

**PROJECT LOAN AGREEMENT**

**among**

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

**ZIONS BANCORPORATION, NATIONAL ASSOCIATION,  
as Fiscal Agent**

**and**

**WATERS AT WATERCHASE, LP,  
as Borrower**

**Relating to:**

**Waters at Waterchase  
12365 Plano Road  
Dallas, Texas 75243**

**Dated as of [June] 1, 2026**

## PROJECT LOAN AGREEMENT

THIS PROJECT LOAN AGREEMENT (“**Project Loan Agreement**”) dated as of [June] 1, 2026, is made among TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the “**Governmental Lender**”), ZIONS BANCORPORATION, NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States, as fiscal agent (the “**Fiscal Agent**”), and WATERS AT WATERCHASE, LP, a Texas limited partnership (the “**Borrower**”).

### RECITALS

A. Pursuant to and in accordance with Chapter 2306, Texas Government Code, as amended (the “**Act**”), and this Project Loan Agreement, Governmental Lender is agreeing to make a mortgage loan to Borrower in the original principal amount of \$[18,000,000] (the “**Project Loan**”) to provide for the financing of a multifamily rental housing development located at 12365 Plano Road in Dallas, Texas and to be known as Waters at Waterchase. The Land, Improvements, and Fixtures (each as defined in the Security Instrument) are collectively referred to herein as the “**Project**.”

B. Governmental Lender is making the Project Loan with the proceeds received from the separate loan being made to Governmental Lender pursuant to the Funding Loan Agreement dated as of the date hereof (the “**Funding Loan Agreement**”) among the Governmental Lender, the Fiscal Agent, and Fifth Third Bank, N.A. (the “**Initial Funding Lender**”), in the original principal amount of \$[18,000,000] (the “**Funding Loan**” and together with the Project Loan, the “**Loans**”). The Funding Loan is evidenced by the Governmental Lender’s Multifamily Housing Revenue Note (Waters at Waterchase) Series 2026 dated [June] 1, 2026, delivered by Governmental Lender to Initial Funding Lender (as the same may be amended, restated, supplemented or otherwise modified from time to time, or any note executed in substitution therefor, as such substitute note may be amended, restated, supplemented or otherwise modified from time to time, and together with all addenda thereto, the “**Governmental Note**”).

C. Pursuant to the terms and subject to the conditions of the Funding Loan Agreement, the Forward Loan Purchase Agreement, and the Construction Continuing Covenant Agreement, Initial Funding Lender has agreed to originate and fund the Funding Loan to Governmental Lender, which proceeds of the Funding Loan will be used by Governmental Lender to fund the Project Loan to Borrower pursuant to this Project Loan Agreement. Initial Funding Lender will administer the Loans during the Construction Phase in accordance with the Financing Documents.

D. Borrower has agreed to use the proceeds of the Project Loan to finance the acquisition and rehabilitation of the Project and, if necessary, to pay certain costs incurred in connection with the Loans.

E. Borrower’s payment obligations in respect of the Project Loan will be evidenced by a Project Loan Note, dated the Delivery Date (as the same will be amended and restated into the form attached to the Forward Loan Purchase Agreement upon the occurrence of the Conversion Date, and as the same may be amended, restated, supplemented or otherwise modified from time to time, or any note executed in substitution therefor, as such substitute note may be amended,

restated, supplemented or otherwise modified from time to time, and together with all riders and addenda thereto, the “**Project Note**”), delivered to Governmental Lender, which Project Note will be endorsed by Governmental Lender to Fiscal Agent as security for the Funding Loan.

F. To secure Borrower’s obligations under the Project Note, Borrower will execute and deliver to Governmental Lender a Leasehold Deed of Trust, Security Agreement and Assignment of Rents, dated [June] 1, 2026 (as may be amended, restated, supplemented or otherwise modified from time to time, the “**Security Instrument**”) granting a first priority mortgage and security interest in the Project in favor of Governmental Lender.

G. All of the right, title and interest of Governmental Lender (except for its Unassigned Rights) in and to this Project Loan Agreement, the Security Instrument, and the other Financing Documents are being assigned to Fiscal Agent as security for the Funding Loan.

H. Barings Affordable Housing Mortgage Fund III LLC, a Delaware limited liability company (“**Permanent Funding Lender**”) has entered into a commitment with the Borrower dated [\_\_\_\_], 2026 (as the same may be amended, modified or supplemented from time to time, the “**Permanent Commitment**”) whereby Permanent Funding Lender has agreed, subject to the satisfaction of the Conversion Conditions set forth in the Forward Loan Purchase Agreement on or before the Termination Date, to facilitate the financing of the Project in the Permanent Phase by purchasing the Funding Loan from Initial Funding Lender following the Conversion Date.

I. If the Conversion Conditions are satisfied on or before the Termination Date as provided for in the Permanent Commitment and the Forward Loan Purchase Agreement, the Project Loan will convert from the Construction Phase to the Permanent Phase on the Conversion Date and, on such Conversion Date, Initial Funding Lender will deliver, and Permanent Funding Lender will purchase, the Funding Loan as evidenced by the Governmental Note. If the Conversion Conditions are not satisfied on or before the Termination Date, (i) the Project Loan will not convert from the Construction Phase to the Permanent Phase, (ii) Permanent Funding Lender will have any obligation with respect to the purchase of the Funding Loan, and (iii) Initial Funding Lender will remain the owner of the Funding Loan as the holder of the Governmental Note.

J. As Conversion Conditions, the Project Note and the Security Instrument are required to be amended and restated and Borrower is required to enter into the Permanent Continuing Covenant Agreement with Permanent Funding Lender (as the same may be amended, restated, supplemented or otherwise modified from time to time, and together with all addenda thereto, the “**Permanent Continuing Covenant Agreement**”), in each case pursuant to the forms attached to the Forward Loan Purchase Agreement.

K. Reserved.

L. Reserved.

## AGREEMENT

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

### ARTICLE I DEFINITIONS; INTERPRETATION; SCHEDULES

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

“**Act**” is defined in the Recitals of this Project Loan Agreement.

“**Borrower**” means the entity identified as “Borrower” in the introductory paragraph of this Project Loan Agreement, together with any of its permitted successors and assigns, as owner of the Project.

“**Closed Prepayment Date**” has the meaning given to such term in Section 4.04 hereof.

“**Continuing Covenant Agreement**” is defined in the Funding Loan Agreement.

“**Delivery Date**” means the date of funding of the Funding Loan and the delivery of the Governmental Note by Governmental Lender to Initial Funding Lender.

“**Event of Default**” means the occurrence of any event listed in Section 7.01 hereof.

“**Fee Component**” means the regular, ongoing fees due from time to time to Governmental Lender, Fiscal Agent and the Rebate Analyst, if any, expressed as a flat, fixed amount or in terms of a percentage of the unpaid principal amount of the Funding Loan on an annual basis.

“**Fiscal Agent**” means the entity identified as “Fiscal Agent” on Page 1 of this Project Loan Agreement, together with any successor Fiscal Agents appointed under the Funding Loan Agreement.

“**Funding Loan**” is defined in the Recitals of this Project Loan Agreement.

“**Funding Loan Agreement**” is defined in the Recitals of this Project Loan Agreement.

“**Governmental Lender**” means the entity identified as “Governmental Lender” on Page 1 of this Project Loan Agreement.

“**Governmental Note**” is defined in the Recitals of this Project Loan Agreement.

“**Initial Funding Lender**” is defined in the Recitals of this Project Loan Agreement.

“**Lease**” means the Lease Agreement between the Fee Owner, as lessor, and the Borrower, as lessee, executed as of the Delivery Date, as it may be amended, restated or supplemented from time to time.

“**Loans**” is defined in the Recitals of this Project Loan Agreement.

“**Organizational Documents**” means the First Amended and Restated Agreement of Limited Partnership of the Borrower, dated as of the Delivery Date, as it may be amended, supplemented or modified.

“**Permanent Funding Lender**” is defined in the Recitals of this Project Loan Agreement.

“**Permanent Commitment**” is defined in the Recitals of this Project Loan Agreement.

“**Permanent Continuing Covenant Agreement**” is defined in the Recitals of this Project Loan Agreement.

“**Project**” is defined in the Recitals of this Project Loan Agreement.

“**Project Loan**” is defined in the Recitals of this Project Loan Agreement.

“**Project Loan Agreement**” means this Project Loan Agreement, together with any amendments hereto.

“**Project Loan Documents**” have the meaning given to such term in the Funding Loan Agreement.

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

“**Project Loan Payment**” means each payment of the Project Loan on each Project Loan Payment Date pursuant to the Project Note and this Project Loan Agreement.

“**Project Loan Payment Date**” means (a) the first Business Day of each calendar month, commencing [\_\_\_\_\_ 1, 2026], during the Construction Phase, and the fifth day of each calendar month during the Permanent Phase, commencing the first full calendar month following the Conversion Date, or (b) any other date on which the Project Loan is prepaid or paid, whether at scheduled maturity or upon prepayment or acceleration of the maturity thereof; provided, however, that if a Project Loan Payment Date is not a Business Day, payment shall be made on the first Business Day following such Project Loan Payment Date as provided in Section 4.01(c) hereof.

“**Project Note**” is defined in the Recitals of this Project Loan Agreement.

“**Replacement Reserve Payment**” has the meaning given to such term in the Funding Loan Agreement.

“**Security Instrument**” is defined in the Recitals of this Project Loan Agreement.

“**Servicing Fee**” means during the Permanent Phase, [a rate of 0.10% per annum].

“**State**” means the State of Texas.

“**Tax Escrow Payment**” has the meaning given to such term in the Funding Loan Agreement.

“**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.

“**Title Company**” means Chicago Title Insurance Company, the title company insuring the lien of the Security Instrument and issuing the lender’s title insurance policy in favor of Governmental Lender and Fiscal Agent.

**1.02 Interpretation.** The words “hereof,” “herein,” “hereunder,” and other words of similar import refer to this Project Loan Agreement as a whole and not to any particular Article, Section or other subdivision. References to Articles, Sections, and other subdivisions of this Project Loan Agreement are to the designated Articles, Sections and other subdivisions of this Project Loan Agreement as originally executed. 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. 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. The headings of this Project Loan Agreement are for convenience only and shall not define or limit the provisions hereof.

**1.03 Schedules.**

Schedules	
Schedule I	List of Project Loan Agreement Sections

**ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS**

**2.01 Representations, Warranties and Covenants of Governmental Lender.** Governmental Lender makes the following representations, warranties and covenants for the benefit of Borrower, Fiscal Agent, Funding Lender and Loan Servicer:

- (a) Governmental Lender is a public and official agency of the State of Texas.
- (b) Governmental Lender has all necessary power and authority to issue the Governmental Note and to make the Project Loan from the proceeds thereof, and to execute, and deliver this Project Loan Agreement, the Funding Loan Agreement,

and the other Financing Documents to which it is a party, and to perform its duties and discharge its obligations hereunder and thereunder.

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

status of the Governmental Note; or (v) questions the power or authority of Governmental Lender to perform its obligations under the Governmental Note or any Financing Document, or to carry out the transactions contemplated by the Governmental Note and the Financing Documents.

