Developer:	HWA – 850 Eastwood Limited Partnership HWA- 850 Eastwood GP Corp., NFP c/o Mercy Housing Lakefront

120 S LaSalle Street Suite 1850
Chicago, IL 60603
Attention: President

With Copies To: Applegate & Thorne-Thomsen
322 South Green Street, Suite 400
Chicago, Illinois 60607
Attention: Ben Applegate

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement **Exhibit D** hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council.

18.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances. The Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05 Waiver. Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the

specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

18.06 Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

18.12 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

18.13 Form of Documents. All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City, DCD or the Commissioner, or any matter is to be to the City's, DCD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DCD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DCD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 Assignment. The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City, except for the collateral assignment of its rights in connection with the seller financing provided for the purchase of the Eastwood Building as security for the repayment of the seller note issued in connection with the acquisition. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.18** (Real Estate Provisions) **and 8.20** (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 Binding Effect. This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

18.17 Force Majeure. Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.18 Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

18.19 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.20 Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party may hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.21 Costs and Expenses. In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

18.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

HWA 850 EASTWOOD LIMITED PARTNERSHIP,
an Illinois limited partnership

By: 850 Eastwood GP Corp., NFP, its general partner
an Illinois not-for-profit corporation

By: _____
Its: _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid,
DO HEREBY CERTIFY that _____, personally known to me to be the
_____ of HWA 850 Eastwood GP Corp., NFP, an Illinois not-for-profit corporation ("the
General Partner"), and personally known to me to be the same person whose name is subscribed to
the foregoing instrument, appeared before me this day in person and acknowledged that he/she
signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board
of Directors of the General Partner, as his/her free and voluntary act and as the free and voluntary act
of the General Partner, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ___ day of _____, 2010.

Notary Public

My Commission Expires _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid,
DO HEREBY CERTIFY that _____, personally known to me to be the
_____ of Mercy Housing Lakefront, an Illinois not-for-profit corporation ("MHL"), and
personally known to me to be the same person whose name is subscribed to the foregoing
instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and
delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of the
MHL, as his/her free and voluntary act and as the free and voluntary act of the MHL, for the uses and
purposes therein set forth.

GIVEN under my hand and official seal this ___ day of _____, 2010.

Notary Public

My Commission Expires _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Christine Raguso, personally known to me to be the Acting Commissioner of the Department of Community Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed, and delivered said instrument pursuant to the authority given to her by the City, as her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this ___ day of _____, 2010.

Notary Public

My Commission Expires _____

[(Sub)Exhibits "A", "B", "D" and "E" referred to in this Mercy Preservation Housing Redevelopment Agreement unavailable at time of printing.]

(Sub)Exhibits "C", "F", "G", "H", "I" and "J" referred to in this Mercy Preservation Housing Redevelopment Agreement read as follows:

(Sub)Exhibit "C".
(To Mercy Preservation Housing Redevelopment Agreement)

T.I.F.-Funded Improvements.

Line Item	Cost
Acquisition Costs of Eastwood Building	\$19,336,480*

(Sub)Exhibit "F".
(To Mercy Preservation Housing Redevelopment Agreement)

Requisition Form.

State of Illinois)
) SS.
County of Cook)

The affiant, _____ of _____, Mercy Preservation Housing (the "Developer"), hereby certifies that with respect to that certain Redevelopment Agreement between the Developer and the City of Chicago dated _____, _____ (the "Agreement"):

A. Expenditures for the Project, in the total amount of \$ _____, have been made.

B. This paragraph B sets forth and is a true and complete statement of all costs of T.I.F.-Funded Improvements for the Project reimbursed by the City to date:

\$ _____

C. The Developer requests reimbursement for the following cost of T.I.F.-Funded Improvements:

\$ _____

* Notwithstanding the total of T.I.F.-Funded Improvements, the assistance to be provided by the City is limited to the amount described in Section 4.03.

D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.

E. The Developer hereby certifies to the City that, as of the date hereof:

1. Except as described in the attached certificate, the representations and warranties contained in the Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

2. No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default, exists or has occurred.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

By: _____
Name

Title: _____

Subscribed and sworn before me this _____
day of _____, _____.

My commission expires: _____.

Agreed and Accepted:

By: _____
Name

Title: _____

City of Chicago
Department of Community Development

*(Sub)Exhibit "G".**(To Mercy Preservation Housing Redevelopment Agreement)**Permitted Liens.*

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any: *(Sub)Exhibit "H".**(To Mercy Preservation Housing Redevelopment Agreement)**Project Budget.*

Sources:

Lender Financing

Bonds	\$25,000,000
DCD Loan	7,329,388
HUD Green Retrofit	2,295,000
City Funds	3,000,000*
Total Lender Financing	\$37,624,388

* on the Closing Date, MHL will provide seller financing of Three Million Dollars (\$3,000,000) through acceptance of a promissory note from the Partnership. The Seller financing will be repaid in installments upon receipt of installments of the City Funds.

