



## **BOARD PACKAGE**

**Meeting**

**NOVEMBER 15, 2017**

## **REGULAR MEETING**

A regular meeting of the Housing Finance Authority of Broward County, Florida, will be held on Wednesday, November 15, 2017, at 5:30 p.m., in the 2<sup>nd</sup> Floor Conference Room located at 110 N.E. 3rd Street, Suite 201, Fort Lauderdale, Florida.

### **CALLING OF THE ROLL**

#### **CONSENT AGENDA ITEMS 1 – 3**

1. Approval of October 13, 2017, Special Meeting Minutes
2. Approval of October 18, 2017, Regular Meeting Minutes
3. Executive Director's (October) Operational Report

MOTION TO APPROVE the Consent Agenda for November 15, 2017

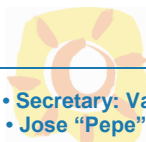
#### **REGULAR AGENDA**

4. Financial Reports Monthly Overview – Ms. Linda Dufresne

MOTION TO APPROVE the Housing Finance Authority monthly financial reports for the month of October 31, 2017.

5. Landings at Coconut Creek Apartments Project

MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida (the "Housing Finance Authority") authorizing the issuance of its not to exceed \$33,000,000 Multifamily Housing Revenue Bonds, Series 2017 (the Landings at Coconut Creek) (the "Bonds") for the purpose of financing the acquisition, rehabilitation and equipping of the Landings at Coconut Creek located in Broward County, Florida (the "Project"); establishing parameters for



the award of the sale thereof and establishing criteria for determining the terms thereof, including interest rates, interest payment dates, maturity schedule and other terms of such bonds; approving and authorizing the execution and delivery of (i) a Trust Indenture by and between the Housing Finance Authority and the Bank of New York Mellon Trust Company, N.A., as Trustee (the "Trustee"); (ii) a Loan Agreement by and between the Housing Finance Authority and CVII - Landings at Coconut Creek LLC, as Borrower (the "Borrower"); (iii) a Land Use Restriction Agreement by and among the Housing Finance Authority, the Trustee and the Borrower; (iv) an assignment of bond mortgage documents by the Housing Finance Authority to the Trustee; (v) a Placement Agent Agreement by and between the Housing Finance Authority and RBC capital markets, LLC and Raymond James & Associates, Inc.; and (vi) a Trustee Fee Agreement by and between the Housing Finance Authority and the Trustee; approving and authorizing the execution and delivery by the Housing Finance Authority of certain additional agreements, instruments, certifications and affidavits necessary or desirable in connection with the issuance of the bonds; authorizing the appointment of the Bank of New York Mellon Trust Company, N.A. as the Trustee, registrar and paying agent; waiving the fee for services related to the Housing Finance Authority's annual audit of the project; authorizing the proper Officers of the Housing Finance Authority to do all things necessary or advisable in connection with the issuance of the bonds; and providing an effective date for this Resolution.

6. Election of New Officers for Year 2018

MOTION TO APPROVE the Housing Finance Authority Officers for Calendar Year 2018.

7. Meeting and Conference dates for Year 2018

MOTION TO APPROVE Housing Finance Authority Board meeting dates and Conference dates set for Calendar Year 2018.

8. **MATTERS OF HFA MEMBERS**

9. **MATTERS FROM THE FLOOR**

10. **NEXT BOARD MEETING**

December 20, 2017

11. **ADJOURNMENT**

**Subject to Change**

**MINUTES**  
**BOARD MEETING “SPECIAL MEETING”**  
**Friday, October 13, 2017**

A special meeting of the Housing Finance Authority of Broward County, Florida, will be held on Friday, October 13, 2017, at 11:00 a.m., in the 2<sup>nd</sup> Floor Conference Room located at 110 N.E. 3rd Street, Suite 201, Fort Lauderdale, Florida.

The Vice Chair, Colleen LaPlant, called the meeting to order at 11:15 a.m.

**CALLING OF THE ROLL**

A Roll Call was taken by Ms. Sonia Isme.

**Board Members Present**

Colleen LaPlant, Vice Chair – John G. Primeau, Member (Phone) – Jose Lopez, Member  
Kirk L. Frohme, Member – Daniel D. Reynolds, Member – Donna Jarrett-Mays, Member

**Board Members Absent**

Ruth T. Cyrus, Chair – Milette Thurston, Assistant Secretary

**Staff**

Suzanne R. Fejes, Executive Director  
Norman Howard, Manager  
Sonia Isme, Secretary  
Annika Ashton, Assistant County Attorney

**Also Present**

Jed Shank, County Auditor

**REGULAR AGENDA**

1. Broward County External Audit Services Agreement

**MOTION TO APPROVE** Resolution of the Housing Finance Authority of Broward County, Florida ("Housing Finance Authority"), approving and authorizing the execution and delivery of the agreement between Broward County, Florida, Broward County Property Appraiser, Broward County Sheriff, Broward County Supervisor Of Elections, Housing Finance Authority, Health Facilities Authority of Broward County, and RSM US LLP for External Audit Services ("Agreement"); authorizing certain officials of the Housing Finance Authority to take all actions necessary in connection with the execution and delivery of the Agreement; providing for severability; and providing for an effective date.



Ms. LaPlant introduced the item and read the motion as indicated in Resolution 2017-008; then announced that she would not participate in the vote as it appears to be a conflict of interest, based on a business relationship with RSM US, LLP.

Based on a conflict of interest, Ms. LaPlant filed Form 8B – Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers. **(Attachment 1)**

Ms. Jarrett-Mays asked was the amount of the audit divided amongst the listed agencies. Mr. Howard responded that based on the allocation of funds discussed at the previous meeting for budgeted items, the County allocated approximately \$42K to the HFA, and the amount for the other entities may possibly be higher.

Mr. Frohme inquired whether the \$42K for the HFA would increase. Mr. Howard responded that the budget has not reached an amount higher than the \$42K. Mr. Frohme then asked how does the \$839K compare to the previous contract.

Mr. Shank introduced himself as a representative from the Broward County's Auditors Office. He explained that the \$839K was significantly lower than the previous audit, in the amount of \$853K. Mr. Frohme inquired the name of the predecessor auditor and the extension on their agreement. Mr. Shank replied that they were Crowe Horwath, LLP, previously under a 5 year extension and two 1-year special extensions approved by the Board of County Commissioners ("BOCC").

Mr. Howard inquired from Mr. Shank how many sub auditors were involved in the contract. Mr. Shank stated that RSM US, LLP has two subcontractors known as Anthony Brunson P.A. with a 20% participation and C. Borders Bryd and Associates with a 5% participation.

Ms. Jarrett-Mays asked were the subcontractors included in the full 5 year term of the contract. Mr. Shank replied that the subcontractors are included for the full term.

MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida ("Housing Finance Authority"), approving and authorizing the execution and delivery of the agreement between Broward County, Florida, Broward County Property Appraiser, Broward County Sheriff, Broward County Supervisor Of Elections, Housing Finance Authority, Health Facilities Authority of Broward County, and RSM US LLP for External Audit Services ("Agreement"); authorizing certain officials of the Housing Finance Authority to take all actions necessary in connection with the execution and delivery of the Agreement; providing for severability; and providing for an effective date.

MOTION was made by Daniel D. Reynolds, seconded by Kirk L. Frohme, to approve the Broward County External Audit Services Agreement/Resolution. The motion carried unanimously.

2. **MATTERS OF HFA MEMBERS**

None.

3. **MATTERS FROM THE FLOOR**

None.

4. **NEXT BOARD MEETING**

October 18, 2017

10. **ADJOURNMENT**

The Vice Chair, Colleen LaPlant, hearing no further comments, questions or discussions adjourned the meeting at 11:21a.m.

# **ATTACHMENT 1**

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>LaPlant, Colleen</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Broward County HFA</i>
MAILING ADDRESS <i>6153 NW 45 Ave</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> OTHER LOCAL AGENCY
CITY      COUNTY <i>Coconut Creek      Broward</i>	NAME OF POLITICAL SUBDIVISION: <i>Broward County</i>
DATE ON WHICH VOTE OCCURRED <i>10/13/17</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)



## APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Colleen LaPlant, hereby disclose that on 10/13, 20 17:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of Becker Poliakoff, by whom I am <sup>employed at</sup> retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

RSM is a client of Becker & Poliakoff  
who I am employed by.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

10/13/17

Signature

Colleen LaPlant

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

**MINUTES**  
**BOARD MEETING**  
**Wednesday, October 18, 2017**

A regular Board Meeting of the Housing Finance Authority (“HFA”) of Broward County was held on Wednesday, October 18, 2017, at 5:30 p.m., in the 2<sup>nd</sup> Floor Conference Room, located at 110 Northeast 3<sup>rd</sup> Street, Fort Lauderdale, Florida.

The Chair, Ruth T. Cyrus, called the meeting to order at 5:30 p.m.

**CALLING OF THE ROLL**

A Roll Call was taken by Sonia Isme.

**Board Members Present**

Ruth T. Cyrus Chair – Colleen LaPlant, Vice Chair – Milette Thurston, Asst. Secretary – John G. Primeau, Member – Jose Lopez, Member – Donna Jarrett-Mays  
Daniel D. Reynolds, Member

**Board Members Absent**

Kirk L. Frohme, Member

**Staff**

Suzanne R. Fejes, Executive Director  
Norman Howard, Manager  
Sonia Isme, Secretary  
Annika Ashton, Assistant County Attorney  
Wayne Fletcher, Risk Management Division

**Also Present**

Deborah Zomermaand, Financial Advisor  
Linda Dufresne, Dufresne CPA Services, P.A.  
Junious Brown, Nabors, Giblin & Nickerson, P.A

**CONSENT AGENDA ITEMS 1 – 3**

1. Approval of September 20, 2017, Regular Meeting Minutes
2. Executive Director’s (September) Operational Report
3. Broward County External Audit Services



MOTION TO RATIFY the approval of Resolution No 2017-008 of the Housing Finance Authority of Broward County, Florida ("Housing Finance Authority"), approving and authorizing the execution and delivery of the agreement between Broward County, Florida, Broward County Property Appraiser, Broward County Sheriff, Broward County Supervisor of Elections, Housing Finance Authority, Health Facilities Authority of Broward County, and RSM US LLP for external audit services ("Agreement"); authorizing certain Officials of the Housing Finance Authority to take all actions necessary in connection with the execution and delivery of the Agreement; providing for severability; and providing for an effective date.

MOTION TO APPROVE the Consent Agenda for October 18, 2017.

MOTION was made by John G. Primeau, seconded by Jose Lopez, to approve Consent Agenda Items 1 through 3. The motion carried unanimously.

### **REGULAR AGENDA**

#### 4. Financial Reports Monthly Overview – Ms. Linda Dufresne, Dufresne CPA Services

Ms. Dufresne provided an overview of the Monthly Financial Reports indicating that there weren't any significant changes. She also indicated that Mr. Frohme's request to provide an explanation on budget discrepancies has been included in Attachment 4 – Budget to Actual report.

On an annual basis, Linda Dufresne's firm and the County would discuss the types of expenses budgeted, therefore the budget expense for personnel services are listed under Broward County and the other expenses are identified as the budget and are adequate.

MOTION TO APPROVE the Housing Finance Authority monthly financial reports for the month of September 30, 2017.

MOTION was made by Jose Lopez, seconded by Daniel D. Reynolds, to approve the HFA's Monthly Financial Report for September 30, 2017. The motion carried unanimously.

#### 5. Single Family Mortgage Revenue Bonds - 2017 Carry Forward and 2018 Bond Allocations

Ms. Zomermaand explained that the item is presented to the HFA Board on an annual basis. The item would allow for the Board to take necessary action to carry forward the 2017 Private Activity Bond Allocation ("PAB"). This year is a recommendation to carry forward the 2017 allocation as multifamily and/or single-family bonds. Staff additionally requested authorization to publish a TEFRA Notice, hold a TEFRA Hearing, and request 2018 PAB allocation from the State.

Ms. Zomermaand presented "Motion A" and "Motion B" Resolutions, and the significance to the transaction. The resolutions are substantially the same format as last year, however, instead of carrying forward the entire allocation for one category, it is preferred that the allocation is divided between multifamily and single family, allowing the Executive Director the authority to determine the amount to be divided.

Mr. Brown agreed that the objective was for the flexibility to allow the Executive Director to make a decision in the split of the allocation.

Ms. LaPlant requested to know the carried over amount for 2018. Ms. Zomermaand explained that the distribution was at zero for multifamily and a total of \$90,372,999 single family. The plan is to allocate \$50 million for single family bonds and the remaining funds for multifamily bonds.

MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida authorizing staff to carry forward 2017 Allocation; authorizing the request for 2018 Allocation; approving a plan of financing involving the issuance by the authority of its Single Family Mortgage Revenue Bonds (the “Bonds”) in an aggregate face amount of not to exceed \$250,000,000; approval of bonds as required by section 147(f) of the internal revenue code of 1986, as amended; authorizing the Authority to hold a Public Hearing held in accordance with section 147(f) of the internal revenue code of 1986, as amended; authorizing the proper Officers to do all things necessary or advisable; and providing an effective date for this Resolution.

MOTION was made by Daniel D. Reynolds, seconded by John G. Primeau to approve Resolution 2017-009 described in the motion. The motion carried unanimously.

MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida approving a plan of finance involving the issuance by authority of its Single Family Mortgage Revenue Bonds in an aggregate face amount of not to exceed \$250,000,000 in one or more series; approving use of State awarded allocation for Mortgage Credit Certificate programs or multifamily carry forward; authorizing the proper Officers to do all things necessary or advisable; and providing an effective date for this Resolution.

MOTION was made by Daniel D. Reynolds, seconded by Donna Jarrett-Mays to approve Resolution 2017-010 described in the motion. The motion carried unanimously.

## **DISCUSSION ITEM**

### 6. Investment Committee

Ms. Fejes indicated that the decision on “Motion A” would determine the outcome. She explained that the Investment Committee (“IC”) was directed by the HFA Board to review the safekeeping proposals and to return back to the board with options that would be available. The IC held a meeting on October 11<sup>th</sup> and has returned with recommendations for the board’s decision. The options included reviewing costs from several financial institutions. As a result, the IC ranked the top three financial institutions with the lowest cost quotes as described in agenda item #6 summary write-up.

***There was a detailed discussion amongst the HFA Board Members regarding Wells Fargo and the BOCC's decision to withdraw the item during the BOCC meeting held on September 14, 2017.***

Mr. Primeau explained that during the IC meeting the ranking was established. Although TD Bank has been included in the selection, he would not recommend TD Bank based on the fact the amount is 500% higher than the other low bid. He indicated that it would not be a problem should the board continue the relationship with Bank of New York Mellon in this decision.

***There was a detailed discussion amongst the HFA Board Members regarding the criteria's of the top three financial institutions.***

Ms. Thurston inquired should the HFA Board present the ranked financial institutions to the BOCC for approval. Several of the members commented that the decision should be from the HFA Board. Ms. Ashton added that the purpose of having the item presented to the BOCC is a compliance with ordinance. The BOCC would only take action on the approval of agreements.

MOTION A:

MOTION TO APPROVE a Financial Institution to provide Brokerage Custody/Bank Safekeeping Services for the Housing Finance Authority of Broward County, Florida.

MOTION was made by Daniel D. Reynolds, seconded by Jose Lopez, to approve MOTION A known as MOTION TO APPROVE Bank of New York Mellon Trust Company to provide Brokerage Custody/Bank Safekeeping Services for the Housing Finance Authority of Broward County, Florida. The motion carried unanimously.

MOTION B:

MOTION TO DIRECT the Executive Director of the Housing Finance Authority of Broward County, Florida to resubmit for approval to the Board County Board of County Commissioners the Agreement for Brokerage Custody/Bank Safekeeping Services with Wells Fargo.

MOTION was made by Daniel D. Reynolds, seconded by John G. Primeau, to withdraw MOTION B as MOTION TO DIRECT the Executive Director of the Housing Finance Authority of Broward County, Florida to resubmit for approval to the Board County Board of County Commissioners the Agreement for Brokerage Custody/Bank Safekeeping Services with Wells Fargo. The motion carried unanimously.

MOTION C:

MOTION TO DIRECT the Executive Director of the Housing Finance Authority of Broward County, Florida to bring back for approval at the November 15, 2017 Meeting agreements with the financial institution selected to provide Brokerage Custody/Bank Safekeeping Services for the Housing Finance Authority of Broward County, Florida.

MOTION was made by Daniel D. Reynolds, seconded by John G. Primeau, to withdraw MOTION C as MOTION TO DIRECT the Executive Director of the Housing Finance Authority of Broward County, Florida to bring back for approval at the November 15, 2017 Meeting agreements with the financial institution selected to provide Brokerage Custody/Bank Safekeeping Services for the Housing Finance Authority of Broward County, Florida. The motion carried unanimously.

MOTION D:

MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida ("Housing Finance Authority"), approving the appointment of the Bank of New York Mellon Trust Company, N.A., as safekeeping agent and broker for the Housing Finance Authority investment funds; approving and authorizing the execution of the Custody Agreement between the Housing Finance Authority and the Bank of New York Mellon Trust Company, N.A. ("Agreement"); authorizing the proper Officers of the Housing Finance Authority to execute all other documents and do all things necessary or advisable in connection with entering into the Agreement; providing for severability; and providing for an effective date.

MOTION was made by John G. Primeau, seconded by Daniel D. Reynolds, to approve Resolution 2017-2011 as described in MOTION D. The motion carried unanimously.

MOTION E:

MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida ("Housing Finance Authority"), approving the appointment of TD Bank, N.A., as safekeeping agent and broker for the Housing Finance Authority investment funds; approving and authorizing the execution of the Institutional Agency Agreement between the Housing Finance Authority and TD Bank, N.A. (the "Agreement"); authorizing the proper Officers of the Housing Finance Authority to execute all other documents and do all things necessary or advisable in connection with entering into the Agreement; providing for severability; and providing for an effective date.

MOTION was made by Daniel D. Reynolds, seconded by John G. Primeau, to withdraw MOTION E as MOTION TO APPROVE Resolution of the Housing Finance Authority of Broward County, Florida ("Housing Finance Authority"), approving the appointment of TD Bank, N.A., as safekeeping agent and broker for the Housing Finance Authority investment funds; approving and authorizing the execution of the Institutional Agency Agreement between the Housing Finance Authority and TD

Bank, N.A. (the "Agreement"); authorizing the proper Officers of the Housing Finance Authority to execute all other documents and do all things necessary or advisable in connection with entering into the Agreement; providing for severability; and providing for an effective date. The motion carried unanimously.

## **UPDATE ITEM**

### 7. Public Entity/Officials Liability Official Management Liability Insurance Coverage for the Housing Finance Authority Board

Ms. Fejes explained that on May 11, 2016, the board directed staff to obtain quotes from Risk Management in regards to the Public Entity/Officials Liability Official Management Liability Insurance Coverage for the Housing Finance Authority Board.

Ms. Fejes introduced Wayne Fletcher as a representative from the Risk Management Division. In addition, the County Attorney has opined that the Broward County Administrative Code covers elected officials, employees and appointees in the defense of civil litigation. Staff recommendation is based on the County's administrative code.

Mr. Fletcher stated that Risk Management services are intended to serve the HFA Board for whatever needs the board may have. He explained that some research was done to ensure the feasibility of prices on liability insurance for Director's. It was found that the prices were feasible. Should the board decide to move forward, information on prices and details are available.

Ms. Ashton mentioned that her understanding was that the County's general policy under the administrative code provision also provides civil protection for employees, officers and or appointees, including legal representation and liability expenses. For civil cases, the coverage would only apply to circumstances within the scope of services.

Mr. Reynolds recalled \$100K being the minimum coverage for HFA, then asked would the insurance have to cover up to \$100K. Ms. Ashton replied that the legislature would cap the liability, therefore, the County covers the liability, and the cap have since increased to \$200K.

### 8. **MATTERS OF HFA MEMBERS**

None.

### 9. **MATTERS FROM THE FLOOR**

None.

### 10. **NEXT BOARD MEETING**

November 15, 2017

### 11. **ADJOURNMENT**

The Chair, Ruth T. Cyrus, hearing no further comments, questions or discussions adjourned the meeting at 5:57 p.m.



**MEMORANDUM**

**Date:** November 6, 2017  
**To:** Housing Finance Authority Board Members  
**Through:** Suzanne Fejes, Executive Director *SRF*  
**From:** Norman L. Howard, Manager *[Signature]*  
**Subject:** October Operational Report

**INVESTMENT COMMITTEE**

An Investment Committee (IC) special meeting was held on October 11, 2017 Wednesday, at 5:30 p.m., at 110 N.E. 3rd Street, 3rd Floor, Suite 300, and Fort Lauderdale, Florida. Attached are the draft meeting minutes (Attachment 1).

**SINGLE-FAMILY**

Information listed below is the foreclosure/bankruptcy report received from CitiMortgage for the months of August 2017 and September 2017. The report for the month of October 2017 has not been received from CitiMortgage to date.

*Bankruptcy – August 2017*

Loan Count	Total	1 <sup>st</sup> Lien	2 <sup>nd</sup> Lien	1 <sup>st</sup> Mort./Total	2 <sup>nd</sup> Mort./Total
0	\$0	0	0	\$0	\$0

*Foreclosure – August 2017*

Loan Count	Total	1 <sup>st</sup> Lien	2 <sup>nd</sup> Lien	1 <sup>st</sup> Mort./Total	2 <sup>nd</sup> Mort./Total
7	\$1,205,612	6	1	\$1,169,108	\$36,504

*Bankruptcy – September 2017*

Loan Count	Total	1 <sup>st</sup> Lien	2 <sup>nd</sup> Lien	1 <sup>st</sup> Mort./Total	2 <sup>nd</sup> Mort./Total
0	\$0	0	1	\$0	\$0

*Foreclosure – September 2017*

Loan Count	Total	1 <sup>st</sup> Lien	2 <sup>nd</sup> Lien	1 <sup>st</sup> Mort./Total	2 <sup>nd</sup> Mort./Total
7	\$1,205,612	6	1	\$1,169,108	\$36,504

**2017 Mortgage Credit Certificate Program (MCC)**

At this time, the HFA has thirteen (13) lenders participating in the January 2017 MCC Program. The program totals to date are as follows:

<i>MCC's by Lender</i>	<i>Commitments</i>	<i>Issued</i>	<i>Cancelled/Expired</i>
Academy Mortgage	6	5	0
America's Mortgage Professionals, LLC	0	0	0
Bank of America, N.A.	6	3	0
Banking Mortgage Services Corp	0	0	0
Centennial Bank	0	0	0
CMG Financial, Inc.	0	0	0
Cornerstone Home Lending	2	1	0
Gold Star Mtg. Financial Group	5	4	0
Gulf Atlantic Funding Group, Inc.	0	0	0
HG Mortgage, LLC	20	11	1
Hamilton Funding Group	36	31	2
Paramount Residential Mortgage Group (PRMG)	15	12	0
The Mortgage Firm	2	1	0
<b>Totals</b>	<b>92</b>	<b>68</b>	<b>3</b>
<b><i>Income to date:</i></b> <b>\$11,900</b>			

## **MULTIFAMILY HOUSING BOND TRANSACTIONS**

2017 Multifamily housing transactions update for the month of October (Attachment 2).

### **MULTI-FAMILY**

Multifamily compliance monitoring; reporting period August 21, 2017, to September 20, 2017.

#### **Monthly Compliance**

Review of this month's bond report shows all properties are in compliance with their respective Land Use Restriction Agreements (LURA's).

#### **Occupancy Report**

The HFA Rental Occupancy Report for time period August 21, 2017, to September 20, 2017, is included (Attachment 3).

#### **Annual Management Review and Inspections**

There was no reviews or inspections were completed during the reporting period of August 21, 2017 to September 20, 2017.

All of the above listed properties were in compliance with their respective LURAs.

# **ATTACHMENT 1**

**MINUTES**  
**INVESTMENT COMMITTEE “SPECIAL” MEETING**  
**Wednesday, October 11, 2017**

A special meeting of the Investment Committee (“IC”) of Housing Finance Authority of Broward County, Florida, was held on Wednesday, October 11, 2017, at 5:30 p.m., located at 110 N.E. 3rd Street, Suite 300, Fort Lauderdale, Florida.

The Vice Chair, Suzanne Fejes, called the meeting to order at 5:30 p.m.

**CALLING OF THE ROLL**

A Roll Call was taken by Sonia Isme.

**IC Members Present**

Suzanne Fejes, Vice Chair  
Stephen Farmer, Member  
John G. Primeau, Member  
Debbie Zomermaand, Member

**IC Members Absent**

Ruth T. Cyrus, Chair

**Staff**

Sonia Isme, Secretary  
Norman Howard, Manager  
Annika Ashton, Senior County Attorney  
Lori Fortenberry, Finance & Administrative Services

**Also Present**

Linda Dufresne, Dufresne CPA  
Services, P.A. (Phone)

**CONSENT AGENDA ITEM**

Approval of August 16, 2017, Investment Committee Meeting Minutes.

**MOTION TO APPROVE** Consent Agenda, August 16, 2017.

MOTION was made by John G. Primeau, seconded by Stephen Farmer, to approve Consent Agenda Item #1. The motion carried unanimously.



## **REGULAR AGENDA**

### **2. Investment Direction**

Ms. Zomermaand requested to send an updated cash and cash equivalents report to the IC upon completion of consolidating data with Dufresne CPA Services. The maturities prior to the next IC meeting totals to \$1.5 million until December 15<sup>th</sup>. Mr. Howard will continue to work on getting the funds swept into a money market account; the funds will remain with Karpus until further notice.

Mr. Howard informed the IC that a recent transfer of funds into the operations account was processed, and the account has since closed. He indicated that he has been in communication with Wells Fargo to work on transferring approximately \$2.3 million into a money market account. Should the BOCC approve the agenda on November 7<sup>th</sup>, the IC would then make a decision on a safekeeping institution. The Karpus funds and funds accumulated from the Franklin Park project would also be transferred into the new account.

Ms. Zomermaand added that the securities from Karpus would also be transferred into the account. She indicated that transferring the securities would depend on the BOCC approving the agenda on November 7<sup>th</sup>, unless the IC or HFA Board decides otherwise, then the funds would be kept into the money market account until the December meeting.

Ms. Zomermaand read a statement from the previous meeting minutes to confirm that the last indication was to invest the funds into a money market account.

Mr. Howard explained that the anticipated cash need of \$200K was approved by the HFA board for FY 2017, and the \$100K will be held for FY2018 until December, which is currently held in the Wells Fargo operations account.

### **3. Discussion Items**

Ms. Fejes referred to the discussion on Investment Account Safekeeping. She explained that Mr. Howard contacted the individual institutions to obtain quotes for the HFA's investment portfolio of approximately \$11 million, whereas the quotes were received and are identified in the Brokerage Custody Safekeeping Fee Quotes spreadsheet.

Mr. Farmer questioned the calculation of the \$7,656 from Wells Fargo. Mr. Howard explained that the \$7,656 was computed by the monthly fees provided by Wells Fargo, which was multiplied by 12 months. Ms. Fortenberry added that the fee is similar to what the County is paying on their portfolio.

Mr. Farmer stated that upon receiving the fee quote spreadsheet, he viewed the quotes with the assumption of estimating three trades a month, added interests on outstanding securities paid twice a year, resulting in at least 30 wire transactions into the operations account. With the method used, BB&T estimated at \$5500, BNY Mellon estimated at \$5,400, TD Bank estimated at its \$5,000 flat fee, U.S. Bank estimated at \$7,500 and Wells Fargo presuming to be the annual fee presented at \$7,656.

Mr. Howard stated the institutions were provided the HFA's securities statement; therefore having an idea of what to work with. Ms. Zomermaand inquired the name of the Wells Fargo representative, because the first quote was discounted based on the relationship Wells Fargo has with Broward County.

Mr. Farmer confirmed that the County does have a business relationship with the institutions in discussion, as well as the ones that were non-responsive.

***There was a detailed discussion between the Investment Committee Members regarding the breakdown of fee quotes provided by the financial institutions.***

Mr. Farmer requested that the Brokerage Custody Safekeeping Fee Quotes spreadsheet be updated to reflect the actual annual fee quoted by Wells Fargo, whether it be the \$7,656 or the \$1,000 annual fee.

Mr. Primeau recommended that the IC contact the Wells Fargo representative to substantiate the quote to include as a footnote in the Brokerage Custody Safekeeping Fee Quotes spreadsheet.

Ms. Fejes stated that the purpose of the meeting was to make a recommendation to the HFA Board of Directors. Mr. Primeau recommended to approve Wells Fargo subject to the approval that the fee would be \$1,000 or less than \$2,500, and if not possible, the next up would be Bank of New York Mellon Trust Company.

Ms. Fejes replied that the BOCC will not approve the motion selecting Wells Fargo as the safekeeping custodian, based on the decision to withdraw the item at the previous board meeting.

Mr. Primeau inquired as to why Wells Fargo would be included in the quotes since they were withdrawn. Mr. Farmer stated that it may be a possibility that Wells Fargo was included as a comparison between the other financial institutions as a result of what occurred at the BOCC meeting.

***There was a detailed discussion between the Investment Committee Members regarding Wells Fargo returning to the BOCC meeting for approval on a financial institution.***

**MOTION TO RECOMMEND** the top three ranked financial institutions; to approve Wells Fargo, subject to annual fees being no more than \$1,200; to approve Bank of New York Mellon Trust Company, subject to annual fees being no more than \$3,200; and or to approve TD Bank, subject to annual fees being no more than \$5,000.

MOTION was made by John G. Primeau, and seconded by Stephen Farmer to recommend one of the top three ranked financial institutions for the HFA Board determination and approval. All were in favor and motion carried unanimously.

Ms. Zomermaand inquired should the agreements for the three ranked financial institutions be included as part of the HFA Board package for approval. Ms. Ashton replied that she would work with Mr. Howard as to the appropriate form of documentation to include for board approval.

Ms. Fejes indicated that the Policy and Procedures discussion was deferred to the December 20<sup>th</sup> meeting.

MOTION TO ADJOURN the October 11, 2017 Investment Committee Special meeting.

MOTION was made by John G. Primeau, and seconded by Stephen Farmer to adjourn the October 11, 2017 Investment Committee Special meeting.

The meeting was adjourned at 6:26pm.

DRAFT



## **ATTACHMENT 2**

**2017 MULTIFAMILY HOUSING BOND TRANSACTIONS – NOVEMBER UPDATE**

<b><u>HFA RANKING</u></b>	<b>1</b>	<b>2</b>	<b>3</b>
<b><u>PROJECT NAME</u></b>	<b><u><i>The Palms of Deerfield Apartments</i></u> <b>WITHDRAWN</b></b>	<b><u><i>Emerald Palms Apartments</i></u></b>	<b><u><i>The Landings at Coconut Creek</i></u></b>
<b><u>PROJECT LOCATION</u></b>	425 NW 1 <sup>st</sup> Terrace Deerfield Beach, FL 33441	5331 Southwest 43 <sup>rd</sup> Terrace Dania Beach, FL 33314	4854 Fisherman’s Dr. Coconut Creek, FL 33063
<b><u>DEVELOPER</u></b>	Deerfield Beach Family Empowerment, Inc., an entity affiliated with the “Housing Authority of the City of Deerfield Beach”	MRK Partners Inc.	TH Real Estate
<b><u>PROFESSIONAL TEAM</u></b>			
<ul style="list-style-type: none"> <li>● <i>Lead Underwriter</i></li> <li>● <i>Bond Counsel</i></li> <li>● <i>Credit Underwriter (“CU”)</i></li> </ul>	<ul style="list-style-type: none"> <li>● TBD</li> <li>● Nabors, Giblin &amp; Nickerson</li> <li>● AmeriNat</li> </ul>	<ul style="list-style-type: none"> <li>● TBD</li> <li>● Nabors, Giblin &amp; Nickerson</li> <li>● TBD</li> </ul>	<ul style="list-style-type: none"> <li>● RBC</li> <li>● Nabors, Giblin &amp; Nickerson</li> <li>● First Housing</li> </ul>
<b><u>BOND AMOUNTS</u></b>			
<ul style="list-style-type: none"> <li>● <i>Bond Amount/Original Req.</i></li> <li>● <i>Revised Request</i></li> <li>● <i>CU Recommendation</i></li> </ul>	<ul style="list-style-type: none"> <li>● \$7,250,000</li> <li>● \$10,000,000</li> <li>● TBD</li> </ul>	<ul style="list-style-type: none"> <li>● \$38,000,000</li> <li>● N/A</li> <li>● TBD</li> </ul>	<ul style="list-style-type: none"> <li>● \$33,000,000</li> <li>● N/A</li> <li>● TBD</li> </ul>
<b><u>TEFRA &amp; Inducement</u></b>			
<ul style="list-style-type: none"> <li>● <i>TEFRA/Inducement Amount</i></li> <li>● <i>Date of TEFRA Hearing</i></li> <li>● <i>Date of HFA Approval</i></li> <li>● <i>Date of BOCC App. TEFRA</i></li> <li>● <i>Date of HFA Inducement</i></li> <li>● <i>Date of BOCC Approval Cust. Agreement (If Applicable)</i></li> </ul>	<ul style="list-style-type: none"> <li>● \$10,000,000 (TEFRA &amp; Inducement)</li> <li>● February 27, 2017</li> <li>● TBD</li> <li>● TBD</li> <li>● June 8, 2016</li> <li>● N/A</li> </ul>	<ul style="list-style-type: none"> <li>● \$38,000,000 (Inducement)</li> <li>● TBD</li> <li>● TBD</li> <li>● TBD</li> <li>● April 19, 2017</li> <li>● N/A</li> </ul>	<ul style="list-style-type: none"> <li>● \$33,000,000</li> <li>● October 25, 2017</li> <li>● November 15, 2017 (Pending)</li> <li>● TBD</li> <li>● September 20, 2017</li> <li>● N/A</li> </ul>
<b><u>ALLOCATION</u></b>			
<ul style="list-style-type: none"> <li>● <i>Allocation Approved by HFA</i></li> <li>●</li> </ul>	<ul style="list-style-type: none"> <li>● \$10,000,000</li> </ul>	\$38,000,000	\$33,000,000
<b><u>TRANSACTION STATUS</u></b>	<i>See Note #1</i>	<i>See Note #2</i>	<i>See Note #3</i>

**Note #1:**

Application to fund Palms at Deerfield Beach in the 2016 allocation cycle was submitted to the HFA on October 29, 2015. The TEFRA Hearing was held on February 27, 2017. The financing is expected to fund the acquisition and rehabilitation of 100 units of affordable housing in Deerfield Beach. The HFA approved and induced the project at its board meeting on June 8, 2016, such approval effectively ranked the development to receive tax-exempt bond allocation and/or carryforward in 2016. The project allocation commitment carried over to 2017.

On September 28, 2017 the HFA received a request to refund the good faith deposit as the Deerfield Beach Housing Authority had decided not to proceed with the rehabilitation of the project at this time. The good faith deposit was returned per HFA policy. ***THIS APPLICATION HAS BEEN WITHDRAWN.***

**Note #2:**

Application to fund Emerald Palms Apartments in the 2017 allocation cycle was submitted to the HFA on March 20, 2017. The financing is expected to fund the acquisition and rehabilitation of 318 units of affordable housing in Dania Beach. The HFA approved and induced the project at its board meeting on April 19, 2017, such approval effectively ranked the development to receive tax-exempt bond allocation and/or carryforward in 2017.

**Note #3:**

Application to fund Landings at Coconut Creek apartments in the 2017 allocation cycle was submitted to the HFA on August 2, 2017. The financing is expected to fund the acquisition and rehabilitation of 268 units of affordable housing in Coconut Creek. The HFA approved and induced the project at its board meeting on September 20, 2017, such approval effectively ranked the development to receive tax-exempt bond allocation and/or carryforward in 2017. The closing is anticipated to occur by year end.

## **ATTACHMENT 3**

Housing Finance Authority of Broward County  
Rental Occupancy Report

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H	Column I	Column J	Column K
Property	Total Number of Units	From Mgmt Number of Units Occupied	% of Units Occupied	Previous month % of Lower Units Occupied August	From Mgmt Low Income Units Occupied	% Occupied by Low Income	LURA Low Income Requirement	Certificate of Compliance rec'd September	Comments	Vacant Units
Banyan Bay	416	378	90.9	45%	167	44.2	20%	10/5/2017		38
Banyan Pointe	300	300	100.0	95%	285	95.0	40%	10/1/2017		0
Chaves Lakes	238	235	98.7	91%	214	91.1	40%	9/28/2017	QP expires 3/2018	3
Colonial Park	160	152	95.0	100%	152	100.0	99%	9/27/2017		8
Cypress Grove/Sandalgrove	814	720	88.5	100%	720	100.0	40%	10/2/2017		94
Emerald Palms	318	317	99.7	88%	277	87.4	40%	9/28/2017	QP expires 5/1/2017	1
Golden Villas	120	120	100.0	99%	119	99.2	40%	10/4/2017		0
Golf View Gardens	160	156	97.5	100%	156	100.0	100%	9/21/2017		4
Harbour Cove	212	210	99.1	87%	183	87.1	40%	9/26/2017		2
Heron Pointe	200	197	98.5	98%	193	98.0	40%	9/29/2017		3
Laguna Pointe	188	187	99.5	92%	172	92.0	40%	9/28/2017		1
Lake Vista (fka Ashlar/Pier Club)	480	430	89.6	22%	97	22.6	20%	9/30/2017	QP expires 6/1/2021	50
Lauderhill Point (fka Driftwood Terr)	176	174	98.9	100%	174	100.0	100%	10/10/2017		2
Los Prados	444	393	88.5	25%	99	25.2	20%	9/29/2017		51
Mar Lago Village	216	201	93.1	42%	86	42.8	40%	10/10/2017		15
Meridian	160	152	95.0	100%	152	100.0	99%	9/27/2017	QP expires 5/2018	8
Palms of Deerfield	56	54	96.4	100%	54	100.0	100%	10/10/2017		2
Pembroke Gardens	198	194	98.0	88%	168	86.6	40%	9/29/2017	QP expires 12/2015	4
Pembroke Park	244	243	99.6	84%	205	84.4	40%	9/30/2017		1
Pembroke Villas	180	180	100.0	93%	168	93.3	40%	10/3/2017	QP expires 6/2016	0
Pinnacle Village	148	145	98.0	99%	144	99.3	40%	10/4/2017		3
Prospect Park	125	125	100.0	100%	125	100.0	40%	10/10/2017		0
Sailboat Bend	37	37	100.0	100%	37	100.0	100%	10/10/2017		0
San Tropez (fka Pembroke Village)	480	464	96.7	21%	95	20.5	20%	9/27/2017	QP expires 6/26/2019	16
Sanctuary Cove	292	290	99.3	99%	286	98.6	40%	9/29/2017		2
St Croix	246	244	99.2	100%	244	100.0	40%	9/27/2017	QP expires 6/1/2020	2
Summerlake	108	105	97.2	100%	105	100.0	40%	9/22/2017		3
Venice Cove	150	149	99.3	100%	149	100.0	40%	10/9/2017	QP expires 11/2017	1
Woodsdale Oaks	172	167	97.1	100%	167	100.0	70%	9/27/2017		5
<b>Totals</b>	<b>7,038</b>	<b>6,719</b>			<b>5,193</b>					<b>319</b>
* Figures in red show properties that are less than 90% occupied										
Total % rate of occupancy for all properties		95%								
Properties highlighted in yellow have bonds outstanding although the QP has expired										
Pending New Projects										
Northwest Gardens (new construction/acquisition rehab)										
Stanley Terrace (acquisition rehab)										
Residents at Crystal Lakes (new construction)										

## **MULTI-FAMILY BOND RENTAL OCCUPANCY REPORT KEY**

The Rental Occupancy Report was prepared by staff from Certifications of Continuing Compliance reports received from Multi Family property management.

Column B represents the total number of units the property has.

Column C represents the number of units occupied during the time period.

Column D represents the percentage of units occupied versus the total number.

Column E represents the percentage of total units that were lower income occupied during the month of August, 2017

Column F represents the number of lower income units occupied.

Column G represents the percentage of lower income units occupied versus the total number of units available.

Column H represents the lower income requirement per the Land Use Restriction Agreement.

Column I represents the date the Certificate of Compliance was received by Housing Finance Authority.

Column J represents comments deemed important or necessary such as the qualifying period expiration date or explanation for red numbers on the report.

Column K represents the number of units vacant for each property.

Columns that are blank represent no report was received from property management.

## **Housing Finance Authority of Broward County**

### *Dufresne CPA Services, PA – Overview of the October 31, 2017 Financial Reports*

The following are items considered to be of note regarding the financial reports for the month of October, 2017:

1. Balance sheets (Attachments 1 and 2) changes relate primarily to individual cash account activity, including payments to the BOCC for reimbursement of expenses and the receipt and subsequent payment of Franklin Park home sale proceeds to the BOCC. The cash portion of the US Bank Custody Account has been separately presented from the US Bank Custody Account investments so that the total cash position is easily discernable.
2. Profit and loss report indicates the changes that relate primarily to timing of new bond issuances, redemptions and related fees and residuals, fair market value adjustments, rent income and timing of invoices paid and payments received. (Attachments 3 and 4)

### Cash vs Accrual Basis for P&L Budget to Actual comparison (Attachment 4)

On a monthly basis the process to prepare the financial statements includes:

- a. Budgetary column – Cumulative 1/12 of the budgeted revenues and expenses are reported
- b. Actual column – Significant known revenue and expense items are accrued
  - a. Authority fees receivable are adjusted to correct accrual basis balance
  - b. Cumulative 1/12 of budgeted Personnel and Other Expenses due to BOCC are adjusted to correct accrual basis balance
  - c. Expenses for all invoices submitted to the HFA prior to month end are paid and recorded in the financial statements.
  - d. Bank and account management fees that are reported on the monthly bank statements are recorded as expense in the applicable month.

### Index to Attachments

- Attachment 1, Page 3: Balance Sheet (Flux Report – October, 2017 comparison to September, 2017)
- Attachment 2, Page 4: Balance Sheet (Flux Report – October, 2017 comparison to October, 2016)
- Attachment 3, Page 5: P&L (Flux Report – Current Year-to-Date to Prior Year-to-Date)
- Attachment 4, Page 6: P&L (Flux Report – Budget to Actual)
- Attachment 5, Page 7: Aged Receivables Report
- Attachment 6, Page 8: Wells Fargo Bank Reconciliation Report – Operating
- Attachment 7, Page 9: Wells Fargo Bank Reconciliation Report – Franklin Park

ATTACHMENT(S)



**Attachment 1**  
**The Housing Finance Authority of Broward County**  
**110 NE Third Street, #300**  
**Fort Lauderdale, FL 33301**  
**Balance Sheet (Flux Report)**  
**10/31/2017**

	October	September	\$ Difference	% Difference	Explanation (See criteria below)
<b>Assets</b>					
Cash-Wells Fargo	\$ 2,397,732	\$ 2,417,546	(19,814)	-1%	
Cash-Wells Fargo - Franklin Park	-	153	(153)	-100%	
Cash- LOC	6,127	6,122	5	0.1%	
Indemnification Fund -BNY	406,647	331,469	75,178	18.5%	
Cash-US Bank Custody Account	1,556,922	-	1,556,922	100%	
Total Cash	\$ 4,367,428	\$ 2,755,290			
Investments-US Bank Custody Account*	\$ 7,336,185	\$ 8,897,383	(1,561,198)	-21.3%	<b>1</b>
Note Receivable-DPA	387,125	387,125	-	NA	
Authority Fees Receivable	90,620	-	90,620	100%	
Interest Receivable	32,181	25,273	6,908	21%	
Notes Receivable-CDC	200,000	200,000	-	NA	
Notes Receivable - Mt. Olive	241,156	241,156	-	NA	
HFA Mortgage Receivables	9,618	9,650	(32)	-0.3%	
Due from Artspace	503,729	503,729	-	NA	
Utility Deposit	1,925	1,925	-	NA	
HFA Land	698,164	698,164	-	NA	
HFA Land Inventory For Homes	31,400	31,400	-	NA	
HFA Buildings	1,036,000	1,036,000	-	NA	
Equipment	90,258	90,258	-	NA	
Capital Assets BOCC (Tagged)	127,474	127,474	-	NA	
Accumulated Depreciation -BOCC	(126,954)	(126,954)	-	NA	
Accumulated Depreciation, HFA	(617,838)	(617,838)	-	NA	
Total Assets	\$ 14,408,472	\$ 14,260,037			
<b>Liabilities</b>					
Accrued Sick/Vacation, ST	\$ 50,000	\$ 50,000	-	NA	
Due to BOCC - Exp reimb	61,430	62,873	(1,443)	-2%	
Due to BOCC - Artspace project	428,070	428,070	-	NA	
Due to BOCC - Artspace Interest	75,659	75,659	-	NA	
Good Faith Deposits	118,000	43,000	75,000	64%	<b>2</b>
Accrued Sick/Vacation, LT	39,000	39,000	-	NA	
Total Liabilities	\$ 772,159	\$ 698,602			
<b>Equity</b>					
Beginning of year	\$ 13,147,612	\$ 13,533,205			
Prior Period Adjustment	476,694	382,279	94,415	20%	<b>3</b>
Current Year Earnings	12,007	(354,050)			
Total Equity	13,636,313	13,561,435			
Total Liability and Equity	\$ 14,408,472	\$ 14,260,037			

**Criteria to determine if explanations are required:**

Cash account fluctuation explanations provided for >=\$100,000 variance

Remaining items explanations are provided for >=10% and >=\$5,000 variance

NA No change as compared to prior month

100% No activity in prior month

-100% No activity in current month

**1** Changed presentation of US Bank account October 2017; split Cash from Investments on Balance Sheet

**2** Landing at Coconut Creek Apts Good Faith Deposit

**3** Audit adjustments recorded based on current BOCC reports

* Market Value-US Bank Investments	\$ 7,336,185
Unrealized Gain/Loss	362,356
Cost Basis-US Bank Investments	\$ 6,973,829

**Attachment 2**  
**The Housing Finance Authority of Broward County**  
**110 NE Third Street, #300**  
**Fort Lauderdale, FL 33301**

**Balance Sheet (Flux Report)**  
**10/31/2017**

	Oct-17	Oct-16	\$ Difference	% Difference	Explanation (See criteria below)
<b>Assets</b>					
Cash-Wells Fargo	\$ 2,397,732	\$ 580,476	\$ 1,817,256	313%	<b>1</b>
Cash-Wells Fargo - Franklin Park	-	26,272	(26,272)	-100%	
Cash- LOC	6,127	6,059	68	1%	
Indemnification Fund -BNY	406,647	287,604	119,043	41%	<b>2,3</b>
Cash-BOCC Pooled equity	-	18,616	(18,616)	-100%	
Cash-US Bank Custody Account	1,556,922	-	1,556,922	100%	
Total Cash	<u>\$ 4,367,428</u>	<u>\$ 919,027</u>			
Investments-US Bank Custody Account*	\$ 7,336,185	\$ 8,897,914	\$ (1,561,729)	-18%	<b>4</b>
Note Receivable-DPA	387,125	407,125	(20,000)	-5%	
Authority Fees Receivable	90,620	82,657	7,963	9.6%	
Interest Receivable	32,181	-	32,181	100%	
FP Construction Loan Receivable	-	1,538,318	(1,538,318)	-100%	
Notes Receivable-CDC	200,000	200,000	-	NA	
Notes Receivable - Mt. Olive	241,156	246,156	(5,000)	-2%	
HFA Mortgage Receivables	9,618	9,992	(374)	-4%	
Due from Artspace	503,729	503,729	-	NA	
Utility Deposit	1,925	1,925	-	NA	
HFA Land	698,164	693,289	4,875	1%	
HFA Land Inventory For Homes	31,400	31,400	-	NA	
HFA Buildings	1,036,000	1,115,000	(79,000)	-7%	
Equipment	90,258	90,258	-	NA	
Capital Assets BOCC (Tagged)	127,474	127,474	-	NA	
Accumulated Depreciation -BOCC	(126,954)	(126,954)	-	NA	
Accumulated Depreciation, HFA	(617,838)	(657,338)	39,500	-6%	
Total Assets	<u>\$ 14,408,472</u>	<u>\$ 14,079,973</u>			
<b>Liabilities</b>					
Accrued Sick/Vacation, ST	\$ 50,000	\$ 50,000	-	NA	
Due to BOCC - Exp reimb	61,430	(12,639)	74,069	-586%	<b>5</b>
Due to BOCC-Artspace project	428,070	428,070	-	NA	
Due to BOCC-Artspace Interest	75,659	75,659	-	NA	
Good Faith Deposits	118,000	-	118,000	100%	
Accrued Sick/Vacation, LT	39,000	39,000	-	NA	
Total Liabilities	<u>\$ 772,159</u>	<u>\$ 580,090</u>			
<b>Equity</b>					
Beginning of year	\$ 13,147,612	\$ 13,533,205			
Prior Period Adjustment	476,694	-	476,694	100%	
Current Year Earnings	12,007	(33,322)			
Total Equity	<u>13,636,313</u>	<u>13,499,883</u>			
Total Liability and Equity	<u>\$ 14,408,472</u>	<u>\$ 14,079,973</u>			

**Criteria to determine if explanations are required:**

Cash account fluctuation explanations provided for >=\$100,000 variance

Remaining items explanations are provided for >=10% and >=\$5,000 variance

NA No change as compared to prior year

100% No activity in prior year

-100% No activity in current year

**1** Franklin Park proceeds transferred from Cash-Wells Fargo - Franklin Park to Cash-Wells Fargo September 2017

**2** Deerfield Beach deposit March 2017

**3** Coconut Creek good faith deposit October 2017

**4** Split US Bank Cash from Investments on Balance Sheet starting October 2017

**5** Timing of receipts/payments and accruals based on budget

*Market Value-US Bank Investments	\$ 7,336,185
Unrealized Gain/Loss	362,356
Cost Basis-US Bank Investments	\$ 6,973,829