- (h) No officer or other official of Governmental Lender has any personal financial interest in the Project or Borrower or in the transactions contemplated by this Project Loan Agreement.
- (i) Upon the discovery by Governmental Lender of any noncompliance by Borrower with this Project Loan Agreement, the Tax Exemption Agreement or the TEL Regulatory Agreement, Governmental Lender will promptly notify Fiscal Agent, Loan Servicer and Funding Lender Representative of such noncompliance and will, subject to the provisions of Article VII hereof, promptly institute action, or cause Fiscal Agent 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 Funding Loan Agreement, this Project Loan Agreement, the Tax Exemption Agreement and the TEL Regulatory Agreement.
- (j) The Governmental Lender makes no warranty, express or implied, with respect to the Project or any portion thereof, including without limitation, the habitability thereof; the merchantability or fitness thereof for any particular purposes; the design or condition thereof; the workmanship, quality, or capacity thereof; latent defects therein; the value thereof; future performance or the compliance thereof with any legal requirements.
- (k) The Governmental Lender finds and determines that financing the Project as contemplated by the Funding Loan Agreement and this Project Loan Agreement will further public purposes under the Act.

It is expressly acknowledged that Governmental Lender makes no representation as to the financial position or business condition of Borrower or the Project 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 Borrower in connection with the issuance, sale, execution and delivery of the Governmental Note, or as to the correctness, completeness or accuracy of such statements.

**2.02 Representations, Warranties and Covenants of Borrower.** Borrower makes the following representations, warranties and covenants, all of which, together with the other representations and agreements of Borrower contained in this Project Loan Agreement, are relied upon by Governmental Lender, Funding Lender, Loan Servicer and Fiscal Agent and serve as a basis for the undertakings of Governmental Lender, Loan Servicer and Fiscal Agent contained in this Project Loan Agreement:

- (a) Borrower is a Texas limited partnership duly organized, validly existing and in good standing under the laws of the State and is duly qualified to conduct its

business under the laws of the State and in every other state in which the nature of its business requires such qualification, has full legal right, power and authority to enter into this Project Loan Agreement and the other Financing Documents, and to carry out and consummate all transactions contemplated hereby and by the other Financing Documents, and by proper action has duly authorized the execution, delivery and performance of this Project Loan Agreement and the other Financing Documents. All corporate general partners and/or members, if any, of Borrower are duly organized and in good standing under the laws of their respective states of organization and are duly qualified to transact business in the State as either domestic or foreign corporations, as applicable. All partnership general partners and/or members, if any, are duly formed and in good standing under the laws of their respective states of formation and, to the extent required by the laws of the State, are duly qualified to transact business in the State as either domestic or foreign partnerships or limited liability companies, as applicable.

- (b) Borrower has the legal right, power and authority (i) to own its properties and assets, including, but not limited to, the leasehold interest in the Project, (ii) to carry on its business as now being conducted and Borrower contemplates it to be conducted with respect to the Project and (iii) to execute and deliver, carry out its obligations under, and close the transactions provided for in the Financing Documents to which it is a party.
- (c) Each of the Financing Documents to which Borrower is a party has been duly authorized, executed and delivered by Borrower and, assuming due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of Borrower, enforceable against 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 Borrower of, and the performance by Borrower of its obligations under, the Financing Documents.
- (e) None of the execution and delivery of the Financing Documents to which Borrower is a party, the consummation of the transactions provided for in the Financing Documents, or Borrower's fulfillment of or compliance with the terms and conditions of the Financing Documents (i) violates or will violate any law, rule or regulation of any governmental agency or body having jurisdiction over Borrower, or any of its activities or properties, or any judgment, order, writ, injunction or decree to which Borrower is subject, or any of the organizational or other governing documents of Borrower, (ii) conflicts or will conflict with any agreement, instrument or license to which 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) results in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Borrower, except for any lien, charge or encumbrance permitted under the terms of the Financing Documents.

- (f) Reserved.
- (g) There is no action, suit, proceeding, inquiry or investigation pending or, to Borrower's knowledge, threatened against or affecting Borrower or any of its properties (including, without limitation, the Project), which, if adversely determined, would (i) impair the right of Borrower to carry on its business substantially as now conducted and as contemplated by the Financing Documents, (ii) adversely affect the financial condition of Borrower, (iii) prohibit, restrain or enjoin the making of the Funding Loan or the Project Loan or the execution and delivery of any of the Financing Documents, (iv) adversely affect the validity or enforceability of any of the Financing Documents, or (v) adversely affect the Federal Tax Status of the Governmental Note.
- (h) The Project and the operation of the Project (in the manner contemplated by the 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) 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) Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party which default would materially adversely affect the transactions contemplated by the Financing Documents or the operations of Borrower or the enforceability of the Financing Documents to which Borrower is a party or the ability of Borrower to perform all obligations thereunder.
- (k) 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) All of the partnership interests in Borrower are validly issued and are fully registered, if required, with the applicable governmental authorities and/or agencies, and there are no outstanding options or rights to purchase or acquire those interests, except as may be permitted by the Organizational Documents. Nothing in this Project Loan Agreement shall prevent Borrower from issuing additional partnership interests or ownership interests if such units are issued in accordance with all applicable securities laws.
- (m) The representations, warranties and certifications of Borrower contained in the Tax Exemption Agreement and TEL Regulatory Agreement are incorporated by reference herein and Borrower will comply with such as if set forth herein. As of the Delivery Date, Borrower is in compliance with all requirements of the Tax Exemption Agreement, and the representations, warranties and certificates set forth in the Tax Exemption Agreement are true and accurate.
- (n) The information, statements or reports furnished in writing to Governmental Lender, Loan Servicer and Funding Lender Representative by Borrower in connection with this Project Loan Agreement or the consummation of the transactions contemplated hereby do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading; and the representations and warranties of Borrower and the statements, information and descriptions contained in 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 assumptions contained in any certificate of Borrower delivered as of the Delivery Date are reasonable.
- (o) To the knowledge of Borrower, no commissioner, member, officer or employee of Governmental Lender has been or is in any manner interested, directly or indirectly, in that person's own name or in the name of any other person, in the Financing Documents, Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Financing Documents.
- (p) Borrower intends to hold the leasehold interest in 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 leasehold interest in the Project, other than as described in the Organizational Documents and the Lease.
- (q) The Project is located wholly within the boundaries of the State.
- (r) Borrower shall make no changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or adversely affect the Federal Tax Status of the Governmental Note. Borrower shall operate the Project

as required by the TEL Regulatory Agreement and the Tax Exemption Agreement. Borrower covenants and agrees that neither it, nor any “related person” (as defined in Section 144(a)(3) of the Code) will enter into any arrangement, formal or informal, for the purchase of the Governmental Note.

- (s) The Funding Loan Agreement has been submitted to Borrower for examination, and Borrower, by execution of this Project Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Funding Loan Agreement and that it is bound by, shall adhere to the provisions of, covenants and agrees to perform all obligations required of Borrower pursuant to, and shall have the rights and obligations set forth by the applicable terms and conditions of, the Funding Loan Agreement.
- (t) Borrower will have a leasehold interest in the Land, the Improvements and the Equipment, subject only to liens permitted under the Security Instrument.
- (u) 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 of the Project, (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 Governmental Lender, Fiscal Agent, Funding Lender, Funding Lender Representative or Loan Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Financing Documents or otherwise relied on Governmental Lender, Fiscal Agent, Funding Lender, Funding Lender Representative or Loan Servicer in any manner.
- (v) The Borrower makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended. As used herein, “affiliate” means an entity that controls, is controlled by, or is under common control with the Borrower within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations and shall not be liquidated or otherwise limited, notwithstanding anything herein or therein to the contrary.

(i) The Borrower represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153, Texas Government Code, or Section 2270.0201, Texas Government Code. The foregoing representation excludes the Borrower and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(ii) For purposes of Chapter 2271, Texas Government Code, Chapter 2274, Texas Government Code, and Chapter 2276, Texas Government Code, the Borrower hereby represents that it does not have at least 10 full-time employees.

**2.03 Representations and Warranties of Fiscal Agent.** Fiscal Agent makes the following representations and warranties for the benefit of Governmental Lender, Borrower, Funding Lender and Loan Servicer:

- (a) Fiscal Agent is a national banking association, duly organized and existing under the laws of the United States. Fiscal Agent is duly authorized to act as a fiduciary and to execute the trust created by the Funding Loan Agreement and meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.
- (b) Fiscal Agent has complied with the provisions of law which are prerequisite to the consummation of the transactions contemplated hereby, and has all necessary power (including trust powers) and authority (i) to execute and deliver this Project Loan Agreement and the other Financing Documents to which it is a party, (ii) to perform its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, and (iii) to consummate the transactions contemplated by this Project Loan Agreement and the other Financing Documents to which it is a party.
- (c) Fiscal Agent has duly authorized (i) the execution and delivery of this Project Loan Agreement and the other Financing Documents to which it is a party, (ii) the performance by Fiscal Agent of its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, and (iii) the actions of Fiscal Agent contemplated by this Project Loan Agreement and the other Financing Documents to which it is a party.
- (d) Each of the Financing Documents to which Fiscal Agent is a party has been duly executed and delivered by Fiscal Agent and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding obligation of Fiscal Agent, enforceable against Fiscal Agent in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).
- (e) Fiscal Agent meets the qualifications to act as Fiscal Agent under the Funding Loan Agreement.
- (f) Fiscal Agent has complied with the provisions of law which are prerequisites to the consummation of the transactions on the part of Fiscal Agent described or contemplated in the Financing Documents.
- (g) 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 Fiscal Agent as a prerequisite to (i) the execution and delivery of this Project Loan

Agreement and the other Financing Documents to which Fiscal Agent is a party, (ii) the authentication or delivery of the Governmental Note, (iii) the performance by Fiscal Agent of its obligations under this Project Loan Agreement and the other Financing Documents to which it is a party, or (iv) the consummation of the transactions contemplated by this Project Loan Agreement and the other Financing Documents to which Fiscal Agent is a party. Fiscal Agent makes no representation or warranty relating to compliance with any federal or state securities laws.

- (h) The representations in [Section 5.09] of the Funding Loan Agreement with respect to the Fiscal Agent are expressly incorporated by reference into this Project Loan Agreement.

#### **2.04 Reserved.**

#### **2.05 Tax Covenants of Borrower.**

- (a) Borrower covenants that it shall not take any action, or fail to take any action or permit any action to be taken, if any such action or inaction would adversely affect the Federal Tax Status of the Governmental Note. Without limiting the generality of the foregoing, Borrower covenants that it will comply with the instructions and requirements of the Tax Exemption Agreement, which is incorporated herein as if set forth fully herein. In the event of a conflict between the terms and requirements of this Section 2.05 and the Tax Exemption Agreement, the terms and requirements of the Tax Exemption Agreement shall control.
- (b) Borrower will, on a timely basis, provide Governmental Lender with all necessary information and, with respect to Borrower's rebate requirement or yield reduction payments (both as may be required under the Tax Exemption Agreement) required to be paid, all necessary funds, in addition to any funds that are then available for such purpose in the Rebate Fund, to enable Governmental Lender to comply with all arbitrage and rebate requirements of the Code. To that end, Borrower covenants and agrees to make such payments to Fiscal Agent as are required of it under the Tax Exemption Agreement. The obligation of Borrower to make such payments shall remain in effect and be binding upon Borrower notwithstanding the release and discharge of the Funding Loan Agreement and this Project Loan Agreement.
- (c) Borrower covenants that, notwithstanding any other provision of this Project Loan Agreement or any other instrument, Borrower will take no action, nor shall it direct Fiscal Agent to take any action, to invest or use of proceeds of the Governmental Note, or any other moneys that may arise out of or in connection with this Project Loan Agreement, the Funding Loan Agreement or the Project that would cause the Governmental Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Code. In addition, Borrower covenants and agrees to comply with the requirements of Section 148(f) of the Code as it may be applicable to the Governmental Note or the proceeds derived from the sale of the Governmental Note or any other moneys that may arise out of, or in connection with, this Project Loan Agreement, the Funding Loan Agreement or the Project throughout the term of the

Governmental Note. No provision of this Project Loan Agreement shall be construed to impose upon Fiscal Agent any obligation or responsibility for compliance with Section 148 of the Code or the Regulations promulgated thereunder.