Equity

Section 42 Tax Credit Equity	\$ 12,135,719**
Historic Tax Credits	1,322,000
Donations Tax Credits	966,875
Rental Income During Construction	1,500,000
Energy Grants	1,071,777
Deferred Developer Fee	6,638,979
Total Equity:	\$23,635,350
 TOTAL SOURCES:	 \$61,259,738

Uses:

Construction Cost	\$19,548,752
Construction Contingency	1,954,875
Acquisition of Building and Land	19,336,480
Relocation Costs	1,167,660
Architect and Engineering Fees	943,600
Accounting/Legal Fees	457,410
Bonds Cost	3,155,750
Construction Period Interest	3,155,920
Pre-Development Due Diligence Cost	1,230,882

** includes Eight Million Dollars (\$8,000,000) of Section 42 tax credit equity to be bridged with bonds funds during construction.

Construction Inspection Fees	\$ 150,000
Construction Letter of Credit Fees	171,967
Construction Liability	111,789
Other Soft Costs	522,109
Deferred Developer Fee	6,638,979
Developer Fee	1,000,000
Reserves	1,683,565
TOTAL USES:	\$61,259,738

(Sub)Exhibit "I".
 (To Mercy Preservation Housing Redevelopment Agreement)

Approved Prior Expenditures.

Line Item	Name Of Firm	Contract Price	Previously Paid	Amount Of This Payment	Balance To Become Due
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
Total:		\$ _____	\$ _____	\$ _____	\$ _____

(Sub)Exhibit "J".

(To Mercy Preservation Housing Redevelopment Agreement)

Opinion Of Developer's Counsel.

[To Be Retyped On The Developer's Counsel's Letterhead]

City of Chicago
121 North LaSalle Street
Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to _____, an [Illinois] _____ (the "Developer"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the _____ Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents".

(a) _____ Redevelopment Agreement (the "Agreement") of even date herewith, executed by the Developer and the City of Chicago (the "City");

[(b) the Escrow Agreement of even date herewith executed by the Developer and the City;]

(c) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and

(d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, I have examined:

(a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) Bylaws, as amended to date, and (iv) records of all corporate proceedings relating to the Project [revise if the Developer is not a corporation]; and

(b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. The Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of [incorporation] [organization], has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign [corporation] [entity] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. The Developer has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the Developer's [Articles of Incorporation or Bylaws] [describe any formation documents if the Developer is not a corporation] or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which the Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing, other than liens or security interests in favor of the lender providing Lender Financing (as defined in the Agreement).

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of the Developer.

4. Each of the Documents to which the Developer is a party has been duly executed and delivered by a duly authorized officer of the Developer, and each such Document constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. Exhibit A attached hereto (a) identifies each class of capital stock of the Developer, (b) sets forth the number of issued and authorized shares of each such class, and (c) identifies the record owners of shares of each class of capital stock of the Developer and the number of shares held of record by each such holder. To the best of our knowledge after diligent inquiry, except as set forth on (Sub)Exhibit A, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any of the capital stock of the Developer. Each outstanding share of the capital stock of the Developer is duly authorized, validly issued, fully paid and nonassessable.

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against the Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or affecting the Developer or its property, or seeking to restrain or enjoin the performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on the Developer or its business.

7. To the best of our knowledge after diligent inquiry, there is no default by the Developer or any other party under any material contract, lease, agreement, instrument or commitment to which the Developer is a party or by which the company or its properties is bound.

8. To the best of our knowledge after diligent inquiry, all of the assets of the Developer are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

9. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

10. To the best of our knowledge after diligent inquiry, the Developer owns or possesses or is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

11. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America and the laws of the State of Illinois.

This opinion is issued at the Developer's request for the benefit of the City and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

By: _____

Name: _____

ISSUANCE OF CITY-NOTES AND EXECUTION OF LOAN AND REDEVELOPMENT AGREEMENTS WITH TCB, OAKWOOD SHORES TERRACE ASSOCIATES LIMITED PARTNERSHIP AND ARCHER RETAIL DEVELOPMENT, L.L.C. FOR CONSTRUCTION OF AFFORDABLE HOUSING AT 3753 -- 3755 S. COTTAGE GROVE AVE.

[O2010-821]

The Committee on Finance submitted the following report:

CHICAGO, March 10, 2010.

To the President and Members of the City Council:

Your Committee on Finance, having had under consideration an ordinance authorizing the Commissioner of the Department of Community Development to enter into and execute two redevelopment agreements with TCB, Oakwood Shores Terrace Associates Limited Partnership and Arches Retail Development, L.L.C., amount of multi-family program loan not to exceed: \$2,098,814, amount of bridge loan not to exceed: \$7,923,896 and amount of notes not to exceed: \$1,950,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.