**Attachment 3**

**The Housing Finance Authority of Broward County**

110 NE Third Street, #300

Fort Lauderdale, FL 33301

**Profit & Loss (Flux Report) Current Year-to-Date to Prior Year-to-Date**

**Year to Date As of October 2017**

	<u>Oct-17</u>	<u>Oct-16</u>	<u>\$ Difference</u>	<u>% Difference to PY</u>	<u>*Explanation</u>
<b>Income</b>					
Bond Authority Fees	\$ 90,620	\$ 82,658	\$ 7,962	9.6%	
Application, TEFRA and Closing Fees	5,500	7,500	(2,000)	-27%	
MCC and Lender Program Income	1,050	875	175	20%	
Interest Income, Mortgages	55	57	(2)	-4%	
Interest Income, Wells Fargo	188	14	174	1243%	
* Interest Income, US Bank	10,231	2,761	7,470	271%	<b>1</b>
* Net Change in Investment Value, US Bank	(7,599)	(6,045)	(1,554)	100%	
* Interest Income, FHLB LOC	4	-	4	100%	
* Interest Income, BNY	178	-	178	100%	
Parking Rent Income	1,000	-	1,000	100%	
Total Income	<u>\$ 101,227</u>	<u>\$ 87,820</u>	<u>\$ 13,407</u>		
<b>Expenses</b>					
Personnel Services, Broward Co	\$ 45,841	\$ -	(45,841)	100%	<b>2</b>
Other Expenses, Broward County	15,589	-	(15,589)	100%	<b>2</b>
Professional Fees	18,526	5,606	(12,920)	-230%	<b>2</b>
Bank Management Fees	591	15,075	14,484	96%	<b>3</b>
Advertising/Marketing	-	204	204	100%	
Dues and Membership Fees	-	5,175	5,175	100%	<b>2</b>
Conference and Travel Expense	1,000	-	(1,000)	100%	
Building/Land Maintenance	5,752	312	(5,440)	-1744%	<b>2</b>
Utilities	1,746	1,730	(16)	-1%	
Franklin Park Homes Construction	-	93,040	93,040	100%	<b>4</b>
Miscellaneous Expense	175	-	175	100%	
Total Expenses	<u>\$ 89,221</u>	<u>\$ 121,142</u>	<u>\$ 32,272</u>		
Net Profit/(Loss)	\$ 12,007	\$ (33,322)	\$ (18,865)		

**Explanations provided for >=10% and >= \$5,000 variance**

- 1 Gain/Loss related to current market conditions**
- 2 Timing of receipts/payments and accruals based on budget**
- 3 Termination of Karpus contract in fiscal 2017**
- 4 Franklin Park Homes Construction project completed in fiscal 2017**

\* Please note that to more accurately reflect the components of interest income certain line descriptions were changed

**"%Actual to Budget" Column Legend**

- NA - No amount reported in either of the two years**
- 0% - Current year actual is equal to PY actual amount**
- 100% - No amount in one of the two years presented**

**Attachment 4**  
**The Housing Finance Authority of Broward County**  
**110 NE Third Street, #300**  
**Fort Lauderdale, FL 33301**  
**Profit & Loss (Flux Report) Budget to Actual**  
**Year to Date As of October 2017**

	<u>Selected Period</u>	<u>Budgeted</u>	<u>\$ Difference</u>	<u>% Difference to budget</u>	<u>*Explanation</u>
<b>Income</b>					
Bond Authority Fees	\$ 90,620	\$ 34,659	\$ 55,961	161%	<b>1</b>
Bond redemption & other income	-	15,342	(15,342)	-100%	<b>1</b>
Application, TEFRA and Closing Fees	5,500	-	5,500	NA	
MCC and Lender Program Income	1,050	2,917	(1,867)	-64%	
Interest Income, Mortgages	55	-	55	NA	
Interest Income, Wells Fargo	188	-	188	NA	
Interest Income, US Bank	10,231	15,833	(5,602)	-35%	<b>2</b>
Net Change in Investment Value, US Bank	(7,599)	-	(7,599)	NA	
Interest Income, FHLB LOC	4	-	4	NA	
Interest Income, BNY	178	-	178	NA	
Rent Income	-	10,088	(10,088)	-100%	<b>1</b>
Parking Rent Income	1,000	-	1,000	NA	
Liquidation of Investments	-	8,333	(8,333)	-100%	<b>1</b>
<b>Total Income</b>	<b>\$ 101,227</b>	<b>\$ 87,172</b>			
<b>Expenses</b>					
Personnel Services, Broward Co	\$ 45,840	\$ 45,840	\$ -	0%	
Other Expenses, Broward County	15,590	15,590	-	0%	
Professional Fees	18,526	12,750	5,776	45%	<b>1</b>
Audit Expense (BOCC)	-	1,100	(1,100)	-100%	
Bank Management Fees	591	333	258	77%	
Advertising/Marketing	-	333	(333)	-100%	
Dues and Membership Fees	-	500	(500)	-100%	
Conference and Travel Expense	1,000	1,792	(792)	-44%	
Postage/FedEx	-	17	(17)	-100%	
Liab Insurance/HFA Board	-	750	(750)	-100%	
Building/Land Maintenance	5,752	4,833	919	19%	
Utilities	1,746	1,667	79	5%	
Capital Outlay Expense	-	1,667	(1,667)	-100%	
Miscellaneous Expense	175	-	175	NA	
<b>Total Expenses</b>	<b>\$ 89,221</b>	<b>\$ 87,172</b>			
<b>Net Profit/(Loss)</b>	<b>\$ 12,007</b>	<b>\$ -</b>			

\* Explanations provided for >=10% and >= \$5,000 variance

**1** Timing of invoices and payments

**2** A lower balance is maintained current year, resulting in less interest earned

**NA - No Budget amount**

**100% - Actual is zero**

**Attachment 5**  
**The Housing Finance Authority of Broward County**  
**110 NE Third Street, #300**  
**Fort Lauderdale, FL 33301**

**Aged Receivables**  
**10/31/2017**

<b>Authority fee receivable</b>	<b>Total Due</b>	<b>0 - 30</b>	<b>31 - 60</b>	<b>61 - 90</b>	<b>90+</b>
1996 BANYAN BAY	\$22,075.36	\$22,075.36	\$0.00	\$0.00	\$0.00
1996 LOS PRADOS	\$26,416.17	\$26,416.17	\$0.00	\$0.00	\$0.00
2000 SUMMERLAKE	\$3,614.69	\$3,614.69	\$0.00	\$0.00	\$0.00
2002 LAGUNA POINTE	\$7,427.33	\$7,427.33	\$0.00	\$0.00	\$0.00
2002 MERIDIAN	\$6,047.46	\$6,047.46	\$0.00	\$0.00	\$0.00
2006 Sailboat Bend	\$1,170.00	\$1,170.00	\$0.00	\$0.00	\$0.00
2006 Single Family ABC	\$565.10	\$565.10	\$0.00	\$0.00	\$0.00
2007 Single Family ABC	\$1,950.45	\$1,950.45	\$0.00	\$0.00	\$0.00
2007 Single Family EF	\$703.23	\$703.23	\$0.00	\$0.00	\$0.00
2015 Crystal Lake	\$20,650.15	\$20,650.15	\$0.00	\$0.00	\$0.00
<b>Total Authority Fee Receivable</b>	<b>90,620</b>	<b>90,620</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Housing Finance Authority**

110 NE Third Street, #300  
Fort Lauderdale, FL 33301

**Reconciliation Report**

11/6/2017  
8:29:29 PM

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ID#	Date	Memo/Payee	Deposit	Withdrawal
<b>Checking Account: 1-1000 Cash-Wells Fargo</b>				
<b>Date of Bank Statement: 10/31/2017</b>				
<b>Last Reconciled: 9/30/2017</b>				
<b>Last Reconciled Balance: \$2,417,546.45</b>				
<b>Cleared Checks</b>				
4799	10/1/2017	Dufresne and Associates		\$12,112.00
4800	10/1/2017	Florida ALHFA		\$1,000.00
4801	10/1/2017	Zomermaand Financial Advisor		\$6,413.66
GJ002195	10/5/2017	Utility Payments		\$300.32
4802	10/6/2017	Bank of New York Mellon		\$75,000.00
4803	10/6/2017	L&B Janitorial Services		\$4,044.00
4804	10/6/2017	Krystal Klear		\$320.00
4805	10/6/2017			\$0.00
4806	10/6/2017	Department of Economic Oppo		\$175.00
4807	10/6/2017	Holmes Lawn Service, Inc		\$335.00
SC103117	10/11/2017	to record monthly WF Svc Chr		\$438.99
4808	10/13/2017	TECO Peoples Gas		\$45.71
4809	10/16/2017	TAW Power Systems Inc		\$1,007.43
GJ002194	10/27/2017	Utility Payments		\$1,446.37
Total:			\$0.00	\$102,638.48

**Cleared Deposits**

GJ002193	10/2/2017	MCC fees	\$175.00	
GJ002192	10/5/2017	"Good Faith Dep, TEFRA, Par	\$81,675.00	
GJ002191	10/19/2017	"2nd Mtg Prin and Int, MCC"	\$436.84	
GJ002190	10/30/2017	MCC fees	\$350.00	
IE103117	10/31/2017	to record monthly WF Int Inco	\$187.42	
Total:			\$82,824.26	\$0.00

Reconciliation

AccountEdge Pro Balance on 10/31/2017:	\$2,397,732.23
Add: Outstanding Checks:	\$0.00
Subtotal:	\$2,397,732.23
Deduct: Outstanding Deposits:	\$0.00
Expected Balance on Statement:	<u>\$2,397,732.23</u>

**Housing Finance Authority**

110 NE Third Street, #300  
Fort Lauderdale, FL 33301

**Reconciliation Report**

11/6/2017  
8:03:30 PM

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ID#	Date	Memo/Payee	Deposit	Withdrawal
-----	------	------------	---------	------------

**Checking Account:** 1-1005      **WF Franklin Park Estates**  
**Date of Bank Statement:** 10/31/2017  
**Last Reconciled:** 9/30/2017  
**Last Reconciled Balance:** \$152.74

**Cleared Checks**

SC103117	10/31/2017	to record Monthly Srvc Fee in		\$152.74
Total:			\$0.00	\$152.74

**Reconciliation**

AccountEdge Pro Balance on 10/31/2017:	\$0.00
Add: Outstanding Checks:	\$0.00
Subtotal:	\$0.00
Deduct: Outstanding Deposits:	\$0.00
Expected Balance on Statement:	\$0.00

**Housing Finance Authority of Broward County  
November 15, 2017 – Board Meeting**

**Multifamily Bonds - Action Item**

*Request 1) approval of the Credit Underwriting Report and 2) authorization of a Resolution providing approval to execute corresponding documents and authorize other actions required to issue and deliver not to exceed \$33,000,000 Multifamily Housing Revenue Bonds (the “Bonds”) for financing the acquisition, rehabilitation and equipping of a multifamily residential rental development in Broward County, Florida.*

**Background**

1. On August 2, 2017, the HFA received a multifamily bond application and a \$500.00 application fee from TH Real Estate (the “Developer”) pertaining to the acquisition and rehabilitation of a 268-unit development, known as The Landings at Coconut Creek (the “Development”). The Development is located within Coconut Creek, FL.
2. At its September 20, 2017 meeting, the HFA approved an Inducement Resolution for the Development and provided staff authorization to: a) hold a TEFRA hearing and b) publish all appropriate notices for the TEFRA hearing.
3. Notice of the TEFRA hearing was published in the *Sun Sentinel* on October 10, 2017, within the applicable notice period. The TEFRA hearing was held on October 25, 2017 and the Mayor of Coconut Creek was provided notice regarding the potential development prior to the HFA holding such TEFRA Hearing. (Attachment 1)
4. The HFA has carried forward sufficient tax-exempt Private Activity Bond allocation to fully fund the acquisition, rehabilitation and equipping of the Development.

**Present Situation**

1. A multifamily bond audit is no longer required by the County, therefore the Developer requests a waiver of the HFA’s Audit Fees. This waiver only pertains to the audit of funds held with the Trustee.
2. The waiver of the Audit Fees is addressed within the HFA’s Resolution.
3. The Developer expects the transaction to close by year end.



## **Recommendation**

1. Request Board approval of the following:
  - a. Credit Underwriting Report, and
  - b. HFA Resolution including authorization to execute Bond documents and authorize other actions required to issue and deliver not to exceed \$33,000,000 of Multifamily Housing Revenue Bonds for the purpose of financing the acquisition, rehabilitation and equipping of a multifamily residential rental development in Broward County, Florida.

## **Attachments**

- I. HFA Correspondence – Dated October 5, 2017
- II. Credit Underwriting Report – Dated November 5, 2017
- III. HFA Resolution
  - a. Trust Indenture
  - b. Loan Agreement
  - c. Land Use Restriction Agreement
  - d. Assignment of Bond Mortgage Documents
  - e. Placement Agent Agreement
  - f. Trustee Fee Agreement
  - g. Term Sheet

# **ATTACHMENT 1**

October 5, 2017

The Honorable Mayor Becky Tooley  
City of Coconut Creek  
4800 West Copan Road  
Coconut Creek, Florida 33063

Re: The Landings at Coconut Creek Apartments (the "Development")  
4854 Fishermans Drive  
Coconut Creek, Florida

Dear Mayor Tooley:

In an effort to keep your City fully informed, please be advised that a hearing will be held by the Housing Finance Authority of Broward County (the "HFA") on Monday, October 25, 2017, at 9:00am at the offices of the HFA, 110 N.E. 3<sup>rd</sup> Street, Suite 300, Fort Lauderdale, Florida (Notice enclosed).

The purpose of the hearing is to discuss the proposed issuance by the HFA of its Multifamily Housing Revenue Bonds in an aggregate principal amount of not to exceed \$33,000,000 in one or more series, to provide financing for the acquisition, rehabilitation and equipping for multifamily residential rental facilities known as The Landings at Coconut Creek (the "Development"), consisting of approximately 268 units located on approximately 25.399 acres at 4854 Fishermans Drive, Coconut Creek, Florida.

As federally required, 20% (54 units) will be set aside as income restricted units and the remaining 80% of the units will be market rate units. The property is operated by CVII-Landings at Coconut Creek LLC, Delaware Limited Liability Company or an entity related to such limited liability company. All interested persons are invited to attend said hearing and, either personally or through their representatives, present oral or written comments and discussion concerning the proposed plan of financing and the nature and location of the Development.

Page 2

Re: The Landings at Coconut Creek Apartments (the "Development")

We have encouraged the applicants, Mr. Michael Gilmartin and Carlos Burneo from TH Real Estate (the "Developer") to be in contact with your City Senior Management to discuss the benefits and value of this development.

If you have any questions or comments regarding the development/public hearing notice, please contact Norman Howard at 954-357-4925.

Sincerely,



Suzanne Fejes  
HFA Executive Director

Encl:

cc: Ruth T. Cyrus, HFA Chair  
Mary Blasi, City Manager of Coconut Creek  
Michael Gilmartin, Developer - TH Real Estate  
Carlos Burneo, Developer - TH Real Estate  
Norman Howard, HFA Manager

**NOTICE OF PUBLIC HEARING  
HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA**

NOTICE IS HEREBY GIVEN, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, that the Housing Finance Authority of Broward County, Florida (the "Authority") will hold and conduct a public hearing to be held on October 25, 2017, beginning at 9:00 a.m. or as soon thereafter as such matters may be heard, at the offices of the Authority, 110 N.E. 3rd Street, Suite 300, Fort Lauderdale, Florida 33301, for the purpose of receiving comments and hearing discussion concerning the following:

The proposed issuance by the Authority of its Multifamily Housing Revenue Bonds (the "Bonds"), in an aggregate principal amount of not to exceed \$33,000,000 in one or more series, to provide financing for the acquisition, rehabilitation and equipping for multifamily residential rental facilities known as The Landings at Coconut Creek (the "Development"), consisting of approximately 268 units located on approximately 25.399 acres located at 4854 Fishermans Drive, Coconut Creek, Florida, to be occupied by persons of low to moderate income and owned and operated by CVII-Landings at Coconut Creek LLC, a Delaware limited liability company, or an entity related to such limited liability company.

All interested persons are invited to attend said hearing and, either personally or through their representatives, present oral or written comments and discussion concerning the proposed plan of financing and the nature and location of the Development. Written comments may be submitted to the Authority, 110 N.E. 3rd Street, Suite 300, Fort Lauderdale, Florida 33301, Attention: Executive Director. Should any person decide to appeal any decision made by the Authority at this hearing or by the Board of County Commissioners of Broward County, Florida (the "Board") with respect to the approval of the plan of financing, he or she will need a record of the proceedings, and he or she will need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Authority at (954) 357-4900. The Authority will submit a transcript of the statements made at the hearing to the Board, which must approve or disapprove of the issuance of the Bonds.

HOUSING FINANCE AUTHORITY OF BROWARD  
COUNTY, FLORIDA

By: Suzanne Fejes, Executive Director

One day, Tuesday, October 10, 2017  
**Sun Sentinel**

## **ATTACHMENT 2**

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# **Broward County Housing Finance Authority**

## **Readiness Review Report**

### **The Landings at Coconut Creek**

#### **Section A: Report Summary**

#### **Section B: Supporting Information and Schedules**

---

**Prepared by**

**First Housing Development Corporation of Florida**

**FINAL REPORT**

**November 7, 2017**

**The Landings at Coconut Creek**

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**Section A**  
**Report Summary**

## Recommendation

First Housing Development Corporation of Florida (“First Housing” or “FHDC”) recommends that the Applicant is ready to proceed with a preliminary Tax-Exempt Multifamily Mortgage Revenue Bond (“MMRB”) loan in the amount of \$33,000,000 to finance the acquisition/renovation and permanent financing of The Landings at Coconut Creek (“Development”).

DEVELOPMENT & SET-ASIDES															
Development Name:		<u>The Landings at Coconut Creek</u>													
Address:		<u>4854 Fishermans Drive</u>													
City:		<u>Coconut Creek</u>	Zip Code:		<u>33063</u>	County:		<u>Broward</u>	County Size:		<u>Large</u>				
Development Category:		<u>Acquisition/Rehab</u>				Development Type:								<u>Garden Apts (1-3 Stories)</u>	
Demographic Commitment:		Primary: <u>Family</u> for <u>100%</u> of the Units													

### Broward County

Bed Rooms	Bath Rooms	Units	Square Feet	AMI%	Low HOME Rents	High HOME Rents	Gross HC Rent	Utility Allow.	Net Restricted Rents	PBRA Contr Rents	Applicant Rents	Appraiser Rents	CU Rents	Annual Rental Income
1	1.0	27	650	50%			\$715	\$65	\$ 650			\$ 1,185	\$ 650	\$ 210,600
1	1.0	23	650	150%			\$2,145	\$65	\$ 2,080			\$ 1,185	\$ 1,185	\$ 327,060
1	1.0	2	650	MR								\$ 1,185	\$ 1,185	\$ 28,440
1	1.0	30	750	150%			\$2,145	\$65	\$ 2,080			\$ 1,325	\$ 1,325	\$ 477,000
1	1.0	50	750	MR								\$ 1,325	\$ 1,325	\$ 795,000
2	2.0	27	950	50%			\$857	\$80	\$ 777			\$ 1,465	\$ 777	\$ 251,748
2	2.0	54	950	150%			\$2,572	\$80	\$ 2,492			\$ 1,465	\$ 1,465	\$ 949,320
2	2.0	47	950	MR								\$ 1,465	\$ 1,465	\$ 826,260
2	2.0	8	1,050	MR								\$ 1,565	\$ 1,565	\$ 150,240
		268	223,800											\$ 4,015,668

Please note approximately eleven units have been renovated and the appraiser estimates that the renovated units will achieve \$150 per unit per month more in rent than what is projected above. The Applicant intends to renovate more units; therefore, the gross potential rental revenue will increase post renovation.

Utility Allowance is based on First Housing’s estimates using the Broward County Housing Authority’s schedule. First Housing recommends that the utility allowance be confirmed.

Buildings: Residential - 21 Non-Residential - 2  
 Parking: Parking Spaces - 461 Accessible Spaces - 17

Set Asides:	Program	% of Units	# of Units	% AMI	Term (Years)
	MMRB	20.0%	54	50%	15
	MMRB	60.0%	161	150%	15

Occupancy Rate at Stabilization: Physical Occupancy 97.00% Economic Occupancy 95.00%

Site Acreage: 25.40 Density: 0.0948 Flood Zone Designation: X  
 Zoning: RM-10 Flood Insurance Required?: No

**DEVELOPMENT TEAM**

Applicant/Borrower:	CVII-Landings at Coconut Creek LLC	% Ownership
Limited Partner	ML CASA VII, LP	
Developer:	TH Real Estate ("THRE")	
Management Company:	ZRS Management, LLC ("ZRS")	
Appraiser:	Joseph J. Blake and Associates, Inc.	

**PERMANENT FINANCING INFORMATION**

	1st Source
Lien Position	First
Lender/Grantor	Broward County Housing Finance Authority ("BCHFA")/Bank of America Merrill Lynch ("BoA")
Amount	\$33,000,000
Underwritten Interest Rate	5.14%
All In Interest Rate	5.14%
Loan Term	15
Amortization	-
Market Rate/Market Financing LTV	73%
Loan to Cost - Cumulative	65%
Debt Service Coverage	1.10

Market Rent/Market Financing Stabilized Value	\$45,200,000
Projected Net Operating Income (NOI) - Year 1	\$1,867,125
Projected Net Operating Income (NOI) - 15 Year	\$2,076,410
Year 15 Pro Forma Income Escalation Rate	2.00%
Year 15 Pro Forma Expense Escalation Rate	3.00%
Bond Structure	Private Placement

CONSTRUCTION/PERMANENT SOURCES:				
Source	Lender	Construction	Permanent	Perm Loan/Unit
Tax Exempt Bonds	BCHFA/BoA	\$33,000,000	\$33,000,000	\$123,134
Applicant Equity	CVII-Landings at Coconut Creek LLC	\$17,471,965	\$17,471,965	\$65,194
<b>TOTAL</b>		\$50,471,965	\$50,471,965	\$188,328

Recommendation:

First Housing recommends that the Applicant is ready to proceed with a preliminary Tax-Exempt MMRB loan in the amount of \$33,000,000 to finance the acquisition/renovation and permanent financing of the Development.

These recommendations are based upon the assumptions detailed in the Report Summary (Section A), and Supporting Information and Schedules (Section B). **This recommendation is only valid for six months from the date of the report.**

The reader is cautioned to refer to these sections for complete information.

Prepared by:



Taylor Stephens

Junior Credit Underwriter

Reviewed by:



Ed Busansky

Senior Vice President

## Overview

### Permanent Financing Sources:

Permanent Sources	Lender	Revised Applicant	Underwriter	Term Yrs.	Amort. Yrs.	Interest Rate	Annual Debt Service
Tax Exempt Bonds	BCHFA/BoA	\$33,000,000	\$33,000,000	15	0	5.14%	\$1,696,200
Applicant Equity	CVII-Landings at Coconut Creek LLC	\$17,457,771	\$17,471,965	N/A	N/A	N/A	N/A
Total		\$50,457,771	\$50,471,965				\$1,696,200

### First Mortgage:

First Housing reviewed an unexecuted, undated term sheet from Bank of America, N.A. (“BoA”). The currently anticipated financing structure contemplates tax exempt bonds not to exceed the amount of \$33,000,000 which will be issued by the Broward County Housing Finance Authority and will be purchased by BoA or an affiliate via a private placement structure. BoA will fund a first mortgage loan in the amount of \$33,000,000. The term of the bonds is up to 40 years which will be subject to a mandatory tender after 15 years. The bonds will not be rated and will be in the fixed rate mode for the first fifteen years. Based on an email from a representative of BoA, the coupon interest rate, which will be equal to the market rate, is estimated to be between 225-250 basis points over the 15 year Municipal Market Date (“MMD”) AAA. The interest rate will be fixed at closing, which is estimated to be December 12, 2017. First Housing has utilized the 15 year AAA MMD of 2.39%, as of October 25, 2017, plus a 2.50% spread, and a 0.25% underwriting cushion for an all-in interest rate of 5.14%. Quarterly payments on the bond loan are due based on an interest-only schedule. A minimum of 15% of the bond proceeds related to the purchase of the buildings will be deposited into a separate account established under the trust indenture to fund the proposed rehabilitation budget.

It is anticipated that the Applicant will enter into a separate total return swap agreement with BoA. The sponsor will pay BoA the fixed rate on the bonds and be swapped back a floating rate. At the end of the swap the Applicant will be responsible for payment of any decrease in the value of the bond and will receive payment for any increase in the bond. The Applicant agrees to post collateral under the swap agreement to secure the obligations of the total return swap. Terms of the swap agreement are still being negotiated between the Applicant and BoA. First Housing recommends that the final terms including length of the initial agreement are confirmed.

Applicant Equity:

The Applicant bought the property on July 28, 2017 for \$45,300,000. Therefore, the required Applicant equity has been fulfilled. The bond proceeds will pay for the construction costs as well as the closing costs with a portion of the bond proceeds (if available) going to pay back the Applicant for the purchase of the property, all subject to Bond Counsel approval.

## Uses of Funds

CONSTRUCTION COSTS:	Revised Applicant Costs	Underwriters Total Costs - CUR	Cost Per Unit
Recreational Amenities	\$154,155	\$154,155	\$575
Rehab of Existing Rental Units	\$4,159,481	\$4,159,481	\$15,520
Site Work	\$302,035	\$302,035	\$1,127
<b>Total Construction Costs:</b>	<b>\$4,615,671</b>	<b>\$4,615,671</b>	<b>\$17,223</b>

Notes to the Total Construction Costs:

1. The Construction Costs are the Applicant's estimates. The Applicant is intending to execute individual subcontracts for the scope of work instead of one main general construction contract. As of this time, the Applicant is still bidding the cost of the work and did not provide any executed contracts. The renovation will include replacement of the roofs, cosmetic upgrades to the interior of the units, and an upgrade to the existing landscape of the property.

FINANCIAL COSTS:	Revised Applicant Costs	Underwriters Total Costs - CUR	Cost Per Unit
Permanent Loan Closing Costs	\$158,550	\$158,550	\$592
Local HFA Bond Underwriting Fee	\$0	\$14,194	\$53
Local HFA Bond Closing Costs	\$198,550	\$198,550	\$741
Misc Loan Closing Costs	\$75,000	\$75,000	\$280
Legal Fees - Financing Costs	\$110,000	\$110,000	\$410
<b>Total Financial Costs:</b>	<b>\$542,100</b>	<b>\$556,294</b>	<b>\$2,076</b>

Notes to the Financial Costs:

1. First Housing adjusted the Applicant's estimates to include the underwriting fee.

NON-LAND ACQUISITION COSTS	Revised Applicant Costs	Underwriters Total Costs - CUR	Cost Per Unit
Building Acquisition Cost	\$45,300,000	\$45,300,000	\$169,030
<b>Total Non-Land Acquisition Costs:</b>	<b>\$45,300,000</b>	<b>\$45,300,000</b>	<b>\$169,030</b>

## Notes to the Non-Land Acquisition Costs:

1. First Housing reviewed a Special Warranty Deed, dated July 28, 2017, between AMFP III Landings at Coconut Creek LLC (“Grantor”) and CVII – Landings at Coconut Creek LLC (“Grantee”). According to the Deed, the Grantor transferred and releases the certain real property located in Broward County, Florida for consideration of \$45,300,000.

<b>TOTAL DEVELOPMENT COSTS</b>	<b>Revised Applicant Costs</b>	<b>Underwriters Total Costs - CUR</b>	<b>Cost Per Unit</b>
<b>TOTAL DEVELOPMENT COSTS:</b>	<b>\$50,457,771</b>	<b>\$50,471,965</b>	<b>\$188,328</b>

## Notes to Total Development Costs:

1. The total development costs is largely based on the Applicant’s estimate of costs and is subject to change based on final bids for the proposed rehabilitation work and final financial costs.



## Operating Pro Forma – The Landings at Coconut Creek

FINANCIAL COSTS:		Year 1	Year 1 Per Unit
<b>OPERATING PRO FORMA</b>			
INCOME:	Gross Potential Rental Income	\$4,015,668	\$14,984
	Other Income		
	Ancillary Income	\$147,400	\$550
	Miscellaneous	\$149,800	\$559
	Gross Potential Income	\$4,312,868	\$16,093
	Less:		
	Economic Loss      Percentage: 1.80%	\$77,817	\$290
	Physical Vac. Loss      Percentage: 3.00%	\$129,386	\$483
	Collection Loss      Percentage: 2.00%	\$86,257	\$322
	<b>Total Effective Gross Income</b>	<b>\$4,019,408</b>	<b>\$14,998</b>
EXPENSES:	Fixed:		
	Real Estate Taxes	\$819,000	\$3,056
	Insurance	\$167,500	\$625
	Variable:		
	Management Fee      Percentage: 3.00%	\$120,582	\$450
	General and Administrative	\$67,000	\$250
	Payroll Expenses	\$361,800	\$1,350
	Utilities	\$187,600	\$700
	Marketing and Advertising	\$40,200	\$150
	Maintenance and Repairs/Pest Control	\$147,400	\$550
Contract Services	\$160,800	\$600	
Reserve for Replacements	\$80,400	\$300	
<b>Total Expenses</b>	<b>\$2,152,282</b>	<b>\$8,031</b>	
<b>Net Operating Income</b>	<b>\$1,867,125</b>	<b>\$6,967</b>	
<b>Debt Service Payments</b>			
First Mortgage - BoA	\$1,696,200	\$6,329	
Total Debt Service Payments	\$1,696,200	\$6,329	
Cash Flow after Debt Service	\$170,925	\$638	
<b>Debt Service Coverage Ratios</b>			
DSC - First Mortgage plus Fees	1.10x		
DSC - All Mortgages and Fees	1.10x		
<b>Financial Ratios</b>			
Operating Expense Ratio	53.55%		
Break-even Economic Occupancy Ratio (all debt)	89.44%		

Notes to the Operating Pro Forma and Ratios:

1. Gross Potential Rental Revenue is based on First Housing estimates for the 50% AMI set aside units and the appraiser’s estimated minimum achievable rents for the remaining units. Please note approximately eleven units have been renovated and the appraiser estimates that the renovated units will achieve \$150 per unit per month more in rent than what is projected below. The Applicant intends to renovate more units; therefore, the gross potential rental revenue will increase post renovation.

**Broward County**

Bed Rooms	Bath Rooms	Units	Square Feet	AMI%	Low HOME Rents	High HOME Rents	Gross HC Rent	Utility Allow.	Net Restricted Rents	PBRA Contr Rents	Applicant Rents	Appraiser Rents	CU Rents	Annual Rental Income
1	1.0	27	650	50%			\$715	\$65	\$ 650			\$ 1,185	\$ 650	\$ 210,600
1	1.0	23	650	150%			\$2,145	\$65	\$ 2,080			\$ 1,185	\$ 1,185	\$ 327,060
1	1.0	2	650	MR								\$ 1,185	\$ 1,185	\$ 28,440
1	1.0	30	750	150%			\$2,145	\$65	\$ 2,080			\$ 1,325	\$ 1,325	\$ 477,000
1	1.0	50	750	MR								\$ 1,325	\$ 1,325	\$ 795,000
2	2.0	27	950	50%			\$857	\$80	\$ 777			\$ 1,465	\$ 777	\$ 251,748
2	2.0	54	950	150%			\$2,572	\$80	\$ 2,492			\$ 1,465	\$ 1,465	\$ 949,320
2	2.0	47	950	MR								\$ 1,465	\$ 1,465	\$ 826,260
2	2.0	8	1,050	MR								\$ 1,565	\$ 1,565	\$ 150,240
		268	223,800											\$ 4,015,668

2. The Vacancy and Collection loss rate of 5.00% is based on First Housing’s estimate, which is supported by the appraisal. The appraisal also estimates loss to lease and concessions as well as non-revenue units at approximately \$77,817, which First Housing has included as economic loss above.
3. Other Income or Ancillary Income of \$550 per unit per year is supported by the appraisal. Miscellaneous Income is Expense Reimbursement Revenue projected by the appraiser at \$700 per unit per year for tenants reimbursements for water, sewer, and trash collection. First Housing has estimated the expense reimbursement at \$700 for all units except for the affordable housing units, as the appraisal’s estimate seemed high based on First Housing’s experience.
4. The Applicant has submitted a Management Agreement, dated July 28, 2017, which reflects a management fee of 3% of the gross monthly income.

5. First Housing recommends replacement reserves in the minimum amount of \$300 per unit per year.
6. Refer to Exhibit I, Page 1 for a 15-Year Pro Forma, which reflects rental income increasing at an annual rate of 2%, and expenses increasing at an annual rate of 3%.

**Section B**  
**Supporting Information & Schedules**

**Additional Development &  
Third Party Supplemental Information**

Appraised Value: First Housing reviewed an Appraisal Report of the Development prepared by Joseph J. Blake and Associates, Inc., effectively dated October 17, 2017. Please note the appraisal has not been reviewed by BoA and is subject to change based on their final review. First Housing recommends that the final appraisal be reviewed in order to verify that the assumptions and values have not negatively been impacted. Based on the report, the estimated ‘as is’ market value of the leased fee estate of the Developer, as of October 17, 2017 is \$45,200,000. The Appraisal Report was signed and certified by Ted Allen. His Florida State Certified General Real Estate Appraiser Florida license number is RZ426 which is valid through November 30, 2018.

Environmental Report: First Housing reviewed a draft Phase I Environmental Site Assessment (“ESA”), dated June 27, 2017, prepared by Apex Companies, LLC (“Apex”) and prepared in conformance with the scope and limitations of ASTM Practice E 1527-13. Based on the ESA, no recognized environmental conditions were revealed in connection with the Site.

Radon screening was performed by Apex on ten ground floor units. Results from the testing indicated that radon levels were recorded above the EPA recommended action level. Both units that tested above the level currently contain mitigation systems, which indicates the potential for the presence of elevated radon gas in apartments other than those tested. Apex recommends that additional radon tests be done in all ground floor apartments and 10% of the upper floor apartments be conducted. In addition, Apex recommends that a licensed mitigation contractor be hired to design and install mitigation systems into all buildings to ensure no future radon levels are above the EPA action levels. The Applicant is currently coordinating to have radon testing done on the remaining ground floor units and plans to install mitigation systems if the additional testing shows the need for the mitigation systems.

Apex also recommends that prior to any renovation or demolition activities, a survey for asbestos containing materials be performed.

Various miscellaneous suspect ACMs were observed in the tenant spaces and exteriors, including but not limited to: vinyl flooring systems, floor and carpet mastics and adhesives, caulks, gypsum wallboard and associated joint compounds, ceiling tiles, various glues and adhesives and roofing materials. Please note, the scope of work includes removal of the existing carpet which may disturb the floor and carpet mastics and adhesives.

First Housing recommends that the HFA be a beneficiary of BoA's environmental indemnification with a guarantor that is acceptable to BoA.

### Property Condition

#### Assessment:

First Housing reviewed a Property Condition Assessment, dated July 5, 2017, for the Landings at Coconut Creek Apartment Homes prepared by Ernest Homes AIA Construction Consultation Services ("Ernest"). The Landings at Coconut Creek consists of 268 dwelling units within 21 garden style apartment building. In addition, the property also features one leasing office/clubhouse/fitness center and one maintenance office building. The existing structures were built in 1985.

The property is bounded by West Sample Road to the north, single and multifamily development to the east, single family homes to the south, and ponds and multifamily to the west. Access is provided by a single open access entry/exit from West Sample Road on the north. The entry/exit is located to the west side of the site and feeds into a "L" shaped series of roadways that lead to the leasing office, residential units, and common amenities. Common amenities include one swimming pool, a recently renovated fitness center and clubhouse, an outdoor kitchen area adjacent to the pool, a tennis court, two basketball courts, and a fenced bark park.

Parking is provided by an asphalt surfaced parking loop with double loaded parking lots adjacent to each building. There are 461 total surface parking spaces including 17 designated handicap spaces. There are no garage or carport spaces.

Exterior finishes on all buildings consist of concrete barrel tile roofs, wood fascia, painted drywall and stucco soffits and stucco clad

concrete masonry unit walls. Stairs are concrete filled steel pan stairs with aluminum rails. Balconies, patios, and breezeways are constructed with painted drywall soffits, stucco clad concrete walls with screen enclosures and aluminum rails over concrete floor decks at all levels. Ground floor patios are provided with screen doors.

Interior finishes are typical apartment grade finishes consisting of painted gypsum walls and ceilings, wood base, carpet and vinyl tile floors and laminate cabinets with laminate or cultured stone tops. Ground floor units have ceramic tile flooring. Approximately 34 units have been upgraded since original construction. The upgrades vary significantly in finish and appliance package from unit to unit for the same unit type depending on when the upgrade was performed.

The PCA identifies immediate needs totaling \$87,630 and short term needs (10 years) totaling \$3,218,249. Utilizing a 3% escalation rate, the short term needs total \$3,672,074 or \$13,702 per unit.

The immediate needs are identified as follows:

- Immediate repair of the paving is recommended at walk damage on the property in order to minimize expansion of the damage and eliminate the trip hazards.
- The irrigation pump housing cover is damaged and partially missing. Replacement with a new prefinished metal cover with lock is recommended.
- Dress grading is recommended to occur with gutter installation to coordinate drainage with new roof drainage systems in order to correct some of the drainage issues.
- Two small areas of paver settlement were noted at the pool deck adjacent to the bond beam. Repair is recommended to prevent expansion of damage.
- Roofs are in poor condition and require regular repair and maintenance. Replacement of the roofs is recommended in year 1.
- Spalling of the concrete entry breezeways and patios is occurring. Immediate repair to seal the spalled areas and replace the concrete cover is recommended to prevent expansion of the damage.

- Installation of smoke detectors in all bedrooms is recommended per current Florida Code.

First Housing has received confirmation from the Applicant that all of the above immediate needs are included in the current renovation scope of work.



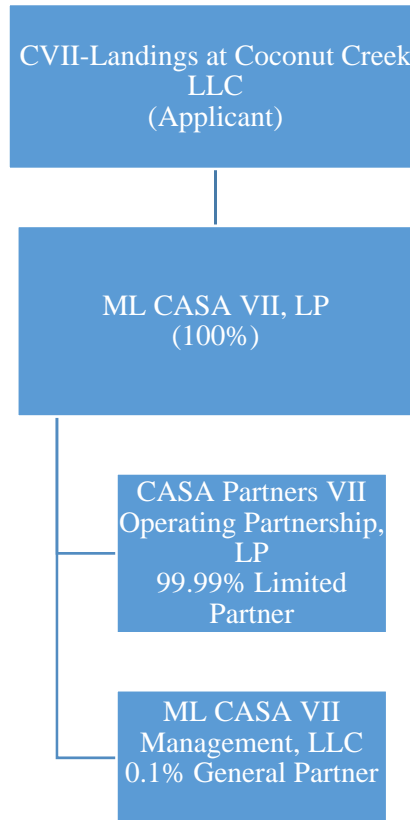
**Applicant Information**

Applicant: CVII-Landings at Coconut Creek LLC

FEI#: 82-2212888

Type: A Foreign Limited Liability Company

Ownership Structure:



CVII-Landings at Coconut Creek LLC was formed on July 25, 2017. The Applicant is currently trying to admit ML CASA VII, LP as the Sole Member, with 100% interest in the Applicant. The Developer is TH Real Estate. First Housing recommends that the above ownership structure be verified as the Developer is currently reviewing and modifying the organizational documents.

Contact

Person: Michael Gilmartin  
333 W. Wacker Drive, Suite 2800  
Chicago, IL 60606  
(312) 507-5704 Telephone

**Experience:** TH Real Estate is a global real estate investment manager with over 20 offices around the world. As a multifamily investor, THRE owns approximately 188 apartment properties including over 51,000 units under operation. The firm has a long track record in the multifamily area, spreading over 34 metropolitan statistical areas in the continental United States.

THRE has participated extensively in bond financing programs throughout the country. Currently THRE owns five affordable multifamily properties in the State of Florida.

**Financial**

**Statements:** First Housing reviewed the following balance sheet for CASA Partners VII Operating Partnership, LP:

CASA Partners VII Operating Partnership, LP Balance Sheet September 2017	
Cash & Equivalents	\$7,370,753
Total Assets	\$343,520,650
Total Liabilities	\$129,625,302
Total Equity	\$213,895,348

**Summary:** Based upon its review of the Financial Statements, First Housing concludes that the principals in the Applicant have the requisite financial strength to renovate and operate the Development.

**Guarantor Information**

- Guarantor Name: Guarantees will be provided by Guarantors deemed acceptable to Bank of America, N.A.
- Nature of the Guarantees: The Guarantors will sign an environmental indemnification in form and substance acceptable to BoA. First Housing recommends that the HFA be a beneficiary of BoA's environmental indemnification with a guarantor that is acceptable to BoA.
- Financial Statements: Financial Statements for the Guarantors were summarized in the "Applicant Information" section.
- Summary: The Guarantor through their parent organizational structure appear to have the capacity to support the guarantees.

## **General Contractor Information**

The Applicant is intending to execute individual subcontracts for the scope of work instead of one main general construction contract. As of this time, the Applicant is still bidding the cost of the work and did not provide any executed contracts for review.

**Property Management Information**

Management

Company: ZRS Management, LLC

FEI: 27-2754743

Contact: Steven Buck, President  
2001 Summit Park Drive, Suite 300  
Orlando, FL 32810  
(407) 644-6300 Telephone

Experience: ZRS is a Florida Limited Liability company originally formed in 1991 to manage high quality multifamily communities. In 2010, ZRS became a stand-alone third party management company. Currently, ZRS manages over 30,000 units for various institutional clients, partnerships, and individual owners. ARS has experience in managing quality garden-style apartments, urban mixed-use projects, and luxury, high rise buildings.

Currently, ZRS actively manages nine affordable housing complexes or over 3,400 units in the State of Florida. Six of the nine affordable housing complexes or 2,189 units are in South Florida.

Management

Agreement: First Housing received a final executed Management Agreement, dated July 28, 2017, between CVII – Landings at Coconut Creek LLC and ZRS. The Agreement reflects a management fee of 3% of the gross monthly income.

Summary: The management company’s principals have an acceptable amount of experience in the management of affordable multifamily housing.

**Broward County HFA Readiness Review Report**

**FHDC**

FINANCIAL COSTS:		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	
<b>OPERATING PRO FORMA</b>																	
<b>INCOME:</b>	Gross Potential Rental Income	\$4,015,668	\$4,095,981	\$4,177,901	\$4,261,459	\$4,346,688	\$4,433,622	\$4,522,294	\$4,612,740	\$4,704,995	\$4,799,095	\$4,895,077	\$4,992,978	\$5,092,838	\$5,194,695	\$5,298,589	
	Other Income																
	Ancillary Income	\$147,400	\$150,348	\$153,355	\$156,422	\$159,551	\$162,742	\$165,996	\$169,316	\$172,703	\$176,157	\$179,680	\$183,273	\$186,939	\$190,678	\$194,491	
	Miscellaneous	\$149,800	\$152,796	\$155,852	\$158,969	\$162,148	\$165,391	\$168,699	\$172,073	\$175,515	\$179,025	\$182,605	\$186,257	\$189,983	\$193,782	\$197,658	
	Gross Potential Income	\$4,312,868	\$4,399,125	\$4,487,108	\$4,576,850	\$4,668,387	\$4,761,755	\$4,856,990	\$4,954,130	\$5,053,212	\$5,154,276	\$5,257,362	\$5,362,509	\$5,469,759	\$5,579,155	\$5,690,738	
	Less:																
	Economic Loss Percentage: 1.80%	\$77,817	\$79,373	\$80,961	\$82,580	\$84,232	\$85,916	\$87,635	\$89,387	\$91,175	\$92,999	\$94,858	\$96,756	\$98,691	\$100,665	\$102,678	
	Physical Vac. Loss Percentage: 3.00%	\$129,386	\$131,974	\$134,613	\$137,306	\$140,052	\$142,853	\$145,710	\$148,624	\$151,596	\$154,628	\$157,721	\$160,875	\$164,093	\$167,375	\$170,722	
	Collection Loss Percentage: 2.00%	\$86,257	\$87,983	\$89,742	\$91,537	\$93,368	\$95,235	\$97,140	\$99,083	\$101,064	\$103,086	\$105,147	\$107,250	\$109,395	\$111,583	\$113,815	
	<b>Total Effective Gross Income</b>	<b>\$4,019,408</b>	<b>\$4,099,796</b>	<b>\$4,181,792</b>	<b>\$4,265,428</b>	<b>\$4,350,736</b>	<b>\$4,437,751</b>	<b>\$4,526,506</b>	<b>\$4,617,036</b>	<b>\$4,709,377</b>	<b>\$4,803,564</b>	<b>\$4,899,635</b>	<b>\$4,997,628</b>	<b>\$5,097,581</b>	<b>\$5,199,532</b>	<b>\$5,303,523</b>	
<b>EXPENSES:</b>	Fixed:																
	Real Estate Taxes	\$819,000	\$843,570	\$868,877	\$894,943	\$921,792	\$949,445	\$977,929	\$1,007,267	\$1,037,485	\$1,068,609	\$1,100,668	\$1,133,688	\$1,167,698	\$1,202,729	\$1,238,811	
	Insurance	\$167,500	\$172,525	\$177,701	\$183,032	\$188,523	\$194,178	\$200,004	\$206,004	\$212,184	\$218,550	\$225,106	\$231,859	\$238,815	\$245,979	\$253,359	
	Variable:																
	Management Fee Percentage: 3.00%	\$120,582	\$124,200	\$127,926	\$131,763	\$135,716	\$139,788	\$143,981	\$148,301	\$152,750	\$157,332	\$162,052	\$166,914	\$171,921	\$177,079	\$182,391	
	General and Administrative	\$67,000	\$69,010	\$71,080	\$73,213	\$75,409	\$77,671	\$80,002	\$82,402	\$84,874	\$87,420	\$90,042	\$92,744	\$95,526	\$98,392	\$101,344	
	Payroll Expenses	\$361,800	\$372,654	\$383,834	\$395,349	\$407,209	\$419,425	\$432,008	\$444,968	\$458,317	\$472,067	\$486,229	\$500,816	\$515,840	\$531,315	\$547,255	
	Utilities	\$187,600	\$193,228	\$199,025	\$204,996	\$211,145	\$217,480	\$224,004	\$230,724	\$237,646	\$244,775	\$252,119	\$259,682	\$267,473	\$275,497	\$283,762	
	Marketing and Advertising	\$40,200	\$41,406	\$42,648	\$43,928	\$45,245	\$46,603	\$48,001	\$49,441	\$50,924	\$52,452	\$54,025	\$55,646	\$57,316	\$59,035	\$60,806	
	Maintenance and Repairs/Pest Control	\$147,400	\$151,822	\$156,377	\$161,068	\$165,900	\$170,877	\$176,003	\$181,283	\$186,722	\$192,324	\$198,093	\$204,036	\$210,157	\$216,462	\$222,956	
Contract Services	\$160,800	\$165,624	\$170,593	\$175,711	\$180,982	\$186,411	\$192,004	\$197,764	\$203,697	\$209,808	\$216,102	\$222,585	\$229,262	\$236,140	\$243,224		
Reserve for Replacements	\$80,400	\$80,400	\$80,400	\$80,400	\$80,400	\$80,400	\$80,400	\$80,400	\$80,400	\$80,400	\$82,812	\$85,296	\$87,855	\$90,491	\$93,206		
<b>Total Expenses</b>	<b>\$2,152,282</b>	<b>\$2,214,439</b>	<b>\$2,278,460</b>	<b>\$2,344,402</b>	<b>\$2,412,322</b>	<b>\$2,482,279</b>	<b>\$2,554,336</b>	<b>\$2,628,554</b>	<b>\$2,704,998</b>	<b>\$2,783,736</b>	<b>\$2,867,248</b>	<b>\$2,953,266</b>	<b>\$3,041,864</b>	<b>\$3,133,120</b>	<b>\$3,227,113</b>		
<b>Net Operating Income</b>	<b>\$1,867,125</b>	<b>\$1,885,357</b>	<b>\$1,903,332</b>	<b>\$1,921,026</b>	<b>\$1,938,414</b>	<b>\$1,955,471</b>	<b>\$1,972,170</b>	<b>\$1,988,482</b>	<b>\$2,004,378</b>	<b>\$2,019,828</b>	<b>\$2,032,387</b>	<b>\$2,044,362</b>	<b>\$2,055,717</b>	<b>\$2,066,413</b>	<b>\$2,076,410</b>		
<b>Debt Service Payments</b>																	
First Mortgage -	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	\$1,696,200	
<b>Total Debt Service Payments</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>	<b>\$1,696,200</b>		
<b>Cash Flow after Debt Service</b>	<b>\$170,925</b>	<b>\$189,157</b>	<b>\$207,132</b>	<b>\$224,826</b>	<b>\$242,214</b>	<b>\$259,271</b>	<b>\$275,970</b>	<b>\$292,282</b>	<b>\$308,178</b>	<b>\$323,628</b>	<b>\$336,187</b>	<b>\$348,162</b>	<b>\$359,517</b>	<b>\$370,213</b>	<b>\$380,210</b>		
<b>Debt Service Coverage Ratios</b>																	
DSC - First Mortgage plus Fees	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.21	1.22	1.22		
DSC - All Mortgages and Fees	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.21	1.22	1.22		
<b>Financial Ratios</b>																	
Operating Expense Ratio	53.55%	54.01%	54.49%	54.96%	55.45%	55.94%	56.43%	56.93%	57.44%	57.95%	58.52%	59.09%	59.67%	60.26%	60.85%		
Break-even Economic Occupancy Ratio (all debt)	89.44%	89.07%	88.73%	88.40%	88.10%	87.82%	87.55%	87.30%	87.07%	86.86%	86.72%	86.59%	86.48%	86.39%	86.31%		

## **ATTACHMENT 3**

**RESOLUTION NO. 2017-012**

A meeting of the Housing Finance Authority of Broward County, Florida was held at 5:30 p.m. on November 15, 2017, at 110 Northeast Third Street, Suite 300, Fort Lauderdale, Florida.