- (d) Neither Borrower nor any “related party” to Borrower within the meaning of Section 1.150-1(b) of the Regulations is permitted to purchase the Governmental Note in an amount related to the Project Loan.
- (e) If Borrower becomes aware of any situation, event or condition which would, to the best of its knowledge, adversely affect the Federal Tax Status of the Governmental Note, it will promptly give written notice of such circumstance, event or condition to Governmental Lender, Fiscal Agent, Funding Lender Representative and Loan Servicer.

**2.06 Completion Date.** Borrower shall notify Governmental Lender and Fiscal Agent of the Completion Date by the delivery of a Completion Certificate signed by an Authorized Officer of Borrower substantially in the form of Exhibit A attached hereto. The Completion Certificate shall be delivered as promptly as practicable, but no more than thirty (30) days after the occurrence of the events and conditions referred to in paragraphs (a), (b), and (d) of the Completion Certificate.

### **ARTICLE III THE PROJECT LOAN**

**3.01 Conditions to Funding the Project Loan.** On the Delivery Date, Governmental Lender shall cause the proceeds of the Funding Loan to be deposited with the Fiscal Agent in accordance with Section 2.11 of the Funding Loan Agreement and Section 3.03 hereof. Fiscal Agent shall use such proceeds as provided in Article II of the Funding Loan Agreement to make the Project Loan on behalf of Governmental Lender, provided that no such disbursements of proceeds shall be made until the following conditions have been met:

- (a) Borrower shall have executed and delivered to Governmental Lender the Project Note and Governmental Lender shall have endorsed the Project Note to Fiscal Agent.
- (b) The Security Instrument and the Assignment, with only such changes therein as shall be approved in writing by Funding Lender Representative, shall have been executed and delivered by Borrower and Governmental Lender, respectively, and delivered to Title Company for recording in the appropriate office for recording real estate documents in the county in which the Project is located (the “**Recorder’s Office**”).
- (c) The TEL Regulatory Agreement shall have been executed and delivered by the parties thereto and shall have been delivered to Title Company for recording in the Recorder’s Office.

- (d) All other Financing Documents not listed above shall have been executed and delivered by all parties thereto and delivered to Fiscal Agent.
- (e) Borrower shall have delivered to Fiscal Agent, Governmental Lender, Funding Lender Representative and Loan Servicer a certificate confirming, as of the Delivery Date, the matters set forth in Section 2.02 hereof and an opinion of its counsel or other counsel satisfactory to Fiscal Agent, Governmental Lender, Bond Counsel, Funding Lender Representative and Loan Servicer, which condition shall be deemed met upon Fiscal Agent's receipt of such opinion.

### **3.02 Terms of the Project Loan; Servicing.**

- (a) The Project Loan shall (i) be evidenced by the Project Note; (ii) be secured by the Security Instrument; (iii) be in the original principal amount of \$[18,000,000]; (iv) bear interest as provided in the Project Note; (v) provide for principal and interest payments in accordance with the Project Note; and (vi) be subject to optional and mandatory prepayment at the times, in the manner and on the terms, and have such other terms and provisions, as provided herein and in the Project Note. The outstanding principal balance of the Project Loan at any time shall be an amount equal to the proceeds of the Funding Loan minus any amounts prepaid with respect to principal in accordance with the terms hereof and the Project Note.
- (b) Funding Lender Representative may appoint a Loan Servicer to service the Loans for all or a portion of the term of the Loans. The initial Loan Servicer of the Loans is Fifth Third Bank, N.A., who shall service the Loans as required by Initial Funding Lender. Upon conversion, the Loan Servicer of the Loans shall be Barings Affordable Housing Mortgage Fund III LLC or its designee, who shall service the Loans as required by Permanent Funding Lender. Funding Lender Representative may remove a Loan Servicer or appoint a replacement Loan Servicer, in its discretion, by written notice provided to Governmental Lender, Fiscal Agent and Borrower. Any successor Loan Servicer shall signify its acceptance of the duties and obligations imposed upon it by the Funding Loan Agreement and this Project Loan Agreement by executing such instrument(s) as shall be acceptable to Funding Lender Representative, a copy of which shall be provided to the parties hereto.
- (c) During any period that Loan Servicer services the Loans, Borrower shall make all payments in connection with the Project Loan to Loan Servicer, and Loan Servicer will:
  - (i) Retain the allocable portion of the monthly Servicing Fee (if any) for its own account;
  - (ii) Remit to Fiscal Agent to be paid to Funding Lender all payments of principal of, Prepayment Premium, if any, and interest due with respect to the Funding Loan, together with any other amounts due to Funding Lender;
  - (iii) During the Permanent Phase, remit to Fiscal Agent (a) the Replacement Reserve Payment and (b) the Tax Escrow Payment;

- (iv) Remit to Fiscal Agent the Fiscal Agent's Ordinary Fees and Expenses, together with any other amounts due to Fiscal Agent; and
- (v) Remit to Fiscal Agent to be paid to Governmental Lender the Governmental Lender Fees, together with any other amounts due to Governmental Lender.

During any period in which there is no Loan Servicer, all notices to be sent to Loan Servicer shall be sent to Funding Lender Representative (to the extent not already provided) and all amounts to be paid to Loan Servicer by Borrower shall be paid directly to Fiscal Agent (unless otherwise directed by Funding Lender Representative).

- (d) Governmental Lender, Fiscal Agent and Borrower hereby acknowledge and agree that:
  - (i) Funding Lender Representative has appointed Loan Servicer to service and administer the Project Loan.
  - (ii) The selection or removal of any Loan Servicer is in the sole and absolute discretion of Funding Lender Representative.
  - (iii) None of Governmental Lender, Fiscal Agent or Borrower shall terminate or attempt to terminate any Loan Servicer as Loan Servicer for the Project Loan or appoint or attempt to appoint a substitute Loan Servicer for the Project Loan.
  - (iv) Reserved.

### **3.03 Initial Deposits.**

- (a) On the Delivery Date, the proceeds of the Funding Loan shall be deposited in the Project Account of the Project Loan Fund[, of which an amount specified in the Closing Memorandum shall be transferred from the Project Account for deposit to the Costs of Issuance Fund as provided in Section 2.11(d) of the Funding Loan Agreement][**TO BE CONFIRMED**]. In addition, on the Delivery Date, Borrower will deposit (i) with Fiscal Agent (A) an amount specified in the Closing Memorandum for credit to the Costs of Issuance Fund and (B) an amount specified in the Closing Memorandum for credit to the Borrower Equity Account of the Project Loan Fund. Subject to the conditions listed in Section 3.01 hereof, amounts on deposit in the Project Loan Fund are to be disbursed to Borrower or otherwise as provided in Section 2.11(d) of the Funding Loan Agreement.
- (b) To the extent that amounts in the Costs of Issuance Fund from the above-mentioned sources are insufficient to pay all costs of closing the Loans, Borrower shall cause the payment of such additional costs of closing the Loans to be made on its behalf as such amounts become due.

- 3.04 Pledge and Assignment to Fiscal Agent.** The parties hereto acknowledge, and Borrower consents to, the pledge and assignment by Governmental Lender to Fiscal Agent pursuant to the Funding Loan Agreement of all of Governmental Lender's right, title and interest in this Project Loan Agreement (excluding the Unassigned Rights), the Project Loan, the Project Note, the Security Instrument, the other Project Loan Documents and the Revenues as security for the payment of the principal of, Prepayment Premium, if any, and interest on the Governmental Note and the payment of any other amounts due under the Financing Documents.
- 3.05 Investment of Funds.** Except as otherwise provided in the Funding Loan Agreement, any money held as a part of any fund or account established under the Funding Loan Agreement shall be invested or reinvested by Fiscal Agent in Qualified Investments in accordance with Section 4.07 of the Funding Loan Agreement.
- 3.06 Damage; Destruction and Eminent Domain.** If, prior to payment in full of the Project Loan, the Project or any portion thereof is destroyed or damaged in whole or in part by fire or other casualty, or title to, or the temporary use of, the Project or any portion thereof shall have been taken by the exercise of the power of eminent domain, and Governmental Lender, Borrower, Fiscal Agent or Loan Servicer receives Net Casualty Proceeds from insurance or any condemnation award in connection therewith, such Net Casualty Proceeds shall be utilized as provided in the Project Loan Documents and the Funding Loan Agreement.
- 3.07 Enforcement of Financing Documents.** Fiscal Agent or Funding Lender Representative may enforce and take all reasonable steps, actions and proceedings necessary for the enforcement of all terms, covenants and conditions of the Funding Loan Agreement and the other Financing Documents as and to the extent set forth herein and therein.

#### **ARTICLE IV LOAN PAYMENTS.**

##### **4.01 Payments Under the Project Note; Independent Obligation of Borrower.**

- (a) Payment Obligations. Borrower agrees to repay the Project Loan on each Project Loan Payment Date as provided in the Project Note, and in all instances at the times and in the amounts necessary to enable Fiscal Agent, on behalf of Governmental Lender, or Loan Servicer, to pay all amounts payable with respect to the Funding Loan, when due, whether at maturity or upon prepayment (with Prepayment Premium, if any), acceleration or otherwise. To ensure such timely payment during the Permanent Phase, Fiscal Agent or Loan Servicer shall collect from Borrower, and Borrower shall provide to Fiscal Agent or Loan Servicer, as applicable, the foregoing payments not less than two (2) Business Days prior to each respective Project Loan Payment Date. If payments are made to Loan Servicer, Loan Servicer shall transfer payments to Fiscal Agent no later than one (1) Business Day prior to any payment date in accordance with Section 2.12 of the Funding Loan Agreement.

The obligation of Borrower to make the payments set forth in this Article IV shall be an independent obligation of Borrower, separate from its obligation to make

payments under the Project Note, provided that in all events payments made by Borrower under and pursuant to the Project Note shall be credited against Borrower's obligations hereunder on a dollar-for-dollar basis. If for any reason the Project Note or any provision of the Project Note shall be held invalid or unenforceable against Borrower by any court of competent jurisdiction, the Project Note or such provision of the Project Note shall be deemed to be the obligation of Borrower pursuant to this Project Loan Agreement to the full extent permitted by law and such holding shall not invalidate or render unenforceable any of the provisions of this Article IV and shall not serve to discharge any of Borrower's payment obligations hereunder or eliminate the credit against such obligations to the extent of payments made under the Project Note.