Present: \_\_\_\_\_

Absent: \_\_\_\_\_

\* \* \* \* \*

Thereupon, \_\_\_\_\_ introduced the following resolution which was

read:

**A RESOLUTION OF THE HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA (THE "HOUSING FINANCE AUTHORITY") AUTHORIZING THE ISSUANCE OF ITS NOT TO EXCEED \$33,000,000 MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2017 (THE LANDINGS AT COCONUT CREEK) (THE "BONDS") FOR THE PURPOSE OF FINANCING THE ACQUISITION, REHABILITATION AND EQUIPPING OF THE LANDINGS AT COCONUT CREEK LOCATED IN BROWARD COUNTY, FLORIDA (THE "PROJECT"); ESTABLISHING PARAMETERS FOR THE AWARD OF THE SALE THEREOF AND ESTABLISHING CRITERIA FOR DETERMINING THE TERMS THEREOF, INCLUDING INTEREST RATES, INTEREST PAYMENT DATES, MATURITY SCHEDULE AND OTHER TERMS OF SUCH BONDS; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF (I) A TRUST INDENTURE BY AND BETWEEN THE HOUSING FINANCE AUTHORITY AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS TRUSTEE (THE "TRUSTEE"); (II) A LOAN AGREEMENT BY AND BETWEEN THE HOUSING FINANCE AUTHORITY AND CVII - LANDINGS AT COCONUT CREEK LLC, AS BORROWER (THE "BORROWER"); (III) A LAND USE RESTRICTION AGREEMENT BY AND AMONG THE HOUSING FINANCE AUTHORITY, THE TRUSTEE AND THE BORROWER; (IV) AN ASSIGNMENT OF BOND MORTGAGE DOCUMENTS BY THE HOUSING FINANCE AUTHORITY TO THE TRUSTEE; (V) A PLACEMENT AGENT AGREEMENT BY AND BETWEEN THE HOUSING FINANCE AUTHORITY AND RBC CAPITAL MARKETS, LLC AND RAYMOND JAMES & ASSOCIATES, INC.; AND (VI) A TRUSTEE FEE AGREEMENT BY AND BETWEEN THE HOUSING FINANCE AUTHORITY AND THE TRUSTEE; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY BY THE HOUSING**



**FINANCE AUTHORITY OF CERTAIN ADDITIONAL AGREEMENTS, INSTRUMENTS, CERTIFICATIONS AND AFFIDAVITS NECESSARY OR DESIRABLE IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AUTHORIZING THE APPOINTMENT OF THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. AS THE TRUSTEE, REGISTRAR AND PAYING AGENT; WAIVING THE FEE FOR SERVICES RELATED TO THE HOUSING FINANCE AUTHORITY'S ANNUAL AUDIT OF THE PROJECT; AUTHORIZING THE PROPER OFFICERS OF THE HOUSING FINANCE AUTHORITY TO DO ALL THINGS NECESSARY OR ADVISABLE IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE FOR THIS RESOLUTION.**

**WHEREAS**, the Housing Finance Authority of Broward County, Florida (the "Housing Finance Authority") is empowered under (i) the laws of the State of Florida, including the Florida Housing Finance Authority Law, Florida Statutes, Sections 159.601 through 159.623, as amended (the "Act"), and (ii) Ordinance 79-41 enacted by the Board of County Commissioners of Broward County, Florida (the "Board") on June 20, 1979 (the "Ordinance"), as amended, to issue multifamily housing revenue bonds; and

**WHEREAS**, the Housing Finance Authority is authorized under the Act to issue its revenue bonds for the purpose of paying the cost of a "qualifying housing development" within the meaning of the Act which includes the acquisition, construction and rehabilitation of multifamily housing developments; and

**WHEREAS**, the Housing Finance Authority desires to issue multifamily housing revenue bonds in an amount not to exceed \$33,000,000 (the "Bonds") for the purpose of financing the acquisition, rehabilitation and equipping of an existing 268-unit multifamily residential rental housing development located in Coconut Creek, Broward County, Florida, known as The Landings at Coconut Creek (the "Project"); and

**WHEREAS**, CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company (the "Borrower"), has requested the Housing Finance Authority to issue its Bonds, the proceeds of which will be used to make a loan to the Borrower (the "Loan") to finance the acquisition, rehabilitation and equipping of the Project; and

**WHEREAS**, the Housing Finance Authority will enter into a Trust Indenture (the "Indenture") by and between the Housing Finance Authority and The Bank of New York Mellon Trust Company, N.A., a national banking association, as trustee (the "Trustee"), in substantially the form attached hereto as Exhibit "A", for the purpose of setting forth the terms, conditions and covenants (i) upon which the Housing Finance Authority will issue the Bonds, and (ii) that are necessary to secure the Bonds and protect the rights of the holders of the Bonds; and

**WHEREAS**, the Housing Finance Authority shall enter into a Loan Agreement, by and between the Housing Finance Authority and the Borrower, in substantially the form attached hereto as Exhibit "B", to evidence the terms and conditions of the Loan; and

**WHEREAS**, the Housing Finance Authority shall enter into a Land Use Restriction Agreement by and among the Housing Finance Authority, the Borrower and the Trustee in substantially the form attached hereto as Exhibit "C", to evidence the terms and conditions upon which the Borrower shall maintain and operate the Project; and

**WHEREAS**, the Housing Finance Authority shall enter into an Assignment of Bond Mortgage Documents made by the Housing Finance Authority to and in favor of the Trustee, in substantially the form attached hereto as Exhibit "D", pursuant to which the Housing Finance Authority will assign to the Trustee its rights in the mortgage securing the Project and various other documents securing the Loan; and

**WHEREAS**, the Housing Finance Authority shall enter into a Placement Agent Agreement by and between the Housing Finance Authority and RBC Capital Markets, LLC and Raymond James & Associates, Inc., as placement agents (collectively, the “Placement Agents”), in substantially the form attached hereto as Exhibit “E”, to evidence the Placement Agents’ responsibilities and obligations to the Housing Finance Authority in connection with the issuance of the Bonds; and

**WHEREAS**, the Housing Finance Authority shall enter into a Trustee Fee Agreement by and between the Housing Finance Authority and the Trustee, in substantially the form attached hereto as Exhibit “F”, to evidence the Trustee’s obligations and responsibilities in connection with the issuance of the Bonds and the fees payable to Trustee for its performance thereunder; and

**WHEREAS**, within Broward County, Florida (the “County”) there is a shortage of housing available at prices or rentals which many persons and families can afford and a shortage of capital for investment in such housing. This shortage constitutes a threat to the health, safety, morals and welfare of the residents of the County, deprives the County of an adequate tax base, and causes the County to make excessive expenditures for crime prevention and control, public health, welfare and safety, fire and accident protection, and other public services and facilities; and

**WHEREAS**, the shortage of capital and housing cannot be relieved except through the encouragement of investment by private enterprise and the stimulation of construction and rehabilitation of housing through the use of public financing; and

**WHEREAS**, the Project and the financing thereof will assist in alleviating the shortage of housing in the County and of capital for investment therein, will serve the purposes of the Act and the Project will constitute a “qualified housing development” under the Act; and

**WHEREAS**, the Housing Finance Authority desires to authorize the execution and delivery of any other documents, instruments, certificates and affidavits to be executed in connection with the issuance of the Bonds; and

**WHEREAS**, the Housing Finance Authority is not obligated to pay the Bonds except from the proceeds derived from the repayment of the Loan and other payments received from the Borrower or from other security pledged therefor pursuant to the Indenture. Neither the faith and credit nor the taxing power of the Housing Finance Authority, the County or the State of Florida (the "State") or any other political subdivision thereof is pledged to the payment of the principal of or the interest on the Bonds; and

**WHEREAS**, the Housing Finance Authority intends to negotiate the sale of the Bonds with the Purchaser as hereinafter provided, on terms substantially similar to those set forth in the Term Sheet attached hereto as Exhibit "G". Additionally, prior to the sale of the Bonds, the Purchaser shall provide to the Trustee an executed investor letter in the form required by and attached to the Indenture; and

**WHEREAS**, pursuant to the authorization provided in Resolution No. 2017-007 of the Housing Finance Authority, and as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), a notice of public hearing inviting written and oral comments and discussions concerning the issuance of the Bonds was published in the *Sun Sentinel*, a newspaper of general circulation, on October 10, 2017, which date is at least 14 days prior to the date of such hearing; and

**WHEREAS**, on October 25, 2017, a public hearing concerning the issuance of the Bonds in an aggregate face amount of not to exceed \$33,000,000 to finance the Project was held by the Housing Finance Authority; and

**WHEREAS**, the Housing Finance Authority received from the State of Florida Division of Bond Finance an allocation of 2015 private activity bond volume cap in the amount of \$87,471,890, which has been carried forward pursuant to Section 145(f) of the Code and designated for the issuance of bonds for qualified residential rental projects; and

**WHEREAS**, the Ordinance requires that all contracts of the Housing Finance Authority in connection with the issuance of the Bonds be approved by the Board.

**NOW THEREFORE, BE IT RESOLVED BY THE HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA:**

Section 1.     Declaration of Findings. The Housing Finance Authority hereby finds, determines and declares the matters hereinabove set forth.

Section 2.     Authorization of the Bonds. The Housing Finance Authority hereby authorizes, under the authority of the Act and the Ordinance, and subject to the terms as hereinafter set forth, the issuance of the Bonds to be designated “Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek)” in an aggregate principal amount of not to exceed \$33,000,000.

Section 3.     Details of the Bonds. The Bonds shall be issued under and secured by the Indenture, by which reference is hereby incorporated into this Resolution as if set forth in full herein. The proceeds of the Bonds, together with any commitment fees, shall be applied as provided in the Indenture, and the Bonds shall mature in the years and in the amounts, bear interest at such rates, be subject to redemption and shall have such other characteristics as shall be provided in the Indenture.

Section 4.     The Bonds are Special Obligations of the Housing Finance Authority. The Bonds are special obligations of the Housing Finance Authority which are payable solely from moneys

derived under the Indenture and the Loan Agreement. The Bonds, together with the interest thereon, are limited obligations of the Housing Finance Authority and neither the Housing Finance Authority, the County, the State, nor any political subdivision thereof, shall be obligated to pay the Bonds or the interest thereon or other costs or payments incident thereto, except from the aforementioned revenues and receipts and neither the faith and credit nor the taxing power of the County or the State or any political subdivision thereof is pledged to the payment of the Bonds or the interest thereon or other costs or payments incident thereto. The Housing Finance Authority has no taxing power. The Bonds and obligations arising thereunder do not create or reflect liability of the Housing Finance Authority or any member, official or employee thereof, except as otherwise described in this Section 4.

Section 5.       Execution of Bonds. The Chair or Vice Chair and Secretary or Assistant Secretary of the Housing Finance Authority are hereby authorized and directed to execute by manual or facsimile signature, and place the seal of the Housing Finance Authority, in manual or facsimile form, on the Bonds. The Bonds shall be in substantially the form set forth in the Indenture, with such changes, modifications and deletions as the officers executing the Bonds, with the advice of Nabors, Giblin & Nickerson, P.A. (“Bond Counsel”) and the County Attorney’s Office of Broward County (the “County Attorney”), may deem necessary and appropriate and as are not inconsistent with the Indenture and this Resolution. The execution and delivery of the Bonds by the aforementioned persons shall be conclusive evidence of the Housing Finance Authority’s approval and authorization thereof.

Section 6.       Authentication and Delivery of Bonds. Upon the execution of the Bonds in substantially the form and manner set forth in the Indenture, the Housing Finance Authority shall deliver the Bonds to the Trustee for authentication, and the Trustee is hereby authorized and directed

to authenticate and deliver said Bonds to the Purchaser, subject to the terms and conditions for delivery set forth in the Indenture.

Section 7. Approval of the Indenture. The form and content of the Trust Indenture by and between the Housing Finance Authority and the Trustee (the "Indenture"), as presented at this meeting and attached hereto as Exhibit "A", is hereby authorized and approved by the Housing Finance Authority, and the Chair or Vice Chair of the Housing Finance Authority is hereby authorized to execute and deliver the Indenture and the Secretary or Assistant Secretary is authorized to place the Housing Finance Authority's seal thereon and attest thereto, in the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of Bond Counsel and the County Attorney, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Housing Finance Authority.

Section 8. Approval of the Loan Agreement. The form and content of the Loan Agreement by and between the Housing Finance Authority and the Borrower (the "Loan Agreement"), as presented at this meeting and attached hereto as Exhibit "B", is hereby authorized and approved by the Housing Finance Authority, and the Chair or Vice Chair of the Housing Finance Authority is hereby authorized to execute and deliver the Loan Agreement and the Secretary or Assistant Secretary is authorized to place the Housing Finance Authority's seal thereon and attest thereto, in the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of Bond Counsel and the County Attorney, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Housing Finance Authority.

Section 9. Approval of the Land Use Restriction Agreement. The form and content of the Land Use Restriction Agreement by and among the Housing Finance Authority, the Borrower and the Trustee (the "Land Use Restriction Agreement"), as presented at this meeting and attached hereto as Exhibit "C", is hereby authorized and approved by the Housing Finance Authority, and the Chair or Vice Chair of the Housing Finance Authority is hereby authorized to execute and deliver the Land Use Restriction Agreement and the Secretary or Assistant Secretary is authorized to place the Housing Finance Authority's seal thereon and attest thereto, in the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of Bond Counsel and the County Attorney, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Housing Finance Authority.

Section 10. Approval of the Assignment. The form and content of the Assignment of Bond Mortgage Documents made by the Housing Finance Authority to and in favor of the Trustee (the "Assignment"), as presented at this meeting and attached hereto as Exhibit "D", is hereby authorized and approved by the Housing Finance Authority, and the Chair or Vice Chair of the Housing Finance Authority is hereby authorized to execute and deliver the Assignment and the Secretary or Assistant Secretary is authorized to place the Housing Finance Authority's seal thereon and attest thereto, in the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of Bond Counsel and the County Attorney, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Housing Finance Authority.

Section 11. Approval of the Placement Agent Agreement. The form and content of the Placement Agent Agreement by and between the Housing Finance Authority and RBC Capital



Markets, LLC and Raymond James & Associates, Inc., as placement agents (the "Placement Agent Agreement"), as presented at this meeting and attached hereto as Exhibit "E", is hereby authorized and approved by the Housing Finance Authority, and the Chair or Vice Chair of the Housing Finance Authority is hereby authorized to execute and deliver the Placement Agent Agreement and the Secretary or Assistant Secretary is authorized to place the Housing Finance Authority's seal thereon and attest thereto, in the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of Bond Counsel and the County Attorney, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Housing Finance Authority.

Section 12. Appointment of Trustee, Registrar and Paying Agent; Approval of the Trustee Fee Agreement. The Bank of New York Mellon Trust Company, N.A., having its designated corporate trust office in Jacksonville, Florida, is hereby appointed Trustee, Registrar and Paying Agent under the Indenture; and the Housing Finance Authority approves the form and content of the Trustee Fee Agreement by and between the Housing Finance Authority and the Trustee (the "Trustee Fee Agreement") presented at this meeting and attached hereto as Exhibit "F". The Chair or Vice Chair of the Housing Finance Authority is hereby authorized to execute and deliver the Trustee Fee Agreement, and the Secretary or Assistant Secretary is authorized to place the Housing Finance Authority's seal thereon and attest thereto, in substantially the form presented at this meeting, with such changes, modifications, deletions and insertions as the Chair or Vice Chair, with the advice of Bond Counsel and the County Attorney, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval thereof by the Housing Finance Authority.

Section 13. Waiver of Audit Fee. The County no longer requires an audit of multifamily developments. Accordingly, the Borrower has requested a waiver of the fee required to be paid by the Borrower for the services of the Housing Finance Authority's auditor to audit the Project and the Bonds annually. The Housing Finance Authority hereby determines that such audit fee is hereby waived in connection with the Project.

Section 14. Sale of Bonds. It is hereby found and determined that due to the characteristics of the financing and the prevailing and anticipated market conditions, it is in the best interest of the Housing Finance Authority to negotiate the sale of the Bonds. The negotiated sale of the Bonds to Bank of America, N.A., a national banking association, or its affiliates, at a price of par pursuant to the terms of the Term Sheet attached hereto as Exhibit "G", is hereby approved. The Chair or Vice Chair and the Secretary or Assistant Secretary are authorized to make any and all changes to the form of the Bonds which shall be necessary to conform the same to the Term Sheet.

Section 15. Certificated Bonds. It is in the best interest of the Housing Finance Authority and the Borrower that the Bonds be issued initially utilizing a certificated form and not initially utilizing a book-entry system of registration.

Section 16. Further Actions and Ratification of Prior Actions. The officers, agents and employees of the Housing Finance Authority and the officers, agents and employees of the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the Bonds, the Indenture, the Loan Agreement, the Land Use Restriction Agreement, the Assignment, the Placement Agent Agreement, the Trustee Fee Agreement (collectively, the "Bond Documents") and this Resolution and to execute and deliver any and all additional documents, agreements, instruments, certificates and affidavits necessary or advisable to effectuate the foregoing. All actions heretofore

undertaken by the officers, agents and employees of the Housing Finance Authority with respect to the provisions of the Bonds and the Bond Documents or the issuance of the Bonds are hereby ratified and approved.

Section 17. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms in the Indenture and the Loan Agreement.

Section 18. Resolution Effective. This Resolution shall take effect immediately upon its passage.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

Upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_,

the foregoing Resolution was adopted by the following votes:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

STATE OF FLORIDA            )  
  )ss:  
COUNTY OF BROWARD        )

I, MILETTE THURSTON, Assistant Secretary of the Housing Finance Authority of Broward County, Florida, DO HEREBY CERTIFY that the foregoing is an accurate copy of the Resolution of the Housing Finance Authority adopted at a meeting held on November 15, 2017, as set forth in the official minutes of the Housing Finance Authority, related in any way to approval of certain actions to be taken in connection with the proposed issuance of the Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek) of the Housing Finance Authority.

I DO HEREBY FURTHER CERTIFY that said meeting was duly called and held in accordance with Chapter 286, Florida Statutes.

WITNESS my hand and the corporate seal of said Housing Finance Authority, this 15th day of November, 2017.

**HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA**

By: \_\_\_\_\_  
MILETTE THURSTON, Assistant Secretary

(SEAL)

**EXHIBIT "A"**

**FORM OF INDENTURE**

**[ATTACHED]**

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
as Issuer

and  
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee

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**TRUST INDENTURE**

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\$ \_\_\_\_\_  
HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS,  
SERIES 2017  
(The Landings at Coconut Creek)

Dated as of December 1, 2017

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## TRUST INDENTURE

**THIS TRUST INDENTURE** (as amended, restated and/or supplemented from time to time, the "Indenture") is made and entered into as of December 1, 2017, by and between the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, a public body corporate and politic duly created, organized and existing under the laws of the State of Florida (together with its successors and assigns, the "Issuer"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, as trustee (the "Trustee").

### WITNESSETH:

WHEREAS, the Florida Housing Finance Authority Law (the "Act"), being Part IV of Chapter 159, Florida Statutes, as amended, provides for the creation of a housing finance authority in each county in the State (the "State") for the purpose of alleviating a shortage of housing available at prices or rental which persons of moderate, middle or lesser income can afford, and a shortage of capital for investment in such housing; and

WHEREAS, in accordance with the provisions of the Act, the Board of County Commissioners of Broward County, Florida enacted Ordinance No. 79-41 (the "Ordinance") determining that there is within Broward County, Florida (the "County") a shortage of affordable housing and capital for investment in such housing, and duly created the Issuer in an attempt to help alleviate such shortages; and

WHEREAS, the proceeds of the Issuer's \$\_\_\_\_\_ Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, 2017 Series \_\_\_ (The Landings at Coconut Creek) (the "Bonds") will be used by the Issuer to fund a loan to the Borrower (as defined below) in order to provide financing for the acquisition, rehabilitation and equipping of a 268-unit multifamily rental housing development owned by the Borrower (as defined below), located in Broward County, Florida, known as The Landings at Coconut Creek and to be occupied by certain eligible tenants (the "Project"); and

WHEREAS, CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company (the "Borrower") is the owner of the Project; and

WHEREAS, pursuant to the Act and the Ordinance, the Issuer has agreed to issue the Bonds and to lend the proceeds of the Bonds to the Borrower (the "Loan") pursuant to a Loan Agreement, dated as of December 1, 2017 (as amended, restated and/or supplemented from time to time, the "Loan Agreement"), between the Issuer and the Borrower to finance a portion of the costs of the acquisition, rehabilitation and equipping of the Project;

NOW, THEREFORE, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the owners thereof, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and

interest on the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, the Issuer does hereby bargain, sell, convey, assign, pledge and grant to the Trustee, without recourse, a security interest in the following (the "Trust Estate"), subject only to the provisions of this Indenture permitting the application thereof to the purposes and on the terms and conditions set forth herein, for the securing of the performance of the obligations of the Issuer hereinafter set forth:

## **GRANTING CLAUSES**

### **FIRST**

All right, title and interest of the Issuer in and to the Loan Agreement, the Loan, the Note, the Mortgage and the other Loan Documents (each as hereinafter defined), including but not limited to all rights to receive payments on the Note and under the other Loan Documents, including all Net Proceeds (as hereinafter defined) of insurance or condemnation awards, and all amendments, modifications, supplements, renewals and restatements of the foregoing, reserving, however, the Reserved Rights (as hereinafter defined);

### **SECOND**

All right, title and interest of the Issuer in and to the funds and accounts under this Indenture except as otherwise provided herein, including investment income, but excluding all moneys in the Costs of Issuance Fund, the Rebate Fund and the Expense Fund (each as hereinafter defined); and

### **THIRD**

All money and securities from time to time held by the Trustee under the terms of this Indenture and all other rights of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred as and for additional security hereunder or under the Loan Agreement to the Trustee by the Issuer or by anyone on its behalf, or with its written consent and to hold and apply the same, subject to the terms hereof.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, to the Trustee and its respective successors in trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future Owners (as hereinafter defined) without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the other Bonds;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds and as provided in

Article VIII hereof according to the true intent and meaning thereof, and shall cause the payments to be made as required under Article V hereof, or shall provide, as permitted hereby, for the payment thereof in accordance with Article VIII hereof, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee and any Paying Agent (as hereinafter defined) all sums of money due or to become due in accordance with the terms and provisions hereof, then upon such final payments or deposits as provided in Article VIII hereof, this Indenture and the rights hereby granted shall cease, terminate and be void and the Trustee shall thereupon cancel and discharge this Indenture and execute and deliver to the Issuer and the Borrower such instruments in writing as shall be requisite to evidence the discharge hereof.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all of the Trust Estate is to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners, from time to time, of the Bonds, or any part thereof, as follows:

## ARTICLE I DEFINITIONS

**Section 1.01. Definitions.** The terms defined in this Article I shall have the meanings provided herein for all purposes of this Indenture, unless the context clearly requires otherwise. In addition, terms used herein and not otherwise defined herein shall have the meaning specified in the Loan Agreement and in the other Bond Documents, as applicable.

*“Act”* shall have the meaning set forth in the recitals to this Indenture.

*“Affiliate”* of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, *“control”* when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by agreement, contract or otherwise; and the terms *“controlling”* and *“controlled”* have meanings correlative to the foregoing.

*“Alternate Security”* means any irrevocable letter of credit, guarantee, surety bond, insurance policy or other form of financial guarantee or credit facility delivered to the Trustee in substitution for a Credit Facility.

*“Authorized Borrower Representative”* means each Person at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such Person and duly signed on behalf of the Borrower.

*“Authorized Denomination”* means, (a) so long as the Bonds are not rated in one of the three highest rating categories by a Nationally Recognized Rating Agency, (i) \$500,000 plus any integral multiple of \$5,000 in excess thereof, and (ii) for purposes of redemption, purchase in lieu, or defeasance, \$5,000 or any integral multiple thereof; provided that no Bond may be Outstanding in an amount less than \$500,000 except the last Bond Outstanding, and (b) while the Bonds are rated within one of the three highest rating categories by any Nationally Recognized Rating Agency, \$5,000 or any integral multiple thereof.

*“Bond Counsel”* means any firm of nationally recognized bond counsel (i) familiar with the transactions contemplated under this Indenture and (ii) approved by the Issuer.

*“Bond Documents”* means this Indenture, any Supplemental Indenture, the Bonds, the Loan Agreement, the Supplemental Agreement, the Land Use Restriction Agreement, the Tax Certificate and all other documents executed and delivered in connection with, or relating to, the Bonds, including all Loan Documents not expressly listed in this definition, all as amended, restated and/or supplemented from time to time.

*“Bond Fund”* means the trust fund by that name created and established pursuant to Section 6.02 of this Indenture, and described in Section 6.03 hereof.

*“Bond Payment Date”* means any Interest Payment Date and any other date on which the principal of, premium, if any, and/or interest on the Bonds is to be paid to the Owners thereof, whether upon redemption, at maturity or upon acceleration of maturity of the Bonds.

*“Bond Year”* means each twelve month period commencing on December 2 and ending on and including the following December 1, except the first period which begins on December \_\_\_, 2017, so long as the Bonds are Outstanding.

*“Bondholder Representative”* shall have the meaning set forth in Section 13.10 of this Indenture.

*“Bonds”* shall have the meaning set forth in the recitals of this Indenture.

*“Borrower”* shall have the meaning set forth in the recitals of this Indenture.

*“Borrower’s Tax Certificate”* means the Borrower’s Tax Certificate dated the Closing Date.

*“Business Day”* means a day other than a Saturday, a Sunday, or a legal holiday on which banks located in the State of Florida or in any city where the Trustee maintains its place of business for performance of its obligations under this Indenture are not open for general banking business.

*“Calculation Period”* means any one of the following: (a) during any Floating Rate Period, each period beginning on and including a Wednesday and ending on and including the earlier of (i) the next following Tuesday, (ii) the day before the next following Fixed Rate Conversion Date, or (iii) the Maturity Date, and (b) each period beginning on and including a Floating Rate Conversion Date and ending on and including the next following Tuesday.

*“Closing Date”* means December \_\_\_, 2017.

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

*“Conversion Date”* means a Floating Rate Conversion Date or a Fixed Rate Conversion Date.

*“Costs of Issuance”* means all fees and reasonable costs and expenses incurred in connection with the issuance of the Bonds within the meaning of Section 147(g) of the Code.

*“Costs of Issuance Fund”* means the fund by that name created and established pursuant to Section 6.02 of this Indenture, and described in Section 6.05 hereof.

*“Credit Facility”* means any irrevocable letter of credit, guarantee, surety bond, insurance policy or other financial guarantee or credit facility delivered by a Credit Facility Provider to the Trustee pursuant to the Loan Documents and the Bond Documents as the same may be hereafter supplemented or amended and, upon acceptance by the Trustee of any Alternate Security delivered in accordance with the Loan Documents and the Bond Documents as the same may be hereafter supplemented or amended, such Alternate Security.

*“Credit Facility Provider”* means the financial institution or other entity which has issued the Credit Facility, if any, including its successors and assigns.

*“Current Bondholder Period”* shall mean the period commencing on the effective date of the Supplemental Agreement and ending on the earlier of (a) the date that the Owners of 100% of the principal amount of Bonds Outstanding agree in writing to terminate the Supplemental Agreement or (b) the first Conversion Date.

*“Default”* and *“Event of Default”* mean any occurrence or event specified in Section 9.01 of this Indenture.

*“Default Rate”* shall mean during the relevant time period the interest rate otherwise due on the Bonds plus 2% per annum using the same day count fraction otherwise applicable to interest on the Bonds pursuant to Section 2.02(d) of this Indenture.



*“Earliest Optional Redemption Date”* means with respect to any Fixed Rate Period (other than the Initial Fixed Rate Period), the Interest Payment Date which is closest to the Midpoint Date.

*“Eminent Domain”* means the taking of property by or on behalf of any governmental authority by means of a condemnation or sale in lieu thereof.

*“Event”* shall have the meaning set forth in Section 3.04 of this Indenture.

*“Event of Default”* shall have the meaning set forth in Section 9.01 of this Indenture.

*“Expense Fund”* means the fund by that name created and established pursuant to Section 6.02 of this Indenture and described in Section 6.10 of this Indenture.

*“Extraordinary Optional Redemption Date”* shall have the meaning set forth in Section 3.04 of this Indenture.

*“Extraordinary Optional Redemption Notice”* shall have the meaning set forth in Section 3.04 of this Indenture.

*“Favorable Tax Opinion”* means an opinion of Bond Counsel stating in effect that the proposed action, waiver, or failure to act or other specified fact, condition or circumstance, together with any other changes with respect to the Bonds made or to be made in connection with such action, waiver or failure to act, or fact, condition, or circumstance, will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes of the recipients thereof.

*“Fixed Rate”* means with respect to any Fixed Rate Period, that rate of interest per annum determined with respect to such Fixed Rate Period pursuant to Section 2.02(a) or 2.02(b)(i) of this Indenture, which may be (but is not required to be) specified as a formula pursuant to which an actual rate of interest is to be determined from time to time during the applicable Fixed Rate Period.

*“Fixed Rate Conversion Date”* means any date, determined in accordance with Section 2.02(b) of this Indenture, on which the Bonds convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate or any date immediately following a Fixed Rate Period as of which the interest rate on the Bonds is reset at a Fixed Rate.

*“Fixed Rate Determination Date”* means a day no later than five (5) Business Days prior to the Fixed Rate Conversion Date on which a Fixed Rate Period begins.

*“Fixed Rate Period”* means the Initial Fixed Rate Period and any period from and including a Fixed Rate Conversion Date to and including the earlier of the day before the next following Conversion Date, if any, or the date of maturity of the Bonds.

*“Floating Rate”* means, with respect to each Calculation Period, that rate of interest per annum calculated with respect to such Calculation Period pursuant to Section 2.02(b)(ii) of this Indenture.

*“Floating Rate Conversion Date”* means any date, determined in accordance with Section 2.02(b) of this Indenture on which the Bonds convert from bearing interest at a Fixed Rate to bearing interest at a Floating Rate.

*“Floating Rate Determination Date”* means, with respect to any Calculation Period, the day on which such Calculation Period begins or, in the event that such day is not a Business Day, the next following Business Day, except as may otherwise be set forth herein.

*“Floating Rate Period”* means the period from and including a Floating Rate Conversion Date to and including the earlier of the day before the next following Fixed Rate Conversion Date, if any, or the date of maturity of the Bonds.

*“Government Obligations”* means direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

*“Indenture”* shall have the meaning set forth in the introductory paragraph of this Indenture.

*“Index Rate”* means, with respect to any Calculation Period, a rate of interest per annum equal to the weekly average dealer taxable commercial paper rate for commercial paper with one-month maturities, as published by the Federal Reserve in Statistical Release H.15 (or any successor publication of the Federal Reserve) on the Monday (or the next succeeding Business Day, if such Monday is not a Business Day) immediately preceding the Floating Rate Determination Date with respect to such Calculation Period.

*“Initial Bondholder”* means Bank of America, N.A. or its Affiliates and any Permitted Transferee during the Current Bondholder Period, and their designees as applicable.

*“Initial Fixed Rate”* shall have the meaning set forth in Section 2.02(a) of this Indenture.

*“Initial Fixed Rate Period”* means the period commencing on the Closing Date and ending on the day before the next following Conversion Date, if any, or the date of maturity of the Bonds.

*“Insurance and Condemnation Proceeds Fund”* means the fund by that name created and established pursuant to Section 6.02 of this Indenture and described in Section 6.11 hereof.

*“Interest Account”* means the account by that name created and established pursuant to Section 6.02 of this Indenture, and described in Section 6.03 hereof.

*“Interest Payment Date”* means (a) during any Fixed Rate Period, including the Initial Fixed Rate Period, each [January 1, April 1, July 1 and October 1] and each Conversion Date, and (b) during any Floating Rate Period, the first (1st) Business Day of each month, and each Conversion Date.

*“Interest Rate Determination Method”* means any of the methods for determining the interest rate on the Bonds described in Section 2.02(b), (c) or (d).

*“Investment Company”* means an open-end diversified management investment company registered under the Investment Company Act of 1940.

*“Investment Grade”* means a credit rating of “BB” or better during any Fixed Rate Period and one of the three highest rating categories during any Floating Rate Period.

*“Investor Letter”* means an Investor Letter substantially in the form attached to this Indenture as Exhibit “C”.

*“Investment Securities”* means any of the following obligations or securities:

- (a) Government Obligations;
- (b) bonds, notes or other obligations rated in one of the two highest Investment Grade ratings available from Moody’s or S & P;
- (c) commercial paper with a rating of P-1 from Moody’s or A-1 from S & P;
- (d) certificates of deposit or time deposits to the extent insured by the Federal Deposit Insurance Corporation, including those issued by the Trustee;
- (e) repurchase agreements with a term not greater than thirty (30) days which are fully secured by obligations of the type specified in (a) above with banks or financial institutions rated in one of the two highest Investment Grade ratings available from Moody’s or S & P; and
- (f) money market mutual funds, including those for which the Trustee or any Affiliate receives compensation with respect to such investment, which are either (i) rated in the highest rating category by a Nationally Recognized Rating Agency; or (ii) comprised in their entirety of Government Obligations.

*“Issuer”* shall have the meaning set forth in the recitals to this Indenture.

*“Issuer’s Closing Fee”* means the (i) Issuer’s one (1) time initial issuance fee in the amount equal to fifty basis points (0.50%) of the original principal amount of the Bonds, for a total of \$\_\_\_\_\_, (ii) Issuer’s indemnification fee of \$20,000, and (iii) Issuer’s counsel fee of \$5,000, all of which shall be payable by the Borrower to the Trustee for payment to the Issuer on the Closing Date from amounts in the [Costs of Issuance Fund] [Expense Fund].

*"Issuer's Fee"* shall mean, collectively, (i) the Issuer's Closing Fee, and (ii) the Ongoing Issuer's Fee.

*"Land Use Restriction Agreement"* means the Land Use Restriction Agreement dated as of December 1, 2017, among the Issuer, the Borrower and the Trustee.

*"Late Payment Rate"* means a per annum rate equal to the rate then borne by the Bonds.

*"Loan"* shall have the meaning set forth in the recitals to this Indenture.

*"Loan Agreement" or "Agreement"* shall have the meaning set forth in the recitals to this Indenture.

*"Loan Documents"* means, collectively, the Land Use Restriction Agreement, the Loan Agreement, the Note, the Mortgage and all other agreements, instruments, documents and certificates evidencing, securing, or relating to any of the aforementioned documents or the Bonds assumed or delivered on behalf of the Borrower (including, without limitation, the Supplemental Agreement during the Current Bondholder Period), all as amended, restated and/or supplemented from time to time.

*"Mail"* means mail by first-class postage prepaid to the Owners of the Bonds at their addresses appearing on the registration books of the Issuer maintained by the Paying Agent.

*"Mandatory Tender"* means the mandatory tender of Bonds pursuant to Section 3.03 of this Indenture.

*"Mandatory Tender Date"* shall have the meaning set forth in Section 3.03(a) of this Indenture.

*"Mandatory Tender Notice"* shall have the meaning set forth in Section 3.03(a) of this Indenture.

*"Maturity Date"* shall have the meaning set forth in Section 2.01 of this Indenture.

*"Maximum Rate"* means the maximum rate of non-usurious interest allowed by applicable law as is now or may hereafter be in effect with respect to the Loan Agreement or the Bonds, or such lower rate as may be specified in a Credit Facility.

*"Midpoint Date"* means with respect to any Fixed Rate Period, the first day which is at least one-half of the number of days in such Fixed Rate Period after the first day of such Fixed Rate Period.

*"Moody's"* means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall for any reason no longer perform the functions of a securities rating agency, *"Moody's"* shall be deemed to refer to any other

Nationally Recognized Rating Agency designated by the Issuer with the approval of the Borrower.

*“Mortgage”* means, collectively, the Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of December 1, 2017 by the Borrower in favor of the Issuer and the [Assignment of Rents and Leases] dated as of December 1, 2017, by the Borrower in favor of the Issuer.

*“Nationally Recognized Rating Agency”* means Moody’s or S & P or such other entity as may be designated as such by the Issuer.

*“Net Proceeds”* means, when used with respect to any insurance proceeds or award resulting from, or other amount received in connection with, casualty or other property damage or any taking by Eminent Domain, the gross proceeds from the insurance or such award or other amount, less all expenses (including attorney’s fees and any extraordinary fee of the Trustee) incurred in the realization thereof.

*“Note”* shall have the meaning assigned to such term in the Loan Agreement.

*“Office of the Trustee”* means the office of the Trustee for delivery of notices and other documents, as specified pursuant to Section 13.08 of this Indenture.

*“Ongoing Issuer’s Fee”* means the annual program administration fee of the Issuer, payable by the Borrower to the Trustee for payment to the Issuer in the amount of eighteen basis points (0.18%) per annum of the aggregate principal amount of Bonds Outstanding (calculated on the Business Day prior to any principal reduction of the Bonds) payable annually in advance on each December 1, with the first payment to be made on the Closing Date; provided, however, that such fee does not include amounts due, if any, for extraordinary services and expenses of the Issuer, the Trustee, Bond Counsel, the Issuer’s counsel, or the Trustee’s counsel to be paid by the Borrower pursuant to the Loan Agreement.

*“Outstanding”* or *“Bonds Outstanding”* or *“Outstanding Bonds”* means, as at any given date, all Bonds which have been authenticated and delivered by the Trustee under this Indenture, except:

- (a) Bonds cancelled at or prior to such date or delivered to or acquired by the Trustee on or prior to such date for cancellation;
- (b) Bonds deemed to be paid in accordance with Article VIII of this Indenture; and
- (c) Bonds in lieu of which other Bonds have been authenticated under Section 2.08 hereof.

*“Owner”* or *“Owners”* means the Person or Persons in whose name any Bond is registered on the books maintained by the Trustee.

*“Paying Agent”* means the Trustee and any successor Paying Agent designated pursuant to this Indenture. *“Principal Office of the Paying Agent”* means the office designated as such by the Paying Agent in writing to the Issuer, the Borrower and the Trustee.

*“Permitted Transferees”* means (a) any entity (including without limitation, any trust or custodial arrangement) either directly or indirectly controlled (*“control”*, in the case of a trust or other entity, meaning operating control in the ordinary course of business), or established by Bank of America, N.A., or one of its Affiliates (collectively, *“Bank of America”*), and in which all beneficial ownership interests (other than those owned by Bank of America) are owned by Sophisticated Investors, (b) any Sophisticated Investor in compliance with Section 2.09 hereof; or (c) the Borrower pursuant to Section 3.06 hereof.

*“Person”* means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust, government or any agency or political subdivision thereof, or any other form of entity.

*“Principal Account”* means the account by that name created and established pursuant to Section 6.02 of this Indenture, and described in Section 6.03 hereof.

*“Project”* shall have the meaning set forth in the recitals to this Indenture.

*“Project Account”* means the account by that name created and established pursuant to Section 6.02 of this Indenture, and described in Section 4.02(b) hereof.

*“Project Costs”* mean:

(a) The costs of architectural and engineering services related to the Project, including, without limitation, the costs of preparation of studies, surveys, reports, tests, plans and specifications;

(b) The costs of legal, accounting, marketing and other special services related to the Project;

(c) Fees and charges incurred in connection with applications to federal, state and local governmental agencies for any requisite approval or permits regarding the acquisition and rehabilitation of the Project;

(d) Costs incurred in connection with the acquisition of the site for the Project, including any necessary rights-of-way, easements or other interests in real or personal property;

(e) Costs incurred in connection with the acquisition, rehabilitation, improvement or extension of the buildings, structures and facilities comprising the Project;

(f) Costs incurred in connection with the acquisition and installation of any machines, equipment, appliances, fixtures, appurtenances or personal property of any kind or nature (including equipment for cooking, heating and refrigeration), which are to comprise a part of the Project;

(g) Premiums for any necessary title, casualty and other insurance which the Issuer or the Initial Bondholder required to be purchased in connection with the Project;

(h) The costs of such other items, including credit enhancement/liquidity fees or fees and expenses relating to any reimbursement agreement relating to credit enhancement/liquidity; and

(i) Other costs and expenses relating to the Project which were incurred for the purpose of providing Rental Housing (as defined below) and facilities functionally related and subordinate thereto.

Project Costs do not include costs and expenses relating to the acquisition of construction equipment.

*“Purchase Date”* means any date on which the Bonds are subject to optional or mandatory tender and purchase in accordance with the terms of this Indenture.

*“Purchase in Lieu of Redemption Date”* shall have the meaning set forth in Section 3.06(a) of this Indenture.

*“Purchase Price”* (a) with respect to an optional tender, shall have the meaning set forth in Section 3.01(a), or (b) with respect to a mandatory tender, shall have the meaning set forth in Section 3.03(a)(ii) of this Indenture.

*“Qualified Project Costs”* mean Project Costs, but only to the extent that such costs (a) are costs paid for a qualified residential rental project within the meaning of the Code and (b) were paid or incurred by Borrower not more than sixty (60) days prior to September 20, 2017, being the date the Issuer first adopted a Resolution indicating its “official intent” (within the meaning of Treasury Regulations Section 1.150-2) to issue the Bonds and only to the extent that such costs are chargeable to the capital account of Borrower or would be so chargeable either with a proper election by Borrower or but for a proper election by Borrower to deduct such costs, within the meaning of Treasury Regulation §1.103-8(a)(1), as the same may be amended or supplemented from time to time.

*“Rebatable Arbitrage”* shall have the meaning set forth in Section 6.12 of this Indenture.

*"Rebate Analyst"* means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code selected by and at the expense of the Borrower to make the computations required under this Indenture and the Loan Agreement.

*"Rebate Fund"* means the fund by that name created and established pursuant to Section 6.02 of this Indenture, and described in Section 6.12 hereof.

*"Rebate Regulations"* means the Treasury Regulations issued under Section 148(f) of the Code.

*"Rebate Requirement"* shall have the meaning set forth in Section 6.12 of this Indenture.

*"Record Date"* means (a) during any Floating Rate Period, the day next preceding any Interest Payment Date, (b) during any Fixed Rate Period other than the Initial Fixed Rate Period, the fifteenth (15th) day of the month preceding any Interest Payment Date, and (c) during the Initial Fixed Rate Period, the Business Day immediately preceding any Interest Payment Date.

*"Remarketing Agent"* means any entity appointed in accordance with Section 10.23(a) of this Indenture.

*"Remarketing Agreement"* means any remarketing agreement executed in connection with the remarketing of the Bonds, including but not limited to the agreement contemplated by Section 10.23(a) hereof, as amended, restated and/or supplemented from time to time.

*"Rental Housing"* means housing units made available for rental, and not ownership, by eligible tenants who are members of the general public, consisting of buildings or structures each containing one or more similarly constructed units or one or more proximate buildings or structures which have similarly constructed units (including all such buildings owned for federal tax purposes by the same Person and financed pursuant to a common plan), each of which units shall contain complete living facilities which are to be used other than on a transient basis and facilities which are functionally related and subordinate to the living facilities. Such buildings and structures shall at all times be constructed and maintained in accordance with the applicable building code standards within the County.

*"Requisition"* means a requisition for the purposes described in Section 4.02 hereof, a form of which is attached hereto as Exhibit D.

*"Reserved Rights"* means those certain rights of the Issuer under the Loan Agreement to indemnification and to payment or reimbursement of fees and expenses of the Issuer, its right to inspect and audit the books, records and premises of the Borrower and of the Project, its right to collect attorneys' fees and related expenses, its right to enforce the Borrower's covenant to comply with applicable federal tax law and State law (including the Act and the rules of the Issuer, if any), its right to receive notices under the Loan Agreement, its right to enforce the



Land Use Restriction Agreement, and all rights of the Issuer not otherwise assigned to the Trustee to enforce the representations, warranties, covenants and agreements of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or any requirements imposed by the Issuer with respect to the Project, or necessary to assure that interest on the Bonds is excluded from gross income for federal income tax purposes, as are set forth in any of the documents executed in connection with the Bonds or the Loan or in any other certificate or agreement executed by the Borrower.

*“Responsible Officer of the Trustee”* means any officer in the Office of the Trustee with direct responsibility for the Trustee’s performance under and as contemplated by this Indenture and also, with respect to a particular matter, any other officer of the Trustee to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

*“Restoration”* shall have the meaning set forth in Section 4.04(a) of the Loan Agreement.

*“Revenues”* means all moneys paid or payable to the Trustee in accordance with the Loan Agreement, the Loan and the Note, including any moneys derived from a Credit Facility, to pay principal of the Bonds upon redemption, at maturity or upon acceleration of maturity, or to pay interest on the Bonds when due, and all receipts credited under the provisions of this Indenture against such payments.

*“S & P”* means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall for any reason no longer perform the functions of a securities rating agency, *“S & P”* shall be deemed to refer to any other Nationally Recognized Rating Agency designated by the Issuer with the approval of the Borrower.

*“Securities Act”* means the United States Securities Act of 1933, as amended.

*“Sophisticated Investor”* means a “qualified institutional buyer” as that term is defined under Rule 144A of the Securities Act or an “accredited investor” as that term is defined in Rule 501 of Regulation D of the Securities Act.

*“Special Record Date”* means a day that is the tenth (10th) day next preceding the date of mailing of notice of redemption of Bonds or, if such day is not a Business Day, the next preceding Business Day.

*“State”* means the State of Florida.

*“Supplemental Agreement”* means that certain Supplemental Agreement dated as of December 1, 2017 between the Initial Bondholder and the Borrower, as amended restated and/or supplemented from time to time.

*"Supplemental Indenture"* means any supplemental indenture supplementing this Indenture pursuant to Article XII hereof.

*"Tax Certificate"* means, collectively, the Certificate As To Arbitrage and Certain Other Tax Matters executed by the Issuer, that certain Arbitrage Rebate Agreement by and among the Issuer, the Borrower and the Trustee and the Borrower's Tax Certificate, each dated the Closing Date.

*"Tender Agent"* means the entity appointed or serving as Tender Agent pursuant to Section 10.23(b) hereof in connection with the tender and purchase of Bonds pursuant to the terms of this Indenture and the Remarketing Agreement, if any.

*"Tender Date"* means the first (1st) day of any Floating Rate Period and any Fixed Rate Period other than the Initial Fixed Rate Period.

*"Total Destruction"* means damage or destruction to the Project that involves estimated Restoration costs of more than 50% of the actual replacement value of the improvements constituting the Project immediately prior to such damage or destruction, such estimates to be in the good faith judgment of the Borrower (as evidenced by a certificate of an Authorized Borrower Representative delivered to the Trustee and consented to by the Owners during the Initial Fixed Rate Period).

*"Total Taking"* means an event whereby title to the entire Project shall be taken by Eminent Domain, or in the event that title to such a substantial part of the Project shall be taken by Eminent Domain, whereby in the good faith judgment of the Borrower (as evidenced by a certificate of an Authorized Borrower Representative delivered to the Trustee) the portion of the Project remaining after such Eminent Domain is unsuitable for use by the Borrower in the operation of its business.

*"Trust Estate"* shall have the meaning set forth in the paragraph immediately preceding the granting clauses of this Indenture.

*"Trustee"* shall have the meaning set forth in the introductory paragraph to this Indenture.

*"Trustee's Fee"* shall mean the Trustee's initial acceptance fee of \$1,000 plus fees and expenses of its counsel in conjunction with the issuance of the Bonds and the ongoing compensation and expenses payable to the Trustee as follows:

- (a) the annual administration fees of the Trustee, as Trustee, Registrar, Paying Agent, Dissemination Agent and the Rebate Analyst, for the Ordinary Services of the Trustee rendered under this Indenture during each twelve (12)-month period shall be \$3,750 per annum, with the initial annual fee of \$3,750 payable in advance on the Closing Date, and subsequent annual fees payable in semiannual installments of \$1,875

in advance on each June 15 and December 15 thereafter, commencing December 15, 2018;

(b) the reasonable fees and charges of the Trustee for necessary Extraordinary Services rendered by it and/or reimbursement for Extraordinary Expenses incurred by it under this Indenture as and when the same become due, including reasonable fees and expenses of legal counsel and internal default administrators (including fees prior to litigation, at trial, in insolvency proceedings or for appellate proceedings); provided, however, that the Trustee shall not be required to undertake any such Extraordinary Services unless provision for payment of Extraordinary Expenses satisfactory to the Trustee shall have been made; and

(c) for purposes of the Loan Agreement, indemnification of the Trustee by the Borrower.

*“Undelivered Bond”* means a Bond which is deemed purchased pursuant to the Mandatory Tender provisions of this Indenture, but which has not been presented to the Trustee by the holder thereof.

**Section 1.02. Construction.** In this Indenture, unless the context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Indenture.

(b) The terms ‘hereby’, ‘hereof’, ‘hereto’, ‘herein’, ‘hereunder’ and any similar terms refer to this Indenture, and the term ‘hereafter’ shall mean after, and the term ‘heretofore’ shall mean before, the date of execution of this Indenture.

(c) Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.

(d) Words importing the redemption of a Bond or the calling of a Bond for redemption do not include or connote the payment of such Bond at its stated maturity or the purchase of such Bond.

(e) References in this Indenture to particular sections of the Code, the Act or any other legislation shall be deemed to refer also to any successor sections thereto or other redesignations for codification purposes.

**Section 1.03. Effective Date.** The provisions of this Indenture shall be effective on and as of the Closing Date.

## ARTICLE II THE BONDS

**Section 2.01. Authority for and Issuance of Bonds.** There is hereby authorized and created under this Indenture an issue of bonds limited in aggregate principal amount of \$\_\_\_\_\_ and designated "Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek). No Bonds may be issued under the provisions of this Indenture except in accordance with this Article II. The total principal amount of Bonds that may be issued and Outstanding hereunder is hereby expressly limited to an amount not to exceed \$\_\_\_\_\_.

The Bonds shall be issuable only as fully registered Bonds without coupons in Authorized Denominations or any integral multiples thereof in the form as provided in Exhibit A hereto. The Bonds shall be lettered "R," and shall be numbered separately from 1 consecutively upward. The Bonds shall mature on December 1, [2057] (the "Maturity Date"), and shall be subject to redemption and purchase as provided in Article III hereof. The Bonds shall be certificated and shall not be held in a book entry system.

Bonds authenticated prior to the first (1st) Interest Payment Date shall bear interest from the date of the first authentication and delivery of Bonds. Bonds issued in exchange for or upon the registration of transfer of Bonds on or after the first (1st) Interest Payment Date thereon shall bear interest from the Interest Payment Date next preceding the date of the Paying Agent's or an authenticating agent's authentication thereof, unless the date of such authentication shall be an Interest Payment Date to which interest on the Bonds has been paid in full or duly provided for, in which case they shall bear interest from such Interest Payment Date; provided that if, as shown by the records of the Bond registrar, interest on the Bonds shall be in default, Bonds issued in exchange for or upon the registration of transfer of Bonds shall bear interest from the date to which interest has been paid in full on the Bonds or if no interest has been paid on the Bonds, the date of the first (1st) delivery of fully executed and authenticated Bonds hereunder.