- (b) Obligations Unconditional; No Set-Off. The obligation of Borrower to repay the Project Loan, to perform all of its obligations under the Project Loan Documents, to provide indemnification pursuant to Section 6.01 hereof, to pay costs, expenses and charges pursuant to Section 4.02 hereof and to make any and all other payments required by this Project Loan Agreement, the Funding Loan Agreement or any other documents contemplated by this Project Loan Agreement or by the Project Loan Documents shall, subject to the limitations set forth in Section 4.06 hereof, be absolute and unconditional, and shall be paid or performed without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether Borrower's title to the Project or to any part thereof is defective or nonexistent, and notwithstanding any damage due to loss, theft or destruction of the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of Borrower's use thereof, the eviction or constructive eviction of Borrower, any change in the tax or other laws of the United States of America, the State or any political subdivision thereof, any change in Governmental Lender's legal organization or status, or any default of Governmental Lender or Fiscal Agent hereunder or under any other Financing Document, and regardless of the invalidity of any action of Governmental Lender or the invalidity of any portion of this Project Loan Agreement.
- (c) Payments from Borrower to Fiscal Agent or Loan Servicer. Each payment by Borrower hereunder or under the Project Note shall be made in immediately available funds to Loan Servicer on each Project Loan Payment Date or such other date when such payment is due; provided, however, such Project Loan Payment shall be made directly to Fiscal Agent if there is no Loan Servicer or if Borrower is so directed in writing by Funding Lender Representative. Each such payment shall be made to Fiscal Agent or Loan Servicer, as applicable, by deposit to such account as Fiscal Agent or Loan Servicer may designate by written notice to Borrower. If payments are made to Loan Servicer, Loan Servicer shall transfer payments to Fiscal Agent not less than one (1) Business Day prior to any payment date in accordance with Section 2.12 of the Funding Loan Agreement. Whenever any Project Loan Payment or any other payment under this Project Loan Agreement or

under the Project Note shall be stated to be due on a day that is not a Business Day, such payment shall be made on the first Business Day immediately thereafter.

#### **4.02 Additional Payments Under the Project Note and Project Loan Agreement.**

- (a) In addition to the payments set forth in Section 4.01 hereof, payments to be made by Borrower under the Project Note include certain money to be paid in respect of, among other things, the Fee Component, the Servicing Fee, and amounts required to be deposited pursuant to the Continuing Covenant Agreement and the other Project Loan Documents, as set forth in subsection (b) of this Section 4.02. To the extent that any portion of the Fee Component, the Servicing Fee, or amounts required to be deposited pursuant to the Continuing Covenant Agreement and the other Project Loan Documents remain due and owing at any time, such amounts remaining due and owing shall be payable from money on deposit in the Administration Fund as provided in Section 4.06 of the Funding Loan Agreement or from other money of 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 Borrower as provided in subsection (b) of this Section 4.02.
- (b) In addition to the funding of the initial deposits required of Borrower described in Section 3.03 hereof, Borrower shall pay (or cause to be paid by Loan Servicer), to Fiscal Agent (to the extent paid from money on deposit in the Administration Fund or the Costs of Issuance Fund, as applicable) or Title Company (as provided for in a settlement statement delivered on or prior to the Delivery Date), in consideration of the funding of the Project Loan, the following fees, expenses and other money payable in connection with the Loans:
  - (i) On the Delivery Date, from money on deposit with Title Company or, to the extent such money is insufficient for such purpose, from other money of Borrower, to Initial Funding Lender its origination fees, together with all third party and out-of-pocket expenses of Initial Funding Lender (including but not limited to the fees and expenses of counsel to Initial Funding Lender) in connection with the Loans.
  - (ii) Reserved.
  - (iii) On the Delivery Date, from money on deposit in the Costs of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of Borrower, to Governmental Lender, a closing fee in an amount equal to \$0.50% of issuance amount and the initial payments of the Governmental Lender Administration Fee and Governmental Lender Compliance Fee (each as described in the Funding Loan Agreement), together with all third party and out-of-pocket expenses of Governmental Lender (including but not limited to the fees and expenses of Bond Counsel and any other counsel to Governmental Lender) in connection with the Loans and the delivery of the Governmental Note.

- (iv) On the Delivery Date, from money on deposit with Title Company or, to the extent such money is insufficient for such purpose, from other money of Borrower, to Permanent Funding Lender, its commitment fees and application fees, together with all third party and out-of-pocket expenses of Permanent Funding Lender (including but not limited to the fees and expenses of counsel to Permanent Funding Lender, if any) in connection with the Loans.
- (v) On the Delivery Date, from money on deposit in the Costs of Issuance Fund or, to the extent such money is insufficient for such purpose, from other money of Borrower, to Fiscal Agent, an acceptance fee in an amount equal to \$[3,500], together with all third party and out-of-pocket expenses of Fiscal Agent (including but not limited to the fees and expenses of counsel to Fiscal Agent) in connection with the Loans and the issuance of the Governmental Note.
- (vi) To Fiscal Agent, the Fiscal Agent's Ordinary Fees and Expenses and the Fiscal Agent's Extraordinary Fees and Expenses when due from time to time.
- (vii) To the Fiscal Agent to be paid by Fiscal Agent to Governmental Lender, the Governmental Lender Fees when due and any extraordinary expenses not covered by the Governmental Lender Fees that Governmental Lender may incur in connection with the Financing Documents or the Project from time to time.
- (viii) To the Rebate Analyst, the reasonable fees and expenses of such Rebate Analyst in connection with the computations relating to arbitrage rebate required under the Funding Loan Agreement and the Tax Exemption Agreement when due from time to time.
- (ix) To Funding Lender Representative, any amount due and owing to Funding Lender Representative from time to time but unpaid under the Continuing Covenant Agreement.
- (x) To Loan Servicer, the amount of any portion of the Servicing Fee remaining unpaid and any fees, costs and expenses of Loan Servicer as provided in the Continuing Covenant Agreement.
- (xi) To Loan Servicer, the amounts required to be deposited in respect of reserves and impositions required under the Continuing Covenant Agreement and the other Project Loan Documents.
- (xii) If Fiscal Agent is collecting and remitting loan payments under the Funding Loan Agreement, to Fiscal Agent, within two (2) Business Days of receipt by Borrower from Fiscal Agent of a notice of deficiency in the Administration Fund as provided in Section 4.06 of the Funding Loan Agreement, the amount of any such deficiency in the Administration Fund.

**4.03 Payments to Rebate Fund.** Borrower shall pay when due to Fiscal Agent at the Principal Office of Fiscal Agent any amount required to be deposited in the Rebate Fund in accordance with Section 4.10 of the Funding Loan Agreement and the Tax Exemption Agreement.

**4.04 Prepayment.**

- (a) Optional Prepayment of the Project Loan. Borrower shall have the option to prepay the Project Loan in whole, together with all accrued and unpaid interest thereon, as provided in the Project Note. Notwithstanding the foregoing, during the Permanent Phase, Borrower shall only have the right to pay the Project Loan in full (but not in part) on or after, but not prior to, the tenth (10<sup>th</sup>) anniversary of the Conversion Date (the “**Closed Prepayment Date**”), subject to the terms of and as further described in the Project Note.
- (b) Mandatory Prepayment of the Project Loan. Borrower shall be required to prepay all or a portion of the outstanding principal balance of the Project Loan, together with accrued interest thereon, and together with any Prepayment Premium due under the Project Note, as provided in the Project Note. Additionally, Borrower shall be required to prepay all or a portion of the outstanding principal balance of the Project Loan, together with accrued interest thereon, and together with any Prepayment Premium due under the Project Note, in connection with any of the following:
  - (i) In part, in the event Borrower makes a Pre-Conversion Loan Equalization Payment.
  - (ii) In whole, on or after the Termination Date, at the written direction of Initial Funding Lender, if Conversion has not occurred prior to the Termination Date.

If, following Conversion, the Maturity Date is accelerated by Permanent Funding Lender because of the occurrence of an Event of Default, the acceleration shall be deemed to be an election on the part of Borrower to prepay the Project Loan. Accordingly, there shall be added to the amount due after an Event of Default and resulting acceleration, the Prepayment Premium or certain other fees described in the Project Note as may be applicable.

- (c) Defeasance of the Funding Loan. In addition, after the Conversion Date and prior to the Window Period, Borrower may cause a defeasance of the Funding Loan resulting in a release of the Pledged Security by satisfying the conditions set forth hereunder and in Article IX of the Funding Loan Agreement. In connection therewith, Borrower will give written notice (a “**Defeasance Notice**”) to Funding Lender Representative, Loan Servicer, Governmental Lender and Fiscal Agent of the date Borrower desires to defease the Funding Loan (the “**Defeasance Date**”). The Defeasance Date may not be more than 60 calendar days, nor less than 30 calendar days, after the delivery of the Defeasance Notice. In connection with the

delivery of the Defeasance Notice, Borrower shall cause to be paid to Funding Lender Representative the Defeasance Fee set forth in the Continuing Covenant Agreement. In addition to, and not in limitation of any other provisions of this Project Loan Agreement, Borrower shall pay all fees, costs and expenses in connection with any defeasance whether or not such defeasance occurs. Following such defeasance in accordance with the terms and conditions hereof and the Funding Loan Agreement, the Project Loan shall be deemed paid in full, and Borrower shall be entitled to the release of the Security Instrument, the Pledged Security and other security provided by it for the Project Loan, subject to the terms and conditions hereof and the other Financing Documents.

**4.05 Borrower's Obligations Upon Prepayment.** In the event of any prepayment, Borrower will timely pay, or cause to be paid through Loan Servicer, who shall in turn remit to Fiscal Agent, an amount equal to the principal amount of the Funding Loan or portion thereof called for prepayment, together with interest accrued to the prepayment date and Prepayment Premium, if any. In addition, Borrower will timely pay all fees, costs and expenses associated with any prepayment of the Funding Loan.

**4.06 Limits on Personal Liability.**

- (a) Except as otherwise set forth in the Project Note, Article 11 of the Permanent Continuing Covenants Agreement and subsection 4.06(b) below, during the Permanent Phase the obligations of Borrower under this Project Loan Agreement and the other Financing Documents are non-recourse liabilities of Borrower which shall be enforced only against the Borrower's leasehold interest in the Project and other property of Borrower encumbered by the Financing Documents and not personally against Borrower or any partner of Borrower or any successor or assign of Borrower. However, nothing in this Section 4.06 shall limit the right of Governmental Lender, Fiscal Agent, Loan Servicer or Funding Lender Representative to proceed against Borrower to recover any fees owing to any of them or any actual out-of-pocket expenses (including but not limited to actual out-of-pocket attorneys' fees incurred by any of them) incurred by any of them in connection with the enforcement of any rights under this Project Loan Agreement or the other Financing Documents. Nothing in this Section 4.06 shall limit any right that Loan Servicer or Funding Lender Representative may have to enforce the Project Note, the Security Instrument, or any other Financing Document in accordance with their terms.
- (b) Notwithstanding anything contained in any other provision of this Project Loan Agreement to the contrary (but subject to the provisions of Section 7.06 hereof), the following obligations of Borrower shall be and remain the joint and several full recourse obligations of Borrower and Borrower's general partner:
  - (i) Borrower's obligations to Governmental Lender and Fiscal Agent under subsections (b)(iii), (b)(v), (b)(vi), and (b)(vii) of Section 4.02 hereof.

- (ii) Borrower's obligations under Sections 2.05 and 6.01 of this Project Loan Agreement.
- (iii) Borrower's obligation to pay any and all rebate amounts that may be or become owing with respect to the Funding Loan and fees and expenses of the Rebate Analyst as provided in Sections 4.02(b)(viii), and 4.03 of this Project Loan Agreement and the Tax Exemption Agreement.
- (iv) Borrower's obligation to pay legal fees and expenses under Section 7.04 hereof.

## **ARTICLE V SPECIAL COVENANTS OF BORROWER**

- 5.01 Performance of Obligations.** Borrower shall keep and faithfully perform all of its covenants and undertakings contained herein and in the Financing Documents, including, without limitation, its obligations to make all payments set forth herein and therein in the amounts, at the times and in the manner set forth herein and therein.
- 5.02 Compliance with Applicable Laws.** All work performed in connection with the Project shall be performed in strict compliance with all applicable federal, state, county and municipal laws, ordinances, rules and regulations now in force or that may be enacted hereafter.
- 5.03 Funding Loan Agreement Provisions.** The execution of this Project Loan Agreement shall constitute conclusive evidence of approval of the Funding Loan Agreement by Borrower. Whenever the Funding Loan Agreement by its terms imposes a duty or obligation upon Borrower, such duty or obligation shall be binding upon Borrower to the same extent as if Borrower were an express party to the Funding Loan Agreement, and Borrower shall carry out and perform all of its obligations under the Funding Loan Agreement as fully as if Borrower were a party to the Funding Loan Agreement.
- 5.04 Borrower to Maintain Its Existence; Certification of No Default.**
- (a) Borrower agrees to maintain its existence and maintain its current legal status with authority to own its leasehold interest in, and operate, the Project.
  - (b) In addition to performing all other similar requirements under the Financing Documents to which Borrower is a party, Borrower shall, within 30 days after the end of each calendar year, render to Fiscal Agent a certificate executed by an Authorized Officer of Borrower to the effect that Borrower is not, as of the date of such certificate, in default of any of its covenants, agreements, representations or warranties under any of the Financing Documents to which Borrower is a party and that, to the best of Borrower's knowledge, after reasonable investigation, there has occurred no default or Event of Default (as such terms are defined in each respective Financing Document) under any of the Financing Documents.

- 5.05 Borrower to Remain Qualified in State and Appoint Agent.** 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 Borrower.
- 5.06 Sale or Other Transfer of Project.** Borrower may convey and transfer the Project only upon strict compliance with the provisions of the Financing Documents, and upon receipt of the prior written consent of Governmental Lender, except as otherwise permitted pursuant to the TEL Regulatory Agreement, and Funding Lender Representative.
- 5.07 Right to Perform Borrower's Obligations.** In the event Borrower fails to perform any of its obligations under this Project Loan Agreement, Governmental Lender, Fiscal Agent, Loan Servicer and/or Funding Lender Representative, after giving requisite notice, if any, and subject to Section 5.05 of the Funding Loan Agreement, may, but shall be under no obligation to, perform such obligation and pay all costs related thereto, and all such costs so advanced shall become an additional obligation of Borrower hereunder, payable on demand and if not paid on demand with interest thereon at the default rate of interest payable under the Project Loan Documents.
- 5.08 Notice of Certain Events.** Borrower shall promptly advise Governmental Lender, Fiscal Agent, Funding Lender Representative and Loan 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.
- 5.09 Survival of Covenants.** The provisions of Sections 2.05, 4.02, 4.03, 6.01 and 7.04 hereof shall survive the expiration or earlier termination of this Project Loan Agreement and, with regard to Fiscal Agent, the resignation or removal of Fiscal Agent.
- 5.10 Access to Project; Records.** Subject to reasonable notice and the rights of tenants at the Project, Governmental Lender, Fiscal Agent, Loan Servicer and Funding Lender Representative, and the respective duly authorized agents of each, shall have the right (but not any duty or obligation) at all reasonable times and during normal business hours to do any of the following:
- (a) Enter the Project and any other location containing the records relating to Borrower, the Project, the Loans and Borrower's compliance with the terms and conditions of the Financing Documents.
  - (b) Inspect and audit any and all of Borrower's records or accounts pertaining to Borrower, the Project, the Loans and Borrower's compliance with the terms and conditions of the Financing Documents.
  - (c) Require Borrower, at Borrower's sole expense, (i) to furnish such documents to Governmental Lender, Fiscal Agent, Loan Servicer and Funding Lender Representative, as Governmental Lender, Fiscal Agent, Loan Servicer or Funding Lender Representative, as the case may be, from time to time, deems reasonably necessary in order to determine that the provisions of the Financing Documents

have been complied with and (ii) to make copies of any records that Governmental Lender, Fiscal Agent, Loan Servicer or Funding Lender Representative or the respective duly authorized agents of each, may reasonably require.

Borrower shall make available to Governmental Lender, Fiscal Agent, Loan Servicer and Funding Lender Representative, such information concerning the Project, the Security Instrument and the Financing Documents as any of them may reasonably request.

**5.11 TEL Regulatory Agreement.** The covenants of Borrower in the TEL Regulatory Agreement shall be deemed to constitute covenants of Borrower running with the land and an equitable servitude for the benefit of Governmental Lender and Funding Lender and shall be binding upon any owners of the Project until such time as such restrictions expire as provided in the TEL Regulatory Agreement. Borrower covenants to file of record the TEL Regulatory Agreement and such other documents, and to take such other steps as are necessary in order to assure that the restrictions contained in the TEL Regulatory Agreement will, subject to the terms of the TEL Regulatory Agreement, be binding upon all owners of the Project. 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 TEL Regulatory Agreement. Subject to the provisions of Section 7.06 of this Project Loan Agreement, Governmental Lender and Fiscal Agent shall have the right to seek specific performance of or injunctive relief to enforce the requirements of any covenants of Borrower contained in the TEL Regulatory Agreement.

**5.12 Damage, Destruction and Condemnation.** If prior to payment in full of the Funding Loan (or provision for payment in full of the Funding Loan in accordance with the provisions of the Funding Loan Agreement) the Project or any portion of it is destroyed (in whole or in part) or is damaged by fire or other casualty, or title to, or the temporary use of, the Project or any portion of it shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, or shall be transferred pursuant to an agreement or settlement in lieu of eminent domain proceedings, Borrower shall nevertheless be obligated to continue to pay the amounts specified in this Project Loan Agreement and in the Project Note to the extent the Project Loan is not prepaid in full in accordance with the terms of the Project Loan Documents.

**5.13 Obligation of Borrower to Rehabilitate the Project.** Borrower shall proceed with reasonable dispatch (and in no event later than required under the Financing Documents) to complete the rehabilitation, development and equipping of the Project as required by the Financing Documents. If amounts on deposit in the Project Loan Fund designated for the Project and available to be disbursed to Borrower are not sufficient to pay the costs of such acquisition, rehabilitation, development and equipping, Borrower shall pay such additional costs from its own funds. Borrower shall not be entitled to any reimbursement from Governmental Lender, Fiscal Agent, Loan Servicer, Funding Lender Representative or Funding Lender in respect of any such additional costs or to any diminution or abatement in the repayment of the Project Loan. None of Fiscal Agent, Governmental Lender,

Funding Lender, Funding Lender Representative or Loan Servicer makes any representation or warranty, either express or implied, that money, if any, which will be paid into the Project Loan Fund or otherwise made available to Borrower will be sufficient to complete the Project, and none of Fiscal Agent, Governmental Lender, Funding Lender, Funding Lender Representative or Loan Servicer shall be liable to Borrower or any other person if for any reason the Project is not completed.

- 5.14 Filing of Financing Statements.** 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 Project Loan, the Funding Loan, the Pledged Security and the Security Instrument, and the rights and powers of Governmental Lender, Fiscal Agent and Funding Lender in connection with such security interests. Borrower shall cooperate with Fiscal Agent in connection with the filing of any continuation statements for the purpose of continuing without lapse the effectiveness of such financing statements; provided, however, that Fiscal Agent shall only file or record, or cause to be filed or recorded, those UCC continuation statements on which Fiscal Agent is named as a secured party or additional secured party for financing statements that have been delivered to Fiscal Agent, at Borrower's expense.

## **ARTICLE VI INDEMNIFICATION**

### **6.01 Indemnification.**

(a) **Indemnification of the Governmental Lender.**

- (i) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES TO PROTECT, INDEMNIFY AND SAVE THE GOVERNMENTAL LENDER AND ITS GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES (EACH, A "GOVERNMENTAL LENDER INDEMNIFIED PARTY," AND COLLECTIVELY "GOVERNMENTAL LENDER INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM (THE "GOVERNMENTAL LENDER INDEMNITY LIABILITIES"), BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS PROJECT LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS PROJECT LOAN AGREEMENT; (II) ANY BREACH OR DEFAULT ON THE PART OF

THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS PROJECT LOAN AGREEMENT (OTHER THAN A FAILURE TO PAY THE PRINCIPAL OF, AND ANY INTEREST AND PREMIUM ON, THE PROJECT LOAN, THE FUNDING LOAN OR THE GOVERNMENTAL NOTE); (III) ANY CLAIM OR CAUSE OF ACTION AGAINST THE GOVERNMENTAL LENDER THAT SEEKS TO IMPOSE LIABILITY ON THE GOVERNMENTAL LENDER WITH RESPECT TO THE GOVERNMENTAL NOTE, THIS PROJECT LOAN AGREEMENT, THE TEL REGULATORY AGREEMENT, THE TAX EXEMPTION AGREEMENT OR THE FUNDING LOAN AGREEMENT WHICH EXCEEDS THE LIABILITY OF THE GOVERNMENTAL LENDER AS SET FORTH IN SECTION 8.14 HEREOF; (IV) THE PROJECT OR ANY PART THEREOF; (V) ANY VIOLATION OF ANY CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL NOTE, THE FUNDING LOAN OR THE PROJECT LOAN; OR (VI) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM ANY GOVERNMENTAL LENDER INDEMNIFIED PARTY, THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE, AND PROVIDE COMPETENT COUNSEL REASONABLY SATISFACTORY TO THE GOVERNMENTAL LENDER INDEMNIFIED PARTY; PROVIDED, HOWEVER, THAT THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES SHALL HAVE THE ABSOLUTE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER;

- (ii) IT IS THE INTENTION OF THE PARTIES HERETO THAT THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS PROJECT LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES HEREUNDER IN CONNECTION WITH THE ISSUANCE OF THE GOVERNMENTAL NOTE, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS PROJECT LOAN AGREEMENT, THE TEL REGULATORY AGREEMENT, THE TAX EXEMPTION AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES, BY THIS

PROJECT LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS PROJECT LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE FUNDING LOAN AGREEMENT, THIS PROJECT LOAN AGREEMENT, THE TEL REGULATORY AGREEMENT, THE TAX EXEMPTION AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION. NEVERTHELESS, IF THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES (INCLUDING WITHOUT LIMITATION FEES AND EXPENSES OF COUNSEL) INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM ANY GOVERNMENTAL LENDER INDEMNIFIED PARTY THE BORROWER SHALL DEFEND THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COUNSEL SATISFACTORY TO SUCH GOVERNMENTAL LENDER INDEMNIFIED PARTIES AND THE BORROWER SHALL PAY A GOVERNMENTAL LENDER INDEMNIFIED PARTY'S EXPENSES INCLUDING PAYMENT OF THE FEES AND EXPENSES OF THE COUNSEL USED BY SUCH GOVERNMENTAL LENDER INDEMNIFIED PARTY; PROVIDED, HOWEVER, THAT A GOVERNMENTAL LENDER INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER; AND

- (iii) NOTWITHSTANDING ANY PROVISION OF THIS SECTION 6.01(a) TO THE CONTRARY, THE GOVERNMENTAL LENDER INDEMNIFIED PARTIES SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM A GOVERNMENTAL LENDER INDEMNIFIED PARTY'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM A GOVERNMENTAL LENDER INDEMNIFIED PARTY'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

NOTWITHSTANDING ANYTHING ELSE IN THIS PROJECT LOAN AGREEMENT TO THE CONTRARY, EXCEPT FOR THE PROVISIONS OF SECTION 6.01(A)(III), BORROWER SHALL BE RESPONSIBLE FOR THE FEES, COSTS AND EXPENSES OF COUNSEL TO GOVERNMENTAL LENDER AT ALL TIMES; PROVIDED THAT GOVERNMENTAL LENDER MAINTAINS CONTROL OF THE SELECTION OF ITS COUNSEL AT ALL TIMES.