The principal of and premium, if any, on the Bonds shall be payable at the Principal Office of the Trustee, or its successor, upon presentation of the Bonds. Payment of interest on the Bonds shall be made to the Owner thereof by check or draft mailed to the Owner at its address as it appears on the registration books maintained by the Trustee as registrar on behalf of the Issuer on the Record Date, or at such other address as is furnished to the Paying Agent in writing by such Owner.

Payment of interest on the Bonds may, at the option of any Owner of Bonds in an aggregate principal amount of at least \$1,000,000, be transmitted by wire transfer within the United States to such Owner to the bank account number on file with the Trustee as of the Record Date. Payment of the principal of and interest on the Bonds shall be in any coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public or private debts.

## Section 2.02. Interest on Bonds.

(a) *Initial Fixed Rate.* During the Initial Fixed Rate Period, the Bonds shall bear interest at the rate of [\_\_\_]% per annum (the “Initial Fixed Rate”).

(b) *Optional Conversion of Interest Rate.* If, during any Floating Rate Period, or any Fixed Rate Period, the Trustee and the Remarketing Agent, if any, have received written notice from the Borrower of its election to have the Bonds convert from bearing interest at the Initial Fixed Rate to bearing interest at a Floating Rate, or from bearing interest at a Fixed Rate to bearing interest at a different Fixed Rate, or from bearing interest at a Floating Rate to bearing interest at a Fixed Rate, and the Trustee shall have received the Favorable Tax Opinion required by Section 4.10 of the Loan Agreement, the Trustee shall establish a Conversion Date as directed by the Borrower with respect to the Bonds, which shall be (i) in the case of a conversion to a Floating Rate, the first Wednesday that is both a Business Day and at least forty-five (45) days following the date on which the Trustee receives such notice from the Borrower and (ii) in the case of a conversion to a Fixed Rate, the first (1<sup>st</sup>) Business Day designated by the Borrower that is at least forty-five (45) days following the date on which the Trustee receives such notice from the Borrower; provided, however, that the Trustee may not establish a Conversion Date prior to (i) December 1, 2032, during the Initial Fixed Rate Period or (ii) during any other Fixed Rate Period, the first (1<sup>st</sup>) date on which the Bonds are subject to optional redemption during such Fixed Rate Period. Any Conversion Date established by the Trustee in response to the Borrower’s election to convert from the Initial Fixed Rate or another Fixed Rate to a Floating Rate shall be a Floating Rate Conversion Date. Any Conversion Date established by the Trustee in response to the Borrower’s election to convert from a Floating Rate to a Fixed Rate, or from the Initial Fixed Rate or another Fixed Rate to a new Fixed Rate, shall be a Fixed Rate Conversion Date. The Trustee shall give notice of the Fixed Rate Conversion Date or Floating Rate Conversion Date so established to the Remarketing Agent, if any, the Tender Agent, the Issuer, the Borrower and the Credit Facility Provider, if any. In no event shall the Fixed Rate or Floating Rate determined under the terms of subsection (b)(i) or (b)(ii) below exceed the Maximum Rate.

(i) *Conversion to a Fixed Rate.*

(A) By no later than the thirty-second (32<sup>nd</sup>) calendar day immediately preceding each Fixed Rate Conversion Date established as a result of an election of the Borrower under Section 4.10(a) or 4.10(b) of the Loan Agreement (or if such day is not a Business Day, on the immediately succeeding Business Day), the Remarketing Agent shall estimate the Fixed Rate to be in effect for the relevant Fixed Rate Period as follows:

The Borrower, in the written notice given under Section 4.10(a) or 4.10(b) of the Loan Agreement, shall specify the length of the Fixed Rate Period that will follow the current Floating Rate Period or Fixed Rate Period. The Remarketing Agent shall then calculate the minimum Fixed Rate that would be necessary, in its opinion in light of prevailing conditions in the financial markets on the date of such calculation, for the Bonds to bear during a Fixed Rate Period of the length so specified, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the Fixed Rate Conversion Date at a price of par plus accrued interest.

(B) By no later than the close of business on the thirty-second (32<sup>nd</sup>) calendar day immediately preceding the Fixed Rate Conversion Date, the Remarketing Agent shall give immediate notice to the Trustee, the Borrower and the Credit Facility Provider, if any, of the estimated Fixed Rate.

By no later than 4:00 p.m., New York, New York time on each Fixed Rate Determination Date preceding a Fixed Rate Conversion Date established under this Section 2.02(b), the Remarketing Agent shall determine the Fixed Rate to be in effect for the designated Fixed Rate Period beginning on such Fixed Rate Conversion Date in the manner set forth in Section 2.02(b)(i) above, as applicable. The Remarketing Agent shall give immediate written notice to the Trustee, the Tender Agent, the Borrower and the Credit Facility Provider, if any, of the Fixed Rate on each such Fixed Rate Determination Date. In no event shall such Fixed Rate exceed the Maximum Rate.

(C) During a Fixed Rate Period from and after an optional Fixed Rate Conversion Date, the Bonds shall bear interest at the Fixed Rate calculated as set forth in this Section; provided, however, that notwithstanding the foregoing, the Bonds shall continue to bear interest at the rate in effect immediately prior to the Fixed Rate Conversion Date until a new Fixed Rate Conversion Date or Floating Rate Conversion Date is effected in accordance with the terms and provisions of this Indenture, and the establishment of the proposed Fixed Rate Conversion Date by the Trustee under this Section 2.02(b)(i) shall be null and void in the event that:

(1) the Fixed Rate determined by the Remarketing Agent on the Fixed Rate Determination Date pursuant to Section 2.02(b)(i)(B) above exceeds by more than .25% per annum the Fixed Rate previously estimated by the Remarketing Agent pursuant to Section 2.02(b)(i)(A) above, unless the Borrower has given notice pursuant to Section 4.10(a) or 4.10(b) of the Loan

Agreement of its election to have the Bonds bear interest at the new Fixed Rate so determined; or

(2) the Trustee has not received, by no later than 11:00 a.m., New York, New York time, on such Fixed Rate Conversion Date, a Favorable Tax Opinion as to the conversion of the Bonds from the rate in effect prior to such Fixed Rate Conversion Date to the Fixed Rate determined pursuant to Section 2.02(b)(i)(B) above; or

(3) a Credit Facility is to be in effect as of any such Fixed Rate Conversion Date, and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Fixed Rate Conversion Date, written confirmation from a Nationally Recognized Rating Agency that such Nationally Recognized Rating Agency has assigned to the Bonds a credit rating that classifies the Bonds as Investment Grade (without regard to modifiers such as pluses and minuses), and that such rating will be in full force and effect as of the Fixed Rate Conversion Date, following the change in interest rate on the Bonds on such date; or

(4) a Credit Facility is to be in effect as of any such Fixed Rate Conversion Date, and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Fixed Rate Conversion Date, an opinion of counsel to the Credit Facility Provider, if any, or to the obligor on the Alternate Security to be in effect as of the Fixed Rate Conversion Date, as applicable, stating that, according to its terms, the Credit Facility or the Alternate Security, as the case may be, is enforceable in accordance with its terms (except to the extent the enforceability thereof may be limited by bankruptcy, insolvency, receivership, conservatorship, rehabilitation, reorganization, moratorium and other similar laws affecting creditors' rights generally and by general principles of equity permitting the exercise of judicial discretion and to the extent that the enforceability of indemnification and contribution provisions to which such Credit Facility or Alternate Security relates may be limited, in whole or in part, by applicable securities laws or public policy, and subject to such other exceptions as shall be customary or reasonable).

In such event, the Trustee shall give notice by no later than 1:00 p.m., New York, New York time, on such Fixed Rate Conversion Date to the Tender Agent, the Remarketing Agent, if any, the Borrower, the Owners, and the Credit Facility Provider, if any, that the Bonds will continue to

bear interest at the rate in effect immediately prior to the Fixed Rate Conversion Date.

Notwithstanding the foregoing, upon a conversion to a Fixed Rate, the Borrower, pursuant to written notice to the Trustee, may elect to provide a Credit Facility for the Bonds if and only if a Favorable Tax Opinion is delivered to the Trustee taking into account the provision of such Credit Facility.

(D) The Fixed Rate for each Fixed Rate Period, computed by the Remarketing Agent in accordance with this Section 2.02(b)(i), shall be conclusive and binding upon the Issuer, the Trustee, the Tender Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, and the Owners.

(ii) *Conversion to a Floating Rate.*

(A) On and after a Floating Rate Conversion Date to and including any Fixed Rate Conversion Date, the Bonds shall bear interest at the Floating Rate, as hereinafter described. The Floating Rate for each Calculation Period shall be calculated by the Remarketing Agent on the Floating Rate Determination Date with respect to such Calculation Period. Subject to Section 2.02(b)(ii)(B) below, such Floating Rate shall be the minimum rate of interest per annum that would be necessary for the Bonds to bear during such Calculation Period, in the opinion of the Remarketing Agent, in light of prevailing conditions in the financial markets, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the first (1<sup>st</sup>) day of such Calculation Period at a price of par plus accrued interest. The Remarketing Agent shall give immediate written notice to the Trustee, the Borrower and the Tender Agent of such Floating Rate on each such Floating Rate Determination Date. In no event shall the Floating Rate exceed the Maximum Rate.

(B) In the event that the Remarketing Agent fails to determine and notify the Trustee and the Tender Agent of the Floating Rate for any Calculation Period as required by Section 2.02(b)(ii)(A) above, or a Responsible Officer of the Trustee shall have actual knowledge that the Floating Rate as so established has been held to be invalid or unenforceable by a court of competent jurisdiction for any period during a Calculation Period, the Trustee shall notify the Remarketing Agent and the Borrower by telephone, telecopy, telegraph or other practical means to obtain immediate notice of the Floating Rate for such Calculation Period. If such failure is not cured by 12:00 noon on the Business Day



following the applicable date on which the Floating Rate is required to be determined and written notice of such cure provided to the Trustee by such time, then the Floating Rate for such Calculation Period shall be the Floating Rate in effect for the immediately preceding Calculation Period, unless the Bonds bore interest at a Fixed Rate on the day immediately prior to the day on which such Calculation Period began, in which case the Floating Rate with respect to such Calculation Period shall be seventy percent (70%) of the Index Rate. The Trustee shall compute such Floating Rate as set forth in the previous sentence and shall give notice thereof to the Tender Agent, the Remarketing Agent, and the Borrower.

(C) During a Floating Rate Period from and after a Floating Rate Conversion Date, the Bonds shall bear interest at the Floating Rate calculated as set forth in this Section; provided, however, that notwithstanding the foregoing, the Bonds shall continue to bear interest at the rate in effect immediately prior to the proposed Floating Rate Conversion Date until a new Floating Rate Conversion Date or Fixed Rate Conversion Date is effected in accordance with the terms and provisions of this Indenture, and the establishment of the proposed Floating Rate Conversion Date by the Trustee under this Section 2.02(b)(ii) shall be null and void, in the event that:

(1) the Trustee has not received, by no later than 11:00 a.m., New York, New York time, on such Floating Rate Conversion Date, a Favorable Tax Opinion as to the conversion of the Bonds from the rate in effect prior to such Floating Rate Conversion Date to the Floating Rate determined pursuant to Section 2.02(b)(ii)(B) above; or

(2) a Credit Facility is to be in effect as of any such Floating Rate Conversion Date, and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such Floating Rate Conversion Date, written confirmation from a Nationally Recognized Rating Agency that such Nationally Recognized Rating Agency has assigned to the Bonds a credit rating that classifies the Bonds as Investment Grade (without regard to modifiers such as pluses and minuses), and that such rating will be in full force and effect as of the Floating Rate Conversion Date, following the change in interest rate on the Bonds on such date; or

(3) a Credit Facility is to be in effect as of any such Floating Rate Conversion Date, and the Trustee has not received, by no later than 11:00 a.m., New York, New York time on such

Floating Rate Conversion Date, an opinion of counsel to the Credit Facility Provider, if any, or to the obligor on the Alternate Security to be in effect as of the Floating Rate Conversion Date, as applicable, stating that, according to its terms, the Credit Facility or the Alternate Security, as the case may be, is enforceable in accordance with its terms (except to the extent the enforceability thereof may be limited by bankruptcy, insolvency, receivership, conservatorship, rehabilitation, reorganization, moratorium and other similar laws affecting creditors' rights generally and by general principles of equity permitting the exercise of judicial discretion and to the extent that the enforceability of indemnification and contribution provisions to which such Credit Facility or Alternate Security relates may be limited, in whole or in part, by applicable securities laws or public policy, and subject to such other exceptions as shall be customary or reasonable).

In such event, the Trustee shall give notice by no later than 1:00 p.m., New York, New York time, on such Floating Rate Conversion Date to the Tender Agent, the Remarketing Agent, the Borrower, the Owners and the Credit Facility Provider, if any, that the Bonds will continue to bear interest at the rate in effect immediately prior to the Floating Rate Conversion Date.

Notwithstanding the foregoing, upon a conversion to a Floating Rate, the Borrower, pursuant to written notice to the Trustee, may elect to provide a Credit Facility for the Bonds if and only if a Favorable Tax Opinion is delivered to the Trustee prior to or simultaneously with such conversion, taking into account the provision of such Credit Facility.

(D) The Floating Rate for each Calculation Period, computed by the Remarketing Agent, pursuant to Section 2.02(b)(ii)(A) above or by the Trustee pursuant to Section 2.02(b)(ii)(B) above, as applicable, shall be conclusive and binding upon the Issuer, the Trustee, the Tender Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, and the Owners.

(c) The Issuer intends to conform strictly to the usury laws applicable to this Indenture and the Bonds and all agreements made in the Bond Documents and the Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Owners as interest or other amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Bond Documents or the Loan Documents shall involve the payment of interest in excess of the

limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law; and if from any circumstances whatsoever, the Owners shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Owners, to the reduction of the principal remaining unpaid hereunder and under the Bonds and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. Subject to the express terms of the Note, this paragraph shall control every other provision of the Bond Documents and all Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Issuer intends and agrees that (i) interest shall be computed upon the assumption that payments under the Bond Documents and the Loan Documents and the Credit Facility, if any, will be paid according to the agreed terms, and any sums of money which are taken into account in the calculation of interest, even though paid at one time, shall be spread over the stated term of the Bonds.

(d) During each Fixed Rate Period, the interest rate shall be computed on the basis of a 360-day year, for the actual number of days elapsed in the period for which such interest is payable. During each Floating Rate Period, the interest rate shall be computed on the basis of a 365- or 366-day year, as applicable, for the actual number of days elapsed in the period for which such interest is payable.

**Section 2.03. Execution.** The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of its Chair or Vice Chair and shall have impressed or imprinted thereon, by facsimile or otherwise, the official seal of the Issuer, and be attested with the manual or facsimile signature of its Secretary or Assistant Secretary; provided that any such signature shall be manually ascribed if so required by applicable law.

In case any officer of the Issuer whose signature or whose facsimile signature shall appear on the Bonds ceases to be such officer before the delivery of such Bonds, such signature or the facsimile signature thereof shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery; and any Bond may be signed on behalf of the Issuer by such Persons as are at the time of execution of such Bond proper officers of the Issuer, even though at the date of such Bonds, such Person was not such officer.

**Section 2.04. Bonds; Limited Obligations.** The Bonds are not general obligations of the Issuer but are limited obligations payable solely from Bond proceeds, the Revenues and other moneys pledged to and held by the Trustee hereunder which constitute the Trust Estate. Such proceeds, Revenues and other moneys are hereby pledged and assigned as security for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the

principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture or the Loan Agreement. It shall be plainly stated on the face of each Bond that: THE PRINCIPAL OF, PREMIUM, IF ANY, AND THE INTEREST ON THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED BY THE ISSUER PURSUANT TO THE LOAN AGREEMENT, WHICH REVENUES AND RECEIPTS HAVE BEEN PLEDGED AND ASSIGNED TO SECURE PAYMENT THEREOF. NEITHER THE CREDIT NOR TAXING POWER OF THE COUNTY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO PAY PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

**Section 2.05. Authentication.** No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form contained on Exhibit A attached hereto shall have been duly executed by the Trustee or an authenticating agent thereof, and such executed certificate of the Trustee or an authenticating agent thereof upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's or authenticating agent's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Trustee or an authenticating agent thereof, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

**Section 2.06. Form of Bonds.** The Bonds issued under this Indenture shall be substantially in the form set forth in Exhibit A hereto with such variations, omissions and insertions as are permitted or required by this Indenture.

**Section 2.07. Delivery of Bonds.** Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate, the Bonds and shall deliver them as directed by the Issuer as hereinafter in this Section provided.

Prior to the delivery by the Trustee of any of the Bonds, the Trustee shall have received the following:

(a) A copy, duly certified by the Secretary of the Issuer, of the Resolution authorizing the issuance of the Bonds and the execution and delivery of the Loan Agreement and this Indenture.

(b) Original executed counterparts of the Loan Agreement, the Land Use Restriction Agreement, the Mortgage, the Note, and this Indenture.

(c) A request and authorization to the Trustee on behalf of the Issuer and signed by the Chair or Vice Chair of the Issuer to authenticate and deliver the Bonds to the purchaser specified therein upon receipt by the Trustee of the purchase price specified therefor and to deposit the proceeds thereof in accordance with the terms thereof and this Indenture.

(d) Original Investor Letter executed by the initial purchaser of the Bonds, substantially in the form set forth in Exhibit C hereto.

(e) The opinion of Bond Counsel, in customary form, to the effect, among other things, that the Bonds have been duly authorized and validly issued, that the Indenture creates a valid lien on the Trust Estate and that interest on the Bonds will not be included in gross income of the Owners thereof for federal income tax purposes.

(f) The opinion of counsel for the Borrower in form and content acceptable to the Issuer, Bond Counsel and the Initial Bondholder.

(g) An executed Tax Certificate.

(h) Payment to the Trustee, for the account of the Issuer, of the purchase price for the Bonds of \$\_\_\_\_\_.

Upon receipt of these documents and payment, the Trustee shall authenticate and deliver the Bonds to or upon the order of the original purchasers thereof.

**Section 2.08. Mutilated, Lost, Stolen or Destroyed Bonds; Bonds Not Delivered for Purchase.**

(a) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute, and the Trustee or its authenticating agent may authenticate, and deliver a new Bond of like date, maturity, interest rate and denomination as that Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and, in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee. In the event any mutilated, lost, stolen or destroyed Bond shall be about to mature or has matured or been called for redemption, instead of issuing a duplicate Bond, the Trustee may pay the same without surrender thereof. The Issuer and the Trustee or its authenticating agent may charge the Owner of such Bond their reasonable fees and expenses in this connection.

(b) In the event that any Bond to be purchased pursuant to Section 3.03 hereof is not delivered by the Owner thereof on the date such Bond is to be purchased, the Issuer shall execute and the Trustee or its authenticating agent shall authenticate and deliver a new Bond of like date, maturity, interest rate and denomination as the Bond to be purchased, and the Trustee or its authenticating agent shall register such Bond as directed by the Borrower or, if such Bond is purchased with funds provided under a Credit Facility, as directed by the Credit Facility Provider.

(c) All duplicate Bonds issued and authenticated pursuant to this Section 2.08 shall constitute original, contractual obligations of the Issuer (whether or

not, in the case of paragraph (a), lost, stolen or destroyed Bonds be at any time found by anyone) and shall be entitled to equal and proportionate rights and benefits hereunder as all other Outstanding Bonds issued hereunder.

**Section 2.09. Registration and Exchange of Bonds; Persons Treated as Owners.** The Issuer shall cause books for the registration and for the transfer of the Bonds as provided in this Indenture to be kept by the Trustee, as registrar, at the Principal Office of the Trustee, which is hereby constituted and appointed the registrar of the Issuer. At reasonable times and under reasonable regulations established by the Trustee, such books may be inspected and copied by the Issuer, the Borrower, the Credit Facility Provider, if any, or by Owners (or a designated representative thereof) of 15% or more in aggregate principal amount of Bonds then Outstanding.

Upon surrender for registration or transfer of any Bond at its Principal Office, the Trustee shall deliver in the name of the transferee or transferees a new fully authenticated and registered Bond or Bonds of Authorized Denominations or any integral multiples thereof of the same maturity for the aggregate principal amount which the Owner is entitled to receive.

Bonds, upon surrender thereof at the Principal Office of the Trustee, together with an assignment duly executed by the Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of Bonds of any Authorized Denomination or integral multiple thereof as the Bonds surrendered for exchange.

All Bonds presented for registration or transfer, redemption or payment (if so required by the Issuer or the Trustee), shall be accompanied by a written instrument or instruments of transfer or authorization for exchange satisfactory to the Trustee, duly executed by the Owner or by his duly authorized attorney.

Unless a Credit Facility is in effect with respect to the Bonds, the Bonds may not be transferred without the written consent of the Issuer; provided, however, that no such consent shall be required if the transferring owner or purchaser/transferee represents in a written notice to the Trustee, that the Bonds are being transferred to a Permitted Transferee. If a Credit Facility is in effect with respect to the Bonds, the Bonds shall be freely transferable in Authorized Denominations without the consent of the Issuer.

The Trustee, also may require payment from the Owner of a sum sufficient to cover any tax, or other governmental fee or charge that may be imposed in relation thereto. Such taxes, fees and charges shall be paid before any such new Bond shall be delivered.

The Issuer and the Trustee shall not be required (a) to issue or register the transfer of any Bonds during a period beginning on the Record Date (or, if applicable, Special Record Date) and ending at the close of business on the Business Day next preceding any Bond Payment Date (or, if applicable, the date of mailing of notice of redemption) or (b) to transfer any Bonds selected, called or being called for redemption in whole or in part, except that, the Issuer and the Trustee

shall be required to issue or register the transfer of Bonds delivered pursuant to Section 3.01 hereof for purchase after such Record Date (or Special Record Date).

Bonds delivered upon any registration of transfer as provided herein, or as provided in Section 2.08 hereof, shall be valid limited obligations of the Issuer, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The Issuer, the Remarketing Agent, the Trustee, the Borrower and the Credit Facility Provider, if any, shall treat the Person in whose name a Bond is registered on the books maintained by the Paying Agent as the absolute Owner thereof for all purposes, whether or not such Bond shall be overdue, and shall not be bound by any notice to the contrary.

Notwithstanding anything to the contrary herein, unless the Bonds are held by the Borrower or a Credit Facility Provider or an Affiliate of either of them, then Bonds which are not rated "A" or better by Moody's or S&P and which have no Credit Facility, may be transferred only as follows:

- (a) The Bonds may be transferred only in Authorized Denominations.
- (b) The Bonds will bear the following legend:

"The Bonds are subject to a significant degree of risk and are suitable for consideration solely for Qualified Institutional Buyers (as defined in Rule 144A under the Securities Act of 1933, as amended) or Accredited Investors (as defined in Rule 501(a) under Regulation D of the Securities Act of 1933, as amended) who are experienced in the field of unrated multifamily housing bonds. No rating for the Bonds has been applied for and there is no assurance given that any rating would be received if an application for a rating had been made. By the purchase of the Bonds, the purchaser is avowing that such purchaser (i) is a Qualified Institutional Buyer or an Accredited Investor, (ii) is purchasing the Bonds solely for its own account, (iii) can bear the economic risk of its investment in the Bonds, (iv) has such knowledge and experience in financial and business matters in general and tax-exempt obligations, in particular, that it is capable of evaluating the merits and risks of purchasing the Bonds, and (v) has made the decision to purchase the Bonds based on its own independent investigation regarding the Bonds and has received the information it considers necessary to make an informed decision to invest in the Bonds. The Issuer and Trustee shall have no liability or responsibility for determining the suitability of any purchaser of Bonds, nor shall any documentation therefor be required. Except as otherwise provided in the Indenture, this Bond may not be sold in denominations of less

than \$500,000. The Bonds are unrated and not secured by a credit facility. By the purchase and acceptance of this Bond the purchaser acknowledges and agrees that the Bond shall not be offered, sold, assigned, pledged or otherwise transferred except as provided herein and in the Indenture.”

NOTWITHSTANDING ANYTHING IN THIS INDENTURE TO THE CONTRARY, NO BOND SHALL BE ACCEPTED FOR TRANSFER UNDER THIS INDENTURE AND THE TRUSTEE SHALL NOT AUTHENTICATE OR REGISTER A BOND UNLESS THE CONDITIONS SPECIFIED IN THIS SECTION 2.09 ARE SATISFIED.

**Section 2.10. Disposal of Bonds.** Whenever any Outstanding Bond is delivered for cancellation pursuant to this Indenture, upon payment of the principal amount, premium (to the extent applicable) and interest represented thereby or for replacement pursuant to Section 2.08 hereof or transfer pursuant to Section 2.09 hereof, such Bond shall be cancelled by the Trustee subject to applicable law, and counterparts of a certificate of disposal evidencing such disposal shall be furnished upon request by the Trustee to the Issuer, the Borrower and the Paying Agent. The Paying Agent shall promptly deliver to the Trustee any Bonds delivered to them for cancellation pursuant to this Indenture.

**Section 2.11. Temporary Bonds.** Pending preparation of definitive Bonds, there may be executed, and upon request of the Issuer, the Trustee shall authenticate and deliver, in lieu of definitive Bonds and subject to the same limitations and conditions, temporary typewritten, printed, engraved or lithographed bonds, in the form of registered Bonds without coupons in Authorized Denominations or integral multiples thereof, substantially in the form of Exhibit A hereto and with such appropriate omissions, insertions and variations as may be required with respect to such temporary Bonds.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed, authenticated and delivered to the Paying Agent, and the Paying Agent, upon presentation to it at its Principal Office of any temporary bonds, shall deliver to the Trustee for cancellation the same and deliver in exchange therefor at the place designated by the Owner, without charge to the Owner thereof, a definitive Bond or Bonds of an equal aggregate principal amount, of the same maturity and bearing interest at the same rate or rates as the temporary Bond surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

### **ARTICLE III PURCHASE OF BONDS; REDEMPTION OF BONDS**

#### **Section 3.01. Optional Tender.**

(a) During any Floating Rate Period, each Owner shall have the option to require that the Borrower purchase or cause the purchase (out of remarketing proceeds)



of the Bonds such Owner holds at a purchase price equal to the principal amount of the Bonds so tendered plus accrued interest to the Purchase Date (the "Purchase Price") in the manner set forth in this Section, and such Bonds shall be subject to mandatory purchase as set forth below. To exercise such option the Owner shall:

(i) deliver to the Tender Agent, with a copy to the Remarketing Agent, a written notice (the "Purchase Notice") stating (A) the principal amount and serial numbers of Bonds to be purchased and (B) the date on which such Owner desires such Bonds to be purchased, which shall be a Business Day not prior to the seventh (7th) day next succeeding the date of delivery of such notice to the Tender Agent (which date shall be a Purchase Date with respect to the requested purchase of Bonds) and not later than a Fixed Rate Conversion Date; and

(ii) deliver to the Tender Agent, not later than 10:00 a.m., New York, New York time on the Purchase Date, the Bonds to be purchased pursuant to such Purchase Notice, with an appropriate endorsement for transfer or a blank bond power.

Deliveries of Purchase Notices and Bonds to be purchased shall be made to the Tender Agent at its designated office or such other address as the Tender Agent may specify. Immediately upon receipt of a Purchase Notice, the Tender Agent shall give immediate notice to the Borrower, the Remarketing Agent and the Credit Facility Provider, if any, of the principal amount of Bonds to be purchased pursuant to such Purchase Notice and the Purchase Date specified therein. In no event shall the Tender Agent be required to, on behalf of the Borrower, effect the purchase of a portion of any Bond unless both the amount of the Bond so purchased and the amount remaining are in Authorized Denominations.

(b) In the event that the Tender Agent receives a Purchase Notice following the issuance by the Trustee of notice given hereunder of the establishment of a Fixed Rate Conversion Date, the Tender Agent shall provide copies of such notice from the Trustee to the Remarketing Agent, who shall furnish a copy of such notice to each Person to whom the Remarketing Agent attempts to sell such Bonds pursuant to the Remarketing Agreement.

(c) A Purchase Notice shall be irrevocable and effective upon receipt by the Tender Agent. Any Bond as to which a Purchase Notice has been delivered pursuant to Section 3.01(a)(i) above must be delivered to the Tender Agent as provided in Section 3.01(a)(ii) above, and any Bonds not so delivered for which there has been deposited irrevocably in trust with the Tender Agent an amount of money sufficient to pay the Purchase Price thereof on the Purchase Date shall be deemed to be Undelivered Bonds hereunder and shall be deemed to have been purchased on the Purchase Date at

the Purchase Price. IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A PURCHASE NOTICE, AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THE INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THIS INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING HEREUNDER. The foregoing legend shall appear on the face of each Bond bearing interest at a Floating Rate.

(d) Notwithstanding the foregoing provisions, in the event that any Bond as to which the holder thereof has submitted a Purchase Notice is remarketed to such Owner pursuant to the Remarketing Agreement, the Remarketing Agent shall so notify the Trustee and the Tender Agent, and such Owner need not deliver such Bond to the Tender Agent as required under Section 3.01(a)(ii) above, although the Purchase Price with respect to such Bond shall be deemed to have been paid without any corresponding deposit with or payment by the Trustee or Tender Agent, and such Bond shall be deemed to have been delivered to the Tender Agent, redelivered to such Owner and remarketed for purposes of this Indenture.

**Section 3.02. Optional Redemption.** At any time on or after January 1, 2021, during the Initial Fixed Rate Period, pursuant to Section 4.05 of the Loan Agreement, the Borrower may elect to have the Bonds redeemed, in whole on any date, at a redemption price equal to 100% of the outstanding principal amount of the Bonds plus accrued interest thereon to the redemption date.

During any Floating Rate Period, the Bonds shall be subject to redemption at the option of the Borrower and shall be redeemed in whole or in part (in Authorized Denominations) on the first (1st) Business Day of any month at a redemption price equal to the outstanding principal amount of Bonds to be redeemed plus accrued interest thereon to the date of redemption.

During any Fixed Rate Period (other than the Initial Fixed Rate Period), the Bonds shall be subject to redemption at the option of the Borrower and shall be redeemed in whole on any date, or in part on any [January 1, April 1, July 1 and October 1] (each, a "Fixed Rate Interest Payment Date"), at the respective prices set forth in the table below (expressed as percentages of the principal amount of the Bonds so called for redemption), plus accrued interest thereon to the redemption date, as contemplated by Section 4.05 of the Loan Agreement:

*if the Fixed Rate Period has a duration of two (2) years or less:*

<b>Redemption Dates</b>			<b>Prices</b>
From the Fixed Rate Interest Payment Date closest to the Midpoint Date	to	the following Fixed Rate Interest Payment Date	100.5%
From such following Fixed Rate Interest Payment Date	to	the end of the Fixed Rate Period	100%

*if the Fixed Rate Period has a duration of more than two (2) years, but less than five (5) years:*

<b>Redemption Dates</b>			<b>Prices</b>
From the Fixed Rate Interest Payment Date closest to the Midpoint Date	to	the following Fixed Rate Interest Payment Date	101.5%
From such following Fixed Rate Interest Payment Date	to	the next following Fixed Rate Interest Payment Date	101%
From such next following Fixed Rate Interest Payment Date	to	the subsequent Fixed Rate Interest Payment Date	100.5%
From such subsequent Fixed Rate Interest Payment Date	to	the end of the Fixed Rate Period	100%

*if the Fixed Rate Period has a duration of five (5) years or more:*

<b>Redemption Dates</b>			<b>Prices</b>
From the Fixed Rate Interest Payment Date closest to the Midpoint Date	to	the following Fixed Rate Interest Payment Date	102%
From such following Fixed Rate Interest Payment Date	to	the next following Fixed Rate Interest Payment Date	101.5%
From such next following Fixed Rate Interest Payment Date	to	the subsequent Fixed Rate Interest Payment Date	101%
From such subsequent Fixed Rate Interest Payment Date	to	the next Fixed Rate Interest Payment Date	100.5%

From such next Fixed Rate Interest Payment Date to the end of the Fixed Rate Period 100%

The Borrower may exercise such option by giving the Trustee and the Owner written notice of such exercise, not less than forty-five (45) days prior to the proposed redemption date, which notice shall specify the date fixed for optional redemption.

**Section 3.03. Mandatory Tender.**

(a) On the day following the end of any Fixed Rate Period (including the Initial Fixed Rate Period) or any Floating Rate Period (the "Mandatory Tender Date") the Borrower shall be obligated to purchase or cause the purchase of all of the Bonds at the Purchase Price (as defined below) in the manner set forth in this Section 3.03. Not later than thirty (30) days prior to the Mandatory Tender Date, the Trustee shall send to each Owner notice of the Mandatory Tender (the "Mandatory Tender Notice") which notice shall:

(i) specify the Mandatory Tender Date; and

(ii) state that the Bonds must be delivered by the Owners to the Office of the Trustee (or the Tender Agent, if applicable) on or prior to such Mandatory Tender Date, together with all necessary endorsements for transfer, and shall be subject to purchase on such Mandatory Tender Date at a purchase price with respect to each Bond equal to the redemption price of such Bonds if such Bonds were optionally redeemed on the Business Day preceding such Mandatory Tender Date pursuant to Section 3.02 of this Indenture (the "Purchase Price"), and that any Bonds that are not so delivered to the Trustee shall be deemed to have been tendered for purchase by the Owners and, provided that sufficient moneys have been deposited with the Trustee to pay the Purchase Price of the Bonds in full on the Mandatory Tender Date as provided herein, the Owners of the Bonds shall not be entitled to receive interest for any period on and after the Purchase Date; and

(iii) state that to the extent there has not been deposited with the Trustee sufficient moneys to pay the Purchase Price of the Bonds in full on the Mandatory Tender Date as provided herein, the Bonds will not be so purchased (and cannot be so purchased until the full Purchase Price has been so deposited) and an Event of Default under this Indenture shall occur which may result in the acceleration of the Bonds.

(b) At the time of sending the Mandatory Tender Notice, the Trustee shall give notice to the Borrower and the Remarketing Agent, if any, of the Mandatory Tender Date and the principal amount of Bonds to be purchased on such Mandatory Tender Date.

(c) Each Owner shall be required to tender its Bonds to the Trustee (or Tender Agent, if applicable) for purchase as provided herein and in the Mandatory Tender Notice, in whole, at a price equal to the Purchase Price on the Mandatory Tender Date. The Owner of any Bond shall tender such Bond to the Trustee (or Tender Agent, if applicable) for purchase hereunder, by delivering such Bond to the Trustee (or Tender Agent, if applicable), at the Office of the Trustee (or Tender Agent, if applicable), unless otherwise specified in the Mandatory Tender Notice, by not later than 10:30 a.m. New York, New York time on the Mandatory Tender Date, endorsed in blank or accompanied by a blank bond power. The moneys described below shall be deposited by the Trustee into a temporary fund or account established by the Trustee for the purpose of holding such moneys. To the extent sufficient moneys have been deposited with the Trustee to pay the full amount of the Purchase Price of the Bonds on the Mandatory Tender Date as provided herein, any such Bonds not delivered according to the terms of this Section 3.03(c) shall be deemed to be tendered for purchase and purchased from the Owners on the Mandatory Tender Date. IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A MANDATORY TENDER NOTICE, AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THIS INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THIS INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING HEREUNDER. The foregoing legend shall appear on each Bond.

(d) Not less than ten (10) days prior to the Mandatory Tender Date, the Trustee shall direct the Borrower to irrevocably deposit or cause to be deposited in the Bond Fund on the Mandatory Tender Date an amount sufficient to pay, together with any other moneys on deposit in the Bond Fund, the Purchase Price of the Bonds tendered or deemed tendered for purchase on the Mandatory Tender Date. On the Mandatory Tender Date, the Trustee shall pay to each of the Owners an amount equal to the Purchase Price of its Bonds.

(e) Not less than thirty-five (35) days prior to a Mandatory Tender Date, the Borrower will appoint a Remarketing Agent for the Bonds in accordance with the provisions of Section 10.23 hereof and will notify the Issuer and the Trustee of such appointment in writing. The Borrower will promptly enter into a written agreement with the Remarketing Agent (a "Remarketing Agreement") in which, among other things, (i) the Remarketing Agent shall designate its principal office to the Borrower, the Issuer and the Trustee, (ii) the Remarketing Agent shall agree to perform the duties and

obligations imposed upon it hereunder, (iii) the Remarketing Agent shall agree to hold all money delivered to it hereunder in trust for the benefit of the Person which shall have so delivered such money until the Bonds to be purchased with such money shall have been delivered to or for the account of such Person, (iv) the Borrower and the Remarketing Agent shall agree upon the compensation to be paid to the Remarketing Agent by the Borrower for remarketing the Bonds, and (v) if the appointment is made in regard to a proposed Floating Rate Period, the Remarketing Agent will agree to serve during the Floating Rate Period until the earliest of (A) a succeeding Fixed Rate Conversion Date, (B) the Maturity Date of the Bonds or (C) the date upon which a successor Remarketing Agent has been duly appointed.

(f) Not less than three (3) days prior to the Mandatory Tender Date, the Remarketing Agent shall determine and shall notify the Trustee and the Borrower in writing of (i) the Floating Rate to be in effect for any Floating Rate Period beginning on the Mandatory Tender Date, which rate shall be determined in accordance with the provisions of Section 2.02(b)(ii) hereof, or (ii) the Fixed Rate to be in effect for any Fixed Rate Period beginning on the Mandatory Tender Date, which rate shall be determined in accordance with the provisions of Section 2.02(b)(i) hereof. The Remarketing Agent shall offer for sale and use its best efforts to remarket the Bonds tendered or deemed tendered for purchase pursuant to this Section 3.03 for delivery on the Mandatory Tender Date at a price of par plus accrued unpaid interest. The proceeds of the sale of Bonds remarketed by the Remarketing Agent shall be delivered by the Remarketing Agent to the Trustee for deposit as provided in subsection (c) of this Section. Any Remarketing Agent shall have no obligation under any circumstances to advance its own money in connection with the remarketing of Bonds hereunder.

(g) Not later than the Business Day immediately preceding the Mandatory Tender Date, the Remarketing Agent shall provide the Trustee in writing with the names, addresses, tax identification numbers and all other information requested by the Trustee relating to the purchasers of Bonds which have been remarketed by the Remarketing Agent, as of that time, and the Trustee shall prepare new Bonds (with appropriate changes, deletions and insertions) for each Bond purchased on the Mandatory Tender Date, shall register such new Bonds in any Bond register in the name of the Persons identified by the Remarketing Agent as the purchasers thereof, and shall deliver such new Bonds to such purchasers; provided, however, that no Bond shall be purchased on such date unless all Bonds are purchased, and the current Fixed Rate Period or Floating Rate Period shall not end until all Bonds are purchased or deemed to be purchased on the Purchase Date at the Purchase Price.

(h) Notwithstanding the foregoing or anything to the contrary contained herein, the Purchase Price for each of the Bonds Outstanding shall be due and payable to each of the Owners on the Mandatory Tender Date under all circumstances and regardless of whether or not the Remarketing Agent or Borrower is successful in remarketing the Bonds as contemplated in this Section 3.03.

**Section 3.04. Extraordinary Optional Redemption.** In the event the Borrower elects to prepay the Loan rather than to commence Restoration of the Project in accordance with Section 4.04 of the Loan Agreement (or to prepay the Loan in accordance with Sections 4.04(c) or 4.04(d) of the Loan Agreement), the Borrower must give notice (the “Extraordinary Optional Redemption Notice”) of its election not to commence Restoration (or to prepay the Loan in accordance with Sections 4.04(c) or 4.04(d) of the Loan Agreement) to the Trustee within one-hundred thirty-five (135) days of the event of Eminent Domain or casualty which caused the loss (or the event that gave rise to the right to prepay the Loan in accordance with Sections 4.04(c) or 4.04(d) of the Loan Agreement) (the “Event”); and, if the Borrower does not give such notice by such time, the Borrower will be deemed to have elected to commence Restoration, as applicable, and/or not to prepay the Loan in connection with such Event. Such notice must clearly designate a date for redemption of the Bonds (the “Extraordinary Optional Redemption Date”) which date shall be no later than one-hundred eighty (180) days after the Event and no less than forty-five (45) days after the date the Borrower gives the Extraordinary Optional Redemption Notice. Upon (a) the Extraordinary Optional Redemption Date or (b) in the case of a redemption of Bonds in accordance with the last sentence of Section 6.11(b) hereof, upon the earliest practicable redemption date for which notice can be given, from moneys remaining in the Insurance and Condemnation Proceeds Fund, then, in either case, the Trustee shall redeem all or a portion of the Bonds (as the case may be) at a redemption price equal to 100% of the outstanding principal amount of Bonds to be redeemed plus accrued interest (which accrued interest shall be paid from amounts deposited by the Borrower into the Bond Fund) to the redemption date.

**Section 3.05. [Intentionally Omitted].**

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

(a) Any Bonds called for optional redemption under Section 3.02 of this Indenture may be purchased by the Borrower or by any other party designated in writing by the Borrower, on the date upon which such Bonds were to have been redeemed (the “Purchase in Lieu of Redemption Date”), at a purchase price equal to the redemption price thereof. The Borrower shall give immediate written notice on or before the designated Purchase in Lieu of Redemption Date to the Tender Agent, the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent of the aggregate principal amount of Bonds, if any, for which an election to purchase pursuant to this Section 3.06 is being made. Bonds to be purchased pursuant to this Section 3.06 which are not delivered to the Trustee on the Purchase in Lieu of Redemption Date shall be deemed to have been so purchased, and the purchaser of such Bonds shall be the Owner of such Bonds for all purposes under this Indenture, and interest accruing on such Bonds on and after the Purchase in Lieu of Redemption Date shall be payable solely to the purchaser of the Bonds or any assignee(s) of its interest in such Bonds.

(b) The purchase of Bonds in accordance with this Section 3.06 is not intended, and shall not be deemed to constitute, a redemption of such Bonds nor an extinguishment of the debt evidenced thereby.

**Section 3.07. Notice of Redemption and/or Purchase in Lieu.**

(a) In the event any of the Bonds are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Bonds, which notice shall (i) specify the Bonds to be redeemed, the redemption date, the redemption price and the place or places where amounts due upon such redemption will be payable (which shall be the Principal Office of the Trustee) and, if less than all of the Bonds are to be redeemed, the numbers or CUSIP numbers, if any, of the Bonds, and the portions of Bonds to be redeemed, (ii) state any condition to such redemption, and (iii) state that on the redemption date, and upon the satisfaction of any such condition, the Bonds to be redeemed shall cease to bear interest; provided that the Borrower may purchase the Bonds in lieu of redemption pursuant to Section 3.06 hereof. Such notice may set forth any additional information relating to such redemption. Such notice shall be given by Mail at least 10 (ten) days prior to the date fixed for redemption to the Owners of Bonds to be redeemed (with a copy to the Paying Agent); provided, however, that failure to give such notice by Mail to any Owner, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other of the Bonds; provided, further, however, that if a Bond delivered on or after the Special Record Date established for a proposed redemption of Bonds shall be deemed to have been selected for redemption pursuant to Section 3.02 hereof, such notice shall be given to the address of the Owner, confirmed in writing, as promptly as practicable. If a notice of redemption shall be unconditional, or if the conditions of a conditional notice of redemption shall have been satisfied, then upon presentation and surrender of Bonds so called for redemption at the place or places of payment, such Bonds, subject to Section 3.06, shall be redeemed.

(b) The notice provided for in Section 3.07(a) hereof shall be given by the Trustee regardless of whether the Borrower intends to purchase the Bonds in lieu of redemption.

(c) With respect to any notice of redemption of Bonds in accordance with Section 3.02 hereof unless, upon the giving of such notice, such Bonds shall be deemed to have been paid within the meaning of Article VIII hereof, such notice may state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of and interest on such Bonds to be redeemed, and that if such moneys shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.



(d) Any Bonds which have been duly selected for redemption and which are deemed to be paid in accordance with Article VIII hereof shall cease to bear interest on the specified redemption date.

**Section 3.08. Selection of Bonds.** In the event that the Bonds are to be redeemed in part, but not in whole, Bonds shall be redeemed through the application of funds from the prepayment of the Note and from other available amounts. If less than all the Bonds shall be called for redemption under any provisions of this Indenture permitting such partial redemption, the particular Bonds or integral multiples of the Authorized Denomination thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem proper, but only in such amount that will result in any Bonds remaining Outstanding being in Authorized Denominations, as directed in writing by the Borrower, in connection with the prepayment of the Note as provided in Section 4.05 of the Loan Agreement.

#### **ARTICLE IV USE OF BOND PROCEEDS**

**Section 4.01. Use of Bond Proceeds.** On the Closing Date, the Trustee shall deposit the proceeds of the sale of the Bonds as follows:

(i) \$\_\_\_\_\_ to the Project Account; and

(ii) [\$\_\_\_\_\_ to the Costs of Issuance Fund].

**Section 4.02. Project Account.** The Trustee shall make payments from the Project Account (a) concurrently with the delivery of the Bonds, for the purpose of paying a portion of the costs of the acquisition of the Project that constitute Qualified Project Costs of the Project; and (b) to pay costs of the rehabilitation of the Project. Disbursements from the Project Account shall be made by the Trustee upon receipt of a Requisition executed by the Authorized Representative of the Borrower with the prior written consent of the Bondholder Representative during the Current Bondholder Period.

The Trustee may rely fully on the representations of the Borrower contained in any Requisition, delivered pursuant to the Loan Agreement and this Indenture, and shall not be required to make any investigation or inspection of the Project or of any matter set forth herein in connection therewith.

Moneys (including investments proceeds but net of amounts to be retained to pay Qualified Project Costs (i) incurred but not then due and payable or (ii) allocated to construction contingency, marketing or operating expenses) held in the Project Account shall be transferred immediately after completion of the rehabilitation of the Project to the Bond Fund.

**ARTICLE V  
GENERAL COVENANTS**

**Section 5.01. Payment of Principal, Premium, if Any, and Interest; No General Obligations.**

(a) The Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds, provided that the principal, premium, if any, and interest are payable by the Issuer solely from the Trust Estate, and nothing in the Bonds or this Indenture shall be considered as assigning or pledging any other funds or assets of the Issuer other than the Trust Estate.

(b) Each and every covenant made herein by the Issuer is predicated upon the condition that neither the Issuer, the County, the State or any political subdivision thereof shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds, or for the payment of the Purchase Price of the Bonds, or the performance of any pledge, mortgage, obligation or agreement created by or arising under this Indenture or the Bonds from any property other than the Trust Estate; and, further, that neither the Bonds nor any such obligation or agreement of the Issuer shall be construed to constitute an indebtedness of the Issuer, the County, the State or any political subdivision thereof within the meaning of any constitutional or statutory provision whatsoever, or as a pledge of the general credit, full faith or taxing power of the County, the Issuer or the State or any political subdivision thereof. The Issuer has no taxing power.

**Section 5.02. Performance of Covenants by Issuer; Authority; Due Execution.** The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining hereto. The Issuer covenants that it is duly authorized under the constitution and laws of the State, including particularly the Act, to issue the Bonds and to execute this Indenture, to execute and deliver the Loan Agreement, to assign the Loan Agreement and amounts payable thereunder (subject to Reserved Rights), and to pledge the amounts hereby pledged in the manner and to the extent herein set forth. The Issuer further covenants that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture and the Loan Agreement has been duly and effectively taken, and that the Bonds in the hands of the Owners thereof are valid and enforceable obligations of the Issuer according to the terms thereof and hereof.

**Section 5.03. Instruments of Further Assurance.** The Issuer agrees that the Trustee may defend the Issuer's rights to the payments and other amounts due under the Loan Agreement, for the benefit of the Owners of the Bonds, against the claims and demands of all Persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental

hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming to the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds. The Issuer covenants and agrees that, except as herein and in the Loan Agreement provided, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Trust Estate.

**Section 5.04. Recording and Filing; Further Instruments.**

(a) The Borrower will cause to be filed all necessary financing statements related to this Indenture, the Loan Agreement, and the Mortgage as may be, in the opinion of counsel acceptable to the Trustee (and the Initial Bondholder during the Current Bondholder Period) and at the cost of the Borrower, necessary to be kept and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Owners of the Bonds and the rights of the Trustee hereunder.

(b) The Issuer shall, upon the reasonable request of the Trustee, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to effectuate the purposes of this Indenture or any provision hereof; provided, however, that no such instruments or actions shall pledge the general credit, the full faith, or the taxing power of the Issuer, the County, the State or any political subdivision thereof. The Issuer has no taxing power.

**Section 5.05. Rights under Agreement.** The Loan Agreement, duly executed counterparts of which have been filed with the Trustee, sets forth the covenants and obligations of the Issuer and the Borrower, including provisions that, subsequent to the issuance of the Bonds and prior to the payment in full thereof, or provision for payment thereof in accordance with the provisions hereof, the Loan Agreement (except as expressly provided therein) may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of the Trustee, as provided in Article XII hereof, and reference is hereby made to the Loan Agreement for a detailed statement of such covenants and obligations of the Borrower, and the Issuer agrees that the Trustee in its name or (to the extent required by law) in the name of the Issuer, shall have the power and authority to enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement for and on behalf of the Owners of Bonds, whether or not the Issuer is in default hereunder. Notwithstanding the foregoing, except with respect to acceleration of the Bonds, the Trustee is under no obligation to enforce the rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement unless the Trustee has been adequately indemnified as to its expenses, costs (including attorneys' fees) and liability. The Issuer shall cooperate with the Trustee in enforcing the obligations of the Borrower to pay or cause to be paid all amounts payable by the Borrower under the Loan Agreement.

**Section 5.06. Arbitrage and Tax Covenants.** The Issuer covenants that it will:

(i) neither knowingly make or use nor cause to be made or used any investment or other use of the proceeds of the Bonds or the moneys and investments held in the funds and accounts created hereunder which would cause the Bonds to be arbitrage bonds under Section 148 of the Code and the Regulations issued under Section 148 of the Code or which would otherwise cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes; provided that it is expressly stated and acknowledged that the use and investment of moneys held in the Funds and Accounts established hereunder will not be under the control or subject to the direction of the Issuer, but will be under the control and direction of the Borrower, subject to the pledge and application hereunder;

(ii) not knowingly take or cause to be taken any other action or actions, or fail to take any action or actions within its control, which would cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes;

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

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

(v) require the Borrower to agree, pursuant to the terms and provisions of the Loan Agreement and Borrower’s Tax Certificate, not to commit any act and not to make any use of the proceeds of the Bonds, or any other moneys which may be deemed to be proceeds of the Bonds pursuant to the Code, which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code, and to comply with the requirements of the Code throughout the term of the Bonds; and

(vi) not knowingly cause to be made any investment or other use of the proceeds of the Bonds that would cause the Bonds to be arbitrage bonds under section 148 of the Code and the regulations thereunder or otherwise cause the interest on the Bonds to become included in gross income for federal income tax purposes. This covenant shall extend throughout the term of the Bonds, to all

funds and accounts created hereunder and all money on deposit to the credit of any such fund or account.