THIS INDEMNIFICATION COVENANT SHALL SURVIVE REPAYMENT OF THE LOANS AND THE GOVERNMENTAL NOTE.

(b) **Indemnification of Other Parties.** IN ADDITION TO ITS OTHER OBLIGATIONS HEREUNDER, AND IN ADDITION TO ANY AND ALL RIGHTS OF REIMBURSEMENT, INDEMNIFICATION, SUBROGATION AND OTHER RIGHTS OF GOVERNMENTAL LENDER OR FISCAL AGENT PURSUANT HERETO AND UNDER LAW OR EQUITY, INCLUDING, BUT NOT LIMITED TO, GOVERNMENTAL LENDER'S RIGHTS UNDER THE TAX REGULATORY AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND GOVERNMENTAL LENDER, FISCAL AGENT, LOAN SERVICER, FUNDING LENDER, FUNDING LENDER REPRESENTATIVE AND EACH OF THEIR RESPECTIVE OFFICERS, GOVERNING COMMISSIONERS, MEMBERS, DIRECTORS, OFFICIALS, EMPLOYEES, ATTORNEYS AND AGENTS (COLLECTIVELY, THE "INDEMNITEES"), AGAINST ANY AND ALL LOSSES, DAMAGES (INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL AND PUNITIVE DAMAGES), CLAIMS, ACTIONS, LIABILITIES, COSTS AND EXPENSES OF ANY CONCEIVABLE NATURE, KIND OR CHARACTER (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, LITIGATION AND COURT COSTS, AMOUNTS PAID IN SETTLEMENT AND AMOUNTS PAID TO DISCHARGE JUDGMENTS) TO WHICH THE INDEMNITEES, OR ANY OF THEM, MAY BECOME SUBJECT UNDER FEDERAL OR STATE SECURITIES LAWS OR ANY OTHER STATUTORY LAW OR AT COMMON LAW OR OTHERWISE (COLLECTIVELY, "LOSSES"), TO THE EXTENT ARISING, DIRECTLY OR INDIRECTLY, OUT OF OR BASED UPON OR IN ANY WAY RELATING TO ANY OF THE FOLLOWING:

- (i) ANY BREACH BY THE BORROWER OF ITS OBLIGATIONS UNDER THE FINANCING DOCUMENTS OR THE EXECUTION, AMENDMENT, RESTRUCTURING OR ENFORCEMENT THEREOF, OR IN CONNECTION WITH TRANSACTIONS CONTEMPLATED THEREBY, INCLUDING THE ISSUANCE, SALE, TRANSFER OR RESALE OF THE GOVERNMENTAL NOTE.
- (ii) ANY ACT OR OMISSION OF BORROWER OR ANY OF ITS AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES OR LICENSEES IN CONNECTION WITH THE PROJECT LOAN OR THE PROJECT, THE OPERATION OF THE PROJECT, OR THE CONDITION,

ENVIRONMENTAL OR OTHERWISE, OCCUPANCY, USE, POSSESSION, CONDUCT OR MANAGEMENT OF WORK DONE IN OR ABOUT, OR FROM THE PLANNING, DESIGN, ACQUISITION, INSTALLATION, REHABILITATION, CONSTRUCTION OR EQUIPPING OF, THE PROJECT OR ANY PART THEREOF.

- (iii) ANY ACCIDENT, INJURY TO, OR DEATH OF PERSONS OR LOSS OF OR DAMAGE TO PROPERTY OCCURRING IN, ON OR ABOUT THE PROJECT OR ANY PART THEREOF.
- (iv) ANY LIEN (OTHER THAN LIENS PERMITTED UNDER THE CONTINUING COVENANT AGREEMENT) OR CHARGE UPON PAYMENTS BY BORROWER TO GOVERNMENTAL LENDER, FISCAL AGENT OR LOAN SERVICER HEREUNDER, OR ANY TAXES (INCLUDING, WITHOUT LIMITATION, ALL AD VALOREM TAXES AND SALES TAXES), ASSESSMENTS, IMPOSITIONS AND OTHER CHARGES IMPOSED ON GOVERNMENTAL LENDER OR FISCAL AGENT IN RESPECT OF ANY PORTION OF THE PROJECT (OTHER THAN INCOME AND SIMILAR TAXES ON FEES RECEIVED OR EARNED IN CONNECTION THEREWITH).
- (v) ANY VIOLATION OF ANY ENVIRONMENTAL LAW, RULE OR REGULATION WITH RESPECT TO, OR THE RELEASE OF ANY HAZARDOUS MATERIALS FROM, THE PROJECT OR ANY PART THEREOF.
- (vi) THE ENFORCEMENT OF, OR ANY ACTION TAKEN BY GOVERNMENTAL LENDER, FISCAL AGENT OR FUNDING LENDER REPRESENTATIVE RELATED TO REMEDIES UNDER THIS PROJECT LOAN AGREEMENT, THE FUNDING LOAN AGREEMENT OR ANY OTHER FINANCING DOCUMENT.
- (vii) ANY UNTRUE STATEMENT OF A MATERIAL FACT OR ALLEGED UNTRUE STATEMENT OF A MATERIAL FACT BY BORROWER CONTAINED IN ANY OFFERING STATEMENT OR DOCUMENT FOR THE GOVERNMENTAL NOTE OR ANY OF THE FINANCING DOCUMENTS TO WHICH BORROWER IS A PARTY, OR ANY OMISSION OR ALLEGED OMISSION BY BORROWER OF A MATERIAL FACT FROM ANY OFFERING STATEMENT OR DOCUMENT FOR THE GOVERNMENTAL NOTE NECESSARY TO BE STATED THEREIN IN ORDER TO MAKE THE STATEMENTS MADE THEREIN BY BORROWER, IN THE LIGHT OF THE CIRCUMSTANCES UNDER WHICH THEY WERE MADE, NOT MISLEADING.
- (viii) ANY DECLARATION OF TAXABILITY OF INTEREST ON THE GOVERNMENTAL NOTE OR ALLEGATIONS (OR REGULATORY

INQUIRY) THAT INTEREST ON THE GOVERNMENTAL NOTE IS INCLUDABLE IN GROSS INCOME OF THE HOLDER THEREOF FOR FEDERAL INCOME TAX PURPOSES.

- (ix) ANY AUDIT OR INQUIRY BY THE INTERNAL REVENUE SERVICE WITH RESPECT TO THE PROJECT AND/OR THE TAX-EXEMPT STATUS OF THE GOVERNMENTAL NOTE.
- (x) FISCAL AGENT'S ACCEPTANCE OR ADMINISTRATION OF THE TRUST OF THE FUNDING LOAN AGREEMENT, OR THE EXERCISE OR PERFORMANCE OF ANY OF ITS POWERS OR DUTIES THEREUNDER OR UNDER ANY OF THE DOCUMENTS RELATING TO THE GOVERNMENTAL NOTE TO WHICH IT IS A PARTY;

EXCEPT (A) IN THE CASE OF THE FOREGOING INDEMNIFICATION OF FISCAL AGENT, OR ANY OF ITS RESPECTIVE OFFICERS, COMMISSIONERS, MEMBERS, DIRECTORS, OFFICIALS, EMPLOYEES, ATTORNEYS AND AGENTS, TO THE EXTENT SUCH LOSSES ARE CAUSED BY THE NEGLIGENCE, UNLAWFUL ACTS OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY; OR (B) IN THE CASE OF THE FOREGOING INDEMNIFICATION OF GOVERNMENTAL LENDER, LOAN SERVICER, FUNDING LENDER REPRESENTATIVE OR FUNDING LENDER OR ANY OF THEIR RESPECTIVE OFFICERS, COMMISSIONERS, MEMBERS, DIRECTORS, OFFICIALS, EMPLOYEES, ATTORNEYS AND AGENTS, TO THE EXTENT SUCH LOSSES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY. **IT IS THE EXPRESS INTENTION OF BORROWER THAT THE INDEMNIFICATION OF THE INDEMNIFIED PARTIES AS PROVIDED IN THIS SECTION 6.01(B) SHALL REMAIN IN FULL FORCE AND EFFECT IF LOSSES DIRECTLY OR INDIRECTLY RESULT FROM, ARISE OUT OF, OR RELATE TO, OR ARE ASSERTED TO HAVE RESULTED FROM, ARISEN OUT OF OR RELATED TO, THE SOLE OR CONTRIBUTORY NEGLIGENCE OF ANY SUCH INDEMNIFIED PARTY, BUT NOT THE NEGLIGENCE OR GROSS NEGLIGENCE (AS APPLICABLE), OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTY, EXCEPT AS PROVIDED HEREINABOVE.**

IN THE EVENT THAT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST ANY INDEMNITEE WITH RESPECT TO WHICH INDEMNITY MAY BE SOUGHT HEREUNDER, BORROWER, UPON WRITTEN NOTICE FROM SUCH INDEMNITEE, SHALL ASSUME THE INVESTIGATION AND DEFENSE THEREOF, INCLUDING THE EMPLOYMENT OF COUNSEL SELECTED OR APPROVED BY THE INDEMNITEE, AND SHALL ASSUME THE PAYMENT OF ALL EXPENSES RELATED THERETO, WITH FULL POWER TO LITIGATE, COMPROMISE OR SETTLE THE SAME IN ITS SOLE DISCRETION; PROVIDED THAT SUCH INDEMNITEE SHALL HAVE THE RIGHT TO REVIEW AND

APPROVE OR DISAPPROVE ANY SUCH COMPROMISE OR SETTLEMENT. EACH INDEMNITEE SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY SUCH ACTION OR PROCEEDING AND TO PARTICIPATE IN THE INVESTIGATION AND DEFENSE THEREOF. BORROWER SHALL PAY THE REASONABLE FEES AND EXPENSES OF SUCH SEPARATE COUNSEL; PROVIDED, HOWEVER, THAT SUCH INDEMNITEE MAY EMPLOY SEPARATE COUNSEL AT THE EXPENSE OF BORROWER ONLY IF, IN SUCH INDEMNITEE'S GOOD FAITH JUDGMENT, A CONFLICT OF INTEREST EXISTS BY REASON OF COMMON REPRESENTATION OR IF ALL PARTIES COMMONLY REPRESENTED DO NOT AGREE AS TO THE ACTION (OR INACTION) OF COUNSEL.

In addition thereto, Borrower will pay upon demand all of the fees and expenses paid or incurred by Fiscal Agent and/or Governmental Lender in enforcing the provisions hereof, as more fully set forth in the Tax Regulatory Agreement.

- (c) **Borrower to Remain Obligated.** Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Project Loan Agreement, the Continuing Covenant Agreement and the TEL Regulatory Agreement, Borrower shall remain obligated to indemnify each Governmental Lender Indemnified Party and Indemnitee pursuant to this Section 6.01 for Losses (which term includes for purposes of this Section 6.01(c) amounts described in Section 6.01(a) hereof) with respect to any claims based on actions or events occurring prior to the date of such transfer unless (i) such subsequent owner assumed in writing at the time of such transfer all obligations of Borrower under this Section 6.01 (including obligations under this Section 6.01 for Losses with respect to any claims based on actions or events occurring prior to the date of such transfer) and (ii) any such transfer is in compliance with the requirements of the Financing Documents.
- (d) **Survival.** The provisions of this Section 6.01 shall survive the termination of this Project Loan Agreement, the final payment or defeasance of the Project Loan and the Funding Loan and in the case of the Servicer and Fiscal Agent, any resignation or removal.

**6.02 Limitation with Respect to Funding Lender.** Notwithstanding anything in this Project Loan Agreement to the contrary, in the event that Funding Lender (or its nominee) shall become the owner of the Project as a result of a foreclosure or a deed in lieu of foreclosure, or comparable conversion of the Project Loan, Funding Lender (or its nominee) shall not be liable for any breach or default of any prior owner of the Project under this Project Loan Agreement and shall only be responsible for defaults and obligations incurred or occurring during the period that Funding Lender (or its nominee) is the owner of the Project. Accordingly, during any period that Funding Lender (or its nominee) owns the Project and that this Article VI is applicable to Funding Lender (or its nominee), Funding Lender's (or its nominee's) obligations under this Article VI shall be limited to acts and omissions of

Funding Lender (or its nominee) occurring during the period of Funding Lender's (or its nominee's) ownership of the Project.

## **ARTICLE VII EVENTS OF DEFAULT AND REMEDIES**

**7.01 Events of Default.** The occurrence of any one or more of the following will constitute an Event of Default under this Project Loan Agreement:

- (a) Any representation or warranty made by Borrower in the Financing Documents or any certificate, statement, data or information furnished by Borrower in connection therewith or included by Borrower in its application to Governmental Lender for assistance proves at any time to have been incorrect when made in any material respect.
- (b) Failure by Borrower to pay any amounts due under this Project Loan Agreement or the Project Note at the times and in the amounts required by this Project Loan Agreement or the Project Note, as applicable.
- (c) Borrower shall fail to observe or perform any other term, covenant, condition or agreement (after taking into account any applicable cure period) set forth in this Project Loan Agreement, which failure continues for a period of 30 days after notice of such failure by Governmental Lender, Fiscal Agent or Funding Lender Representative to Borrower and Equity Investor (unless such default cannot with due diligence be cured within 30 days but can be cured within a reasonable period and will not, in Funding Lender Representative's sole discretion, adversely affect Funding Lender or result in impairment of this Project Loan Agreement or any other Financing Document, in which case no Event of Default shall be deemed to exist so long as Borrower shall have commenced to cure the default or Event of Default within 30 days after receipt of notice, and thereafter diligently and continuously prosecutes such cure to completion); provided, however, no such notice or grace periods shall apply in the case of any such failure which could, in Funding Lender Representative's judgment, absent immediate exercise by Funding Lender Representative of a right or remedy under this Project Loan Agreement, result in harm to Funding Lender or impairment of this Project Loan Agreement or any other Financing Document.
- (d) The occurrence of a default under the Continuing Covenant Agreement or the Security Instrument (after taking into account any applicable cure period thereunder) shall at the discretion of Funding Lender Representative constitute an Event of Default under this Project Loan Agreement but only if Fiscal Agent is provided written notice by Funding Lender Representative that an Event of Default has occurred under such Financing Document and Fiscal Agent is instructed by Funding Lender Representative that such default constitutes an Event of Default hereunder. The occurrence of an Event of Default hereunder shall in the discretion of Funding Lender Representative constitute a default under the other Financing Documents.

In addition, the Governmental Lender, the Servicer and the Initial Funding Lender agree that any cure of any default under this Project Loan Agreement or any other Financing Document made or tendered by one or more partners of Borrower shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

Nothing contained in this Section 7.01 is intended to amend or modify any of the provisions of the Financing Documents or to bind Governmental Lender, Fiscal Agent, Loan Servicer or Funding Lender Representative to any notice and cure periods other than as expressly set forth in the Financing Documents.

**7.02 Remedies on Default.** Subject to Section 7.06 hereof, whenever any Event of Default hereunder shall have occurred and be continuing, Funding Lender (or Fiscal Agent at the direction of Funding Lender), may take any one or more of the following remedial steps:

- (a) Such action, without notice or demand, as Funding Lender deems advisable to protect and enforce its rights against Borrower and in and to the Project, including declaring the Project Loan to be immediately due and payable (including, without limitation, declaring the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Project Note to be immediately due and payable).
- (b) Without being required to give any notice (other than to Governmental Lender or Fiscal Agent, as applicable), except as provided herein, pursue all remedies of a creditor under the laws of the State, as supplemented and amended, or any other applicable laws.
- (c) Whatever action at law or in equity may appear necessary or desirable to collect the payments under this Project Loan Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of Borrower under this Project Loan Agreement.

In addition, subject to Section 7.06 hereof, Governmental Lender and Fiscal Agent may pursue remedies with respect to the Unassigned Rights. Any amounts collected pursuant to Article IV hereof and any other amounts which would be applicable to payment of principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Funding Loan collected pursuant to action taken under this Section 7.02 shall be applied in accordance with the provisions of the Funding Loan Agreement.

**7.03 No Remedy Exclusive.** Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available against Borrower hereunder or under the Financing Documents or otherwise at law or in equity may be exercised by Funding Lender (or Fiscal Agent at the direction of Funding Lender), at any time and from time to time, whether or not Funding Lender has accelerated the Project Loan, and whether or not Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Financing Documents. No remedy conferred upon or reserved to Funding Lender or Fiscal Agent by this Project Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each

and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Project Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Funding Lender (or Fiscal Agent at the direction of Funding Lender) to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Project Loan Agreement.

**7.04 Agreement to Pay Attorneys' Fees and Expenses.** In the event Borrower shall default under any of the provisions of this Project Loan Agreement and Governmental Lender, Fiscal Agent, Loan Servicer or Funding Lender Representative shall employ attorneys or incur other expenses for the collection of loan payments or the enforcement of performance or observance of any obligation or agreement on the part of Borrower contained in this Project Loan Agreement or in the Project Note, Borrower shall on demand therefor reimburse the reasonable fees of such attorneys and such other expenses so incurred.

**7.05 No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Project Loan Agreement shall be breached by any party and thereafter waived by the other parties, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**7.06 Control of Proceedings.**

(a) Notwithstanding anything to the contrary herein, Funding Lender Representative shall have the sole and exclusive right at any time to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Project Loan Agreement, or for the appointment of a receiver or any other proceedings hereunder, in accordance with the provisions of law and of this Project Loan Agreement. In addition, Funding Lender Representative shall have the sole and exclusive right at any time to directly enforce all rights and remedies hereunder and under the other Financing Documents with or without the involvement of Fiscal Agent or Governmental Lender. In no event shall the exercise of any of the foregoing rights result in an acceleration of the Project Loan without the express direction of Funding Lender Representative.

(b) Governmental Lender and Fiscal Agent covenant that they will not, without the prior written consent of Funding Lender Representative, take any of the following actions:

(i) Prosecute any action with respect to a lien on the Project.

(ii) Initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of Borrower to timely pay the principal of, interest on, or other amounts due under, the Project Loan.

(iii) Interfere with or attempt to influence the exercise by Funding Lender Representative of any of its rights under the Financing Documents upon the occurrence of any default by Borrower under the Financing Documents.

(iv) Take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Project Loan or the Funding Loan.

(c) Notwithstanding Sections 7.06(a) and 7.06(b) hereof, Governmental Lender or Fiscal Agent may take one or both of the following actions:

(i) Specifically enforce the tax covenants of Borrower specified in the Tax Exemption Agreement and in Section 2.05 hereof or seek injunctive relief against acts which may be in violation thereof.

(ii) Specifically enforce the TEL Regulatory Agreement or seek injunctive relief against acts which may be in violation of the TEL Regulatory Agreement or are otherwise inconsistent with the operation of the Project in accordance with applicable requirements of the Code (as such requirements are further set forth in the Tax Exemption Agreement and state law (but in neither the case of subsection (c)(i) above or this subsection (c)(ii) may Governmental Lender or Fiscal Agent seek any form of monetary damages from Borrower in connection with such enforcement).

In addition, notwithstanding Sections 7.06(a) and 7.06(b) hereof, Governmental Lender and Fiscal Agent may seek specific performance of the other Unassigned Rights (provided no monetary damages are sought), and nothing herein shall be construed to limit the rights of Governmental Lender, Fiscal Agent or any Indemnified Party related to Governmental Lender or Fiscal Agent under Section 6.01 (each a “**Related Indemnified Party**”) to enforce their respective rights against Borrower under Sections 4.02, 4.03, 6.01 and 7.04 hereof, provided that no obligation of Borrower to Governmental Lender, Fiscal Agent or any Related Indemnified Party under such sections shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of Governmental Lender, Fiscal Agent or any Related Indemnified Party, and all such obligations are and shall be subordinate in priority, in right to payment and in all other respects to all other obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Financing Documents (except for Fiscal Agent’s right to receive payment of Fiscal Agent’s Extraordinary Fees and Expenses pursuant to Section 6.05(a) of the Funding Loan Agreement after an Event of Default with respect to the Funding Loan, which Fiscal Agent’s Extraordinary Fees and Expenses shall be payable as provided thereunder). Accordingly, none of Governmental Lender, Fiscal Agent or any Related Indemnified Party shall have the right to enforce any monetary obligation arising under such sections other than directly against Borrower, without recourse to the Project. In addition, any such enforcement must not cause Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of Borrower under any applicable liquidation, insolvency, bankruptcy, construction, composition, reorganization, conservation or other similar law in effect now or in the future.

**7.07 Assumption of Obligations.** In the event that Fiscal Agent or Funding Lender or their respective assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of Borrower under this Project Loan Agreement, the Project Note, the TEL Regulatory Agreement, and any other Financing Documents to which Borrower is a party or with respect to which it is a third-party beneficiary. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of Borrower.

## **ARTICLE VIII MISCELLANEOUS.**

### **8.01 Notices.**

- (a) Whenever in this Project Loan Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to Governmental Lender, Fiscal Agent, Funding Lender Representative, Borrower, Equity Investor or Loan 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 10.04 of the Funding Loan Agreement or as required or permitted by this Project Loan Agreement by Electronic Instruction and Notice. Governmental Lender, Fiscal Agent, Funding Lender Representative, Borrower, Equity Investor or Loan 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 Loan Servicer shall also be given to Funding Lender Representative and a duplicate copy of each notice or other communication given hereunder by any party to Funding Lender Representative shall be given to Loan Servicer.

A duplicate copy of each notice or other communication given hereunder by any party to Borrower shall also be given to Equity Investor.

Fiscal Agent agrees to accept and act upon Electronic Instruction and Notice of written instructions and/or directions pursuant to this Project Loan Agreement.

- (b) Fiscal Agent shall provide to Funding Lender Representative and Loan Servicer (i) prompt notice of the occurrence of any Event of Default hereunder and (ii) any

written information or other communication received by Fiscal Agent hereunder within ten (10) Business Days of receiving a written request from Funding Lender Representative for any such information or other communication.

- 8.02 Concerning Successors and Assigns.** All covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the financing herein contemplated and shall continue in full force and effect so long as the obligations hereunder are outstanding. Whenever in this Project Loan Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of Borrower which are contained in this Project Loan Agreement shall bind its successors and assigns and inure to the benefit of the successors and assigns of Governmental Lender, Fiscal Agent, Loan Servicer, Funding Lender and Funding Lender Representative, as applicable.
- 8.03 Governing Law.** This Project Loan Agreement shall be construed in accordance with and governed by the internal laws of the State and, where applicable, the laws of the United States of America.
- 8.04 Modifications in Writing.** Modification or the waiver of any provisions of this Project Loan Agreement or consent to any departure by the parties therefrom, shall in no event be effective unless the same shall be in writing approved by the parties hereto and shall require the prior written consent of Funding Lender Representative and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on Borrower in any case shall entitle it to any other or further notice or demand in the same circumstances.
- 8.05 Further Assurances and Corrective Instruments.** Governmental Lender, Fiscal Agent and 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 Funding Lender Representative) for correcting any inadequate or incorrect description of the performance of this Project Loan Agreement.
- 8.06 Captions.** The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Project Loan Agreement.
- 8.07 Severability.** The invalidity or unenforceability of any provision of this Project Loan Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.
- 8.08 Counterparts.** This Project Loan Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.
- 8.09 Amounts Remaining in Loan Payment Fund or Other Funds.** It is agreed by the parties hereto that any amounts remaining in the Loan Payment Fund or other funds and accounts established under the Funding Loan Agreement upon expiration or sooner termination of the term hereof (and the repayment in full of the Project Loan and all other amounts owing

under the Project Loan Documents), shall be paid in accordance with the Funding Loan Agreement.