In furtherance of the covenants in this Section 5.06, the Issuer and the Borrower shall execute, deliver and comply, as applicable, with the provisions of the Tax Certificate.

The Issuer shall not use or permit the use of any proceeds of Bonds or any other funds of the Issuer, directly or indirectly, to acquire any securities or obligations, and shall not use or permit the use of the proceeds of the Bonds or any Revenues of the Issuer from the Loan Agreement in any manner, and shall not take or permit to be taken any other action or actions, which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or which would otherwise cause interest on the Bonds to become subject to federal income tax.

The Issuer shall at all times do and perform all acts and things permitted by law and necessary in order to assure that interest paid by the Issuer on the Bonds shall, for the purposes of federal income tax, be exempt from all income taxation under any valid provision of law.

**Section 5.07. No Disposition of Trust Estate.** Except as permitted by this Indenture, the Issuer shall not sell, lease, pledge, assign or otherwise encumber or dispose of its interest in the Trust Estate and will promptly pay or cause to be discharged, or make adequate provision to discharge, any lien or charge on any part thereof not permitted hereby.

**Section 5.08. Access to Books.** All books and documents in the possession of the Issuer relating to the Project, the Revenues of the Issuer from the Loan Agreement, and the Trust Estate shall at all times, upon receipt of reasonable notice, be open to inspection by such accountants or other agents as the Trustee or the Credit Facility Provider, if any, may from time to time designate.

**Section 5.09. Possession and Inspection of Mortgage and the Note.** The Trustee or its designated depository agent shall retain possession of the Mortgage and the Note and release the Mortgage and the Note only in accordance with the provisions of this Indenture and the Loan Agreement. The Trustee covenants and agrees not to release the Mortgage and the Note except as permitted or required by this Indenture and said documents. The Issuer and the Trustee covenant and agree that all books and documents in their possession relating to the Mortgage and the Note and to the distribution of proceeds thereof shall at all times, upon receipt of reasonable notice, be open to inspection by such accountants or other agents as the other party may from time to time designate.

## ARTICLE VI FUNDS AND ACCOUNTS

**Section 6.01. Source of Payment of Bonds.** The Bonds are not general or moral obligations of the Issuer but are limited obligations payable solely and only from Bond

proceeds, the Revenues and other amounts derived by the Issuer from the Borrower pursuant to the Loan Agreement and the Loan pledged to secure repayment of the Loan and all other rights and interests constituting a part of the Trust Estate. The Trust Estate has been pledged and assigned as security for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture or the Loan Agreement.

**Section 6.02. Creation of Funds and Accounts.** There are hereby created by the Issuer and ordered established the following funds and accounts to be held by the Trustee: (a) the Bond Fund and therein an Interest Account and a Principal Account; (b) a Project Account; (c) the Costs of Issuance Fund; (d) the Insurance and Condemnation Proceeds Fund; (e) the Rebate Fund; and (f) the Expense Fund.

**Section 6.03. Bond Fund.**

(a) **Deposits.** All moneys received by the Trustee pursuant to the Loan Agreement, the Mortgage and the Note, and any other moneys furnished to the Trustee for deposit in the Bond Fund shall be deposited in the Bond Fund.

(b) **Use of Moneys in Bond Fund.** Amounts on deposit in the Bond Fund and available for such purpose shall be disbursed upon receipt in the following order of priority:

(i) To the Interest Account on the Business Day prior to each Bond Payment Date, an amount which, together with amounts already on deposit therein (as well as any amounts that are on deposit in the Principal Account and will be available to pay the subject interest on the subject Bond Payment Date) is sufficient to pay interest on the Bonds coming due on such Bond Payment Date;

(ii) To the Principal Account, such amounts at such times as set forth in subsection (d) below or as may otherwise be set forth in this Indenture.

(c) **Interest Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be held by the Trustee to be known as the Interest Account. Moneys on deposit in the Interest Account shall be applied by the Trustee to pay interest on the Bonds as it becomes due.

(d) **Principal Account.** The Issuer hereby directs the Trustee to establish and maintain so long as any of the Bonds are Outstanding a separate account within the Bond Fund to be held by the Trustee to be known as the Principal Account.

(i) The Trustee shall deposit in the Principal Account (i) all moneys to be applied to principal payments and (ii) all moneys paid to it for optional redemption by or on behalf of the Borrower pursuant to the provisions of

Section 3.02 hereof. Such moneys deposited for principal payments shall be applied by the Trustee to pay principal on the Bonds as it becomes due or at maturity. Such moneys deposited for optional redemption shall be paid by the Trustee to the Owners of Bonds called for redemption in accordance with the provisions of Section 3.02 hereof (or in the event of purchase in lieu of redemption pursuant to Section 3.06 hereof).

(ii) The Trustee shall deposit in the Principal Account all moneys required to be deposited therein pursuant to Section 6.11 of this Indenture. Such moneys shall be applied in accordance with Section 3.04 of this Indenture.

**Section 6.04. Sources and Priority of Payment of Bonds.** In making payments with respect to the principal of, premium, if any, and interest due on the Bonds on any Bond Payment Date, moneys derived from the following sources shall be used in the following order of priority:

(a) moneys received by the Trustee pursuant to the terms of the Loan Agreement, the Note or the Mortgage; and

(b) any other moneys furnished to and on deposit with the Trustee in the Bond Fund.

**Section 6.05. Costs of Issuance Fund.** On the Closing Date, the Borrower shall deliver or cause to be delivered to the Trustee, for deposit by the Trustee into the Costs of Issuance Fund, funds in an amount sufficient to pay such Costs of Issuance not otherwise paid. Moneys in the Costs of Issuance Fund shall be used to pay all costs of issuing the Bonds, including, but not limited to, all printing expenses in connection with this Indenture, the Loan Agreement and the Bonds, all legal fees and expenses of Bond Counsel, counsel to the underwriter, if any, financial advisor fees, and the Issuer's Closing Fee and the Trustee's initial fees, including legal fees and expenses for the Trustee's counsel, not otherwise paid, upon the submission of requisitions by the Borrower substantially in the form set forth in Exhibit B hereto. Any funds remaining in the Costs of Issuance Fund six (6) months after the issuance and delivery of the Bonds and not otherwise committed to the payment of such costs shall be returned to the Borrower, to the extent such funds were deposited from equity contributions of the Borrower.

**Section 6.06. Bonds Not Presented for Payment.** In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof or the acceleration of maturity if moneys sufficient to pay such Bonds are held by the Trustee, the Trustee shall segregate and hold such moneys in trust, without liability for interest thereon, for the benefit of Owners of such Bonds who shall, except as provided in the following paragraph, thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to said Bonds.

In the event any moneys deposited with the Trustee for the payment of the Purchase Price or principal of, premium, if any, and/or interest on, any Bond remain unclaimed for five (5) years after such Purchase Price, principal, premium or interest has become due and payable, the Trustee shall disburse such moneys to the Borrower; provided, however, that before the Trustee shall be required to make any such payment, the Trustee shall, promptly at the termination of such five (5)-year period, at the expense of the Borrower, cause notice to be given once by Mail to the effect that such moneys remain unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days and not more than ninety (90) days from the date of such notice, any unclaimed balance of such moneys then remaining will be paid to the Borrower. After the payment of such unclaimed moneys to the Borrower, the Owner of such Bond shall thereafter be entitled to look only to the Borrower for payment, and the Borrower shall not be liable for any interest thereon and shall not be regarded as a trustee of such moneys, and all liability of the Issuer, the Trustee and the Paying Agent with respect to such moneys shall thereupon cease.

**Section 6.07. Moneys Held in Trust.** All moneys required to be deposited with or paid to the Trustee for deposit into the Bond Fund under any provision hereof and all moneys withdrawn from the Bond Fund and held by the Trustee, the Paying Agent or the Remarketing Agent shall be held by the Trustee, the Paying Agent, or the Remarketing Agent, as the case may be, in trust, and such moneys (other than moneys held pursuant to Section 6.06 hereof) shall, while so held, constitute part of the Trust Estate and be subject to the lien hereof.

**Section 6.08. Payment to the Borrower.** After the title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer and the Borrower (herein and in the Loan Agreement) shall have ceased, terminated and become void and shall have been satisfied and discharged in accordance with Article VIII hereof, any moneys remaining in the Bond Fund shall be paid to the Borrower.

**Section 6.09. [Intentionally Omitted].**

**Section 6.10. Expense Fund.** The Trustee shall deposit into the Expense Fund amounts received from the Borrower for the purpose of paying the Trustee's Fee, the Ongoing Issuer's Fee and any other fees and expenses required under the Loan Agreement. The Trustee shall pay such amounts to the proper persons on the dates and in the amounts due. Amounts on deposit in the Expense Fund shall be withdrawn or maintained, as appropriate by the Trustee to pay (i) on each December 1 commencing on December 1, 2018, to or at the direction of, the Issuer, the Ongoing Issuer's Fee, (ii) on each December 15 and June 15 commencing on December 15, 2018, to the Trustee, the Trustee's Fee, (iii) upon receipt, to the Trustee, any amounts due to the Trustee which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to, or at the direction of, the Issuer, any portion of the Issuer's Fee due and unpaid, other than amounts paid in accordance with clause (i) above.



### **Section 6.11. Insurance and Condemnation Proceeds Fund.**

(a) Moneys representing Net Proceeds deposited by the Borrower pursuant to subsection (b) of this Section 6.11 shall be deposited into an Insurance and Condemnation Proceeds Fund and notice of such deposit thereof shall be given by the Trustee to the Issuer. Such fund need not be created until required. Earnings on investments held in the Insurance and Condemnation Proceeds Fund shall be retained therein to be applied in accordance with this Section 6.11.

(b) To the extent the Borrower has elected pursuant to Section 4.04 of the Loan Agreement to commence and complete the Restoration of the Project, the Net Proceeds shall be expended in accordance with the provisions of the Loan Agreement and with the following: Amounts on deposit in the Insurance and Condemnation Proceeds Fund shall be disbursed by the Trustee for the repair or replacement of the Project upon the receipt by the Trustee from the Borrower of (i) requisitions specifying (A) the requisition number, the amount requested, and the names and addresses of the Persons to which such amounts shall be paid; (B) certifying that (1) the amounts requested were made or incurred or financed and were necessary for the Project and were made or incurred in accordance with the construction contracts, plans and specifications, if any, theretofore in effect, (2) the amount paid or to be paid, as set forth in such requisition, represents a part of the amount due and payable for the cost of repairing or replacing the Project and such payment was not paid in advance of the time, if any, fixed for payment and is being made in accordance with the terms of any contracts applicable to the Project and in accordance with usual and customary practice under existing conditions, (3) no part of the amounts requisitioned in such requisition has been included within amounts referred to in any requisition previously filed with the Trustee from such Net Proceeds under the provisions of this Section 6.11, (4) the amount remaining in the Insurance and Condemnation Proceeds Fund, together with expected investment earnings on the Insurance and Condemnation Proceeds Fund and other funds available to the Borrower, after payment of the amount requested in such requisition, will be sufficient to pay the entire cost of repairing or replacing the Project, as the case may be, substantially in accordance with the construction contracts, plans and specifications and building permits therefor, if any, currently in effect, and (5) no event of default has occurred and is continuing under the Loan Agreement, the Land Use Restriction Agreement, the Mortgage or the Note and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Indenture, the Loan Agreement, the Land Use Restriction Agreement, the Mortgage or the Note, and (ii) invoices or bills evidencing the amounts due in connection with such requisition. If at any time during the Restoration, the Net Proceeds are less than the estimated costs to repair or restore the Project, the Borrower shall provide the Trustee with cash or cash equivalents in an amount equal to the estimated shortfall. If after completion of any such repairs or replacements, any funds remain in the Insurance and Condemnation Proceeds Fund, the remaining funds shall be transferred by the

Trustee to the Principal Account and used to prepay the Loan and to redeem Bonds pursuant to Section 3.04 hereof.

(c) In the event that the Borrower elects pursuant to Section 4.04 of the Loan Agreement not to commence and complete the Restoration of the Project, the Net Proceeds shall be deposited to the Principal Account and applied to the extraordinary optional redemption of Bonds in accordance with Section 3.04 hereof.

**Section 6.12. Rebate Fund.** The Issuer hereby directs the Trustee to establish a Rebate Fund to be held and applied as provided in this Section 6.12. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined below) and as calculated by the Rebate Analyst, for payment to the United States Government, and neither the Issuer, the Borrower nor the Owners shall have any rights in or claim to such moneys, except as otherwise provided herein. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 6.12.

Within 55 days of the end of each fifth (5th) Bond Year, the Trustee shall instruct and request the Rebate Analyst to calculate the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Rebate Regulations taking into account any exceptions with respect to the computation of the rebatable arbitrage (e.g., the temporary investments exceptions of Sections 148(f)(4)(B) and (C) of the Code), for this purpose treating the last day of the applicable Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Rebate Regulations (the “Rebatable Arbitrage”).

Within 55 days of the end of each fifth (5th) Bond Year, upon the written direction of the Issuer, Bond Counsel or the Rebate Analyst, an amount shall be deposited to the Rebate Fund by the Trustee from amounts provided by the Borrower, if and to the extent required so that the balance in the Rebate Fund shall equal the amount of Rebatable Arbitrage so calculated in accordance with the preceding paragraph (the “Rebate Requirement”).

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

(i) Not later than 60 days after the end of (A) the fifth (5th) Bond Year, and (B) each applicable fifth (5th) Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and

(ii) Not later than 60 days after the payment of all the Bonds, an amount equal to 100% of the Rebatable Arbitrage calculated as of the end of such applicable Bond Year, and any income attributable to the Rebatable Arbitrage, computed in accordance with Section 148(f) of the Code.

Each payment required to be made under this Section 6.12 shall be made to the Internal Revenue Service on or before the date on which such payment is due, and shall be accompanied

by Internal Revenue Service Form 8038-T, which shall be prepared by the Rebate Analyst and provided to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the obligation to remit payment of the Rebatale Arbitrage to the United States Treasury and to comply with all other requirements of this Section 6.12 shall survive the defeasance or payment in full of the Bonds.

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

The Trustee shall keep such records of the computations made pursuant to this Section 6.12 as are required under Section 148(f) of the Code to the extent furnished to the Trustee. The Trustee shall keep and make available to the Borrower such records concerning the investments of the proceeds of the Bonds and the investments of earnings from those investments made by the Trustee as may be requested by the Borrower in order to enable the Borrower to cause the Rebate Analyst to make the aforesaid computations as are required under Section 148(f) of the Code.

Notwithstanding the foregoing, the computations and payments of Rebatale Arbitrage need not be made to the extent that neither the Issuer nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on an opinion of Bond Counsel, a copy of which shall be provided to the Trustee, the Issuer and the Initial Bondholder during the Current Bondholder Period, at the expense of the Borrower.

## **ARTICLE VII INVESTMENTS**

The Trustee, pursuant to the direction as set forth below, shall invest and reinvest in Investment Securities all moneys held in the funds and accounts hereunder except the funds in the Rebate Fund (which may only be invested in the obligations under paragraph (f) of the definition of Investment Securities). Subject to the further provisions of this Article VII, such investments in Investment Securities shall be made by the Trustee as directed and designated by the Borrower, and consented to by the Bondholder Representative during the Current Bondholder Period, in a certificate of, or telephonic advice promptly confirmed by a certificate of, an Authorized Borrower Representative and/or Authorized Bondholder Representative, as applicable. As and when any amounts thus invested may be needed for disbursements from any fund or account, the Trustee shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such fund or account. As long as no Event of Default (as defined in Section 9.01 hereof) shall have occurred and be continuing, the Borrower shall have the right to designate the investments to be sold and to otherwise direct the Trustee in the sale or conversion to cash of the investments made with the moneys in the Bond Fund provided that the Trustee shall be entitled to conclusively assume the absence of any such Event of Default unless it has notice thereof within the meaning of Section 10.05 hereof; if there has been an Event of Default, the Bondholder Representative shall have said right. No investment shall be made of any funds which would violate the covenant set forth in Section 5.06 hereof, provided the Trustee shall have no responsibility to determine if such covenant has been violated. Gains from investments shall be credited to and held in, and losses resulting from investments shall be charged to, the account or fund from which the investment is made. The Trustee shall have no liability for losses resulting from investments made pursuant to this Article VII nor any liability for any effect on the Bonds being considered arbitrage bonds under the Code as a result of investments made pursuant to this Article VII.

## **ARTICLE VIII DEFEASANCE**

If the Issuer shall pay or cause to be paid to the Owner of any Bond secured hereby the principal of, premium, if any, and interest due and payable, and thereafter to become due and payable, upon such Bond, or any portion of such Bond in any integral multiple of the Authorized Denomination thereof, such Bond or portion thereof shall cease to be entitled to any lien, benefit or security under this Indenture. If the Issuer shall pay or cause to be paid the principal of, premium, if any, and interest due and payable on all Outstanding Bonds, and thereafter to become due and payable thereon, and shall pay or cause to be paid all other sums payable hereunder by the Issuer, then, and in that case, the right, title and interest of the Trustee in and to the Trust Estate shall thereupon cease, terminate and become void. In such event, the Trustee shall assign, transfer and turn over the Trust Estate, including, without limitation, any surplus in the Bond Fund and any balance remaining in any other fund created under this Indenture in accordance with Section 6.08 hereof.

Any Bond shall be deemed to be paid within the meaning of this Article VIII and for all purposes of this Indenture when payment of the principal of and premium, if any, on such Bond, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or upon redemption as provided herein) either (i) shall have been made or caused to be made in accordance with the terms thereof or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust and irrevocably set aside exclusively for such payment, (A) moneys sufficient to make such payment and/or (B) Government Obligations, maturing as to principal and interest in such amount and at such time as will insure the availability of sufficient moneys to make such payment. At such times as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Obligations.

Notwithstanding the foregoing paragraph, no deposit under clause (ii) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until: (a) proper notice of redemption of such Bonds shall have been previously given in accordance with Section 3.07 hereof, or in the event said Bonds are not to be redeemed within the next succeeding 60 days, until the Borrower shall have given the Trustee on behalf of the Issuer, in form satisfactory to the Trustee, irrevocable instructions to notify, as soon as practicable, the Owners of the Bonds in accordance with Section 3.07 hereof, that the deposit required by (ii)(A) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Article VIII and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of and the applicable redemption premium, if any, on said Bonds, plus interest thereon to the due date thereof; or (b) the maturity of such Bonds.

## **ARTICLE IX DEFAULTS AND REMEDIES**

**Section 9.01. Events of Default.** Each of the following events shall constitute and is referred to in this Indenture as an “*Event of Default*”:

(a) a failure to pay any principal, premium or Purchase Price when due, or a failure to pay any interest or any other sum due if such failure is not remedied on or before the third (3rd) Business Day following the date such payment is due;

(b) a failure by the Issuer to observe and perform any covenant, condition, agreement or provision (other than as specified in clause (a) of this Section 9.01) contained in the Bonds or in this Indenture on the part of the Issuer to be observed or performed, which failure shall continue for a period of ninety (90) days after written notice, specifying such failure and requesting that it be remedied, shall have been given to the Issuer, the Credit Facility Provider, if any, and the Borrower by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of Owners of not less than 25% in aggregate principal amount of the Bonds then

Outstanding, unless the Owners of not less than 51% in principal amount of Bonds then Outstanding shall agree in writing to an extension of such period prior to its expiration; provided, however, that the Trustee, or the Trustee and the Owners of 100% in principal amount of Bonds then Outstanding, shall be deemed to have agreed to an extension of such period if corrective action is initiated by the Issuer, the Credit Facility Provider or the Borrower on behalf of the Issuer, within such period and is being diligently pursued; or

(c) an Event of Default under the Loan Agreement.

If on any Bond Payment Date or on the date on which payment of the Purchase Price of Bonds is to be made by the Remarketing Agent or the Paying Agent, sufficient moneys are not available to make such payment, the Trustee shall give written notice of such insufficiency to the Borrower.

#### **Section 9.02. Acceleration; Other Remedies.**

(a) Upon the occurrence and continuance of an Event of Default (i) described in Section 9.01(a) hereof (but not without the consent of the Initial Bondholder during the Current Bondholder Period) or simultaneously with any acceleration of the Loan pursuant to Section 7.03 of the Loan Agreement, or (ii) described in Section 9.01(b) or (c) hereof, the Trustee shall at the written request of the Initial Bondholder during the Current Bondholder Period and at the written request of the Owners of not less than 51% in principal amount of Bonds then Outstanding during periods other than the Current Bondholder Period, declare the Bonds to be immediately due and payable, whereupon the Bonds shall, without further action, become and be immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding, and the Trustee shall promptly give notice thereof to the Issuer, the Borrower, the Paying Agent, the Remarketing Agent and, by Mail, to all Owners of Outstanding Bonds, and the Trustee shall immediately draw sufficient moneys to the extent available from the Bond Fund to pay the principal of and accrued interest on all Bonds Outstanding. From and after the date the Borrower's payment obligations hereunder have become immediately due and payable as the result of an Event of Default, or the date that interest on the Loan is payable at the Default Rate pursuant to Section 7.03 of the Loan Agreement, interest on the unpaid principal amount of the Bonds shall accrue at the Default Rate.

(b) The provisions of the preceding paragraph are subject to the condition that if, after the principal of the Bonds shall have been so declared to be due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Issuer shall cause to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the principal of any and all Bonds which shall have become due otherwise than by reason of such declaration (with interest upon such principal and, to the extent

permissible by law, on overdue installments of interest, at the rate per annum specified in the Bonds) and such amount as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee, and all Events of Default hereunder other than nonpayment of the principal of Bonds which shall have become due by said declaration shall have been remedied, then, in every such case, such Event of Default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission or annulment to the Issuer, the Borrower, the Credit Facility Provider, if any, the Remarketing Agent and the Paying Agent, and shall give notice thereof by Mail to all Owners of Outstanding Bonds; but no such waiver, rescission and annulment shall extend to or affect any subsequent Event of Default or impair any right or remedy consequent thereon.

(c) Subject in all cases to the provisions of Sections 10.04 and 10.06 hereof, upon the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written direction of the Credit Facility Provider or Owners of not less than 25% in principal amount of the Bonds then Outstanding shall, in its own name and as the Trustee of an express trust:

(i) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners under, and require the Issuer and/or Borrower to carry out any agreements with or for the benefit of the Owners of Bonds and to perform its or their duties under, the Act, the Loan Agreement, the Mortgage and this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of the Loan Agreement, the Mortgage or this Indenture, as the case may be;

(ii) bring suit upon the Bonds;

(iii) by action or suit in equity require the Issuer to account as if it were the trustee of an express trust for the Owners of Bonds; or

(iv) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of Bonds.

**Section 9.03. Restoration to Former Position.** In the event that any proceeding taken by the Trustee to enforce any right under this Indenture shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then the Issuer, the Trustee and the Owners of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

**Section 9.04. Owners' Right To Direct Proceedings.** Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in principal amount of the Bonds then Outstanding hereunder shall have the right, by an instrument in writing executed and delivered

to the Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Trustee under this Indenture or exercising any trust or power conferred on the Trustee by this Indenture (except the Issuer's Reserved Rights).

**Section 9.05. Limitation on Owners' Right To Institute Proceedings.** No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust or power hereunder, or any other remedy hereunder or on said Bonds, unless such Owner previously shall have given to the Trustee written notice of an Event of Default as hereinabove provided and unless also Owners of not less than 25% in principal amount of the Bonds then Outstanding shall have made written request of the Trustee so to do, after the right to institute said suit, action or proceeding under Section 9.02 hereof shall have accrued, and shall have afforded the Trustee a reasonable opportunity to proceed to institute the same in either its or their name, and except with respect to the acceleration of the Bonds pursuant to Section 9.02 hereof, unless there also shall have been offered to the Trustee security and indemnity satisfactory to it against the costs, expenses (including reasonable attorneys' fees) and liabilities to be incurred therein or thereby, and the Trustee shall not have complied with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the institution of said suit, action or proceeding; it being understood and intended that no one or more of the Owners shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder or under the Bonds, except in the manner herein provided, and that all suits, actions and proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners.

**Section 9.06. No Impairment of Right To Enforce Payment.** Notwithstanding any other provision in this Indenture, the right of any Owner to receive payment of the principal of and interest on its Bond on or after the respective due dates expressed therein, or to institute suit for the enforcement of any such payment on or after such respective due date, shall not be impaired or affected without the consent of such Owner.

**Section 9.07. Proceedings by Trustee Without Possession of Bonds.** All rights of action under this Indenture or under any of the Bonds secured hereby which are enforceable by the Trustee may be enforced by it without the possession of any of the Bonds, or the production thereof at the trial or other proceedings relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the equal and ratable benefit of the Owners, subject to the provisions of this Indenture.

**Section 9.08. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Trustee or to Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or under the Loan Agreement, or now or hereafter existing, at law or in equity or by statute; provided, however, that any conditions set forth herein to the taking of any



remedy to enforce the provisions of this Indenture, the Bonds or the Loan Agreement, shall also be conditions to seeking any remedies under any of the foregoing pursuant to this Section 9.08.

**Section 9.09. No Waiver of Remedies.** No delay or omission of the Trustee or of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article IX to the Trustee and to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

**Section 9.10. Application of Moneys.** Any moneys received by the Trustee, by any receiver or by any Owner pursuant to any right given or action taken under the provisions of this Article IX, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or expected to be incurred or made or expected to be made by the Trustee shall be deposited in the Bond Fund and all moneys so deposited in the Bond Fund during the continuance of an Event of Default (other than moneys for the payment of Bonds which had matured or otherwise become payable prior to such Event of Default or for the payment of interest due prior to such Event of Default) shall be applied as follows:

(a) Unless the principal of all the Bonds shall have been declared due and payable, all such moneys shall be applied:

FIRST - To the payment of the Persons entitled thereto of all interest then due on the Bonds, in the order of the maturity of such interest and, if the amount available shall not be sufficient to pay in full such amount, then to the payment ratably, according to the amounts due to the Persons entitled thereto, without any discrimination or privilege;

SECOND - To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds matured or called for redemption, for the payment of which money is held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they became due at the rate borne by the Bonds and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege; and

THIRD - To be held for the payment to the Persons entitled thereto as the same shall become due of the principal of and interest on the Bonds which may thereafter become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with interest then due and owing thereon,

payment shall be made ratably according to the amount of principal due on such date to the Persons entitled thereto without any discrimination or privilege.

(b) If the principal of all the Bonds shall have become due, all such money shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amount due respectively for principal and interest, to the Persons entitled thereto without any discrimination or privilege.

Whenever money is to be applied pursuant to the provisions of this Section 9.10, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal and interest to be paid on such date shall cease to accrue. The Trustee shall give notice of the deposit with it of any such moneys and of the fixing of any such date by Mail to all Owners of Outstanding Bonds and shall not be required to make payment to any Owner until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

**Section 9.11. Severability of Remedies.** It is the purpose and intention of this Article IX to provide rights and remedies to the Trustee and the Owners which may be lawfully granted under the provisions of the Act, but should any right or remedy herein granted be held to be unlawful, the Trustee and the Owners shall be entitled, as above set forth, to every other right and remedy provided in this Indenture and by law.

**Section 9.12. Notice to Owners of Event of Default.** If an Event of Default described in paragraph (a) of Section 9.01 hereof with respect to a failure to pay the Purchase Price occurs of which the Trustee has notice and which continues for three (3) days after the Trustee has notice of the same as provided in Section 10.05 hereof, the Trustee shall give notice thereof to the Owners of Outstanding Bonds.

## **ARTICLE X**

### **TRUSTEE; PAYING AGENT; REMARKETING AGENT**

**Section 10.01. Acceptance of Trusts.** The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article X, to all of which the Issuer agrees and the respective Owners agree by their acceptance of delivery of any of the Bonds.

**Section 10.02. No Responsibility for Recitals.** The recitals, statements and representations contained in this Indenture or in the Bonds, save only the Trustee's or authenticating agent's authentication upon the Bonds, shall be taken and construed as made by and on the part of the Issuer, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

**Section 10.03. Limitations on Liability.** The Trustee and the Paying Agent may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trust at the expense of the Borrower and its duty hereunder, and the Trustee and the Paying Agent shall not be answerable for the default or misconduct of any such attorney, agent or employee selected by it with reasonable care. The Trustee and the Paying Agent shall not be answerable for the exercise of any discretion or power under this Indenture or for anything whatsoever in connection with the trust created hereby, except only for its own negligence and willful misconduct.

**Section 10.04. Compensation, Expenses and Advances.** The Trustee, the Paying Agent and the Remarketing Agent under this Indenture shall be entitled to reasonable compensation for their services rendered hereunder (not limited by any provision of law in regard to the compensation of the trustee of an express trust) and to reimbursement for their actual out-of-pocket expenses (including counsel fees) reasonably incurred in connection therewith except as a result of their negligence or willful misconduct. If the Issuer shall fail to perform any of the covenants or agreements contained in this Indenture, other than the covenants or agreements in respect of the payment of the principal of and interest on the Bonds, the Trustee may, in its uncontrolled discretion and without notice to the Owners, at any time and from time to time, make advances to effect performance of the same on behalf of the Issuer, but the Trustee shall be under no obligation so to do; and any and all such advances may bear interest at a rate per annum not exceeding the rate of interest then in effect and as announced by the Trustee as its prime lending rate for domestic commercial loans in the city in which is located the Principal Office of the Trustee; but no such advance shall operate to relieve the Issuer from any default hereunder. In the Loan Agreement, the Borrower has agreed that it will pay to the Trustee, the Paying Agent and the Remarketing Agent, such compensation and reimbursement of expenses and advances, but the Borrower may, without creating a default hereunder, contest in good faith the reasonableness of any such services, expenses and advances if done after payment. If the Borrower shall have failed to make any payment to the Trustee, the Paying Agent, or the Remarketing Agent under the Loan Agreement and such failure shall have resulted in an Event of Default under the Loan Agreement, the Trustee, the Remarketing Agent and the Paying Agent shall have, in addition to any other rights hereunder, a claim, prior to the claim of the Owners, for the payment of its compensation and the reimbursement of its expenses and any advances made by it, as provided in this Section 10.04, upon the moneys and obligations in the Bond Fund, except for moneys or obligations deposited with or paid to the Trustee for the redemption or payment of Bonds which are deemed to have been paid in accordance with Article VIII hereof. In the event the Trustee incurs expenses or renders services in any proceedings which result from the occurrence or continuance of an Event of Default

under Section 7.01(e) of the Loan Agreement, or from the occurrence of any event which, by virtue of the passage of time, would become such Event of Default, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law. Notwithstanding any provision of this Indenture to the contrary, before taking any action at the direction of the Owners under this Indenture the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct (or ordinary negligence in the handling of funds received by it in accordance with the terms of this Indenture) by reason of any action so taken.

**Section 10.05. Notice of Events of Default.** The Trustee shall not be required to take notice, or be deemed to have notice, of any default or Event of Default under this Indenture, other than an Event of Default under clause (a) of Section 9.01 hereof (except a failure to pay the Purchase Price), unless a Responsible Officer of the Trustee shall have been specifically notified in writing of such default or Event of Default by the Credit Facility Provider, if any, or by Owners of at least 25% in principal amount of the Bonds then Outstanding, by the Paying Agent or by the Remarketing Agent. The Remarketing Agent and the Paying Agent shall not be required to take notice, or be deemed to have notice, of any default or Event of Default under this Indenture, other than a default or Event of Default of which it shall have actual knowledge.

**Section 10.06. Action by Trustee.** Except in the case of automatic acceleration of the Bonds pursuant to Section 9.02 hereof, the Trustee shall be under no obligation to take any action in respect of any default or Event of Default hereunder or toward the execution or enforcement of any of the trusts hereby created, or to institute, appear in or defend any suit or other proceeding in connection therewith, unless requested in writing so to do by the Credit Facility Provider, if any, or the Owners of at least 25% in principal amount of the Bonds then Outstanding and, if in its opinion such action may tend to involve it in expense or liability, unless furnished, from time to time as often as it may require, with security and indemnity satisfactory to it; but the foregoing provisions are intended only for the protection of the Trustee, and shall not affect any discretion or power given by any provisions of this Indenture to the Trustee to take action in respect of any default or Event of Default without such notice or request from the Owners, or without such security or indemnity.

**Section 10.07. Good-Faith Reliance.** The Trustee, the Remarketing Agent, and the Paying Agent shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, telex or facsimile transmission, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the purported proper board, body or Person or to have been prepared and furnished pursuant to any of the provisions of this Indenture or the Loan Agreement, or upon the written opinion of any attorney, engineer, accountant or other expert believed by the Trustee, the Remarketing Agent or the Paying Agent, as the case may be, to be qualified in relation to the subject matter, and the

Trustee, the Remarketing Agent, the Credit Facility Provider, if any, or the Paying Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, or the due execution thereof, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. None of the Trustee, the Paying Agent or the Remarketing Agent shall be bound to recognize any Person as an Owner or to take any action at such Person's request unless the Bond owned by such Person shall be deposited with such entity or satisfactory evidence of the ownership of such Bond shall be furnished to such entity.

**Section 10.08. Dealings in Bonds and With the Issuer and the Borrower.** The Trustee, the Paying Agent, or the Remarketing Agent, each in its commercial banking or any other capacity, may in good faith buy, sell, own, hold and deal in any of the Bonds issued hereunder, and may join in any action which any Owner may be entitled to take with like effect as if it did not act in any capacity hereunder. The Trustee, the Paying Agent, the Credit Facility Provider, if any, or the Remarketing Agent, each in its commercial banking or any other capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Borrower, and may act as depository, trustee or agent for any committee or body of Owners secured hereby or other obligations of the Issuer or the Borrower as freely as if it did not act in any capacity hereunder. The provisions of this Section shall extend to Affiliates of the named parties.

**Section 10.09. Allowance of Interest.** The Trustee may, but shall not be obligated to, allow and credit interest upon any moneys which it may at any time receive under any of the provisions of this Indenture, at such rate, if any, as it customarily allows upon similar funds of similar size and under similar conditions, provided that such allowance and credit shall not result in any violation of Section 5.06 hereof relating to arbitrage. All interest allowed on any such moneys shall be credited to the appropriate fund or account as provided in Article VII with respect to interest on investments.

**Section 10.10. Construction of Indenture.** The Trustee and Paying Agent may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof or of the Loan Agreement, and any construction of any such provisions hereof by the Trustee or the Paying Agent in good faith shall be binding upon the Owners of the Bonds.

**Section 10.11. Resignation of Trustee.** The Trustee and the Paying Agent may resign and be discharged of the trusts created by this Indenture by executing any instrument in writing resigning such trust and specifying the date when such resignation shall take effect, and filing the same with the Issuer, the Borrower, the Paying Agent, the Remarketing Agent and the Credit Facility Provider, if any, not less than sixty (60) days before the date specified in such instrument when such resignation shall take effect, and by giving notice of such resignation by Mail, not less than three (3) weeks prior to such resignation date, to all Owners of Bonds. Such resignation shall take effect on the day specified in such instrument and notice, unless previously a successor Trustee shall have been appointed as hereinafter provided, in which

event such resignation shall take effect immediately upon the appointment of such successor Trustee, but in no event shall a resignation take effect earlier than the date on which a successor Trustee has been appointed. In the event that a successor Trustee has not been appointed within ninety (90) days, the Trustee has the right to seek appointment of a successor Trustee from a court of competent jurisdiction and shall be reimbursed for its costs and expenses (including reasonable attorney fees).

**Section 10.12. Removal of Trustee.** The Trustee may be removed at any time by the Borrower or the Credit Facility Provider, if any, by filing with the Issuer, the Trustee, the Borrower, the Paying Agent, the Remarketing Agent and the Credit Facility Provider, if any, an instrument or instruments in writing appointing a successor.

**Section 10.13. Appointment of Successor Trustee.** In case, at any time, the Trustee shall be removed, or be dissolved, or if its property or affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy, or for any other reason, then a vacancy shall forthwith and ipso facto exist in the office of Trustee and a successor may be appointed, and in case at any time the Trustee shall resign, then a successor may be appointed, by filing with the Issuer, the Borrower, the Paying Agent, the Remarketing Agent and the Credit Facility Provider, if any, an instrument in writing, executed by Owners of not less than a majority in principal amount of Bonds then Outstanding or their representative. Copies of such instrument shall be promptly delivered by the Issuer to the predecessor Trustee and to the Trustee so appointed.

Until a successor Trustee shall be appointed by the Owners as herein authorized, the Borrower shall appoint a successor Trustee approved in writing by the Credit Facility Provider, if any. After any appointment by the Borrower, the Borrower shall cause written notice of such appointment to be given to the Remarketing Agent, the Paying Agent and the Credit Facility Provider, if any, and by Mail to all Owners of Bonds. Any new Trustee so appointed by the Borrower shall immediately and without further act be superseded by a Trustee appointed by the Owners in the manner above provided.

**Section 10.14. Qualifications of Successor Trustee.** Every successor Trustee (a) shall be a national or state bank or trust company (other than the Credit Facility Provider) that is authorized by law to perform all the duties imposed upon it by this Indenture, (b) shall have a combined capital stock, surplus and retained earnings of at least \$50,000,000, and (c) shall be permitted under the Act to perform the duties of Trustee, if there can be located, with reasonable effort, such an institution willing and able to accept the trust on reasonable and customary terms.

**Section 10.15. Judicial Appointment of Successor Trustee.** In case at any time the Trustee shall resign and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article X prior to the date specified in the notice of resignation as the date when such resignation is to take effect, the resigning Trustee shall forthwith apply to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment

of a successor Trustee shall be made, pursuant to the foregoing provisions of this Article X, within six (6) months after a vacancy shall have occurred in the office of Trustee, any Owner may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

**Section 10.16. Acceptance of Trusts by Successor Trustee.** Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become duly vested with all the estates, property, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named Trustee herein. Upon request of such Trustee, such predecessor Trustee and the Issuer shall execute and deliver an instrument transferring to such successor Trustee all the estates, property, rights, powers and trusts hereunder of such predecessor Trustee and, subject to the provisions of Section 10.04 hereof, such predecessor Trustee shall pay over to the successor Trustee all moneys and other assets at the time held by it hereunder.

**Section 10.17. Successor by Merger or Consolidation.** Any entity into which any Trustee hereunder may be merged or converted or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any entity resulting from any such conversion, sale, merger, consolidation or transfer to which any Trustee hereunder shall be a party, shall be the successor Trustee under this Indenture, without the execution or filing of any paper or any further act on the part of the parties hereto, anything in this Indenture to the contrary notwithstanding; provided, however, if such successor entity is not a trust company or state or national bank that has trust powers, the Trustee shall resign from the trusts hereby created prior to such merger or consolidation.

**Section 10.18. Successors During Initial Fixed Rate Period.** During the Initial Fixed Rate Period, there shall be no appointment or removal of a trustee, co-trustee, paying agent, co-paying agent, tender agent, or remarketing agent without the consent of the Bondholder Representative.

**Section 10.19. Standard of Care.** Notwithstanding any other provisions of this Article X, the Trustee shall, during the existence of an Event of Default of which the Trustee has notice as provided in Section 10.05 hereof, exercise such of the rights and powers vested in it by this Indenture and use the same degree of skill and care in their exercise as a prudent person would use and exercise under the circumstances in the conduct of his own affairs. If there is no Event of Default of which the Trustee is deemed to have knowledge as provided in Section 10.05 hereof, the Trustee has no duties other than those set forth herein, and no implied covenants or obligations shall be read herein against the Trustee.

**Section 10.20. Intervention in Litigation of the Issuer.** In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of the Owners, the Trustee may and shall, upon receipt of

indemnity satisfactory to it at the written request of Owners of at least 25% in principal amount of the Bonds then Outstanding and if permitted by the court having jurisdiction in the premises, intervene in such judicial proceeding. Notwithstanding anything in this Indenture to the contrary, the Trustee shall not initiate or commence any proceeding for a declaratory judgment, interpleader or similar action to determine the rights and duties of the parties hereunder or of the Owners of the Bonds, without prior written notice to the Issuer.

**Section 10.21. Paying Agent.** The Borrower shall appoint the Paying Agent for the Bonds. Initially, the Trustee shall serve as Paying Agent. The Paying Agent shall designate to the Issuer, the Trustee, the Borrower, the Remarketing Agent and the Credit Facility Provider, if any, its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer and the Trustee under which such Paying Agent will agree, particularly:

(a) to hold all sums held by it for the payment of the principal of or interest on Bonds in trust for the benefit of the Owners until such sums shall be paid to such Owners or otherwise disposed of as herein provided;

(b) to hold all moneys delivered to it hereunder for the purchase of Bonds in trust for the benefit of the Person which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such Person;

(c) to keep such books and records as shall be consistent with prudent industry practice, and to make such books and records available for inspection by the Issuer, the Trustee, the Borrower and the Credit Facility Provider, if any, at all reasonable times; and

(d) upon the written request of the Trustee, to forthwith deliver to the Trustee all sums so held in trust by the Paying Agent.

The Issuer, the Credit Facility Provider, if any, and the Borrower shall cooperate with the Trustee, who shall cause the necessary arrangements to be made and to be thereafter continued whereby funds derived from the Bond Fund will be made available for the payment when due of the principal of, premium, if any, and interest on the Bonds, or for payment of the Purchase Price of the Bonds as presented at the Principal Office of the Paying Agent. The Paying Agent shall be entitled to rely on the notices provided by the Remarketing Agent or by the Trustee as to the interest rate on the Bonds.

**Section 10.22. Qualifications of Paying Agent; Resignation; Removal.** The Paying Agent shall be a corporation or association duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital, surplus and retained earnings of at least \$50,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' notice to the Issuer,



the Borrower, the Credit Facility Provider, if any, the Remarketing Agent and the Trustee. The Paying Agent may be removed for cause at any time at the request of the Borrower by an instrument signed by the Borrower, filed with the Issuer, Paying Agent, the Credit Facility Provider, if any, the Remarketing Agent and the Trustee. Any Paying Agent hereunder shall have an office or an agent with an office in New York City.

In the event of the resignation or removal of the Paying Agent, the Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee.

In the event that the Borrower shall fail to appoint a Paying Agent hereunder, or in the event that the Paying Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Borrower shall not have appointed its successor as Paying Agent, the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by the Borrower of the Paying Agent or successor Paying Agent, as the case may be.

#### **Section 10.23. Remarketing Agent and Tender Agent.**

(a) *Remarketing Agent.*

(i) The initial Remarketing Agent shall be RBC Capital Markets, LLC and Raymond James & Associates, Inc. (the "Initial Remarketing Agent"). If the Initial Remarketing Agent fails to perform, the Borrower shall, if required by the terms hereof, and otherwise may, prior to any Purchase Date, appoint a Remarketing Agent approved by the Issuer, and shall provide notice thereof to the Issuer, the Trustee, the Credit Facility Provider, if any, and, during the Current Bondholder Period, the Owners. The Remarketing Agent shall designate its principal office to the Issuer, the Trustee, the Tender Agent, the Borrower, the Credit Facility Provider, if any, and each Owner, and signify its acceptance of the duties and obligations imposed upon it hereunder for the compensation provided for in the Remarketing Agreement under which the following obligations shall be imposed on the Remarketing Agent:

(A) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Tender Agent, the Borrower, and any Credit Facility Provider at all reasonable times; and

(B) to comply with the terms and conditions contained in this Indenture and the Remarketing Agreement with respect to the Remarketing Agent.

(ii) The Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' prior written notice to the Trustee, the Borrower, the Credit Facility Provider, if any, and, during the Initial Fixed Rate Period, the Owners; provided, however, that the Remarketing Agent may not resign unless and until a successor Remarketing Agent shall be appointed. The Remarketing Agent may be removed at any time by an instrument, signed by the Borrower and filed with the Remarketing Agent, the Issuer, the Trustee, and the Credit Facility Provider, if any, but such removal will not take effect prior to the appointment of a successor Remarketing Agent. Any successor Remarketing Agent shall be appointed by the Borrower with approval of the Issuer and must be authorized to perform all the duties imposed upon it by this Indenture.

(iii) In the event of the resignation or removal of the Remarketing Agent, the Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor or, if there is no successor, to the Trustee to be held in a separate account.

(iv) If the Remarketing Agent is removed, or dissolved, or if the property or affairs of the Remarketing Agent are taken under the control of any state or federal court or administrative body because of a bankruptcy or insolvency, or for any other reason, and a successor Remarketing Agent shall not have been appointed, the Trustee shall be the successor Remarketing Agent; provided, however, that the Trustee, in its capacity as Remarketing Agent, shall not be required to sell Bonds or determine the interest rate or periods on the Bonds pursuant to terms and provisions of this Indenture and shall not be required to meet any requirement for a successor Remarketing Agent set forth above.

(b) *Tender Agent.*

(i) For each Floating Rate Period, the Borrower shall appoint a bank or other entity with trust powers, or any other Person with authority, with approval of the Issuer, to serve as Tender Agent for the Bonds, and shall provide notice of such appointment to the Issuer, the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any. In the absence of any such appointment, the Trustee shall serve as Tender Agent.

(ii) Any corporation or association into which the Tender Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become the successor Tender Agent hereunder, without the execution or filing of any

instrument or any further act, deed or conveyance on the part of the parties thereto.

(iii) The Tender Agent may resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' prior written notice to the Issuer, the Borrower, the Credit Facility Provider, if any, the Remarketing Agent, and the Trustee; provided, however, that such resignation shall not take effect until the appointment of and acceptance by a successor Tender Agent.

(iv) The Tender Agent may be removed at any time by an instrument signed by the Borrower and filed with the Trustee, the Issuer, the Credit Facility Provider, if any, and the Remarketing Agent, provided, however, that such removal shall not take effect until the appointment of and acceptance by a successor Tender Agent.

(v) In the event that the Tender Agent shall default in its duties hereunder, shall resign or be removed, shall be dissolved or shall be in the course of dissolution or liquidation or otherwise shall become incapable of acting as Tender Agent, or in the event that the Tender Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, then the Trustee shall serve as Tender Agent until a successor may be appointed. Any successor Tender Agent (other than the Trustee) shall be appointed by the Borrower with approval of the Issuer. Written notice of the appointment of any successor Tender Agent shall be given immediately by the Borrower to the Trustee, the Credit Facility Provider, if any, the Remarketing Agent, and the Owners.

(vi) Any successor Tender Agent shall execute and deliver an instrument accepting such appointment and thereupon and upon payment of the fees and expenses of the predecessor such successor, without any further act, deed or conveyance, shall become vested fully with all rights, powers, duties and obligations of its predecessor, with like effect as if originally named as Tender Agent hereunder, but such predecessor, upon the written request of the Borrower, the Trustee or the Issuer, nevertheless shall execute and deliver such instruments and take such other actions as reasonably may be required to more fully and certainly vest and confirm in such successor all rights, powers, duties and obligations of such predecessor.

**Section 10.24. Several Capacities.** Anything in this Indenture to the contrary notwithstanding, the same entity may serve hereunder as the Trustee, the Paying Agent, the Tender Agent and authenticating agent and in any other combination of such capacities, to the extent permitted by law.

**Section 10.25. Co-Trustees.** It is the purpose of this Indenture that there be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Loan Agreement, and in particular in case of the enforcement thereof on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein, granted, or take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee or the Issuer appoint an additional individual or institution as a separate or co-trustee. In addition to the authority of the Issuer so to appoint, the Trustee is authorized to make such appointment upon notice to the Issuer and the Borrower, but shall be required to secure the Issuer's consent to such appointment. The following provisions of this Section are adapted to these ends.

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

Should any instrument in writing from the Issuer be required by the separate or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate or co-trustee or a successor to either shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate or co-trustee.

**ARTICLE XI**  
**REFERENCES TO CREDIT FACILITY PROVIDER;**  
**EXECUTION OF INSTRUMENTS BY OWNERS AND**  
**PROOF OF OWNERSHIP OF BONDS**

**Section 11.01. References to Credit Facility Provider.** During the Initial Fixed Rate Period and at any other time when no Credit Facility is in effect, references to the Credit Facility Provider shall be ineffective, except with respect to amounts payable to a Credit Facility Provider which have not been paid.

If an Event of Default shall have occurred hereunder due to failure by the Credit Facility Provider to perform its payment obligations under the Credit Facility in accordance with the

terms thereof, the rights of such Credit Facility Provider under Article X and Article XII hereof relating to actions taken by the Trustee with respect to such Event of Default shall be void.

**Section 11.02. Execution of Instruments; Proof of Ownership.** Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by Owners or on their behalf by an attorney-in-fact may be in any number of concurrent instruments of similar tenor and may be signed or executed by Owners in person or by an agent or attorney-in-fact appointed by an instrument in writing or as provided in the Bonds. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

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

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 2.09 hereof.

Nothing contained in this Article XI shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of matters herein stated which it may deem sufficient. Any request, consent of, or assignment by any Owner shall bind every future Owner of the same Bond or any Bond or Bonds issued in lieu thereof in respect of anything done by the Trustee or the Issuer in pursuance of such request or consent.