- 8.10 Effective Date and Term.** This Project Loan Agreement shall become effective upon its execution and delivery by the parties hereto, shall be effective and remain in full force from the Delivery Date, and, subject to the provisions hereof, shall expire on such date as the Funding Loan Agreement shall terminate.
- 8.11 Cross References.** Any reference in this Project Loan Agreement to an “Exhibit,” an “Article,” a “Section,” a “Subsection” or a “Paragraph” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an exhibit attached to this Project Loan Agreement, an article of this Project Loan Agreement, a section of this Project Loan Agreement, a subsection of the section of this Project Loan Agreement in which the reference appears and a paragraph of the subsection within this Project Loan Agreement in which the reference appears. All schedules and exhibits attached to or referred to in this Project Loan Agreement are incorporated by reference into this Project Loan Agreement.
- 8.12 Funding Lender Representative and Loan Servicer as Third-Party Beneficiaries.** The parties hereto agree and acknowledge that Funding Lender Representative and Loan Servicer are third-party beneficiaries of this Project Loan Agreement.
- 8.13 Reserved.**
- 8.14 Non-Liability of Governmental Lender.** Governmental Lender shall not be obligated to pay the principal (or Prepayment Premium) of or interest on the Funding Loan, except from Revenues and other money and assets received by Fiscal Agent on behalf of Governmental Lender pursuant to this Project Loan Agreement. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, nor the faith and credit of Governmental Lender or any member is pledged to the payment of the principal (or Prepayment Premium) or interest on the Funding Loan. Governmental Lender shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Project Loan Agreement, the Funding Loan or the Funding Loan Agreement, except only to the extent amounts are received for the payment thereof from Borrower under this Project Loan Agreement.

Borrower hereby acknowledges that Governmental Lender’s sole source of money to repay the Funding Loan will be provided by the payments made by Borrower pursuant to this Project Loan Agreement, together with Investment Income on certain funds and accounts held by Fiscal Agent under the Funding Loan Agreement, and hereby agrees that if the payments to be made hereunder shall ever prove insufficient to pay all principal (or Prepayment Premium) and interest on the Funding Loan as the same shall become due (whether by maturity, prepayment, acceleration or otherwise), then upon notice from Fiscal Agent, Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal (or Prepayment Premium) or interest, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of Fiscal Agent, Borrower, Governmental Lender or any third

party, subject to any right of reimbursement from Fiscal Agent, Governmental Lender or any such third party, as the case may be, therefor.

- 8.15 No Liability of Officers.** No recourse under or upon any obligation, covenant, or agreement or in the Governmental Note, or under any judgment obtained against Governmental Lender, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, director, commissioner, employee, agent or officer, as such, past, present, or future, of Governmental Lender, either directly or through Governmental Lender, or otherwise, for the payment for or to Governmental Lender or any receiver thereof, or for or to Funding Lender, of any sum that may be due and unpaid by Governmental Lender upon the Funding Loan. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director, commissioner, employee, agent or officer, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for or to Governmental Lender or any receiver thereof, or for or to Funding Lender, of any sum that may remain due and unpaid upon the Funding Loan, is hereby expressly waived and released as a condition of and consideration for the execution of this Project Loan Agreement and the issuance of the Governmental Note.
- 8.16 Capacity of Fiscal Agent.** Fiscal Agent is entering into this Project Loan Agreement solely in its capacity as Fiscal Agent and shall be entitled to the rights, protections, limitations from liability and immunities afforded it as Fiscal Agent under the Funding Loan Agreement. Fiscal Agent shall be responsible only for the duties of Fiscal Agent expressly set forth herein and in the Funding Loan Agreement.
- 8.17 Reliance.** The representations, covenants, agreements and warranties set forth in this Project Loan Agreement may be relied upon by Governmental Lender, Fiscal Agent, Bond Counsel, Loan Servicer, Funding Lender and Funding Lender Representative. In performing their duties and obligations under this Project Loan Agreement and under the Funding Loan Agreement, Governmental Lender and Fiscal Agent may rely upon statements and certificates of 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 Borrower pertaining to occupancy of the Project. In addition, Governmental Lender and Fiscal Agent may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by Governmental Lender or Fiscal Agent under this Project Loan Agreement and under the Funding Loan Agreement in good faith and in conformity with the opinion of such counsel. It is expressly understood and agreed by the parties to this Project Loan Agreement (other than Governmental Lender) that:
- (a) Governmental Lender may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to Governmental Lender by Fiscal Agent, Funding Lender or Borrower as to the existence of a fact or state of affairs required under this Project Loan Agreement to be noticed by Governmental Lender;

- (b) Governmental Lender shall not be under any obligation to perform any record keeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by Fiscal Agent, Funding Lender Representative, Loan Servicer or Borrower, as applicable; and
- (c) None of the provisions of this Project Loan Agreement shall require Governmental Lender or Fiscal Agent to expend or risk its own funds (apart from the proceeds of Funding Loan issued under the Funding Loan Agreement) or otherwise endure financial liability in the performance of any of its duties or in the exercise of any of its rights under this Project Loan Agreement, unless it shall first have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred by taking any such action.

IN WITNESS WHEREOF, the parties hereto have executed this Project Loan Agreement, all as of the date first set forth above.

**GOVERNMENTAL LENDER:**

**TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS**, a public and official  
agency of the State of Texas

By: \_\_\_\_\_  
James B. "Beau" Eccles  
Secretary to the Board

**SIGNATURES CONTINUE ON FOLLOWING PAGE**

**FISCAL AGENT:**

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION**, a national banking  
association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SIGNATURES CONTINUE ON FOLLOWING PAGE**

**BORROWER:**

**WATERS AT WATERCHASE, LP,**  
a Texas limited partnership

By: AHF-Waters at Waterchase, LLC,  
a Texas limited liability company, its general  
partner

By: Atlantic Housing Foundation, Inc., a South  
Carolina nonprofit corporation, its sole  
member

By: \_\_\_\_\_

Name: Michael N. Nguyen

Title: President & CEO

**Schedule I**  
**List of Project Loan Agreement Sections**

**ARTICLE I     DEFINITIONS; INTERPRETATION; SCHEDULES**

- 1.01   Definitions
- 1.02   Interpretation
- 1.03   Schedules

**ARTICLE II    REPRESENTATIONS, WARRANTIES AND COVENANTS**

- 2.01   Representations, Warranties and Covenants of Governmental Lender
- 2.02   Representations, Warranties and Covenants of Borrower
- 2.03   Representations and Warranties of Fiscal Agent
- 2.04   Reserved
- 2.05   Tax Covenants of Borrower
- 2.06   Completion Date

**ARTICLE III   THE PROJECT LOAN**

- 3.01   Conditions to Funding the Project Loan
- 3.02   Terms of the Project Loan; Servicing
- 3.03   Initial Deposits
- 3.04   Pledge and Assignment to Fiscal Agent
- 3.05   Investment of Funds
- 3.06   Damage; Destruction and Eminent Domain
- 3.07   Enforcement of Financing Documents

**ARTICLE IV    LOAN PAYMENTS**

- 4.01   Payments Under the Project Note; Independent Obligation of Borrower
- 4.02   Additional Payments Under the Project Note and Project Loan Agreement
- 4.03   Payments to Rebate Fund
- 4.04   Prepayment
- 4.05   Borrower's Obligations Upon Prepayment
- 4.06   Limits on Personal Liability

**ARTICLE V     SPECIAL COVENANTS OF BORROWER**

- 5.01   Performance of Obligations
- 5.02   Compliance with Applicable Laws
- 5.03   Funding Loan Agreement Provisions
- 5.04   Borrower to Maintain Its Existence; Certification of No Default
- 5.05   Borrower to Remain Qualified in State and Appoint Agent
- 5.06   Sale or Other Transfer of Project
- 5.07   Right to Perform Borrower's Obligations
- 5.08   Notice of Certain Events
- 5.09   Survival of Covenants
- 5.10   Access to Project; Records
- 5.11   TEL Regulatory Agreement
- 5.12   Damage, Destruction and Condemnation
- 5.13   Obligation of Borrower to Rehabilitate the Project

5.14 Filing of Financing Statements

**ARTICLE VI INDEMNIFICATION**

6.01 Indemnification

6.02 Limitation with Respect to Funding Lender

**ARTICLE VII EVENTS OF DEFAULT AND REMEDIES**

7.01 Events of Default

7.02 Remedies on Default

7.03 No Remedy Exclusive

7.04 Agreement to Pay Attorneys' Fees and Expenses

7.05 No Additional Waiver Implied by One Waiver

7.06 Control of Proceedings

7.07 Assumption of Obligations

**ARTICLE VIII MISCELLANEOUS**

8.01 Notices

8.02 Concerning Successors and Assigns

8.03 Governing Law

8.04 Modifications in Writing

8.05 Further Assurances and Corrective Instruments

8.06 Captions

8.07 Severability

8.08 Counterparts

8.09 Amounts Remaining in Loan Payment Fund or Other Funds

8.10 Effective Date and Term

8.11 Cross References

8.12 Funding Lender Representative and Loan Servicer as Third-Party Beneficiaries

8.13 Reserved.

8.14 Non-Liability of Governmental Lender

8.15 No Liability of Officers

8.16 Capacity of Fiscal Agent

8.17 Reliance

**EXHIBIT A**

[\$18,000,000]

Texas Department of Housing and Community Affairs  
Multifamily Housing Governmental Note  
(Waters at Waterchase)  
Series 2026

**COMPLETION CERTIFICATE**

Pursuant to Section 2.06 of the Project Loan Agreement (the “**Project Loan Agreement**”) among the Texas Department of Housing and Community Affairs (the “**Governmental Lender**”) and Waters at Waterchase, LP, a Texas limited partnership (the “**Borrower**”) and the Fiscal Agent named therein, dated as of [June] 1, 2026, relating to the captioned Multifamily Housing Governmental Note, the undersigned Authorized Officer of the Borrower hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Project Loan Agreement or the Tax Exemption Agreement):

(a) The Project was substantially completed and available and suitable for use as multifamily housing on \_\_\_\_\_ (the “**Completion Date**”).

(b) The acquisition, rehabilitation, equipping and improvement of the Project has been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar Governmental regulations.

(c) The costs of the Project financed with the loans from the Governmental Lender were \$ \_\_\_\_\_.

(d) The applicable government having jurisdiction over the Project has issued certificates of occupancy with respect to each building in the Project.

(e) The proceeds of the Governmental Note were used in accordance with the requirements of the Tax Exemption Agreement, including the requirement that at least 95% of the proceeds of the Governmental Note be expended for Qualified Project Costs and no more than 2% of the proceeds of the Governmental Note be expended for Costs of Issuance. The Project will be operated in accordance with the terms of the Tax Exemption Agreement and the Tax Regulatory Agreement.

(f) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Officer has set his or her hand as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Authorized Officer

By: \_\_\_\_\_