## **ARTICLE XII MODIFICATION OF THIS INDENTURE AND THE AGREEMENT**

**Section 12.01. Supplemental Indentures without Owner Consent.** The Issuer and the Trustee may, from time to time and at any time, without the consent of or notice to the Owners, enter into Supplemental Indentures as follows:

(a) to cure any formal defect, omission, inconsistency or ambiguity in this Indenture, or resolve any conflict between different terms and provisions of this Indenture, or between any terms and provisions of this Indenture and the terms and provisions of any Loan Documents and any other Bond Documents;

(b) to add to the covenants and agreements of the Issuer in this Indenture other covenants, agreements, or to surrender any right or power reserved or conferred upon the Issuer, and which shall not materially adversely affect the interests of the Owners of the Bonds;

(c) to confirm, as further assurance, any pledge of or lien on the Revenues of the Issuer from the Loan Agreement or of any other moneys, securities or funds subject to the lien of this Indenture;

(d) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended;

(e) to allow for any Person to issue a Credit Facility after the Trustee has received a Favorable Tax Opinion with respect to the addition of the Credit Facility;

(f) to effect a restatement of this Indenture;

(g) to add, delete, or amend any provision as may be required by any Nationally Recognized Rating Agency from whom a rating on the Bonds is desired by the Borrower; and

(h) to modify, alter, amend or supplement this Indenture in any other respect which is not materially adverse to the Owners of the Bonds at the time the change becomes effective.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture pursuant to this Section 12.01, there shall have been delivered to the Trustee, the Borrower and the Credit Facility Provider, if any, an opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

#### **Section 12.02. Supplemental Indentures Requiring Owner Consent.**

(a) Except for any Supplemental Indenture entered into pursuant to Section 12.01 hereof, subject to the terms and provisions contained in this Section 12.02 and not otherwise, Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding shall have the right from time to time to consent to and approve the execution and delivery by the Issuer and the Trustee of any Supplemental Indenture deemed necessary or desirable by the Issuer for the purposes of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided, however, that, unless approved in writing by the Owners of all the Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, (i) a change in the times, amounts or currency of payment of the principal of or interest on any Outstanding Bond, a change in the terms of the purchase thereof by the Remarketing Agent, the Paying Agent or the Tender Agent, or a reduction in the principal amount or redemption price of any Outstanding Bond or the rate of interest thereon, or (ii) the creation of a claim or lien upon, or a pledge of, the Revenues of the Issuer from the Loan Agreement ranking prior to or on a

parity with the claim, lien or pledge created by this Indenture, or (iii) a reduction in the aggregate principal amount of Bonds the consent of the Owners of which is required for any such Supplemental Indenture or which is required, under Section 12.06 hereof, for any modification, alteration, amendment or supplement to the Loan Agreement.

(b) If at any time the Issuer shall request the Trustee to enter into any Supplemental Indenture for any of the purposes of this Section 12.02, the Trustee shall cause notice of the proposed Supplemental Indenture to be given by Mail to all Owners of Outstanding Bonds. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that a copy thereof is on file at the office of the Trustee for inspection by all Owners.

(c) Within six months (or such shorter time as consented to by 100% of the Owners) after the date of the first publication of such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice, but only if there shall have first been delivered to the Trustee (i) the required consents, in writing, of Owners and (ii) an opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture and the Act, complies with their respective terms and, upon the execution and delivery thereof, will be valid and binding upon the Issuer in accordance with its terms and will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

(d) If Owners of not less than the percentage of Bonds required by this Section 12.02 shall have consented to and approved the execution and delivery thereof as herein provided, no Owner shall have any right to object to the execution and delivery of such Supplemental Indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution and delivery thereof, or to enjoin or restrain the Issuer or the Trustee from executing and delivering the same or from taking any action pursuant to the provisions thereof.

**Section 12.03. Effect of Supplemental Indenture.** Upon the execution and delivery of any Supplemental Indenture pursuant to the provisions of this Article XII, this Indenture shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all Owners of Outstanding Bonds shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments.

**Section 12.04. Consent of the Borrower, the Initial Bondholder and the Credit Facility Provider Required.** No Supplemental Indenture under this Article XII and no amendment of the Loan Agreement shall become effective unless the Borrower, the Credit Facility Provider, if any, and, during the Current Bondholder Period, the Initial Bondholder shall have consented thereto in writing.

**Section 12.05. Amendment of Loan Agreement Without Owner Consent.** Except as required pursuant to Section 12.04 hereof, without the consent of or notice to the Owners, the Issuer may modify, alter, amend or supplement the Loan Agreement, and the Trustee may consent thereto, as may be required (a) by the provisions of the Loan Agreement and this Indenture; (b) for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or resolving any conflict between different terms and provisions of the Loan Agreement, or between any terms and provisions of the Loan Agreement and the terms and provisions of the Bond Documents or any other Loan Documents, (c) in connection with any other change therein which is not materially adverse to the Owners at the time the change becomes effective; or (d) to add, delete, or amend any provision as may be required by any Nationally Recognized Rating Agency from whom a rating on the Bonds is desired by the Borrower, which changes will not restrict, limit or reduce the obligation of the Issuer to pay the principal of and premium, if any, and interest on the Bonds as provided in this Indenture or otherwise materially adversely affect the Owners under this Indenture.

Before the Issuer shall enter into, and the Trustee shall consent to, any modification, alteration, amendment or supplement to the Loan Agreement pursuant to this Section 12.05, there shall have been delivered to the Issuer and the Trustee an opinion of Bond Counsel stating that such modification, alteration, amendment or supplement is authorized or permitted by this Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and will not adversely affect the exemption of interest on the Bonds from gross income for federal income tax purposes.

**Section 12.06. Amendment of Loan Agreement Requiring Owner Consent.** Except in the case of modifications, alterations, amendments or supplements referred to in Section 12.05 hereof, the Issuer shall not enter into, and the Trustee shall not consent to, any amendment, change or modification of the Loan Agreement without the written approval or consent of the Credit Facility Provider, if any, and the Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding, given and procured as provided in Section 12.02 hereof; provided, however, that, unless approved in writing by the Owners of all Bonds then Outstanding, nothing herein contained shall permit, or be construed as permitting, a change in the obligations of the Borrower under Sections 4.01 and 4.03 of the Loan Agreement. If at any time the Issuer shall request the consent of the Trustee to any such proposed modification, alteration, amendment or, supplement, the Trustee shall cause notice thereof to be given in the same manner as provided by Section 12.02 hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed modification, alteration, amendment or supplement and shall state that copies of the instrument embodying the same are on file at the Principal Office of the Trustee for inspection by all Owners. The Issuer may enter into, and the Trustee may consent to, any such proposed modification, alteration, amendment or supplement subject to the same conditions and with the same effect as provided in Section 12.02 hereof with respect to Supplemental Indentures.



## ARTICLE XIII MISCELLANEOUS

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

**Section 13.02. Parties in Interest.** Except as herein otherwise specifically provided, nothing in this Indenture expressed or implied is intended or shall be construed to confer upon any Person, firm or corporation other than the Issuer, the Paying Agent and any Tender Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, the Trustee and any co-trustee and the Owners of Bonds issued hereunder any right, remedy or claim under or by reason of this Indenture, this Indenture being intended to be for the sole and exclusive benefit of the Issuer, the Paying Agent and any Tender Agent, the Remarketing Agent, the Borrower, the Credit Facility Provider, if any, the Trustee and any co-trustee and the Owners of Bonds issued hereunder.

**Section 13.03. Severability.** In case any one or more of the provisions of this Indenture or of the Loan Agreement, or of the Bonds issued hereunder shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Indenture, the Loan Agreement, or of such Bonds, and this Indenture, the Loan Agreement and such Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

**Section 13.04. No Personal Liability of Issuer Officials.** No covenant or agreement contained in the Bonds or in this Indenture shall be deemed to be the covenant or agreement of any official, officer, agent or employee of the Issuer in his individual capacity, and neither the members of the Issuer nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**Section 13.05. Bonds Owned by the Issuer or the Borrower.** In determining whether the Owners of the requisite aggregate principal amount of the Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the Issuer or the Borrower or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower (unless the Issuer, the Borrower or such Person owns all Bonds which are then Outstanding, determined without regard to this Section 13.05) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the

Issuer or the Borrower or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

**Section 13.06. Counterparts.** This Indenture may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Indenture.

**Section 13.07. Governing Law.** The laws of the State shall govern the construction and enforcement of this Indenture and of all Bonds issued hereunder.

**Section 13.08. Notices.** Except as otherwise provided in this Indenture, all notices, certificates, requests, requisitions or other communications by the Issuer, the Borrower, the Trustee, the Paying Agent, the Remarketing Agent or the Credit Facility Provider, if any, pursuant to this Indenture shall be in first class registered or certified mail, postage prepaid, return receipt requested, or by private courier service which provides evidence of delivery, or sent by electronic means which produces evidence of transmission, confirmed by first class mail, postage prepaid, and in each case will be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission addressed as follows:

As to the Issuer:                   Housing Finance Authority of Broward County, Florida  
110 N.E. Third Street, Suite 300  
Ft. Lauderdale, Florida 33301  
Attention: Executive Director  
Telephone: (954) 765-5311

As to the Trustee/  
Paying Agent:                   The Bank of New York Mellon Trust Company, N.A.  
10161 Centurion Parkway  
Jacksonville, Florida 32256  
Attn: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

As to the Borrower:           CVII - Landings at Coconut Creek LLC  
501 Brickell Key Drive, Suite 504  
Miami, Florida 33131  
Attention: Carlos Burneo  
Telephone: (305) 929-7115  
Email: [carlos.burneo@threalestate.com](mailto:carlos.burneo@threalestate.com)

with a copy to: CVII – Landings at Coconut Creek LLC  
730 Third Avenue  
New York, New York 10017  
Attention: Nancy Miller, Esq.  
Telephone: (212) 913-7808  
Email: [nancy.miller@nuveen.com](mailto:nancy.miller@nuveen.com)

with a copy to: Locke Lord LLP  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201  
Attention: Michael Petersilia, Esq.  
Telephone: (214) 740-8690  
Email: [mppete@lockelord.com](mailto:mppete@lockelord.com)

As to Initial Owner: Bank of America, N.A.  
One Bryant Park, 12<sup>th</sup> Floor  
New York, New York 10036  
Attention: Daniel Nussbaum  
Telephone: (646) 743-1377

with a copy to: Kutak Rock LLP  
303 Peachtree Street, N.E., Suite 2750  
Atlanta, Georgia 30308  
Attention: Andrew Egan  
Telephone: (404) 222-4610  
Email: [andrew.egan@kutakrock.com](mailto:andrew.egan@kutakrock.com)

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder. The Remarketing Agent and Credit Facility Provider shall provide notice addresses upon taking such roles.

**Section 13.09. Holidays.** If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall not be a Business Day, such payment may, unless otherwise provided in this Indenture or the Loan Agreement, be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture, and no interest shall accrue for the period after such nominal date.

**Section 13.10. Rights of Bondholders During Current Bondholder Period.** Until termination of the Current Bondholder Period, whenever this Indenture or the Loan Agreement require the consent, determination, election, approval, waiver, acceptance, satisfaction of, expression of opinion of, or the taking of any discretionary act by, the Trustee (which term for purposes of this Section 13.10 shall include any Co-Trustee, Tender Agent or Paying Agent) (all

of the foregoing being hereinafter referred to as "Consent"), the right, power, privilege and option of the Trustee to withhold or grant its Consent shall be deemed to be the sole right, power, privilege and option of the Initial Bondholder to withhold or grant such Consent, and the Trustee shall have no responsibility for any action or inaction with respect thereto, except as may otherwise be set forth in this Indenture. The Initial Bondholder shall designate in a written certificate delivered to the Trustee and the Borrower, one or more representatives (each a "Bondholder Representative"), who shall have the authority to bind the Initial Bondholder for purposes of exercising the rights of the Initial Bondholder under this Indenture and the other Loan Documents; provided that, unless the Initial Bondholder provides notice to the contrary, the Initial Bondholder shall be deemed the sole Bondholder Representative during any period that the Initial Bondholder, or one of its Affiliates or designees, is the holder or beneficial holder of any of the Bonds or any interest therein. During the Current Bondholder Period, the Trustee and the Borrower shall be entitled to rely upon the acts or Consents of any such Bondholder Representative as binding upon the Initial Bondholder, and the Initial Bondholder shall in fact be so bound. Consent of the Bondholder Representative shall be deemed the consent of 100% of the Owners.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Housing Finance Authority of Broward County, Florida has caused this Indenture to be executed by its Chair or Vice Chair and its official seal to be impressed hereon and attested by its Secretary or Assistant Secretary and The Bank of New York Mellon Trust Company, N.A. has caused this Indenture to be executed in its behalf by one of its authorized officers, all as of the day and year first above written.

[SEAL]

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

Attest:

By: \_\_\_\_\_  
Name: Milette Thurston  
Title: Assistant Secretary

By: \_\_\_\_\_  
Name: Ruth T. Cyrus  
Title: Chair

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.

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

**EXHIBIT A**  
**(Form of Bond)**

The Bonds are subject to a significant degree of risk and are suitable for consideration solely for Qualified Institutional Buyers (as defined in Rule 144A under the Securities Act of 1933, as amended) or Accredited Investors (as defined in Rule 501(a) under Regulation D of the Securities Act of 1933, as amended) who are experienced in the field of unrated multifamily housing bonds. No rating for the Bonds has been applied for and there is no assurance given that any rating would be received if an application for a rating had been made. By the purchase of this Bond, the purchaser is avowing that such purchaser (i) is a Qualified Institutional Buyer or an Accredited Investor, (ii) is purchasing the Bonds solely for its own account, (iii) can bear the economic risk of its investment in the Bonds, (iv) has such knowledge and experience in financial and business matters in general and tax-exempt obligations, in particular, that it is capable of evaluating the merits and risks of purchasing the Bonds, and (v) has made the decision to purchase the Bonds based on its own independent investigation regarding the Bonds and has received the information it considers necessary to make an informed decision to invest in the Bonds. The Issuer and the Trustee shall have no liability or responsibility for determining the suitability of any owner of the Bonds, nor shall any documentation therefor be required. Except as otherwise provided in the Indenture, this Bond may not be sold in denominations of less than \$500,000. The Bonds are unrated and not secured by a credit facility. By the purchase and acceptance of this Bond the purchaser acknowledges and agrees that the Bond shall not be offered, sold, assigned, pledged or otherwise transferred, except as provided herein and in the Indenture.

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2017  
(THE LANDINGS AT COCONUT CREEK)

Initial Interest Rate	Maturity Date	Dated Date	CUSIP No.
____%	December 1, [2057]	December __, 2017	_____

REGISTERED OWNER: [\_\_\_\_\_]

PRINCIPAL AMOUNT: [\_\_\_\_\_]

The Housing Finance Authority of Broward County, Florida (the "Issuer"), a public body corporate and politic, duly organized and existing under the laws of the State of Florida (the "State"), for value received, hereby promises to pay (but only out of the Revenues, as hereinafter defined, and other moneys pledged therefor) to the registered owner specified above, or registered assigns, on December 1, [2057], subject to prior redemption provided for in the Indenture, the principal sum specified above and, except as provided in the Indenture with

respect to defaulted interest, interest on said principal sum from the Interest Payment Date next preceding the date of authentication hereof, or if such date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, from such Interest Payment Date or, if no interest has been paid on the Bonds, the date of the first delivery of fully executed and authenticated Bonds until payment of said principal sum has been made or duly provided for, at the rates and on the dates set forth herein. The principal of and premium, if any, on this Bond is payable at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A. (the "Paying Agent," which term shall include any successor paying agent). Payment of interest on this Bond shall be made to the owner hereof by check or draft mailed to the Owner at its address as it appears on the registration books maintained by the Paying Agent as registrar on behalf of the Issuer on the Record Date (as defined in the Indenture), or at such other address as is furnished to the Paying Agent in writing by such Owner. Payment of interest on the Bonds may, at the option of any owner of Bonds in an aggregate principal amount of at least \$1,000,000, be transmitted by wire transfer within the United States to such Owner to the bank account number on file with the Paying Agent as of the Record Date. Payment of the principal of and interest on this Bond shall be in any coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

THE PRINCIPAL, PREMIUM AND THE INTEREST HEREON ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED BY THE ISSUER PURSUANT TO THE LOAN AGREEMENT, WHICH REVENUES AND RECEIPTS HAVE BEEN PLEDGED AND ASSIGNED TO SECURE PAYMENT THEREOF. NEITHER THE CREDIT NOR TAXING POWER OF BROWARD COUNTY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO PAY PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

This Bond shall not be entitled to any right or benefit under the Indenture, or be valid or become obligatory for any purpose, until this Bond shall have been authenticated by the execution by the Paying Agent, or by an authenticating agent, of the certificate of authentication inscribed hereon.

This Bond is one of an authorized issue of Bonds entitled "Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek)", in an aggregate principal amount of \$\_\_\_\_\_ (the "Bonds"), issued under and pursuant to the Constitution and laws of the State, particularly the Part IV of Chapter 159, Florida Statutes, as amended (the "Act"), and the Trust Indenture dated as of December 1, 2017 (as the same may be amended or supplemented from time to time, the "Indenture"), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee," which term shall include any successor trustee).

The Bonds are being issued for the purpose of financing the acquisition, rehabilitation and equipping of a multifamily residential rental housing development in Broward County,



Florida available to moderate, middle and lesser income persons and families (the "Project") by making a loan (the "Loan") to CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company (together with any successors, the "Borrower"), which will be made pursuant to the provisions of a Loan Agreement dated as of December 1, 2017, by and between the Borrower and the Issuer (as the same may from time to time be amended or supplemented, the "Loan Agreement") and certain documents evidencing and securing the Loan. Pursuant to the Loan Agreement and pursuant to a promissory note executed by the Borrower (the "Note"), the Borrower has agreed to pay to the Trustee amounts which are intended, in the aggregate, to be sufficient to pay principal of, premium, if any, Purchase Price, and interest on all of the Bonds.

Pursuant to the Indenture, the Issuer will endorse, assign and pledge to the Trustee all its rights in (excluding the Issuer's Reserved Rights) and to the Loan Agreement, the Loan, the Mortgage, the Note, and all moneys and securities held by the Trustee under the Indenture (excluding amounts in the Costs of Issuance Fund, the Expense Fund and the Rebate Fund), all to secure payment of the principal of and interest on the Bonds. Reference is hereby made to the Indenture, the Bond Documents, the Loan Documents and the resolutions of the Issuer adopting and approving such instruments for a description of the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the funds charged with and pledged to the payment of the principal of and interest on the Bonds and the nature and extent of such security, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and of the Trustee, the rights of the Owners of the Bonds, and the provisions regulating the manner in which the terms of the Loan Agreement, the Indenture, this Bond, and the rights of the Owner hereof may be modified, to all of which provisions the Owner of this Bond, on behalf of himself and his successors in interest, assents by acceptance hereof.

Any capitalized, undefined term used herein shall have the meaning ascribed to it in the Indenture.

### **Floating Rate Provisions.**

The provisions under this heading shall apply during any period during which the Bonds bear interest at a Floating Rate.

*Optional Tender.* Any Bond shall be purchased in Authorized Denominations, provided that the remaining principal amount of the Bond is not less than an Authorized Denomination on the demand of the Owner thereof, at a purchase price equal to the principal amount thereof plus accrued interest, if any, to the date of purchase, upon:

- (a) delivery to the Tender Agent, with a copy to the Remarketing Agent, of an irrevocable written notice which (i) states the principal amount and serial numbers of Bonds to be purchased and (ii) states the date on which such Owner desires such Bonds to be purchased, which shall be a Business Day not prior to the seventh (7th) day next

succeeding the date of delivery of such notice to the Tender Agent (which date shall be a Purchase Date with respect to the requested purchase of Bonds) and not later than a Fixed Rate Conversion Date; and

(b) delivery of such Bond (with all necessary endorsements or a blank bond power) to the Tender Agent, not later than 10:00 a.m., New York City time, on the Purchase Date specified in the aforesaid notice.

The Borrower may from time to time remove or replace the Remarketing Agent.

During any Floating Rate Period interest on the Bonds shall be paid on the first Business Day of each calendar month, and shall be computed on the basis of a year of 365 or 366 days, as appropriate, for the actual number of days elapsed.

*Floating Rate.* During any Floating Rate Period, the interest rate borne by the Bonds shall be determined weekly as follows:

The Floating Rate for each Calculation Period shall be calculated by the Remarketing Agent on the Floating Rate Determination Date with respect to such Calculation Period. Subject to the next succeeding paragraph, such Floating Rate shall be the minimum rate of interest per annum that would be necessary for the Bonds to bear during such Calculation Period, in the opinion of the Remarketing Agent, in light of prevailing conditions in the financial markets, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the first day of such Calculation Period at a price of par plus accrued interest. The Remarketing Agent shall give immediate notice to the Trustee and the Tender Agent of such Floating Rate on each such Floating Rate Determination Date. In no event shall the Floating Rate exceed the Maximum Rate.

In the event that the Remarketing Agent fails to determine the Floating Rate for any Calculation Period as required by the preceding paragraph, or the Floating Rate as so established has been held to be invalid or unenforceable by a court of competent jurisdiction for any period during a Calculation Period, the Trustee shall notify the Remarketing Agent and the Borrower by telephone, telecopy, telegraph or other practical means to obtain immediate notice of the Floating Rate for such Calculation Period. If such failure is not cured by 12:00 noon on the Business Day following the applicable date on which the Floating Rate is required to be determined, then the Floating Rate for such Calculation Period shall be the Floating Rate in effect for the immediately preceding Calculation Period, unless the Bonds bore interest at a Fixed Rate on the day immediately prior to the day on which such Calculation Period began, in which case the Floating Rate with respect to such Calculation Period shall be seventy percent (70%) of the Index Rate. In such event, the Trustee shall compute such Floating Rate and shall give notice thereof to the Tender Agent, the Remarketing Agent and the Borrower.

#### **Fixed Rate Provisions.**

The provisions under this heading shall apply during any Fixed Rate Period.

Each Fixed Rate (other than the Initial Fixed Rate) shall be the rate determined by the Remarketing Agent to be the minimum Fixed Rate that would be necessary, in its opinion in light of prevailing conditions in the financial markets on the date of such calculation, for the Bonds to bear during a Fixed Rate Period of the length specified, in order to allow the Bonds to be remarketed in a secondary market transaction on and as of the Fixed Rate Conversion Date at a price of par plus accrued interest.

During any Fixed Rate Period payment of interest on the Bonds shall be made on each [January 1, April 1, July 1 and October 1], interest shall be computed on the basis of a 360-day year for the actual number of days elapsed and the Owner shall have no right to require purchase of this Bond by the Remarketing Agent or the Paying Agent.

## **Redemption Provisions.**

### *Extraordinary Optional Redemption*

In the event of an Extraordinary Optional Prepayment pursuant to the Loan Agreement, the Borrower must give notice (the "Extraordinary Optional Redemption Notice") to the Trustee of its election to prepay the Loan within one-hundred thirty-five (135) days of the event of Eminent Domain or casualty which caused the loss (or the event that gave rise to the right to prepay the Loan in accordance with Sections 4.04(c) or 4.04(d) of the Loan Agreement) (the "Event"). Such notice must clearly designate a date for redemption of the Bonds (the "Extraordinary Optional Redemption Date") which date shall be no later than one-hundred eighty (180) days after the Event and no less than forty-five (45) days after the date the Borrower gives the Extraordinary Optional Redemption Notice. Upon receiving the Extraordinary Optional Redemption Notice, the Trustee shall redeem all or a portion of the Bonds (as the case may be).

### *Optional Redemption*

During any Floating Rate Period, the Bonds shall be subject to redemption at the option of the Borrower and shall be redeemed in whole or in part (in Authorized Denominations) on the first Business Day of any month at a redemption price equal to the outstanding principal amount of Bonds to be redeemed plus accrued interest thereon to the date of redemption.

At any time on or after January 1, 2021, during the Initial Fixed Rate Period, the Borrower may elect to have the Bonds redeemed, in whole on any date, at a redemption price equal to 100% of the outstanding principal amount of the Bonds plus accrued interest thereon to the redemption date.

During any Fixed Rate Period (other than the Initial Fixed Rate Period), the Bonds shall be subject to redemption at the option of the Borrower and shall be redeemed in whole on any date, or in part on any [January 1, April 1, July 1 and October 1] (a "Fixed Rate Interest Payment Date"), at the respective prices set forth in the table below (expressed as percentages of the

principal amount of the Bonds so called for redemption), plus accrued interest thereon to the redemption date, as contemplated by Section 4.05 of the Loan Agreement:

*if the Fixed Rate Period has a duration of two (2) years or less:*

<b>Redemption Dates</b>	<b>Prices</b>
From the Fixed Rate Interest Payment Date closest to the Midpoint Date to the following Fixed Rate Interest Payment Date	100.5%
From such following Fixed Rate Interest Payment Date to the end of the Fixed Rate Period	100%

*if the Fixed Rate Period has a duration of more than two (2) years, but less than five (5) years:*

<b>Redemption Dates</b>	<b>Prices</b>
From the Fixed Rate Interest Payment Date closest to the Midpoint Date to the following Fixed Rate Interest Payment Date	101.5%
From such following Fixed Rate Interest Payment Date to the next following Fixed Rate Interest Payment Date	101%
From such next following Fixed Rate Interest Payment Date to the subsequent Fixed Rate Interest Payment Date	100.5%
From such subsequent Fixed Rate Interest Payment Date to the end of the Fixed Rate Period	100%

*if the Fixed Rate Period has a duration of five (5) years or more:*

<b>Redemption Dates</b>	<b>Prices</b>
From the Fixed Rate Interest Payment Date closest to the Midpoint Date to the following Fixed Rate Interest Payment Date	102%
From such following Fixed Rate Interest Payment Date to the next following Fixed Rate Interest Payment Date	101.5%
From such next following Fixed Rate Interest Payment Date to the subsequent Fixed Rate Interest Payment Date	101%

<b>Redemption Dates</b>	<b>Prices</b>
From such subsequent Fixed Rate to the next Fixed Rate Interest Payment Date	100.5%
From such next Fixed Rate Interest to the end of the Fixed Rate Period Payment Date	100%

The Borrower may exercise such option by giving the Trustee and the Owners of Bonds written notice of such exercise, not less than forty-five (45) days prior to the proposed redemption date, which notice shall specify the date fixed for optional redemption.

In the event that the Bonds are to be redeemed in part, but not in whole, pursuant to an optional redemption, Bonds shall be redeemed through the application of funds from the prepayment of the Note and from other available amounts. If less than all the Bonds shall be called for redemption under any provisions of the Indenture permitting such partial redemption, the particular Bonds or integral multiples of the Authorized Denomination thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem proper, but only in such amount that will result in any Bonds remaining Outstanding being in Authorized Denominations, as directed in writing by the Borrower.

**Mandatory Purchase Provisions.**

Under certain circumstances described in the Indenture, the interest rate determination method in effect on the Bonds may be changed by the Borrower to another interest rate determination method. Upon at least thirty (30) days prior written notice to the Owners of the Bonds, the Bonds shall be subject to mandatory purchase on the effective date of a new interest rate determination method as provided in the Indenture. The Bonds are subject to mandatory purchase on the first day of any Floating Rate Period or Fixed Rate Period (a "Mandatory Tender Date") at a purchase price equal to the redemption price of such Bonds as though such Bonds were optionally redeemed on the Business Day preceding such Mandatory Tender Date. IN THE EVENT AN OWNER FAILS TO DELIVER ITS BONDS AS REQUIRED FOLLOWING SUBMISSION OF A MANDATORY TENDER NOTICE, AND SUFFICIENT MONEYS ARE ON DEPOSIT WITH THE TRUSTEE TO PAY THE PURCHASE PRICE FOR SUCH BONDS AND ALL OTHER BONDS TENDERED FOR PURCHASE ON SUCH DATE IN ACCORDANCE WITH THE INDENTURE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE ON OR SUBSEQUENT TO THE DATE DESIGNATED FOR PURCHASE IN THE APPLICABLE NOTICE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFITS OF THE INDENTURE, EXCEPT FOR THE PAYMENT OF THE PURCHASE PRICE THEREFOR UPON PRESENTATION OF SUCH BONDS AND SUCH BONDS SHALL NO LONGER BE DEEMED TO BE OUTSTANDING UNDER THE INDENTURE.

*General Provisions.*

The Bonds are equally and ratably secured, to the extent provided in the Indenture, by the pledge thereunder of the Revenues, which includes all moneys paid or payable to the Trustee for the account of the Issuer in accordance with the Loan Agreement, the Loan and the Note, and all receipts credited under the provisions of the Indenture against such payments.

The Bonds may be subject to acceleration upon the occurrence of certain events of default under the Indenture and/or the Loan Agreement.

The Borrower may, at its option, provide for a Credit Facility.

The term "*Business Day*" means a day other than a Saturday, a Sunday, or a legal holiday on which banks located in the State of New York or in any city where the Trustee maintains its place of business for performance of its obligations under the Indenture are not open for general banking business.

Subject to the transfer restrictions set forth in the Indenture, the transfer of this Bond shall be registered upon the books kept at the Principal Office of the Paying Agent, at the written request of the Owner hereof or his attorney duly authorized in writing, upon surrender of this Bond at said office, together with a written instrument of transfer satisfactory to the Paying Agent duly executed by the Owner or his duly authorized attorney.

The Bonds are issuable only as fully registered Bonds in Authorized Denominations.

Upon payment of any required tax or other governmental charge and subject to such conditions, upon surrender at the Principal Office of the Paying Agent, Bonds may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of Bonds of an Authorized Denomination.

In the event any of the Bonds are called for redemption, the Trustee shall give notice, in the name of the Issuer, of the redemption of such Bonds, which notice shall (i) specify the Bonds to be redeemed, the redemption date, the redemption price and the place or places where amounts due upon such redemption will be payable (which shall be the Principal Office of the Paying Agent) and, if less than all of the Bonds are to be redeemed, the numbers of the Bonds, and the portions of Bonds so to be redeemed, (ii) state any condition to such redemption, and (iii) state that on the redemption date and upon satisfaction of any such condition the Bonds to be redeemed shall cease to bear interest. Subject to certain exceptions, such notice shall be given by mailing a copy of the redemption notice by mail at least ten (10) days prior to the date fixed for redemption to the Owners of the Bonds to be redeemed at the addresses shown on the registration books; provided, however, that failure duly to give such notice by mailing to any Owner, or any defect therein, shall not affect the validity of any proceedings for the redemption of any other of the Bonds.

If a notice of redemption shall be unconditional or if the conditions of a conditional notice of redemption shall have been satisfied, then upon presentation and surrender of Bonds so called for redemption at the place or places of payment, such Bonds shall be redeemed. Any Bonds and portions of Bonds which have been duly selected for redemption and which are deemed to be paid in accordance with the Indenture shall cease to bear interest on the specified redemption date and shall thereafter cease to be entitled to any lien, benefit or security under the Indenture.

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

With certain exceptions as provided therein, the Indenture and the Loan Agreement may be modified or amended only with the consent of the Owners of 60% in aggregate principal amount of all Bonds Outstanding under the Indenture.

The Issuer, the Trustee, the Borrower, the Paying Agent, the Credit Facility Provider, if any, and the Remarketing Agent shall treat the Person in whose name this Bond is registered as the absolute Owner hereof for all purposes, whether or not this Bond is overdue, and shall not be bound by any notice to the contrary.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and laws of the State to exist, to have happened and to have been performed, precedent to and in the execution and delivery of the Indenture and the issuance of this Bond, do exist, have happened and have been performed in regular and due form as required by law.

No covenant or agreement contained in this Bond or the Indenture shall be deemed to be a covenant or agreement of any official, officer, agent or employee of the Issuer in his individual capacity, and neither the officers of the Issuer, nor any official executing this Bond, shall be liable personally on this Bond or be subject to any personal liability or accountability by reason of the issuance or sale of this Bond.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, THE HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA has caused this Bond to be executed with the manual signature of its Chair or Vice Chair and a manual of its official seal to be imprinted hereon and attested with the manual signature of its Assistant Secretary.

[SEAL]

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

Attest:

By: \_\_\_\_\_  
Milette Thurston, Assistant Secretary

By: \_\_\_\_\_  
Ruth T. Cyrus, Chair



**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Authentication:

December \_\_, 2017

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with the right of survivorship and not as tenants in common

UNIFORM TRANS MIN ACT - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

under Uniform Trans to Minors Act \_\_\_\_\_ (State)

Additional abbreviations may also be used though not in the above list.

**[FORM OF ASSIGNMENT FOR TRANSFER]**

FOR VALUE RECEIVED, the undersigned, hereby sells, assigns and transfers unto \_\_\_\_\_ (Tax Identification or Social Security No. \_\_\_\_\_) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

Signature Guaranteed:

\_\_\_\_\_

NOTICE: Signature(s) must be Guaranteed by a signature guarantor institution that is a participant in a nationally recognized signature guarantor program.

NOTICE: The signature to this assignment must correspond with the name of the Owner of the within Bond as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification number must be supplied.

**EXHIBIT B**

**FORM OF REQUISITION FOR COSTS OF ISSUANCE**

\$ \_\_\_\_\_

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2017  
(THE LANDINGS AT COCONUT CREEK)

TO: The Bank of New York Mellon Trust Company, N.A., as Trustee under the Trust Indenture dated as of December 1, 2017, with the Housing Finance Authority of Broward County, Florida (the "Indenture").

This Requisition is made pursuant to Section 6.05 of the Indenture to pay the Costs of Issuance.

The Trustee is hereby directed to pay sums out of the Costs of Issuance Fund as follows:

_____ Payee _____	_____ Amount _____
-------------------	--------------------

CVII – LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company

By: ML CASA VII, LP, a Delaware limited partnership, its sole member

By: ML CASA VII Management, LLC, a Delaware limited liability company, its general partner

By: CASA Partners VII GP, LLC, a Delaware limited liability company, its manager

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT C**

**[TO BE REVISED]**

**FORM OF INVESTOR LETTER**

[INSERT DATE]

Housing Finance Authority of Broward County, Florida  
Fort Lauderdale, Florida

The Bank of New York Mellon Trust Company, N.A.  
Jacksonville, Florida

Raymond James & Associates, Inc.  
Saint Petersburg, Florida

Re: Housing Finance Authority of Broward County, Florida  
Multifamily Housing Revenue Bonds, Series 2017  
(The Landings at Coconut Creek)

Ladies and Gentlemen:

The undersigned, being duly authorized to act for and to bind Bank of America, N.A. (the "Purchaser"), hereby represents and warrants to you, in connection with its purchase of the bonds identified above (the "Bonds"), as follows:

The Purchaser hereby expressly waives any right to receive any information from the Housing Finance Authority of Broward County, Florida (the "Issuer") or The Bank of New York Mellon Trust Company, N.A. (the "Trustee") or Raymond James & Associates, Inc. (the "Placement Agent") and hereby irrevocably releases and relieves the Issuer and its agents and representatives and the Placement Agent of any liability for failure to provide such information. The Purchaser understands that the holders of the Bonds have no right to demand payment from the Issuer for any sums other than those limited rights described in the Bonds and the Trust Indenture dated as of December 1, 2017 by and between the Issuer and the Trustee (as amended, restated, assigned, modified, consolidated, renewed, substituted, replaced and/or supplemented from time to time, the "Indenture").

The individual executing this Investor Letter has been duly authorized to execute and deliver this Investor Letter on behalf of the Purchaser.

Neither the Issuer, nor any of its officers, employees or agents nor the Placement Agent will have responsibility to the Purchaser for the accuracy or completeness of information

obtained by the Purchaser from any source regarding the Project, the Issuer and CVII - LANDINGS AT COCONUT CREEK LLC (the "Borrower"), or their assets, businesses, circumstance or financial condition, or regarding the Bonds, the provision for payment thereof, or the sufficiency of any security therefor. The Purchaser has assumed responsibility for obtaining such information and making such review as the Purchaser has deemed necessary or desirable in connection with its decision to purchase the Bonds and therefore has made the decision to purchase the Bonds based on its own independent investigation regarding the Bonds and the Borrower.

The Purchaser is duly and validly organized under the laws of its jurisdiction of incorporation or organization and is a Sophisticated Investor (as defined in the Indenture) and has based its decision to invest in the Bonds solely on its own investigation, including, without limitation, its review of such documents, records, reports, financial statements, and other information concerning the Borrower as it deemed necessary without reliance upon others. The Purchaser is purchasing the Bonds solely for its own account and it can bear the economic risk of its investment in the Bonds (including the total loss of its investment) and has such knowledge and experience in business and financial matters, including analysis of the purchase of similar investments, as to be capable of evaluating the merits and risks associated with purchasing the Bonds.

The Purchaser is purchasing the Bonds for investment and not with a present view to, or for resale in connection with, any distribution of the Bonds but retains the right to dispose of the Bonds in accordance with the terms of the Indenture.

The Purchaser acknowledges and understands that you are relying and will continue to rely on the statements made herein.

[Signature continued on next page]

[Signature page to Investment Letter]

[Bond Purchaser]

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**EXHIBIT D**  
**FORM OF REQUISITION FROM PROJECT ACCOUNT**

\$ \_\_\_\_\_

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2017  
(THE LANDINGS AT COCONUT CREEK)

TO: The Bank of New York Mellon Trust Company, N.A., as Trustee under the Trust Indenture dated as of December 1, 2017, with the Housing Finance Authority of Broward County, Florida (the "Indenture").

1. Capitalized terms used but not defined in this Requisition shall have the meaning ascribed to such terms in the Indenture.

2. This Requisition is made pursuant to Section 4.02 of the Indenture to [reimburse the Borrower for a portion of the cost of the acquisition of the Project] [pay the costs of rehabilitating the Project].

3. The Trustee is hereby directed to pay sums out of the Project Account as follows:

<u>Payee</u>	<u>Amount</u>
--------------	---------------

4. The Borrower certifies to the Trustee and the Initial Bondholder that: (a) no Event of Default under the Indenture has occurred; (b) the funds being requisitioned hereby constitute "good costs" for determining minimum rehabilitation expenditures under the Code; (c) the funds being requisitioned hereby constitute Qualified Project Costs; (d) all lien waivers or releases from any contractors have been or will be obtained, as applicable; (e) the representations and warranties of the Borrower in the Loan Agreement are hereby ratified and confirmed; (f) none of the items for which payment is requested have formed the basis for any previously made from the Project Account; and (g) nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Loan Documents.



CVII – LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company

By: ML CASA VII, LP, a Delaware limited partnership, its sole member

By: ML CASA VII Management, LLC, a Delaware limited liability company, its general partner

By: CASA Partners VII GP, LLC, a Delaware limited liability company, its manager

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

Consented to by:  
The Bank of New York Mellon  
Trust Company, N.A.

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

**EXHIBIT "B"**

**FORM OF LOAN AGREEMENT**

**[ATTACHED]**

**LOAN AGREEMENT**

between

**HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA**

and

**CVII - LANDINGS AT COCONUT CREEK LLC,  
a Delaware limited liability company**

relating to

\$\_\_\_\_\_

**HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS**

**SERIES 2017**

**(The Landings at Coconut Creek)**

Dated as of December 1, 2017

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EXHIBIT A	DESCRIPTION OF LAND
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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (as amended, restated and/or supplemented from time to time, the "Loan Agreement"), dated as of December 1, 2017, is between the **HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA**, a public body corporate and politic of the State of Florida (together with its successors and assigns, the "Issuer"), and **CVII - LANDINGS AT COCONUT CREEK LLC**, a limited liability company organized and existing under the laws of the State of Delaware ("Borrower").

WHEREAS, the Florida Housing Finance Authority Law (the "Act"), being Part IV of Chapter 159, Florida Statutes, as amended, provides for the creation of a housing finance authority in each county in the State of Florida for the purpose of alleviating a shortage of housing available at prices or rental which persons of moderate, middle or lesser income can afford, and a shortage of capital for investment in such housing; and

WHEREAS, in accordance with the provisions of the Act, the Board of County Commissioners of Broward County, Florida enacted Ordinance No. 79-41 (the "Ordinance") determining that there is within Broward County, Florida (the "County") a shortage of affordable housing and capital for investment in such housing, and duly created the Issuer in an attempt to help alleviate such shortages; and

WHEREAS, the proceeds of the Issuer's \$\_\_\_\_\_ Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek) (the "Bonds") will be used by the Issuer to fund a loan to the Borrower in order to provide financing for the acquisition, rehabilitation and equipping of a 268-unit multifamily rental housing development owned by the Borrower, located in Broward County, Florida, known as The Landings at Coconut Creek, and to be occupied by certain eligible tenants (the "Project"); and

WHEREAS, the Borrower is the current owner of the Project; and

WHEREAS, pursuant to the Act and the Ordinance, the Issuer has agreed to issue the Bonds pursuant to the terms of the Trust Indenture, dated as of December 1, 2017 (the "Indenture"), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), and to lend the proceeds of the Bonds to the Borrower pursuant to the terms hereof, to finance the Project (such loan, as amended, restated and/or supplemented from time to time, is hereby referred to as the "Loan");

NOW THEREFORE, the Issuer and the Borrower, each in consideration of the representations, covenants and agreements of the other as set forth herein, mutually represent, covenant and agree as follows, to wit:

**ARTICLE I**  
**DEFINITIONS AND INTERPRETATION**

**Section 1.01. Definitions.** The following are defined terms under this Loan Agreement and shall for all purposes hereof have the meanings herein specified, unless the context clearly otherwise requires. In addition, terms used herein and not otherwise defined herein shall have the meaning specified in the Indenture and/or the Land Use Restriction Agreement, as applicable.

*“Act of Bankruptcy”* means (a) application by the Borrower, any member of the Borrower or any general partner of the Member, or consent to the appointment of or taking of possession by, a receiver, custodian, trustee or liquidator of the Borrower, any member of the Borrower or any general partner of the Member of all or a substantial part of its property, (b) admission by the Borrower, any member of the Borrower or any general partner of the Member that it shall be generally unable to pay its debts as such debts become due, (c) making by the Borrower, any member of the Borrower or any general partner of the Member of a general assignment for the benefit of its creditors, (d) commencement by the Borrower, any member of the Borrower or any general partner of the Member of a voluntary case under Title 11 of the United States Code (as now or hereafter in effect), (e) filing by the Borrower, any member of the Borrower or any general partner of the Member of a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization or winding-up, (f) the filing against the Borrower, any member of the Borrower or any general partner of the Member of any petition in an involuntary case under Title 11 of the United States Code or any bankruptcy law or similar law for the relief of debtors, which shall continue for a period exceeding sixty (60) days, or (g) the taking by the Borrower, any member of the Borrower or any general partner of the Member of any action for the purpose of effecting any of the foregoing.

*“CERCLA”* shall have the meaning set forth in the definition of Environmental Laws.

*“Change of Law”* shall have the meaning set forth in Section 4.04(d) of this Loan Agreement.

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

*“Completion Date”* means the date on which the Project is substantially completed.

*“County”* means Broward County, Florida.

*“Environmental Laws”* means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §§ 9601 *et seq.*; the Hazardous

Materials Transportation Authorization Act of 1994, 49 U.S.C. §§ 5101 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*; the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §§ 6901 *et seq.*; the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*; any other federal or state statutes or city or county ordinances regulating the generation, storage, containment or disposal of any Hazardous Substance or providing for the protection, preservation or enhancement of the natural environment; any rules or regulations promulgated pursuant to any of the foregoing statutes or ordinances; and any amendments, modifications or supplements of any such statutes, ordinances, rules or regulations.

*"Event of Default"* means any of the events described as an 'Event of Default' in Section 7.01 hereof.

*"Extraordinary Optional Redemption"* shall have the meaning set forth in Section 4.04(a) of this Loan Agreement.

*"Extraordinary Optional Redemption Price"* shall have the meaning set forth in Section 4.04(a) of this Loan Agreement.

*"Hazardous Substance"* means any dangerous, toxic or hazardous pollutant, contaminant, chemical, material, waste or substance defined as hazardous, toxic or as a pollutant or contaminant in, or the release or disposal of which is regulated by, any Environmental Law, and also including urea formaldehyde, polychlorinated biphenyls, asbestos and asbestos-containing materials, nuclear fuel or water, petroleum products, industrial solvents, pesticides, flammables and explosives.

*"Indemnitees"* shall mean the Issuer, its current and future officers, directors, members, employees and agents and each person, if any, who "controls" the Issuer within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20(a) of the Securities Exchange Act of 1934, as amended.

*"Issuer's Closing Fee"* means the (i) Issuer's one (1) time initial issuance fee in the amount equal to fifty basis points (0.50%) of the original principal amount of the Bonds, for a total of \$\_\_\_\_\_, (ii) Issuer's indemnification fee of \$20,000, and (iii) Issuer's counsel fee of \$5,000, all of which shall be payable by the Borrower to the Trustee for payment to the Issuer on the Closing Date from amounts in the Costs of Issuance Fund.

*"Issuer's Fee"* shall mean, collectively, (i) the Issuer's Closing Fee, and (ii) the Ongoing Issuer's Fee.

*"Land Use Restriction Agreement"* means the Land Use Restriction Agreement dated as of December 1, 2017, among the Issuer, the Borrower and the Trustee.

*"Loan"* shall have the meaning set forth in the recitals to this Loan Agreement.



*“Member”* means ML CASA VII, LP, a Delaware limited partnership, and its successors and assigns, as the sole member of the Borrower.

*“Note”* means the promissory note executed by the Borrower, evidencing Borrower’s obligation to the Issuer in form and substance substantially similar to Exhibit B hereof, as amended, restated and/or supplemented from time to time.

*“Ongoing Issuer’s Fee”* means the annual program administration fee of the Issuer, payable by the Borrower to the Trustee for payment to the Issuer in the amount of eighteen basis points (0.18%) per annum of the aggregate principal amount of Bonds Outstanding (calculated on the Business Day prior to any principal reduction of the Bonds) payable annually in advance on each December 1, with the first payment to be made on the Closing Date; provided, however, that such fee does not include amounts due, if any, for extraordinary services and expenses of the Issuer, the Trustee, Bond Counsel, the Issuer’s counsel, or the Trustee’s counsel to be paid by the Borrower pursuant to this Loan Agreement.

*“Permitted Encumbrances”* means, as of any particular time: (a) liens for ad valorem taxes and special assessments not then delinquent; (b) the Mortgage and any security interests or other liens created thereby; (c) utility, access and other easements and rights of way, mineral rights, restrictions and other exceptions that appear as exceptions in the title insurance policy and are approved by the Issuer in writing, or that, in the opinion of an architect, engineer or surveyor reasonably acceptable to the Issuer, will not interfere with or impair the operations being conducted on the Mortgaged Property (as defined in the Mortgage); (d) the Land Use Restriction Agreement; (e) leases of the Project subject to and as contemplated by the Mortgage; and [(f) documents required in connection with subordinate financing for the benefit of the Initial Bondholder or an Affiliate thereof existing on the date hereof or approved by the Issuer in accordance with Section 5.14 hereto.

*“Project”* shall have the meaning set forth in the recitals to this Loan Agreement.

*“Project Costs”* mean:

(a) The costs of architectural and engineering services related to the Project, including, without limitation, the costs of preparation of studies, surveys, reports, tests, plans and specifications;

(b) The costs of legal, accounting, marketing and other special services related to the Project;

(c) Fees and charges incurred in connection with applications to federal, state and local governmental agencies for any requisite approval or permits regarding the acquisition and rehabilitation of the Project;

(d) Costs incurred in connection with the acquisition of the site for the Project, including any necessary rights-of-way, easements or other interests in real or personal property;

(e) Costs incurred in connection with the acquisition, rehabilitation, improvement or extension of the buildings, structures and facilities comprising the Project;

(f) Costs incurred in connection with the acquisition and installation of any machines, equipment, appliances, fixtures, appurtenances or personal property of any kind or nature (including equipment for cooking, heating and refrigeration), which are to comprise a part of the Project;

(g) Premiums for any necessary title, casualty and other insurance which the Issuer or the Initial Bondholder required to be purchased in connection with the Project;

(h) The costs of such other items, including credit enhancement/liquidity fees or fees and expenses relating to any reimbursement agreement relating to credit enhancement/liquidity; and

(i) Other costs and expenses relating to the Project which were incurred for the purpose of providing Rental Housing (as defined below) and facilities functionally related and subordinate thereto.

Project Costs do not include costs and expenses relating to the acquisition of construction equipment.

*“Qualified Project Costs”* mean Project Costs, but only to the extent that such costs (a) are costs paid for a qualified residential rental project within the meaning of the Code and (b) were paid or incurred by Borrower not more than sixty (60) days prior to September 20, 2017, being the date the Issuer first adopted a Resolution indicating its “official intent” (within the meaning of Treasury Regulations Section 1.150-2) to issue the Bonds and only to the extent that such costs are chargeable to the capital account of Borrower or would be so chargeable either with a proper election by Borrower or but for a proper election by Borrower to deduct such costs, within the meaning of Treasury Regulation §1.103-8(a)(1), as the same may be amended or supplemented from time to time.

*“Rental Housing”* means housing units made available for rental, and not ownership, by eligible tenants who are members of the general public, consisting of buildings or structures each containing one or more similarly constructed units or one or more proximate buildings or structures which have similarly constructed units (including all such buildings owned for federal tax purposes by the same Person and financed pursuant to a common plan), each of which units shall contain complete living facilities which are to be used other than on a transient basis and facilities which are functionally related and subordinate to the living

facilities. Such buildings and structures shall at all times be constructed and maintained in accordance with the applicable building code standards within the County.

*"Restoration"* shall have the meaning set forth in Section 4.04(a) of this Loan Agreement.

*"Supplemental Agreement"* means that certain Supplemental Agreement dated as of December 1, 2017 between the Initial Bondholder and the Borrower, as amended, restated and/or supplemented from time to time.

*"Treasury Regulations"* shall mean the regulations promulgated or proposed by the United States Department of the Treasury pursuant to the Code and applicable to the Project, as amended from time to time.

*"Trustee's Fee"* shall mean the Trustee's initial acceptance fee of \$1,000 plus fees and expenses of its counsel in conjunction with the issuance of the Bonds and the ongoing compensation and expenses payable to the Trustee as follows:

(a) the annual administration fees of the Trustee, as Trustee, Registrar, Paying Agent, Dissemination Agent and the Rebate Analyst, for the Ordinary Services of the Trustee rendered under this Indenture during each twelve (12)-month period shall be \$3,750 per annum, with the initial annual fee of \$3,750 payable in advance on the Closing Date, and subsequent annual fees payable in semiannual installments of \$1,875 in advance on each June 15 and December 15 thereafter, commencing December 15, 2018;

(b) the reasonable fees and charges of the Trustee for necessary Extraordinary Services rendered by it and/or reimbursement for Extraordinary Expenses incurred by it under this Indenture as and when the same become due, including reasonable fees and expenses of legal counsel and internal default administrators (including fees prior to litigation, at trial, in insolvency proceedings or for appellate proceedings); provided, however, that the Trustee shall not be required to undertake any such Extraordinary Services unless provision for payment of Extraordinary Expenses satisfactory to the Trustee shall have been made; and

(c) for purposes of this Loan Agreement, indemnification of the Trustee by the Borrower.

**Section 1.02.** Rules of Construction.

(a) The singular form of any word used herein, including the terms defined in Section 1.01, shall include the plural, and vice versa, unless the context otherwise requires. The use herein of a pronoun of any gender shall include correlative words of the other genders.

(b) All references herein to “Articles,” “Sections” and other subdivisions hereof are to the corresponding Articles, Sections or subdivisions of this Loan Agreement as originally executed; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or subdivision hereof.

(c) The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not limit or otherwise affect the meaning, construction or effect of this Loan Agreement or describe the scope or intent of any provisions hereof.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with applicable generally accepted accounting principles as in effect from time to time.

(e) Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” or similar action hereunder by any party shall, unless the form thereof is specifically provided, be in writing signed by a duly authorized representative of such party with a duly authorized signature.

## ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

**Section 2.01. Representations by Issuer.** The Issuer covenants, represents and warrants that:

(a) The Issuer is a public body corporate and politic duly created, organized and existing under the laws of the State. The Issuer has the full legal right, power and authority to execute and deliver the Bond Documents and Loan Documents to which it is a party, and to carry out its obligations hereunder and thereunder. The execution, delivery and performance of the Bond Documents and the Loan Documents to which it is a party have been duly authorized by the Issuer, and each of the foregoing has been duly executed and delivered by the Issuer and is a legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general equitable principles.

(b) Neither the execution and delivery of the Bond Documents and Loan Documents, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the terms, conditions or provisions of the Bond Documents and Loan Documents to which it is a party conflicts in any material respect with or results in a material breach of any of the terms, conditions or provisions of any constitution or statute of the State, or of any agreement, instrument, judgment, order or decree to which the Issuer is now a party or by which it is bound or constitutes a material default under any of the foregoing.

(c) Except as otherwise provided in the Indenture, the Issuer has not created and will not create any debt, lien or charge upon the Trust Estate, and has not made and will not make any pledge or assignment of or create any encumbrance thereon, other than the pledge and assignment thereof under the Indenture.

(d) The Issuer has complied and will comply with all material provisions of the Act applicable to the Bonds and the transactions described in this Loan Agreement and the Bond Documents.

(e) The Bonds have been issued under the Indenture, and are secured by the Indenture, pursuant to which the Issuer's interest in this Loan Agreement (other than the Reserved Rights) is pledged and assigned to the Trustee. The Issuer covenants that it has not pledged and will not pledge or assign its interest in this Loan Agreement other than to the Trustee under the Indenture.

(f) No litigation at law or in equity or administrative action of any nature has been served on the Issuer and is now pending (i) seeking to restrain or enjoin the execution and delivery of the Indenture or this Loan Agreement, or in any manner questioning the proceedings or authority relating thereto or otherwise affecting the validity of the Bonds or (ii) as to the existence or authority of the Issuer or that of its present or former members or officers and, to the best knowledge of the Issuer, none of the foregoing are threatened.

(g) The Issuer has issued the Bonds in order to loan the proceeds to the Borrower to finance the acquisition, rehabilitation and equipping of the Project.

**Section 2.02. Representations, Warranties and Covenants by the Borrower.** The Borrower represents, warrants and covenants as follows:

(a) The Borrower is a Delaware limited liability company and is qualified to do business in the State and in every other state in which the nature of its business requires such qualification. The Borrower has full power and authority to own its properties and to carry on its business as now being conducted and as contemplated to be conducted with respect to the Project, and to enter into, and to perform and carry out the transactions provided for in this Loan Agreement, all other Loan Documents and the Bond Documents contemplated hereby. This Loan Agreement, the other Loan Documents and the Bond Documents to which the Borrower is a party, and all other documents to which the Borrower is a party and contemplated hereby or thereby have been duly authorized, executed and delivered by the Borrower and constitute the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally and general equitable principles.

(b) The Member (i) is a limited partnership validly existing under the laws of the State of Delaware, and is qualified to transact business in the State, (ii) has full power and authority under its organizational documents and the laws of the State of Delaware to execute and deliver on behalf of the Borrower those Loan Documents and Bond Documents to which the Borrower is a party and to obligate the Borrower to perform its obligations thereunder, (iii) by proper action has duly authorized the execution and delivery on behalf of the Borrower of those Loan Documents and Bond Documents to which the Borrower is a party, and (iv) on behalf of the Borrower, has executed and delivered to the Issuer the Loan Documents and Bond Documents to which the Borrower is a party and, when validly executed and delivered by the other parties thereto, such Loan Documents and Bond Documents will constitute legal, valid and binding obligations of the Borrower, enforceable against it in accordance with their respective terms, except as the enforceability thereof may be subject to (A) the exercise of judicial discretion in accordance with general equitable principles, and (B) applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied, and except that enforceability of indemnification and contribution provisions may be limited, in whole or in part, by applicable security laws or public policy;

(c) The execution, delivery and performance by the Borrower and the Member of the Loan Documents to which each is a party and the consummation of the transactions herein and therein contemplated, do not and will not (i) to its knowledge, violate any law, regulation, ordinance, judgment or court order of any federal, state or local government applicable to any of them, or (ii) conflict in any respect with or constitute a breach of or a default under the organizational documents of such entity or under the terms and conditions of any instrument, document, agreement, commitment, indenture, security agreement, mortgage, lease or other instrument to which any of them is a party or by which any of them, or a substantial portion of their assets, are bound; or properties, or, except as provided hereunder, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the Project or assets of the Borrower, except for Permitted Encumbrances.

(d) The Borrower has and will have fee simple title to the Project, subject to the Permitted Encumbrances. The Borrower is the sole borrower under the Loan.

(e) Except as otherwise disclosed in writing to the Issuer, no litigation or proceeding is pending or, to the knowledge of the Borrower or the Member, threatened against the Borrower or the Member, or with respect to the Project which has a reasonable probability of having a material adverse effect on either the Borrower's or the Member's financial condition or business, or the transactions contemplated by this Loan Agreement, the Indenture, the other Loan Documents or the Bond Documents, or which in any way would adversely affect the validity or enforceability of the Bonds, the Indenture, this Loan Agreement, the other Loan Documents or the Bond Documents, or

the ability of the Borrower to perform its obligations under this Loan Agreement, the other Loan Documents or the Bond Documents.

(f) The Project conforms in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, all necessary utilities are available to the Project, and the Borrower will obtain all requisite zoning, planning, building and environmental and other permits which may become necessary with respect to the Project. The Borrower has obtained all licenses, permits and approvals necessary for the ownership, operation and management of the Project, including all approvals essential to the transactions contemplated by this Loan Agreement, the Indenture, the other Bond Documents, the other Loan Documents and any other documents contemplated hereby or thereby.

(g) The financial statements which have been furnished by or on behalf of the Borrower to the Initial Bondholder are complete and accurate in all material respects and present fairly the financial condition of the Borrower as of their respective dates in accordance with generally accepted accounting principles, applied by the Borrower on a consistent basis, and since the date of the most recent of such financial statements there has not been any material adverse change, financial or otherwise, in the condition of the Borrower, and there has not been any material transaction entered into by the Borrower other than transactions in the ordinary course of business, and the Borrower does not have any material contingent obligations which are not otherwise disclosed in its financial statements. There (i) is no completed, pending or threatened bankruptcy, reorganization, receivership, insolvency or like proceeding, whether voluntary or involuntary, affecting the Project, the Borrower or the Member, and (ii) has been no assertion or exercise of jurisdiction over the Project, the Borrower or the Member by any court empowered to exercise bankruptcy powers.

(h) No event has occurred and no condition exists with respect to the Borrower or the Project that would constitute an Event of Default or which, with the lapse of time, if not cured, or with the giving of notice or both, would become an Event of Default.

(i) The Borrower has not taken and will not take any action, or permit any action that is within the Borrower's control to be taken, that would impair the exclusion from gross income for federal income tax purposes of the interest payable on the Bonds. The Borrower will comply with all the terms and conditions of the Land Use Restriction Agreement and the Tax Certificate, including the terms and conditions of the exhibits thereto, and the representations set forth in the Land Use Restriction Agreement and the Tax Certificate pertaining to the Borrower and the Project are true and accurate.

(j) The Project is, as of the Closing Date, in compliance with all requirements of the Land Use Restriction Agreement, including all applicable requirements of the Act

and the Code. The Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Land Use Restriction Agreement, including all applicable requirements of the Act and the Code. All leases will comply with all applicable laws and the Land Use Restriction Agreement. The Project meets the requirements of this Loan Agreement, the Land Use Restriction Agreement, the Act and the Code with respect to multifamily rental housing.

(k) No information, statement or report furnished in writing to the Issuer, the Initial Bondholder or the Trustee by the Borrower in connection with this Loan Agreement, the other Loan Documents or the Bond Documents or the consummation of the transactions contemplated hereby and thereby (including, without limitation, any information furnished by the Borrower in connection with the preparation of any materials related to the issuance, delivery or offering of the Bonds on the Closing Date) contains as of the date of such information, statement or report, any material misstatement of fact or omits to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading; and the representations and warranties of the Borrower and the statements, information and descriptions contained in the Borrower's closing certificates, as of the Closing Date, are true, correct and complete, do not contain any untrue statement or misleading statement of a material fact, and do not omit to state a material fact required to be stated therein or necessary to make the certifications, representations, warranties, statements, information and descriptions contained therein, in the light of the circumstances under which they were made, not misleading; and the estimates and the assumptions contained herein and in any certificate of the Borrower delivered as of the Closing Date are reasonable and based on the best information available to the Borrower.

(l) To the best knowledge of the Borrower, no member, officer, agent or employee of the Issuer has an interest, directly or indirectly, in that Person's own name or in the name of any other Person, in the Bonds, the Bond Documents, the Loan Documents, the Borrower or the Project, in any contract for property or materials to be furnished or used in connection with the Project, or in any aspect of the transactions contemplated by the Bond Documents or the Loan Documents.

(m) No authorization, consent, approval, order, registration declaration or withholding of objection on the part of or filing of or with any governmental authority not already obtained or made (or to the extent not yet obtained or made the Borrower has no reason to believe that such authorizations, consents, approvals, orders, registrations or declarations will not be obtained or made in a timely fashion) is required for the execution and delivery or approval, as the case may be, of this Loan Agreement, the other Loan Documents, the Bond Documents or any other documents contemplated by this Loan Agreement or the other Loan Documents or the Bond Documents, or the performance of the terms and provisions hereof or thereof by the Borrower.



(n) The Borrower is not presently under any cease or desist order or other orders of a similar nature, temporary or permanent, of any federal or state authority which would have the effect of preventing or hindering performance of its duties hereunder, nor are there any proceedings presently in progress or to its knowledge contemplated which would, if successful, lead to the issuance of any such order.

(o) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Loan Agreement and the Indenture or otherwise relied on the Issuer in any manner.

(p) The Borrower has not received any notice that it is not in compliance with any provisions of the Superfund Amendments and Reauthorization Act of 1986 or any Environmental Laws, or with any rules, regulations and administrative orders of any governmental agency, or with any judgments, decrees or orders of any court of competent jurisdiction with respect thereto; and the Borrower has not received any assessment, notice (primary or secondary) of liability or financial responsibility, and no notice of any action, claim or proceeding to determine such liability or responsibility, or the amount thereof, or to impose civil penalties with respect to a site listed on any federal or state listing of sites containing or believed to contain Hazardous Substances, nor has the Borrower received notification that any hazardous substances (as defined under CERCLA) that it has disposed of have been found in any site at which any governmental agency is conducting an investigation or other proceeding under any Environmental Law.

(q) The Borrower has not received any notice that it is not in full compliance with the Employee Retirement Income Security Act of 1974, as amended and from time to time in effect, and Department of Labor regulations thereunder, with the Code and Treasury Regulations thereunder and with terms of such plan or plans with respect to each pension or welfare benefit plan to which the Borrower is a party or makes any employer contributions with respect to its employees, for the current or prior plan years of such plans.

(r) The average maturity of the Bonds does not exceed 120% of the average reasonably expected economic life of the facilities of the Project.

(s) The Bonds are not and shall not be “federally guaranteed” as defined in Section 149(b) of the Code.

(t) The Borrower intends to hold the Project for its own account and has no current plans to sell and has not entered into any agreement to sell the Project or any portion thereof other than as has been disclosed to the Issuer in writing.

(u) The Borrower agrees to immediately notify the Trustee, the Credit Facility Provider, if any, and the Issuer in writing of any Event of Default as such term is defined under, or any event which with notice or the passage of time would constitute an Event of Default as such term is defined under, this Loan Agreement, the other Loan Documents, the Bond Documents or any other documents contemplated by this Loan Agreement or the other Loan Documents or the Bond Documents.

(v) The Borrower will promptly cause to be paid all real estate taxes assessed on the Project and all premiums for insurance policies required to be maintained for the Project.

(w) The full amount of each disbursement will be applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs and, after taking into account any proposed disbursement, (i) at least 95% of the net proceeds of the Bonds (as defined in Section 150 of the Code) will be used to provide a qualified residential rental project (as defined in Section 142(d) of the Code) and (ii) less than 25% of the net proceeds of the Bonds will have been disbursed to pay or to reimburse the Borrower for the cost of acquiring land; none of the proceeds of the Bonds (as defined for purposes of Section 147(g) of the Code) will be disbursed to provide working capital;

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

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

(z) From the proceeds of the Bonds and investment earnings thereon, an amount not in excess of two percent (2%) of the proceeds of the Bonds, will be used for costs of issuance of the Bonds, all within the meaning of Section 147(g)(1) of the Code. For this purpose, if the fees of the Initial Bondholder are retained as a discount on the

purchase price of the Bonds, such retention shall be deemed to be an expenditure of proceeds of the Bonds for said fees.

(aa) No proceeds of the Bonds shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility (other than a workout facility functionally related to the Project and available to all residents at no additional charge), facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(bb) The money on, or to be on, deposit in any fund or account established under the Indenture in connection with the Bonds, whether or not such money was derived from other sources, will not be used by or under the direction of the Borrower in a manner which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and the Borrower specifically agrees that the investment of money in any fund created under the Indenture shall be restricted as may be necessary to prevent the Bonds from being "arbitrage bonds" under the Code.

(cc) The Borrower has not and shall not discriminate on the basis of race, creed, religion, color, sex, marital status, age or national origin in the lease, use, or occupancy of the Project or in connection with the employment or application for employment of Persons for the operation and management of the Project. The Borrower specifically agrees that the Borrower will not refuse to lease units in the Project to persons whose family includes minor dependents who will occupy such unit, unless such refusal is based upon factors not related to the presence of such minors in the family, which factors may include, but shall not be limited to, negative credit, rental history or potential overcrowding of a unit.

(dd) The Borrower will deposit in the Rebate Fund such amounts as may be necessary to increase the amount on deposit in the Rebate Fund to the required amount at such times as required by Section 6.12 of the Indenture, will select, and pay the fees of, the Rebate Analyst as set forth in the Indenture, and will comply with all of its other tax and rebate covenants under the Bond Documents and Loan Documents.

(ee) The Borrower will deposit in the Expense Fund such amounts as may be necessary to pay the Issuer's Fee and the Trustee's Fee at such times as required by Section 6.10 of the Indenture.

### ARTICLE III THE LOAN AND DISPOSITION OF THE LOAN

#### **Section 3.01.** Loan by the Issuer.

(a) The Issuer, pursuant to the terms of this Loan Agreement, agrees to loan to the Borrower the proceeds in the principal amount of \$\_\_\_\_\_ received by the Issuer from the sale of the Bonds. Upon issuance of the Bonds, the full amount of the

Loan hereunder shall be deemed to be advanced to the Borrower. The repayment obligations of the Borrower under this Loan Agreement shall be evidenced by the Note in the principal amount equal to the aggregate principal amount of the Bonds, executed by the Borrower concurrently with the issuance of the Bonds, made payable to the Issuer and endorsed by the Issuer, without recourse, to the Trustee.

(b) Concurrently with the execution and delivery of this Loan Agreement and prior to any disbursement of any Bond proceeds, the Borrower shall cause the Note to be executed and delivered to the Issuer and assigned by the Issuer to the Trustee (unless previously executed and delivered); cause the Land Use Restriction Agreement, the Mortgage and any applicable financing statements to be recorded in the records of the County, or other appropriate offices; deliver to the Trustee a title insurance policy reasonably satisfactory to the Initial Bondholder; and pay to the Trustee for deposit to the Costs of Issuance Fund an amount equal to the Costs of Issuance not otherwise provided for. It is expressly agreed that the Borrower will cause to be carried out and performed all of its obligations under the Note, this Loan Agreement, the Indenture, the Mortgage and the Land Use Restriction Agreement.

(c) The Borrower acknowledges and agrees that, it is the intent of the Borrower to make and the Borrower agrees to make payments required under this Loan Agreement and the Note in such amounts, and at such times, sufficient to pay, after applying all amounts otherwise available for making such payments, (i) all amounts required to pay the principal of, redemption premium, if any, interest, Purchase Price and any other amount due on the Bonds (including any interest at the Default Rate as set forth in the Indenture) on or prior to the date when and as due and payable, whether by stated maturity date, by optional or mandatory redemption, by optional or mandatory tender or by acceleration or otherwise; (ii) all amounts required to be paid under the Note; and (iii) all fees, expenses and indemnification (including reasonable counsel fees on any and all tribunal levels), without duplication, of the Issuer, Bond Counsel, the Trustee and counsel for the Trustee (including extraordinary expenses of the Trustee) provided for herein or in the Indenture.

**Section 3.02. Disbursement of Loan Proceeds.** Upon delivery of the Bonds and closing of the Loan, the Issuer will cause the proceeds of the sale of the Bonds to be applied pursuant to the Indenture.

**Section 3.03. Disposition of Loan in Event of Default.** In the event of the occurrence of any Event of Default under this Loan Agreement, and the acceleration of the Borrower's obligations under the Note and thereunder, the Trustee has been instructed to accelerate the Borrower's obligations under the Loan and collect or otherwise convert into money the whole or any part of the Loan, and sell, assign and deliver the Loan at public or private sale, in such manner and upon such terms and conditions as the Trustee may deem proper. Notwithstanding the foregoing, the Trustee is under no obligation to enforce the obligations of the Borrower under the Loan unless the Trustee has been adequately indemnified as to its

expenses, costs (including reasonable attorneys' fees) and liability. Upon consummation of any such sale, the Trustee shall have the right to assign, transfer, endorse and deliver to the purchaser or purchasers thereof the Loan, or any portion thereof or any interest therein, so sold. Each such purchaser at any such sale shall hold the Project sold absolutely free from any claim or right on the part of the Issuer, and the Issuer and the Borrower hereby waive (to the extent permitted by law) all rights of redemption, stay and/or appraisal which the Issuer or the Borrower now has or may at any time in the future have under rule of law or statute now existing or hereafter enacted.

In the event of sale, collection or conversion into money of the Loan or any part thereof, after deducting actual costs and expenses incurred in connection with the disposition thereof, the Trustee has been instructed to apply such residue of the proceeds thereof to the payment of all the obligations arising under the Loan Agreement, and any default premium payable under the Note, and to pay the excess, if any, in accordance with Section 6.08 of the Indenture.

**ARTICLE IV**  
**THE LOAN; PREPAYMENTS; RECOURSE PROVISIONS;**  
**CHANGE OF INTEREST RATE**

**Section 4.01. Loan and Other Payments.** The Borrower shall pay hereunder to the Trustee for deposit into the appropriate funds and accounts under the Indenture the amounts at the times required by the Note and this Loan Agreement. Amounts so paid to the Trustee by the Borrower shall be in immediately available funds. The Borrower agrees to repay the Loan hereunder by paying to the Trustee for the account of the Issuer an amount equal to principal of, premium, if any, when due, in the manner and in the amounts provided in the Indenture and an amount equal to interest on the Bonds at the rate or rates of interest as provided in the Indenture, in each case, on the Business Day next preceding each Bond Payment Date.

**Section 4.02. No Setoff.** The obligation of the Borrower to make any payments required to be made under this Loan Agreement (including, but not limited to, payments due by reason of acceleration of the Borrower's obligations hereunder pursuant to Article VII hereof and obligations of the Borrower under Article VI hereof) and under the Note shall be absolute and unconditional and shall not be subject to offset, abatement, diminution, postponement or deduction, or to any defense other than payment or to any right of setoff, counterclaim or recoupment arising out of any breach under the Loan Documents or the Indenture or otherwise by the Issuer, the Trustee, any Owner of Bonds or any other Person, or out of any obligation or liability at any time owing to the Borrower by any of the foregoing.

**Section 4.03. Mandatory Prepayment.** The Borrower's obligations under the Loan shall be paid or prepaid on the following dates in the following manner:

- (a) on any date, in an amount equal to the outstanding principal balance of the Loan, plus accrued interest, due to the acceleration of the Loan by reason of a default by the Borrower under this Loan Agreement; or

(b) on any date, in an amount equal to the outstanding principal balance of the Loan, plus accrued interest, due to the Bonds becoming immediately due and payable as a result of an Event of Default under the Indenture.

Upon such prepayment, the principal amount of the Loan outstanding shall be reduced by the principal amount of Bonds paid with the amounts described above. No reduction in interest payable on the Loan shall occur, however, until the applicable payment of the Bonds. Thereafter, the outstanding principal balance of the Loan, if any, shall continue to bear interest at the rate thereof (which shall mean at the Default Rate to the extent applicable) upon the reduced principal amount.

**Section 4.04. Extraordinary Optional Prepayment.** The Borrower shall have the right to prepay the entire outstanding principal balance of the Loan, upon the occurrence of the following events, at a prepayment price equal to the principal balance of the Loan outstanding, plus accrued interest to the date the Bonds are redeemed, without premium:

(a) Eminent Domain.

(i) In the event of any taking by Eminent Domain other than a Total Taking, so long as no Event of Default then exists, the Borrower may, at its election, commence and complete with due diligence the restoration, replacement or rebuilding of the Project as nearly as possible to its value, condition and character immediately prior to such Eminent Domain (such restoration, replacement and rebuilding of the Project, together with any temporary repairs and property protection pending completion of the work, being herein referred to as "Restoration"), and no consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such Eminent Domain shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then the Bonds shall be subject to immediate mandatory redemption (such immediate redemption being an "Extraordinary Optional Redemption") at a redemption price equal to the outstanding principal amount of Bonds to be redeemed plus accrued interest thereon to the date of redemption and no premium (the "Extraordinary Optional Redemption Price"). If the Borrower elects to make an Extraordinary Optional Redemption under this Section 4.04(a)(i), the Net Proceeds received as a result of such Eminent Domain shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(ii) In the event of a Total Taking, so long as no Event of Default then exists, the Borrower may, with the consent of the Owners of a majority of the principal amount of Bonds Outstanding, commence and complete with due diligence a Restoration, and no other consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all

Net Proceeds received as a result of such Eminent Domain shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then all of the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 4.04(a)(ii), the Net Proceeds received as a result of such Eminent Domain shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(iii) Notwithstanding anything in the Loan Documents to the contrary, during the Current Bondholder Period, (A) the terms and provisions contained in subparts (i) and (ii) of this Section 4.04(a) shall be of no force or effect, (B) the terms and provisions of the Supplemental Agreement pertaining to eminent domain shall govern and control, and (C) any Net Proceeds required under the Supplemental Agreement to be applied to the redemption of the Bonds shall be applied to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price.

(iv) The Extraordinary Optional Redemption referred to in this Section 4.04(a) shall be made in accordance with the provisions hereof and Section 3.04 of the Indenture.

(b) Casualty.

(i) In the event of any damage to or destruction of the Project, or any part thereof, other than a Total Destruction, so long as no Event of Default then exists, the Borrower may, at its election, commence and complete with due diligence the Restoration of the Project, and no consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such destruction shall be deposited in the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 4.04(b)(i), the Net Proceeds received as a result of such destruction shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(ii) In the event of a Total Destruction, so long as no Event of Default then exists, the Borrower may, with the consent of the Owners of a majority of the principal amount of Bonds Outstanding, commence and complete with due diligence a Restoration, and no other consent shall be required in connection therewith. If the Borrower elects to commence and complete the Restoration, all Net Proceeds received as a result of such Total Destruction shall be deposited in

the Insurance and Condemnation Proceeds Fund. If the Borrower elects not to commence and complete the Restoration, then all of the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price. If the Borrower elects to make an Extraordinary Optional Redemption under this Section 4.04(b)(ii), the Net Proceeds received as a result of such Total Destruction shall be deposited in the Redemption Account and applied toward the redemption of the Bonds.

(iii) Notwithstanding anything in the Loan Documents to the contrary, during the Current Bondholder Period, (A) the terms and provisions contained in subparts (i) and (ii) of this Section 4.04(b) shall be of no force or effect, (B) the terms and provisions of the Supplemental Agreement pertaining to casualty shall govern and control, and (C) any Net Proceeds required under the Supplemental Agreement to be applied to the redemption of the Bonds shall be applied to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price.

(iv) The Extraordinary Optional Redemption referred to in this Section 4.04(b) shall be made in accordance with the provisions hereof and Section 3.04 of the Indenture.

(c) Funds Not Applied to Restoration.

(i) Except as otherwise provided in Sections 4.04(a)(iii) and 4.04(b)(iii), the Bonds shall also be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price to the extent that (A) Net Proceeds are not applied to Restoration of the Project, or (B) the Borrower reasonably determines that it cannot carry on its normal operation of the Project.

(ii) The Extraordinary Optional Redemption referred to in this Section 4.04(c) shall be made in accordance with the provisions hereof and Section 3.04 of the Indenture.

(d) Change of Law.

(i) If, as a result of changes in the Constitution of the State, or of legislative or administrative action by the State or any political subdivision thereof, or by the United States, or by reason of any action instituted in any court (a "Change of Law"), unreasonable burdens or excessive liabilities are imposed on the Borrower with respect to the continued operation or financing of the Project, the Borrower may at its election, determine that all of the Bonds shall be subject to Extraordinary Optional Redemption at the Extraordinary Optional Redemption Price, and no consent shall be required in connection therewith.



(ii) The Extraordinary Optional Redemption referred to in this Section 4.04(d) shall be made in accordance with the provisions hereof and Section 3.04 of the Indenture.

The Borrower must exercise the option reserved in this Section 4.04 within the earlier, as applicable, of (i) six (6) months following the date it becomes apparent to the Borrower that any of the foregoing conditions has occurred which gives rise to a right of prepayment under this Section; or (ii) such other time period as may be set forth in Section 3.04 of the Indenture.

**Section 4.05. Optional Prepayment.** After January 1, 2021, during the Initial Fixed Rate Period, the Borrower, shall have the option, exercisable by written notice to the Trustee, and the Owner given at least forty-five (45) days prior to the proposed prepayment date, to prepay the outstanding principal balance of the Note in whole or otherwise cause funds to be deposited with the Trustee in an amount equal to the principal balance of the Note to be prepaid plus accrued interest and premium, if any, thereon to the date of prepayment, for the purpose of effecting a redemption of all of the Outstanding Bonds. In connection with any such action, the Borrower shall cause to be deposited with the Trustee on or before the date of the corresponding redemption an amount sufficient to effect the redemption of Bonds, as specified in such notice, in accordance with the terms and provisions of the Indenture, and the Borrower shall deliver such certifications and shall satisfy such conditions as are set forth in the Indenture with respect to the optional redemption of Bonds.

During any Floating Rate Period, the Borrower shall have the option, exercisable by written notice to the Trustee, the Credit Facility Provider, if any, the Remarketing Agent, if any, and the Tender Agent, if any, given at least forty-five (45) days prior to the proposed prepayment date, to prepay the outstanding principal balance of the Note in whole or in part, or otherwise cause funds to be deposited with the Trustee on or before the date of the corresponding redemption in an amount equal to the principal balance of the Note to be prepaid, plus accrued interest and premium, if any, thereon to the date of prepayment, for the purpose of effecting a redemption of Bonds in accordance with the terms and provisions of the Indenture, and the Borrower shall deliver such certifications and shall satisfy such conditions as are set forth in the Indenture with respect to the optional redemption of Bonds. The Note shall be deemed prepaid on the date when the corresponding redemption of Bonds is effected. The Borrower may not prepay a portion of the outstanding principal balance of the Note in an amount other than would result in a redemption of Bonds in an Authorized Denomination or in any amount that would result, following redemption of Bonds as a result of such prepayment, in any Bond remaining Outstanding in an amount other than an Authorized Denomination.

During any Fixed Rate Period other than the Initial Fixed Rate Period, the Borrower shall have the option, exercisable by written notice to the Trustee, the Credit Facility Provider, if any, the Remarketing Agent, if any, and the Tender Agent, if any, given at least forty-five (45) days prior to the proposed prepayment date, to prepay the outstanding principal balance of the Note in whole or in part, or otherwise cause funds to be deposited with the Trustee on or before the date of the corresponding redemption in an amount equal to the principal balance of the

Note to be prepaid, plus accrued interest and premium, if any, thereon to the date of prepayment, for the purpose of effecting a redemption of Bonds in accordance with the terms and provisions of the Indenture, and the Borrower shall deliver such certifications and shall satisfy such conditions as are set forth in the Indenture with respect to the optional redemption of Bonds. The Note shall be deemed prepaid on the date when the corresponding redemption of Bonds is effected. The Borrower may not prepay a portion of the outstanding principal balance of the Note in an amount other than that which would result in a redemption of Bonds in an Authorized Denomination or in any amount that would result, following redemption of Bonds as a result of such prepayment, in any Bond remaining Outstanding in an amount other than an Authorized Denomination.

On or prior to any date of prepayment of the Note pursuant to this Section 4.05, the Borrower may elect, by providing written notice to the Issuer, the Trustee and the Remarketing Agent, if any, to have the Bonds purchased in lieu of redemption pursuant to Section 3.06 of the Indenture, in which case the Note shall not be prepaid, and, upon receipt by the Trustee of a Favorable Tax Opinion, the Bonds which would otherwise be redeemed shall be purchased by Borrower or its designee for an amount equal to the redemption price of the Bonds so purchased, and the Bonds and Note shall remain outstanding under the terms and provisions of the Indenture and this Loan Agreement with the same rate of interest in effect as was in effect immediately prior to such purchase in lieu of redemption.

In the event of any prepayment of the Note pursuant to this Section 4.05, the Borrower shall be required to pay, on the optional prepayment date, accrued interest on the outstanding principal balance of the Note so prepaid to the date of the Bond redemption resulting from such prepayment. In the event that the Borrower prepays the principal amount of the Note in part pursuant to the provisions of this Section 4.05, the principal balance of the Note shall be reduced in the amount of such prepayment; provided, however, that no reduction in interest payable on the Note shall occur until on and after the date of redemption of the corresponding amount of Bonds resulting from such prepayment.

**Section 4.06. Mandatory Purchase of Bonds/Additional Borrower Covenants.** In addition to its obligation to repay the Note and its other obligations under this Loan Agreement, the Borrower agrees and acknowledges that it is obligated to pay or to cause to be paid moneys in an amount sufficient to pay the Purchase Price of Bonds tendered or deemed tendered for a purchase pursuant to the Indenture. The Borrower shall pay to the Tender Agent, on any date on which Bonds delivered to the Tender Agent pursuant to Section 3.01 of the Indenture are to be purchased, an amount equal to the Purchase Price of Bonds so tendered less the amount of any remarketing proceeds. The Borrower shall pay to the Trustee on a Mandatory Tender Date an amount equal to the Purchase Price of the Outstanding Bonds less the amount of any remarketing proceeds.

**Section 4.07. Costs of Issuance.** The Borrower shall pay all Costs of Issuance not otherwise paid from funds made available under the Indenture.

**Section 4.08.** Nonrecourse, Limited Recourse and Recourse Provisions of Loan.

(a) The Issuer expressly agrees that, except as may be expressly stated otherwise, the personal liability of the Borrower and the Member shall be strictly and absolutely limited to the Project encumbered by the Mortgage and other security documents, and the leases, rents, profits and issues thereof and any other collateral securing the Loan, except as provided in paragraph (b) herein below. If an Event of Default under this Loan Agreement or under the Indenture shall occur, nothing herein shall prohibit judicial proceedings to foreclose the Mortgage or other security documents securing the obligations of the Borrower hereunder or a judgment or decree of specific performance of agreements and covenants hereunder (or the exercise of any remedy available under the Land Use Restriction Agreement, excluded from the limitations of this paragraph (a) by the first sentence hereof (other than a remedy for the payment of principal and interest on the Note, if any)), other than Loan payment covenants. In the event any suit is brought on this Loan Agreement, or concerning the Loan or any amount secured by the Mortgage or other Loan Documents as part of judicial proceedings to foreclose the Mortgage lien and/or security interest, or to confirm any foreclosure, any judgment obtained in such suit shall constitute a lien on and will be and can be enforced only against, the Project encumbered by the Mortgage and other Loan Documents, and the leases, rents, profits and issues thereof and not against any other asset of the Borrower or the Member, and the terms of such judgment shall expressly so provide.

(b) Notwithstanding paragraph (a) above, or anything to the contrary in this Loan Agreement or any other Loan Documents, the Borrower and the Member shall be personally liable for, and the Trustee shall have the right to seek a judgment for money damages (including a deficiency judgment) to enforce, payment of:

(i) [Intentionally Omitted];

(ii) [Intentionally Omitted];

(iii) expenses and indemnification of the Issuer and the Trustee;

(iv) intentional misapplication of Project leases, rents, profits and issues following any payment default (without regard to the expiration of any cure period, if any) to the extent misapplied;

(v) liability for intentional waste, destruction or damage to the Project or any part thereof;

(vi) tenant security deposits, to the extent not properly accounted for, or prepaid rent, to the extent misapplied;

- (vii) liability and indemnification for removal or cleanup of environmental hazards on the Project premises;
- (viii) any obligations under the Land Use Restriction Agreement or Tax Certificate;
- (ix) misapplication of any Net Proceeds; and
- (x) fraud or intentional misrepresentation;

all of which foregoing obligations shall bear interest at a rate equal to the lesser of (i) the maximum rate of interest permitted under applicable law or (ii) eighteen percent (18%) per annum from the due date thereof (or, in the case of liability and indemnification for removal or cleanup of environmental hazards, from the date demand for payment thereof is made) until the date paid in full.

**Section 4.09. Payment of Bonds; Fees and Expenses.** The parties hereto agree (a) that payments hereunder and under the Note are designed to provide the Issuer and the Trustee with funds adequate in amount to pay the outstanding principal balance due and owing on the Bonds, premium, if any, Purchase Price, redemption price, and the fees, expenses and indemnifications set forth in this Loan Agreement, interest as the same become due and payable, and (b) that, subject to the provisions of Section 4.08 hereof, to the extent that such payments are not sufficient to provide the Issuer and the Trustee with funds sufficient for the purposes aforesaid, the Borrower shall be obligated to pay, and the Borrower does hereby covenant and agree to pay, upon demand therefor, such further sums of money, in immediately available funds, as may from time to time be required for such purposes.

**Section 4.10. Conversion of Bond Interest Rate at Request of Borrower.**

(a) During any Floating Rate Period, the Borrower may elect to have the Bonds convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate by providing the following to the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any:

(i) written notice, at least forty-five (45) days prior to a Fixed Rate Conversion Date, stating that the Borrower has requested to have the Bonds convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate, and specifying the length of the Fixed Rate Period that will follow the current Floating Rate Period, which shall be a period of a least one (1) year ending on a March 1, June 1, September 1 or December 1 or on the date of maturity of the Bonds; and

(ii) a Favorable Tax Opinion as to the conversion of the Bonds from bearing interest at a Floating Rate to bearing interest at a Fixed Rate at the request of the Borrower hereunder and under the Indenture.

The parties hereto agree that, subject to satisfaction of all conditions to such conversion set forth in Section 2.02(b) of the Indenture, the Bonds will convert from bearing interest at a Floating Rate to bearing interest at a Fixed Rate.

In the event the Fixed Rate determined and announced by the Remarketing Agent, or by the Borrower in the absence of a Remarketing Agent, on any Fixed Rate Determination Date pursuant to Section 2.02(b)(i) of the Indenture following an election made by the Borrower under this Section 4.10 exceeds by more than .25% per annum the Fixed Rate previously estimated by the Remarketing Agent or Borrower with respect to the applicable Fixed Rate Conversion Date pursuant to Section 2.02(b) of the Indenture, the Borrower may provide immediate written notice, by no later than the Business Day immediately following such Fixed Rate Determination Date, to the Trustee, the Remarketing Agent, if any, the Tender Agent, if any, and the Credit Facility Provider, if any, of its request that the Bonds will bear interest at the Fixed Rate as so determined, despite any contrary provisions of Section 2.02(b)(i)(C) of the Indenture. The Borrower acknowledges that failure to give such immediate notice will result in cancellation of the Fixed Rate Conversion Date and will cause the Bonds to continue to bear interest at the Floating Rate.

(b) Before the end of any Fixed Rate Period (unless such Fixed Rate Period ends on the date of maturity of the Bonds), the Borrower may elect to have the Bonds bear interest at a new Fixed Rate by providing the following to the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any:

(i) written notice, at least forty-five (45) days prior to the end of the Fixed Rate Period, stating that the Borrower has requested to have the Bonds bear interest at a new Fixed Rate, and specifying the length of the new Fixed Rate Period which shall be a period of at least one (1) year ending on a March 1, June 1, September 1 or December 1 or on the date of maturity of the Bonds; and

(ii) a Favorable Tax Opinion as to the establishment of the interest rate on the Bonds in accordance with the request of the Borrower made pursuant to subsection (i) immediately above.

The parties hereto agree that, subject to satisfaction of all conditions to the setting of the interest rate on the Bonds in accordance with the notice described in (b)(i) above, as set forth in Section 2.02(b)(i) of the Indenture, the interest rate on the Bonds will be set in accordance with such notice and the procedures set forth in such Section 2.02(b)(i) of the Indenture.

In the event the Fixed Rate determined and announced by the Remarketing Agent, if any, or Borrower on any Fixed Rate Determination Date pursuant to Section 2.02(b)(i) of the Indenture following an election made by the Borrower under this Section 4.10 exceeds by more than .25% per annum the Fixed Rate previously

estimated by the Remarketing Agent or Borrower with respect to the applicable Fixed Rate Conversion Date pursuant to Section 2.02(b) of the Indenture, the Borrower may provide immediate written notice, by no later than the Business Day immediately following such Fixed Rate Determination Date, to the Trustee, the Remarketing Agent, if any, the Tender Agent, if any, and the Credit Facility Provider, if any, of its request that the Bonds will bear interest at the Fixed Rate as so determined, despite any contrary provisions of Section 2.02(b)(i)(C) of the Indenture. The Borrower acknowledges that failure to give such immediate notice will result in cancellation of the Fixed Rate Conversion Date and will cause the Bonds to continue to bear interest at the Fixed Rate in effect immediately prior to such Fixed Rate Conversion Date.

(c) Before the end of any Fixed Rate Period (unless such Fixed Rate Period ends on the date of maturity of the Bonds) the Borrower may elect to have the Bonds convert to bearing interest at a Floating Rate by providing the following to the Trustee, the Credit Facility Provider, if any, and the Remarketing Agent, if any:

(i) written notice, at least forty-five (45) days prior to the end of the Fixed Rate Period, stating that the Borrower has requested, as of the end of the Fixed Rate Period then in effect, to have the Bonds convert to bearing interest at a Floating Rate; and

(ii) a Favorable Tax Opinion as to the conversion of the Bonds from bearing interest at a Fixed Rate to bearing interest at a Floating Rate at the request of the Borrower hereunder and under the Indenture.

The parties hereto agree that, subject to satisfaction of all conditions to the setting of the interest rate on the Bonds in accordance with the notice described in (c)(i) above, as set forth in Section 2.02(b)(ii) of the Indenture, the interest rate on the Bonds will be set in accordance with such notice and the procedures set forth in such Section 2.02(b)(ii) of the Indenture.

(d) The Borrower hereby covenants that if a Conversion Date has not already occurred, the Borrower shall cause the Bonds to convert to a different Fixed Rate pursuant to subsection (b) of this Section 4.10 and Section 2.02(b)(i) of the Indenture with said Conversion Date occurring on the first (1<sup>st</sup>) Business Day of December, 2032.

## ARTICLE V FURTHER AGREEMENTS

**Section 5.01. Income Requirement.** The Borrower agrees that before accepting the Loan, it will execute the Land Use Restriction Agreement. The Borrower will cause the executed Land Use Restriction Agreement to be recorded in the official public records of the County prior to the Mortgage for the Project.

The Borrower hereby covenants that it will comply with the terms of the Land Use Restriction Agreement. The Land Use Restriction Agreement shall be amended, whether before or after execution by the Borrower, if necessary in the opinion of Bond Counsel, to comply with the requirements of Section 142(d) of the Code.

**Section 5.02. Terms of Loan.** The Loan terms shall be as provided in the Loan Documents, this Loan Agreement and the Land Use Restriction Agreement.

If the Borrower's obligations under this Loan Agreement are assigned with the consent of the Issuer and the Trustee, the Borrower's assignee shall be required to deliver an opinion of counsel, in form and substance acceptable to the Issuer and the Trustee, to the effect that this Loan Agreement, the Mortgage, the Note, and the other Loan Documents are valid, binding and enforceable against such new borrower in accordance with their respective terms.

**Section 5.03. No Arbitrage.** The Borrower shall not take any action or permit any action to be taken whereby the proceeds of the Bonds or any other moneys shall be invested or used in such manner that any of the Bonds would be 'arbitrage bonds' within the meaning of the Code.

**Section 5.04. Consent to Assignment.** The Issuer has made an assignment to the Trustee under the Indenture for the benefit of the Owners of the Bonds of all rights and interest of the Issuer in and to the Mortgage, the Note, the Loan and this Loan Agreement including any consent rights (except for its Reserved Rights), and the Borrower hereby consents to all such assignments and the filing of such financing statements or other documents as may be necessary or desirable to perfect the lien of the Indenture.

**Section 5.05. Recording and Filing.** The Borrower shall cause to be filed all necessary financing statements related to the Indenture, this Loan Agreement, and the Mortgage, at the cost of the Borrower, as may be necessary to be kept and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the Owners of the Bonds and the rights of the Trustee under the Indenture.

**Section 5.06. Compliance with Laws.** The Borrower shall, throughout the term of this Loan Agreement and at no expense to the Issuer or the Trustee or the Credit Facility Provider, if any, promptly comply or cause compliance with all laws, ordinances, rules, regulations and requirements of duly constituted public authorities which may be applicable to the Project or to the repair and alteration thereof, or to the use or manner of use of the Project, including, but not limited to, the Americans With Disabilities Act and all federal, State and local environmental, labor, health and safety laws, rules and regulations. Subject to the provisions of the Loan Documents, the Borrower may, at its expense and in its own name, in good faith contest the need to comply with or the compliance with any such legal requirement and, in the event of any such contest, upon notice to the Issuer, the Trustee and the Credit Facility Provider, if any, may permit the legal requirement so contested to remain in noncompliance during the pendency of such contest and any appeal therefrom, unless the Issuer, the Trustee or the Credit Facility

Provider, if any, shall notify the Borrower that, in the opinion of counsel to the Issuer, the Trustee or the Credit Facility Provider, if any, by noncompliance with any such legal requirement the Project or any part thereof may be subject to being closed, lost or forfeited, in which event such legal requirement shall be complied with; provided that notwithstanding such compliance, the Borrower shall retain the right to contest the same.

**Section 5.07. Maintenance of Legal Existence.** During the term of this Loan Agreement, the Borrower shall maintain its existence as set forth in Section 2.02 and shall not terminate, dissolve, or dispose of all or substantially all of its assets; provided, however, that the Borrower may consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, or transfer all or substantially all of its assets to another entity, but only on the condition that the assignee entity or the entity resulting from or surviving such merger or consolidation (if other than the Borrower), or the entity to which such transfer shall be made, shall be duly organized and existing, in good standing and qualified to do business under the laws of the State, shall remain so continuously during the term hereof, and shall expressly assume in writing and agree to perform all of the Borrower's obligations hereunder and under all other documents executed by the Borrower in connection with the issuance of the Bonds; provided, further, that (a) the Borrower delivers an opinion of Bond Counsel to the effect that such consolidation or merger will not cause interest on the Bonds to be included in gross income for federal income tax purposes and (b) any transfer of the Project shall be effected in accordance with the Land Use Restriction Agreement and the other Loan Documents. Nothing in this Section 5.07 shall be deemed to relieve the Borrower of its obligations to comply with the provisions of the Loan Documents. In any event, the foregoing shall not prohibit the (i) sale, transfer or disposition of the Project if ML CASA VII, LP retains the exclusive or direct or indirect control of any such purchaser or transferee or other entity which owns the Project; and (ii) sale or transfer of any membership interest in the Borrower to an Affiliate of the Member.

**Section 5.08. Access to Project and Records; Reports.**

(a) Subject to reasonable notice, the Issuer and the Trustee, and the respective duly authorized agents of each, shall have the right, but not the obligation, at all reasonable times and during normal business hours to enter the Project and any other location containing the records relating to the Project, the Loan, the Indenture, the Land Use Restriction Agreement, this Loan Agreement and the Borrower and to inspect and audit the same, and shall have the right at all such reasonable times to make copies of any records that the Credit Facility Provider, if any, the Trustee, the Issuer, or their respective duly authorized agents, may reasonably require. The Borrower shall make available to the Issuer, the Trustee, and the Credit Facility Provider, if any, such information concerning the Project, the Loan, the Indenture, the Land Use Restriction Agreement and this Loan Agreement as any of them may reasonably request.



(b) The Borrower shall file such certificates and other reports with the Issuer, the Trustee and the Credit Facility Provider, if any, as are required by the Land Use Restriction Agreement.

(c) The Borrower agrees to provide to the Issuer all information necessary to enable the Issuer to complete and file all forms and reports required by the laws of the State and the Code in connection with the Project and the Bonds.

**Section 5.09. Operation of Project.** The Borrower will not sell, transfer or otherwise dispose of the Project except as provided in the Land Use Restriction Agreement, the Mortgage and Section 5.07 of this Loan Agreement.

**Section 5.10. Tax Covenants.** The Borrower covenants that it will comply with the requirements and conditions of the Tax Certificate and the Land Use Restriction Agreement. Without limiting the foregoing, the Borrower covenants that, notwithstanding any provision of this Loan Agreement or the rights of the Borrower hereunder, it will not take, or permit to be taken on its behalf, any action which would cause interest on the Bonds to be included in gross income for federal income tax purposes and that it will take such reasonable action as may be necessary to continue such exclusion from gross income, including, without limitation, (a) compliance with the requirements contained in Section 2.02 and Section 5.03 hereof; (b) the preparation and filing of any statements required to be filed by it in order to maintain such exclusion; and (c) the payment to the United States of any amount required to be paid by the Issuer or the Borrower pursuant to Section 148(f) of the Code and the regulations thereunder, including, to the extent applicable, Section 1.148-3 of the Treasury Regulations on Income Tax or subsequent applicable Treasury Regulations, at the times, in the amounts and at the places required thereby in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes; and the Borrower hereby irrevocably authorizes and directs the Issuer and the Trustee (and any other agent designated by the Issuer) to make payment of such amounts from funds of the Borrower, if any, held by the Issuer, the Trustee, or any agent of the Issuer or the Trustee.

**Section 5.11. Further Assurances and Corrective Instruments.** The parties hereto agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and to the other documents contemplated hereby as may reasonably be required to carry out the intention of or to facilitate the performance of this Loan Agreement, the other Loan Documents or the Bond Documents or to perfect or give further assurances of any of the rights granted or provided for herein, in the other Loan Documents or in the Bond Documents.

**Section 5.12. Compliance With Other Documents.** The Borrower shall make all payments and shall observe and perform all covenants, conditions and agreements required to be paid, observed or performed by the Borrower under the Note, the Mortgage, the other Loan Documents, the Land Use Restriction Agreement and all other documents, instruments or agreements which may at any time, or from time to time, be entered into by the Borrower with

respect to the Project or the operation, occupancy or use thereof. The Indenture has been submitted to the Borrower for examination, and the Borrower, by execution of this Loan Agreement, acknowledges and agrees that it has participated in the drafting of the Indenture, that it has approved and agreed to each of the provisions of the Indenture and that it is bound by, shall adhere to the provisions of, and shall have the rights set forth by the terms and conditions of, the Indenture and covenants and agrees to perform all obligations required of the Borrower pursuant to the terms of the Indenture.

**Section 5.13. Notice of Certain Events.** The Borrower hereby covenants to advise the Issuer, the Trustee and the Credit Facility Provider, if any, promptly in writing of the occurrence of any default by the Borrower in the performance or observance of any covenant, agreement, representation, warranty or obligation of the Borrower set forth in this Loan Agreement, in any of the other Loan Documents, in any of the Bond Documents or any other documents contemplated hereby or thereby, or of any Event of Default hereunder known to it or of which it has received notice, or any event which, with the passage of time or service of notice, or both, would constitute an Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto. Such notice shall be given promptly, and in no event less than ten (10) Business Days after the Borrower receives notice or has knowledge of the occurrence of any such event.

**Section 5.14. Subordinate Liens Permitted.** Anything in this Loan Agreement or the Loan Documents to the contrary notwithstanding, neither this Loan Agreement nor any of the Loan Documents shall be construed as prohibiting, and there shall be permitted, any lien, security interest, or encumbrance on the Project, but only if such lien, security interest, or encumbrance is junior, inferior, and subordinate to the liens, security interests, and encumbrances on the Project created under and by the Loan Documents and (x) is consented to by the Issuer and the Initial Bondholder or (y) will be existing on the effective date hereof and for the benefit of the Initial Bondholder or an Affiliate thereof.

## ARTICLE VI INDEMNIFICATION

**Section 6.01. Indemnification of the Issuer, County and Trustee.** The Borrower hereby covenants and agrees that it shall indemnify and hold harmless the Issuer, the County and the Trustee and their respective officers, directors, officials, employees and agents from and against any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Loan Agreement, the Loan, the Project or the sale of the Bonds to finance the Project, any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Project or the sale of the Bonds to finance the Project, and all costs, reasonable counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Borrower shall not be required to indemnify any person for damages caused by the negligence or willful misconduct or breach of contract of such person or for losses relating to principal and interest. In the event that any action or proceeding is brought against the Issuer, the County, the Trustee or any of their respective officers, directors, officials, employees or agents, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the indemnified party (which notice shall be given in a timely manner so as not to impair Borrower's rights to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably acceptable to the indemnified party and the payment of all expenses. The indemnified party shall have the right to employ separate counsel in any such action or proceedings and to participate in the defense thereof, but, unless such separate counsel is employed with the approval and consent of the Borrower, or because of a conflict of interest between the Borrower and the indemnified party, the Borrower shall not be required to pay the fees and expenses of such separate counsel. The Borrower agrees to execute any additional documents deemed necessary by the Issuer, the County or the Trustee to evidence the indemnification provided for in this Section 6.01. At the request of the Issuer or County, Borrower agrees, in addition to the above indemnification, to pay the reasonable costs and expenses of the County Attorney of Broward County in connection with the action or proceeding giving rise to the indemnification.

While the Borrower has possession of the Project, the Borrower also shall pay and discharge and shall indemnify and hold harmless the Issuer and the Trustee from (a) any lien or charge upon payments by the Borrower to the Issuer and the Trustee hereunder, and (b) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges other than income and other similar taxes in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges other than income and other similar taxes, are sought to be imposed, the Issuer or the Trustee shall give prompt notice to the Borrower and the Borrower shall have the sole right and duty to assume, and will assume, the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion.

In addition thereto, the Borrower will pay upon demand all of the reasonable fees and expenses paid or incurred by the Trustee and/or the Issuer in enforcing the provisions hereof.

**Section 6.02. Indemnification of Trustee.** Subject to the provisions of the succeeding sentences of this subsection, but without regard to Section 4.08 of this Loan Agreement, the Borrower agrees to indemnify and hold the Trustee (in its capacity as such, in its individual capacity, and in any other capacity it assumes under or pursuant to any Bond Document or Loan Document), its employees, officers, representatives and agents harmless from and against any and all losses, costs, damages, expenses and liabilities of whatsoever nature or kind (including but not limited to, any documentary stamp taxes or intangible taxes due and payable in connection with the Loan, reasonable attorneys' fees (including any and all of those incurred prior to litigation and at all tribunal levels), litigation and court costs, amounts paid in settlement by or with the approval of the Borrower and amounts paid to discharge judgments) paid to third parties directly or indirectly resulting from, arising out of, or related to (i) the issuance, offering, remarketing, sale or delivery or resale on the secondary market of the Bonds; (ii) the enforcement of provisions of this Loan Agreement, the Note, the Indenture, the Mortgage, the Land Use Restriction Agreement or any other Bond Document or Loan Document; (iii) any written statements or representations made or given by the Borrower or by any partner, director, officer, employee, attorney or agent of the Borrower or Person under direct contract to the Borrower or acting on the Borrower's behalf to any indemnified persons; (iv) the design, construction, installation, operation, use, occupancy, maintenance or ownership of the Project; or (v) the administration of the trusts created by the Indenture; provided, however, the Trustee shall not be indemnified hereunder for any claims or damages arising from its own negligent acts or omissions or from any willful misconduct by the Trustee in carrying out its duties set forth in the Indenture; and provided, further, absent fraud by the Borrower or by any partner, director, officer, employee, attorney or agent of the Borrower or Person under direct contract to the Borrower or acting on the Borrower's behalf, nothing contained herein shall be construed to require Borrower to indemnify the Trustee for the principal and interest due under the Note and this Loan Agreement. Notwithstanding any provisions of any Loan Document to the contrary, the Trustee's rights under this Section 6.02 shall survive the Trustee's resignation or removal and the discharge of the Indenture.

## ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

**Section 7.01. Events of Default.** Each of the following shall be an 'Event of Default' under this Loan Agreement:

- (a) the Borrower shall fail to pay any principal, premium, if any, Purchase Price or interest on the Loan when the same shall become due or payable in accordance with the terms thereof or any other amounts payable by the Borrower hereunder and, in the case of amounts other than principal, premium, or Purchase Price payable by the Borrower hereunder, the continuation thereof for a period of three (3) Business Days after such payment is due;

(b) the Loan or this Loan Agreement does not continue to be in full force and effect for any reason prior to expiration of its terms other than payment in full thereof upon the terms and conditions provided therein and herein and such failure shall continue for the period and after the notice specified in Section 7.02 hereof;

(c) the Borrower shall fail to perform or observe any of its covenants or agreements contained in this Loan Agreement (other than as specified in paragraphs (a) or (b) above), and such failure shall continue for the period and after the notice specified in Section 7.02 hereof;

(d) the Borrower shall fail to perform or observe any of its covenants or agreements contained in the Land Use Restriction Agreement or other Loan Documents which is not cured within the periods, if any, provided therein and such failure shall continue for the period and after the notice specified in Section 7.02 hereof;

(e) an Act of Bankruptcy shall occur;

(f) failure to make any payment of the Purchase Price or any redemption price required by the Indenture according to the terms of the Indenture; or

(g) an Event of Default under the Supplemental Agreement shall occur.

**Section 7.02. Notice of Default; Opportunity to Cure.** No default under subsections (b), (c), or (d) of Section 7.01 hereof shall constitute an Event of Default until:

(a) the Trustee or the Issuer, by registered or certified mail, shall give notice to the Borrower of such default specifying the same and stating that such notice is a "Notice of Default;" and

(b) the Borrower shall have had sixty (60) days after receipt of such notice to correct the default and shall not have corrected it, unless the Borrower has promptly begun to cure such default, has proceeded with reasonable diligence to effect such cure, but the default cannot be cured within such sixty (60) day period.

**Section 7.03. Remedies.** Whenever any Event of Default under Section 7.01 hereof shall have happened and be continuing beyond any applicable cure period, any or all of the following remedial steps shall be available:

(a) Upon the occurrence of an Event of Default as set forth in subsections (a), (b) or (e) of Section 7.01 hereof, the Trustee shall (but not without the prior written consent of the Initial Bondholder during the Current Bondholder Period, except for an Event of Default as set forth in subsection (e)), or simultaneously with any acceleration of the Bonds pursuant to Section 9.02 of the Indenture, the Trustee shall and upon the occurrence of an Event of Default set forth in subsections (c), (d), (f) or (g) of Section 7.01 hereof the Trustee may (and shall at the direction of the Bondholder Representative or

100% of the Owners) declare the obligations of the Borrower under this Loan Agreement and all payments required to be made by the Borrower hereunder to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) The Trustee shall, for and on behalf of the Issuer (and/or the Initial Bondholder during the Current Bondholder Period), at the written request or consent of the Issuer (and only with the prior written request or consent of the Initial Bondholder during the Current Bondholder Period) or the Initial Bondholder during the Current Bondholder Period take whatever action at law or in equity may appear necessary or desirable to collect the payments required to be made by the Borrower under Article IV hereof then due and thereafter to become due, or to enforce performance and observance of any obligation or agreement of the Borrower under this Loan Agreement or the Loan.

Any amounts collected as payments made pursuant to Article IV hereof or applicable to such payments and any other amounts which would be applicable to payment of principal of, premium, if any, and interest on the Bonds collected pursuant to action taken under this Section 7.03, less costs of collection incurred by the Trustee or the Issuer, shall be paid into the Bond Fund under the Indenture and applied in accordance with the provisions of the Indenture.

The annulment of a declaration that all the Bonds Outstanding under the Indenture are immediately due and payable shall also constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of such declaration and of the Event of Default with respect to which such declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Notwithstanding the foregoing, the Trustee is under no obligation to enforce the obligations of the Borrower under the Loan unless the Trustee has been adequately indemnified as to its expenses, costs (including attorneys' fees) and liability.

From and after the date the Borrower's payment obligations hereunder have become immediately due and payable as the result of an Event of Default, interest on the unpaid principal amount of the Loan shall accrue at the Default Rate.

## ARTICLE VIII MISCELLANEOUS

**Section 8.01. Entire Agreement; Supplemental Agreement.** This Loan Agreement and the other Loan Documents and the Bond Documents constitute all of the agreements and understandings between the Borrower and the Issuer with respect to the Project and supersede all prior agreements and understandings, both written and oral, between the Borrower and the Issuer with respect to the subject matters thereof.

Notwithstanding the foregoing, the Issuer and the Borrower agree that provisions of the Supplemental Agreement creating further obligations, duties and exceptions to the nonrecourse liability of the Borrower shall be in addition to the terms and provisions hereof; provided, however, the provisions of the Supplemental Agreement shall control over any similar provisions contained in the Bond Documents. In addition, prior to the termination of the Supplemental Agreement, to the extent of any inconsistency between the Supplemental Agreement and the other Bond Documents such that the Borrower cannot comply with both the provisions of the Supplemental Agreement and the other Bond Documents, the Supplemental Agreement shall control.

**Section 8.02. References to Credit Facility Provider.** During the Initial Fixed Rate Period and at any other time when no Credit Facility is in effect, references to the Credit Facility Provider shall be ineffective, except with respect to amounts payable to a Credit Facility Provider which have not been paid.

**Section 8.03. Notices.** Any notices or other communication required or permitted hereunder shall be sufficiently given if delivered, by registered or certified mail, postage prepaid or overnight delivery service or dispatched by telegraphic or electronic means, to the Borrower, the Issuer, the Trustee and the Owners at their respective Notice Address set forth in Section 13.08 of the Indenture or at such other address or telephone numbers as shall be furnished in writing by any party to the other, and shall be deemed to have been given as of the date of the signed receipt.

**Section 8.04. Severability.** If any provision of this Loan Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

**Section 8.05. Execution in Counterparts.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 8.06. Amendments, Changes and Modifications.** Except as otherwise provided in this Loan Agreement or in the Indenture, subsequent to the issuance of the Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Indenture), this Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Issuer and the Borrower; provided, however, that this Loan Agreement may be amended without the consent of the Issuer or the Borrower to the full extent necessary in the opinion of Bond Counsel to comply with the requirements of the Code in order to maintain the tax exempt status of interest on the Bonds.

**Section 8.07. Governing Law.** This Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 8.08. Term of Loan Agreement.** This Loan Agreement shall be in full force and effect from the date hereof and shall continue in effect (a) so long as any Bonds are Outstanding; (b) for a period of ninety-one (91) days after the Borrower, any member of the Borrower, and any general partner of the Member or the Issuer is obligated to make any payments under this Loan Agreement during which no bankruptcy filing by or against the Borrower, any member of the Borrower, and any general partner of the Member or the Issuer occurs; and/or (c) so long as the Trustee holds any moneys under the Indenture other than upon or after a defeasance pursuant to Article VIII of the Indenture. All representations and certifications by the Borrower set forth in Article II hereof and all provisions relating to the payment of any amounts due hereunder to the Trustee and the Issuer (including amounts due under Article VI) shall survive any termination, payment, or satisfaction of the indebtedness and the termination of this Loan Agreement, and any foreclosure or any other transfer of any kind of the Project and shall continue and survive ad infinitum.

**Section 8.09. Further Assurances.** The Borrower agrees that it will, from time to time and at any time hereafter, upon demand of the Issuer make, sell, execute, acknowledge and deliver all and every such further or other acts, matters, assignments, conveyances and assurances the better assuring, conveying and confirming unto the Issuer and its successors all and singular the collateral pledged or intended so to be or which it agreed to be hereafter pledged, assigned and transferred to the Issuer as by the Issuer shall be reasonably desired or required for the better carrying out of the provisions, objects and purposes of this Loan Agreement and securing the payment of the Borrower's obligations hereunder.

**Section 8.10. Limited Obligation of Issuer.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower and their respective successors and assigns, subject to the limitation that any obligation of the Issuer created by or arising out of this Loan Agreement, including the obligation to make the Loan, shall be a limited obligation of the Issuer, payable solely out of the funds held or set aside in trust under the Indenture for such purpose, and there shall be no further recourse against the Issuer with respect thereto.

THE ISSUER 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; OR THE COMPLIANCE THEREOF WITH ANY LEGAL REQUIREMENTS.

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IN WITNESS WHEREOF, the parties hereto have executed this Loan Agreement, all as of the day and year first above mentioned.

[SEAL]

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

Attest:

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

Name: Milette Thurston

Title: Assistant Secretary

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

Name: Ruth T. Cyrus

Title: Chair

IN WITNESS WHEREOF, the parties hereto have executed this Loan Agreement, all as of the day and year first above mentioned.

[SEAL]

CVII – LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company

Attest:

By: ML CASA VII, LP, a Delaware limited partnership, its sole member

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

By: ML CASA VII Management, LLC, a Delaware limited liability company, its general partner

By: CASA Partners VII GP, LLC, a Delaware limited liability company, its manager

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

**EXHIBIT A**

**DESCRIPTION OF LAND**

**EXHIBIT B**  
**FORM OF**  
**PROMISSORY NOTE**

Principal Amount – \$ \_\_\_\_\_

[DATE]

FOR VALUE RECEIVED, CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company (the “Borrower”), promises to pay in lawful money of the United States of America to the order of the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA (together with any of its successors or assigns, the “Issuer”), the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) with interest thereon from December \_\_, 2017, at the rates described, and on the outstanding principal balance hereof from time to time, as provided in the hereinafter defined Indenture. Terms used and not otherwise defined in this Note shall have the meaning ascribed to such terms in the Indenture or in the hereinafter described Loan Agreement.

Amounts due under this Note shall be payable as provided in the Loan Agreement dated as of December 1, 2017, by and between the Borrower and the Issuer, the terms of which are incorporated herein by reference (the “Loan Agreement”), with the final payment of all outstanding principal and interest on this Note to be paid on the Business Day next preceding December 1, [2057], unless the Bonds are required to be redeemed or this Note is earlier paid by the Borrower in accordance with the terms hereof, the Loan Agreement or the Indenture; however, the obligation of the Borrower to make any payment hereunder shall be deemed satisfied and discharged to the extent of any amounts held in the funds and accounts under the Indenture, including earnings thereon, to the extent such amounts are used to make payments of principal and interest on the Bonds. Both principal and interest under this Note shall be payable at the Office of the Trustee or at such other address as designated by the Trustee. The Borrower may make prepayments upon this Note as provided in the Loan Agreement, with such prepayments being first applied to interest and next to principal.

This Note is made pursuant to the Loan Agreement wherein, among other things, the Issuer has agreed to lend to the Borrower and the Borrower has agreed to take a loan in the principal amount above, being the proceeds from the sale of the Housing Finance Authority of Broward County, Florida, Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek) in the original principal amount of \$ \_\_\_\_\_ (the “Bonds”). The proceeds of the Bonds shall be disbursed in accordance with the provisions of that certain Trust Indenture dated as of December 1, 2017, by and between the Issuer and the Trustee (the “Indenture”), pursuant to which the Bonds are being issued.

Upon the occurrence of certain Events of Default (as defined below), all unpaid principal of and interest on this Note may be declared to be forthwith due and payable in the manner and

with the effect provided in the Loan Agreement, the Indenture and/or the Mortgage. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at a later time or in the event of any subsequent occurrence of an Event of Default. If this Note shall be placed in the hands of an attorney or attorneys for collection, the Borrower agrees to pay, in addition to the amount due hereon, the reasonable costs and expenses of collection, including reasonable legal fees and expenses.

The indebtedness evidenced by this Note is secured by, among other things, a mortgage on the Project (the "Mortgage") from the Borrower to the Issuer, dated as of December 1, 2017 and assigned by the Issuer to the Trustee.

Interest payable on this Note shall not exceed the amount that may be lawfully charged. Interest on this Note shall be calculated from time to time on the same basis as interest on the Bonds.

The entire principal balance and accrued interest owing hereon may at once become due and payable without notice or demand upon the occurrence at any time of certain events of default (collectively, the "Events of Default") set forth in the Loan Agreement, the Indenture or the Mortgage, after the passage of any applicable grace or cure period provided therein.

The Trustee's failure to exercise the option to accelerate the maturity of this Note upon the happening of any one or more of the Events of Default shall not constitute a waiver of the right of the Trustee to exercise the same or any other option at that time with respect to such Event of Default or any other default hereunder or under any instrument securing, governing, guaranteeing or evidencing the loan evidenced by this Note (the "Loan"). The remedies provided in this Note, in the Mortgage, the Loan Agreement, the Indenture and in any other instrument securing, governing, guaranteeing or evidencing the Loan, shall be cumulative and concurrent and may be pursued separately, successively or together as often as occasion therefor shall arise, at the sole discretion of the Trustee. The acceptance by the holder hereof of any payment under this Note which is less than the payment in full of all amounts due and payable at the time of such payment shall not (i) constitute a waiver of or impair, reduce, release or extinguish any remedy or right to exercise the foregoing option or any other option granted to the holder or any other party in this Note, or under any other instrument securing, governing, guaranteeing or evidencing the Loan, at that time or at any subsequent time, or nullify any prior exercise of such option, or (ii) impair, reduce, release, extinguish or adversely affect the obligations of any party liable under such documents as originally provided therein.

The Borrower waives demand, presentment, notice of dishonor, notice of intention to accelerate the indebtedness evidenced hereby, notice of the acceleration of the maturity hereof, diligence in collecting, grace, notice (except as set forth in the Loan Agreement or the Mortgage) and protest, and agrees to one or more extensions for any period or periods of time and to partial payments, before or after maturity, without prejudice to the holder of this Note.

If this Note is not paid when due, whether at maturity or by acceleration, or if, after the occurrence of an Event of Default, this Note is placed with an attorney for collection, whether before or after maturity, the Borrower agrees to pay all reasonable costs of collection, including, but not limited to, reasonable legal fees and expenses incurred by or on behalf of the holder hereof.

All payments on the indebtedness evidenced by this Note shall be applied first to pay interest hereon and next to pay any and all costs incurred by or on behalf of the holder hereof and finally to pay principal.

The proceeds of this Note are to be used for business, commercial, investment or other similar purposes, and no portion thereof will be applied for personal, family or household use.

All agreements between the Borrower and the holder hereof, whether now existing or hereafter arising, and whether written or oral, are hereby limited so that in no event shall the interest payable hereunder (whether contracted for, charged or received by the holder hereof) exceed the maximum amount permissible under applicable law. If, from any circumstances whatsoever, interest would otherwise be payable to the holder hereof in excess of the maximum lawful amount, the interest payable to the holder hereof shall be reduced to the maximum amount permitted under applicable law. If from any circumstance the holder hereof shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any such excessive interest shall be applied to the reduction of the principal hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof, such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to the holder hereof shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension hereof) so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law. This paragraph shall control all agreements between the Borrower and the holder hereof.

The personal liability of the Borrower under this Note is subject to the limitations set forth in Section 4.08 of the Loan Agreement.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA AND THE LAWS OF THE UNITED STATES OF AMERICA APPLICABLE TO TRANSACTIONS IN THE STATE OF FLORIDA.

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CVII – LANDINGS AT COCONUT CREEK LLC, a  
Delaware limited liability company

By: ML CASA VII, LP, a Delaware limited  
partnership, its sole member

By: ML CASA VII Management, LLC, a  
Delaware limited liability company, its  
general partner

By: CASA Partners VII GP, LLC, a  
Delaware limited liability  
company, its manager

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: [\_\_\_\_\_]

**ASSIGNMENT OF PROMISSORY NOTE**

THE HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA (the "Issuer"), hereby assigns to THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. (the "Trustee"), as trustee under that certain Trust Indenture dated as of December 1, 2017 by and between the Issuer and the Trustee, without recourse or warranty, all of its right, title and interest in and to the attached Promissory Note in the original principal amount of [ \$\_\_\_\_\_ ] dated December \_\_, 2017, made by CVII – LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company, payable to the order of the Issuer.

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

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

Name: Ruth T. Cyrus

Title: Chair

Date: \_\_\_\_\_

Attest:

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

Name: Milette Thurston

Title: Assistant Secretary

ACCEPTED:

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee

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

Vice President and Trust Officer

Date: \_\_\_\_\_



**EXHIBIT "C"**

**FORM OF LAND USE RESTRICTION AGREEMENT**

**[ATTACHED]**

**THIS INSTRUMENT PREPARED**

**BY AND RETURN TO:**

Junious D. Brown III, Esq.  
Nabors Giblin & Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, Florida 32308

Draft #2 11/02/17  
NGN File No.: 370.36

LAND USE RESTRICTION AGREEMENT

Owner's  
Name and Address: CVII - LANDINGS AT COCONUT CREEK LLC  
730 Third Avenue  
New York, New York 10017

Location of Property: 4854 Fisherman's Drive  
Coconut Creek, Florida 33063

Name of Project: The Landings at Coconut Creek

Issuer's Name  
and Address: Housing Finance Authority of Broward County, Florida  
110 N.E. 3<sup>rd</sup> Street, Suite 300  
Fort Lauderdale, Florida 33301

THIS LAND USE RESTRICTION AGREEMENT (this "Agreement"), made and entered into as of December 1, 2017, by and among the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA (the "Issuer"), a public body corporate and politic created, organized and existing under the laws of the State of Florida (the "State"), whose mailing address is listed above; THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, as trustee (the "Trustee") pursuant to the Trust Indenture between the Issuer and the Trustee dated as of December 1, 2017 (the "Indenture"), authorizing and securing the Issuer's Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek) (the "Bonds"), whose mailing address is 10161 Centurion Parkway, Jacksonville, Florida 32256; and CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company, and its successors and assigns, whose mailing address is listed above (the "Owner");

WITNESSETH:

**WHEREAS**, Owner, the fee simple owner of the Project (as such term is herein defined), intends to rehabilitate a multifamily residential rental project located within Broward County, Florida (the “County”) to be occupied by Lower-Income Persons and Eligible Persons (as such terms are herein defined), all for the public purpose of assisting persons or families of low, moderate or middle income within the County to afford the costs of decent, safe and sanitary housing; and

**WHEREAS**, the Issuer has authorized the issuance and delivery of the Bonds in the aggregate principal amount of \$\_\_\_\_\_ pursuant to the Indenture in order to provide for a loan (the “Loan”) to the Owner pursuant to a Loan Agreement dated as of December 1, 2017 (the “Loan Agreement”), by and between the Issuer and the Owner to finance the acquisition, rehabilitation and equipping of the Project (as hereinafter defined) and certain costs incurred in connection with the issuance of the Bonds, all under and in accordance with the Constitution and laws of the State; and

**WHEREAS**, the Indenture and the Loan Agreement require, as a condition of making the Loan, the execution and delivery of this Agreement; and

**WHEREAS**, in order to satisfy such requirement, the Issuer, the Trustee and the Owner have determined to enter into this Agreement to set forth certain terms and conditions relating to the operation of the Project, which is located on the real property in the County, as further described in Exhibit ”A” hereto (the “Land”); and

**WHEREAS**, this Agreement shall be properly filed and recorded by the Owner within the official records of the County and shall constitute a restriction upon the use of the property subject to and in accordance with the terms contained herein.

**NOW THEREFORE**, in consideration of providing the financing by the Issuer to the Owner, acknowledging that compliance with this Agreement is necessary to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds, the Owner covenants and agrees with the other parties hereto as follows:

Section 1. Definitions and Interpretation.

- (a) The following terms shall have the respective meanings set forth below (undefined terms shall be given the meanings set forth in the Indenture):

“Affiliated Party” of a person means a person such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code, or (ii) such persons are members of the same controlled group of corporations as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein or (iii) a related person within the meaning of Section 144(a) or 147(a) of the Code.

“Applicable Income Limit” means fifty percent (50%) of area median gross income (within the meaning of Section 142(d) of the Code) for Broward County, Florida, Standard Metropolitan Statistical Area, as determined by the Secretary of the United States Department of the Treasury in a manner consistent with determinations of lower income families and area median gross income under Section 8 of the Housing Act of 1937, as amended (or if such program is terminated, under such program as in effect immediately before such termination), including adjustments for family size.

“Bond Counsel” means any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the exclusion from gross income of interest on bonds for federal income tax purposes issued by states and political subdivisions selected by the Issuer.

“Bonds” means the Issuer’s \$\_\_\_\_\_ Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek).

“Certificate of Continuing Program Compliance” means the certificate required to be delivered by the Owner to the Issuer and the Trustee pursuant to Section 4(e) of this Agreement.

“Closing Date” means the delivery date of the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and except as otherwise provided herein or required by the context hereof, includes interpretations thereof contained or set forth in the applicable regulations of the Department of the Treasury (including applicable final regulations or temporary regulations), the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings) and applicable court decisions.

"Compliance Agent" shall mean initially, the Issuer, and thereafter such other organization subsequently designated by the Issuer to serve as Compliance Agent for the Project.

“County” means Broward County, Florida.

“Current Annual Family Income” is determined in accordance with Section 8 of the Housing Act of 1937, as amended (or, if such program is terminated, under such program as in effect immediately before such termination), and includes wages and salaries, overtime pay, commissions, fees, tips and bonuses and other forms of compensation for personal services, net income from operation of a business or a profession, interest, dividends and other net income of any kind from real or personal property, periodic payments from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits or similar types of periodic receipts, payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation and severance pay, welfare assistance, periodic and determinable allowances such as alimony and child support and regular pay, special pay and allowances of a member of the Armed Forces, and other forms of income described in the Income Certification (as promulgated by the Issuer from time to time in accordance with the Housing Act) but does not include earnings of children under 18, payments received for care of foster children or adults, lump sum insurance payments, inheritances, capital gains and

settlements for personal or property losses, amounts received specifically for, or in reimbursement of, the cost of medical expenses, income of a live-in aide, certain student financial assistance, special pay to a member of the Armed Forces who is exposed to hostile fire, amounts received under certain training programs and other social service programs, temporary, nonrecurring or sporadic income or other forms of income that the Income Certification specifies may be excluded.

“Eligible Persons” means one or more natural persons or a family, irrespective of race, creed, religion, color, national origin, familial status, mental or physical handicap or sex, who are either Lower-Income Persons or whose Current Annual Family Income does not exceed one hundred fifty percent (150%) of the area median gross income (within the meaning of Section 142(d) of the Code) for Broward County, Florida, Standard Metropolitan Statistical Area, subject to family size adjustment, as indicated in the latest published Decile Distributions of Family Income by Standard Metropolitan Statistical Areas and Non-Metropolitan Counties prepared and published from time to time by HUD, or such other reliable compilation of income statistics as the Issuer may determine to employ, as adjusted by the Issuer according to the most recent Consumer Price Index statistics; provided that persons of 65 years of age or older shall be defined as “Eligible Persons” regardless of their income.

“HUD” means the United States Department of Housing and Urban Development or any successor agency.

“Income Certification” means the certification required to be obtained from each Lower-Income Tenant by the Owner pursuant to Section 4(a) hereof.

“Indenture” means the Trust Indenture, dated as of December 1, 2017, between the Issuer and the Trustee relating to the issuance of the Bonds, as amended or supplemented from time to time.

“Issuer’s Compliance Fee” means a compliance monitoring fee in an annual amount equal to \$25.00 per rental unit in the Project (or such other amount as is implemented by the Issuer) to be paid by or on behalf of the Owner to the Issuer, if, but only if, at any time during the Qualified Project Period or for such longer period if the set-aside requirements required by the Code, Chapter 159, Part IV, Florida Statutes or other Issuer requirements remain in force, there are no Bonds outstanding. Such fee will be due in a lump sum payment on the date the Bonds are paid in full. The fee will be calculated for the period commencing on the date the Bonds are paid in full and ending on the last date of the Qualified Project Period, or such longer period if the set-aside required by the Code, Chapter 159, Part IV, Florida Statutes or other Issuer requirements remains in force after there are no Bonds outstanding.

“Land” shall have the meaning given that term in the Recitals of this Agreement.

“Lender” means the owner of the Bonds, which shall initially mean Bank of America, N.A., a national banking association.

“Loan” means the loan to the Owner made in connection with the issuance and delivery of the Bonds, evidenced by the Note and further described in the Loan Agreement.

“Loan Agreement” means that certain Loan Agreement entered into between the Owner and the Issuer dated as of December 1, 2017, as amended or supplemented from time to time.

“Loan Documents” means any and all documents executed in connection with the issuance of the Bonds and the making of the Loan to the Owner by the Issuer.

“Lower-Income Persons” means Eligible Persons whose Current Annual Family Income does not exceed the Applicable Income Limit; provided, however, that the occupants of a unit shall not be considered to be Lower-Income Persons if all of the occupants of such unit are students (as defined in Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code. Notwithstanding the foregoing, a dwelling unit shall not fail to be treated as a dwelling unit that is occupied by Lower-Income Persons merely because such dwelling unit is occupied (a) by an individual who is a student and (i) receiving assistance under Title IV of the Social Security Act, (ii) was previously under the care and placement responsibility of the State agency program responsible for administering a plan under Part B or Part E of Title IV of the Social Security Act, or (iii) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, State or local laws, or (b) entirely by full-time students if such students are (i) single parents and their children and such parents are not dependents of another individual and such children are not dependents of another individual other than a parent of such children, or (ii) married and file a joint return.

“Member” means CASA Partners VII Operating Partnership, LP, a Delaware limited partnership, and its successors and assigns, as the sole member of the Owner.

“Note” means the promissory note executed by the Owner to evidence the obligation to repay the Loan.

“Project” means the acquisition and rehabilitation of a multifamily residential rental housing project known as The Landings at Coconut Creek, located on the Land and financed with proceeds of the Bonds pursuant to the Loan Agreement. The Project consists of 268 units.

“Qualified Project Period” means the period beginning on the date the Bonds are issued, and ending on the latest of (a) the date that is fifteen (15) years after the date on which at least 50% of the units in the Project are first occupied; or (b) the first date on which no tax-exempt private activity bond issued with respect to the Project is outstanding (within the meaning of the Code).

“Regulations” means the Income Tax Regulations issued under the Code, as applicable (including applicable final regulations or temporary regulations).

“State” means the State of Florida.

“Transition Period” means a period of up to twelve (12) months beginning on the issue date of the Bonds.

- (a) Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.
- (b) The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Residential Rental Property. The Owner hereby represents, covenants, warrants and agrees that:

- (a) The Owner will acquire, rehabilitate, own and operate the Project for the purpose of providing a “qualified residential rental project” as such phrase is used in Sections 142(a)(7) and 142(d)(1) of the Code, (2) the Owner shall own the entire Project for federal tax purposes, and (3) the Project shall be owned, managed and operated as multifamily residential rental property, comprised of a building or structure or several buildings or structures containing similarly constructed units, together with any functionally related and subordinate facilities and no other facilities, in accordance with Section 142(d) of the Code and Sections 1.103-8(b)(4) and 1.103-8(a)(3) of the Regulations, and in accordance with such requirements as may be imposed thereby on the Project from time to time.
- (b) Each residential unit in the Project shall be contained in one or more buildings or structures located on the Land and shall be similarly designed, furnished and constructed (except as to number of bedrooms), each of which will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for an individual or a family, including a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range or microwave oven, refrigerator and sink, all of which are separate and distinct from the other units.
- (c) None of the units in the Project will at any time be (1) utilized on a transient basis, (2) used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, nursing home, hospital, sanitarium, rest home, trailer court or park, or (3) rented for initial lease periods of less than six (6) months. No part of the Project will, at any time, be owned or used by a cooperative housing corporation or converted to condominiums.
- (d) All of the units will be rented or available for rent on a continuous basis to members of the general public (other than units for a resident manager or

maintenance personnel), and the Owner will not give preference to any particular class or group of persons in renting the units in the Project, except to the extent that units are required to be leased or rented to Lower-Income Persons or Eligible Persons. Lower-Income Persons who are residents of the Project will have equal access to and enjoyment of all common facilities of the Project at all times. The Owner will not discriminate against children of any age when renting the units in the Project.

- (e) The Land consists of a parcel of real property or parcels of real property that are contiguous except for the interposition of a road, street, stream or similar property, and the Project comprises buildings, structures and facilities that are geographically contiguous and functionally related. Any common facilities financed with proceeds of the Bonds (such as swimming pools, recreational facilities, parking areas and other facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash disposal equipment or units for resident managers or maintenance or security personnel) are functionally related and subordinate to the Project and are commensurate with its size and intended use.
- (f) The Owner or an Affiliated Party of the Owner shall not occupy any of the units in the Project; provided, however, that the Owner or an Affiliated Party of the Owner may occupy a unit in a building or structure in the Project that contains five or more units if the Owner or an Affiliated Party of the Owner is a resident manager or other necessary employee (e.g., maintenance and security personnel). No more than two units in the Project shall be occupied by resident managers or maintenance or security personnel.
- (g) None of the proceeds of the Bonds (including investment earnings) may be used to provide a skybox or any other private luxury box, an airplane, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises or a facility used primarily for gambling.

The requirements of this Section 2 shall remain in effect during the term of this Agreement (as defined in Section 13 below).

Section 3. Lower-Income Persons and Eligible Persons. The Owner hereby represents, warrants and covenants as follows:

- (a) At all times during the Qualified Project Period, not less than twenty percent (20%) of the residential units in the Project shall be occupied (or held available for occupancy) on a continuous basis by persons or families who at the time of their initial occupancy of such units are Lower-Income Persons. This occupancy requirement is referred to herein as the “Lower-Income Requirement.”

During the Transition Period, the failure to satisfy the set-aside requirements in this paragraph (a) for Lower-Income Persons will not cause the Project to fail to qualify as a



“qualified residential rental project” within the meaning of Section 142 of the Code. However, failure on the part of the Owner to have satisfied the set-aside requirements described in this paragraph (a) as of the end of such Transition Period shall cause the Project to not qualify as a “qualified residential rental project.”

- (b) At all times during the term of this Agreement (as defined in Section 13 below), at least sixty percent (60%) of the completed units in the Project shall be rented to or be available for rent by Eligible Persons.
- (c) For purposes of paragraphs (a) and (b) of this Section 3, a unit occupied by an individual or family who at the commencement of the occupancy of such unit is a Lower-Income Person (or Eligible Person) shall be counted as occupied by a Lower-Income Person (or Eligible Person) during such individual’s or family’s tenancy in such unit, even though such individual or family ceases to be a Lower-Income Person (or Eligible Person). However, a Lower-Income Person whose income as of the most recent Income Certification (as described in Section 4(a) below) exceeds one hundred forty percent (140%) of the Applicable Income Limit shall not continue to be treated as a Lower-Income Person if after delivery of such Income Certification, but before the delivery of the next Income Certification, any residential unit in the Project of comparable or smaller size is occupied by a new resident who is not a Lower-Income Person. In addition, a unit that was occupied by a Lower-Income Person (or Eligible Person) shall be counted as occupied by a Lower-Income Person (or Eligible Person) until it is reoccupied other than for a temporary period of not more than thirty-one (31) days, at which time the unit shall be considered to be occupied by a Lower-Income Person (or Eligible Person) only if the individual or family then occupying the unit satisfies the definition of a Lower-Income Person (or Eligible Person).

Section 4. Reporting Requirements; Payment of Issuer’s Compliance Fee and Late Reporting Fee; Maintenance.

- (a) The Owner shall obtain and maintain on file an Income Certification from each Lower-Income Person and Eligible Person dated immediately prior to the initial occupancy of such tenant in the Project in the form and containing such information as may be required by Section 142(d) of the Code, as the same may be from time to time amended by the Issuer on the advice of Bond Counsel in the exercise of its opinion that any such amendment is necessary, or in such other form and manner as may be required by applicable rules, rulings, procedures, official statements, regulations or policies now or hereafter promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code. Photocopies of each such Income Certification and any verifications of such income, to the extent requested by the Issuer, shall be submitted to the Issuer (i) within 10 days following the end of the calendar month during which the tenant first occupies a unit in the Project, (ii) within 10 days following the end of the calendar month

thereafter in which the lease is renewed or extended, and (iii) as reasonably requested by the Issuer or the Trustee, which may be as often as may be necessary, in the opinion of Bond Counsel, to comply with the provisions of Section 142(d) of the Code. To the extent permitted by the Issuer, such submissions may be made electronically.

- (b) The Owner shall file with the Issuer, on the tenth (10<sup>th</sup>) business day of each month, copies of the Income Certifications specified in Section 4(a) hereof obtained by the Owner during the previous month.
- (c) At all times during the term of this Agreement, the Owner will obtain and maintain on file from each Lower-Income Person residing in the Project the information demonstrating each tenant's income eligibility.
- (d) The Owner shall maintain complete and accurate records pertaining to the incomes of (as of the date of initial occupancy of each tenant) and rentals charged to Lower-Income Persons and Eligible Persons residing in the Project, and shall permit, upon five (5) business days' notice to the Owner, any duly authorized representative of the Issuer or the Trustee to inspect the books and records of the Owner pertaining to the incomes of and rentals charged to all tenants residing in the Project.
- (e) The Owner shall prepare and submit at the beginning of the Qualified Project Period (as such term is modified by the Transition Period provisions in Section 3(a) hereof), and on the tenth (10<sup>th</sup>) day of each month thereafter, to the Issuer, rent rolls and a Certificate of Continuing Program Compliance in the form and content approved by the Issuer, executed by the Owner stating (i) the percentage of residential units that were occupied by Lower-Income Persons and Eligible Persons as of the 20th day of the previous month, (ii) that at all times during the previous month 60% of the residential units, were occupied (or held available for occupancy) by Eligible Persons (as determined in accordance with Section 3 of this Agreement), (iii) that at all times during the previous month at least 20% of the residential units were occupied (or held available for occupancy) by Lower-Income Persons (as determined in accordance with Section 3 of this Agreement), and (iv) that no default has occurred under this Agreement or, if such a default has occurred, the nature of such default and the steps, if any, the Owner has taken or proposes to take to correct such default.
- (f) During the Qualified Project Period, the Owner shall submit to the Secretary of the Treasury (the "Secretary") (at such time and in such manner as the Secretary shall prescribe) an annual certification required by Section 142(d)(7) of the Code. As of the date of this Agreement, the Owner shall make such certification to the Secretary annually by completing and submitting IRS Form 8703 by March 31 after the close of the calendar year for which the certification is made. The Owner shall be responsible for making such certification at such other time or in such other manner as the Secretary may prescribe from time to time.

- (g) In the event the Issuer transfers responsibility for compliance monitoring to the Trustee or a newly designated Compliance Agent under Section 23 hereof, the Issuer may direct the Owner to provide and the Owner shall provide to the Trustee or the newly designated Compliance Agent copies of all of the reports, documents and certificates required under this Section. The Owner shall pay all reasonable fees and expenses of the Trustee or the newly designated Compliance Agent in connection with such responsibilities. Upon the designation of the Trustee or the Compliance Agent as the compliance monitor under this Agreement, all references herein to the Issuer as the recipient of reports and filings shall be deemed to be the Trustee and/or the Compliance Agent, as applicable.
- (h) The Owner shall immediately notify the Trustee and the Issuer of any change in the management of the Project.
- (i) If at any time during the term of this Agreement there are no Bonds Outstanding (as provided in the Indenture), the Owner shall pay the Issuer's Compliance Fee.
- (j) The Owner will keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other improvements of any kind now or hereafter erected as part of the Project, in good condition and repair (normal wear and tear excepted), will not commit or suffer any waste and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Project or any part thereof. In order to ensure the Owner's compliance with this covenant, the Issuer or its representatives are hereby authorized to enter upon and inspect the Project at any time during normal business hours upon reasonable notice and subject to the rights of tenants. Notwithstanding the foregoing, the Issuer has no affirmative duty to make such inspection.
- (k) The Owner will rehabilitate and operate the Project so that it conforms in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990.
- (l) The Owner hereby agrees to pay a late fee in the amount of \$100 per day (including weekends) for each day that the Owner fails to timely submit (in the sole, reasonable opinion of the Issuer) any of the information, Income Certifications, rent rolls, Certificates of Continuing Program Compliance, reports, documents and/or certificates (collectively, the "Compliance Reporting Information") required by this Section 4, as may be amended from time to time (the "Late Reporting Fee"). The Owner acknowledges and hereby agrees that, notwithstanding anything in this Agreement to the contrary, a Late Reporting Fee shall apply to and be payable in connection with each separate instance in which any of the Compliance Reporting Information (including individual components

thereof) is not timely submitted pursuant to this Section 4, as may be amended from time to time.

Section 5. Indemnification. The Owner hereby covenants and agrees that it shall indemnify and hold harmless the Issuer, the County and the Trustee and their respective officers, directors, officials, employees and agents from and against any and all claims by or on behalf of any person arising from any cause whatsoever in connection with this Agreement, the Loan, the Project or the sale of the Bonds to finance the Project, any and all claims arising from any act or omission of the Owner or any of its agents, contractors, servants, employees or licensees in connection with the Project or the sale of the Bonds to finance the Project, and all costs, reasonable counsel fees, expenses or liabilities incurred in connection with any such claim or proceeding brought thereon; except that the Owner shall not be required to indemnify any person for damages caused by the negligence or willful misconduct of such person or for losses relating to principal and interest. In the event that any action or proceeding is brought against the Issuer, the County the Trustee or any of their respective officers, directors, officials, employees or agents, with respect to which indemnity may be sought hereunder, the Owner, upon written notice from the indemnified party (which notice shall be given in a timely manner so as not to impair Owner's rights to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably acceptable to the indemnified party and the payment of all expenses. The indemnified party shall have the right to employ separate counsel in any such action or proceedings and to participate in the defense thereof, but, unless such separate counsel is employed with the approval and consent of the Owner, or because of a conflict of interest between the Owner and the indemnified party, the Owner shall not be required to pay the fees and expenses of such separate counsel. The Owner agrees to execute any additional documents deemed necessary by the Issuer, the County or the Trustee to evidence the indemnification provided for in this Section 5. At the request of the Issuer or County, Owner agrees, in addition to the above indemnification, to pay the reasonable costs and expenses of the County Attorney of Broward County in connection with the action or proceeding giving rise to the indemnification.

While the Owner has possession of the Project, the Owner also shall pay and discharge and shall indemnify and hold harmless the Issuer and the Trustee from (a) any lien or charge upon payments by the Owner to the Issuer and the Trustee hereunder, and (b) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges other than income and other similar taxes in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges other than income and other similar taxes, are sought to be imposed, the Issuer or the Trustee shall give prompt notice to the Owner and the Owner shall have the sole right and duty to assume, and will assume, the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion.

In addition thereto, the Owner will pay upon demand all of the reasonable fees and expenses paid or incurred by the Trustee and/or the Issuer in enforcing the provisions hereof.

Section 6. Reliance. The Issuer and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by the owners from time to time of the Bonds, the County, Bond Counsel and the other parties to transactions involving the

issuance, sale or remarketing of the Bonds and their respective counsel. In performing their duties and obligations hereunder, the Issuer and the Trustee may rely upon statements and certificates of the Owner, Lower-Income Persons and Eligible Persons reasonably believed by the Owner, its agents and employees to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Owner pertaining to occupancy of the Project. In addition, the Issuer and the Trustee may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection with respect to any action taken or suffered by the Issuer or the Trustee hereunder in good faith and in conformity with the opinion of such counsel. In performing its duties and obligations hereunder, the Owner may rely upon certificates of Lower-Income Persons and Eligible Persons reasonably believed to be genuine and to have been executed by the proper person or persons.

Section 7. Fair Housing Laws.

The Owner will comply with all fair housing laws, rules, regulations or orders applicable to the Project and shall not discriminate on the basis of race, creed, color, sex, age or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project. All advertising and promotional material used in connection with the Project shall contain the phrase "Fair Housing Opportunity."

Section 8. Tenant Lists. All tenants lists, applications, and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Owner which is unrelated to the Project, and shall be maintained, as required by the Issuer or the Lender from time to time, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Issuer, the Lender or the Trustee. Failure to keep such lists and applications or to make them available to the Issuer, the Lender or Trustee after written request therefor will be a default hereunder.

Section 9. Tenant Lease Restrictions. All tenant leases shall contain clauses, among others, wherein each individual lessee:

- (a) Certifies the accuracy of the statements made in the Income Certification;
- (b) Agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of such lessee's tenancy; that such lessee will comply promptly with all requests for information with respect thereto from the Owner, the Trustee, the Lender or the Issuer, and that such lessee's failure to provide accurate information in the Income Certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of such lessee's tenancy; and
- (c) Agrees not to sublease to any person or family who does not execute and deliver an Income Certification.

Section 10. Sale, Assignment, Conveyance or other Disposition of Project or Interest in Owner. Except with respect to transfer of interests within the Owner, as permitted under the terms and conditions of the Owner's Operating Agreement, dated as of July 19, 2017 (the "Operating Agreement"), the Owner shall not sell, assign, convey or transfer any material portion of the Land, fixtures or improvements constituting a part of the Land or Project, or any material portion of the personal property constituting a portion of the Project during the term of this Agreement without (i) the prior written consent of the Issuer, which consent shall not be unreasonably withheld, (ii) the Trustee and the Issuer having received an opinion of Bond Counsel to the effect that, in reliance upon such factual certificates as it deems appropriate and subject to such qualifications as may be generally acceptable in the industry, such sale, conveyance, transfer, or assignment will not result, under then-existing law, in interest on the Bonds, or any part thereof, becoming includable in the gross income of the holders thereof for federal income tax purposes, and (iii) upon receipt by the Issuer of a fee from the Owner upon transfer of ownership in excess of fifty percent (50%) interest in the Project or the Owner (which fee shall be refunded by the Issuer to the Owner in the event the Issuer does not approve the transfer of the Project to the proposed purchaser or assignee thereof, or in the event such transfer is not consummated) in the amount of one-half (1/2) of one percent (1%) of the amount of Bonds outstanding on the date of the written transfer request ("Transfer Fee"). Provided that the above conditions have been satisfied, the Issuer will provide to the Owner and the purchaser or transferee on request its written consent to any transfer in accordance with this Section an estoppel certificate. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 10 shall be null, void and without effect, shall cause a reversion of title to the Owner, and shall be ineffective to relieve the Owner of its obligations under this Agreement. Nothing contained in this Section 10 shall affect any provision of any document or instrument to which the Owner is a party which requires the Owner to obtain the consent of the holder of the Note or any other person as a precondition to sale, transfer or other disposition of the Project. The Transfer Fee will apply if a material portion of the Project financed with proceeds from the Loan is sold during the term hereof and such material portion of such Project consisted of personal property or equipment, the proceeds from the sale thereof may be used by the Owner to purchase property of similar function to be used in connection with the Project, otherwise, the proceeds from such sale shall be applied in accordance with the documents executed in connection with the Bonds and the Loan. If such material portion of such Project consists of real property and improvements, the purchaser thereof must execute and deliver to the Owner and the Trustee a document in form and substance reasonably satisfactory to the Issuer and the Lender pursuant to which such purchaser shall agree to operate such property in compliance with the terms and conditions of this Agreement.

Except as permitted under the terms and conditions of the Operating Agreement, the Owner shall not sell or otherwise transfer the Project in whole, nor shall there be substituted a new member of the Owner or a change in the controlling ownership of the Member or any successor thereto, or other merger, transfer or consolidation of the Owner, unless (a) the Owner has received the prior written consent of the Issuer (which shall respond within a reasonable period of time and shall not unreasonably withhold such consent), (b) the fees and expenses of the Issuer and its professionals have been paid, including the Transfer Fee, (c) the Owner shall not be in default hereunder, (d) it is reasonably expected that continued operation of the Project will comply with the requirements of this Agreement, (e) the subsequent purchaser or assignee

shall execute any document reasonably requested by the Issuer and the Lender with respect to assuming the obligations of the Owner under this Agreement, (f) the Lender and the Issuer shall not have any reason to believe that the purchaser or assignee is incapable, financially or otherwise, of complying with or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee relating to the Project, (g) the purchaser or assignee shall have satisfied such other conditions as may be reasonable under the circumstances, (h) the purchaser or assignee shall have first executed a document in recordable form addressed to the Issuer, the Lender and the Trustee to the effect that such purchaser or assignee will comply with the terms and conditions of this Agreement, the Loan Agreement and the other Loan Documents, (i) the Trustee, the Lender and the Issuer shall receive an opinion of counsel reasonably acceptable to the Issuer to the effect that the purchaser's or assignee's obligations under this Agreement, the Loan Agreement and other Loan Documents relating to the Bonds are enforceable against such purchaser or assignee in accordance with their terms, and (j) the Trustee, the Lender and the Issuer shall have received an opinion of Bond Counsel to the effect that, in reliance upon such factual certificates as it deems appropriate and subject to such qualifications as may be generally acceptable in the industry, such sale, transfer, disposition or assignment will not result, under then-existing law, in interest on the Bonds, or any part thereof, becoming includable in the gross income of the holders thereof for federal income tax purposes.

It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section shall be ineffective to relieve the Owner of its obligations under this Agreement or the Loan Agreement. In the event that the purchaser or assignee shall assume the obligations of the Owner under the Loan, the Loan Agreement and this Agreement, the Owner shall be released from its obligations thereunder and hereunder, other than its obligations hereunder and under the Loan Agreement arising prior to such date of assumption (unless such obligations are assumed by the purchaser or transferee).

Notwithstanding anything in this Section 10 to the contrary, the restrictions set forth above on the sale, transfer or other disposition or encumbrance of the Project or any portion thereof shall not be applicable to any of the following: (i) leases of apartment units as contemplated by this Agreement, (ii) grants of utility related easements and service or concession related leases or easements, including, without limitation, coin-operated laundry service leases and/or television cable easements on the Project, providing same are granted in connection with the operation of the Project as contemplated by this Agreement, (iii) any sale or conveyance to a condemning governmental authority as a direct result of the condemnation or a governmental taking or a threat thereof, (iv) the placing of a subordinate mortgage lien, assignment of leases and/or rents or security interest on or pertaining to the Project which is made expressly subject and subordinate hereto, or (v) subject to the provisions of the documents executed in connection with the Bonds and the Loan, any transfer of ownership interests in the Owner or in the entities which are members in the Owner.

Section 11. Negative Covenants. During the term of this Agreement, the Owner shall not:

- (a) Except pursuant to the provisions of this Agreement, the Loan Agreement and the other Loan Documents, or except upon a sale or transfer of the Project in

accordance with the terms of this Agreement and the Loan Agreement, encumber any of the Project, including the grant of commercial leases (other than for vending machines, coin operated laundry facilities and similar amenities functionally related and subordinate to the Project and granted in connection with the day to day operation of an apartment complex), or permit the conveyance, transfer or encumbrance of such property (except for such leases and for apartment leases) for the Qualified Project Period. Nothing in this paragraph shall prohibit the granting of easements for the purpose of providing utility services (including cable television or private satellite television) to the Project;

- (b) Demolish any part of the Project necessary for the operation thereof for its intended purposes or substantially subtract from any real or personal property of the Project; or
- (c) Permit the use of the dwelling accommodations of the Project for any purpose except rental residences in compliance with Section 142(d) of the Code.

Section 12. Covenants to Run with the Land. This Agreement and the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Section 13 hereof, shall pass to and be binding upon the Owner's assigns and successors and all subsequent owners of the Land (whether fee simple or leasehold) or the Project or any interest therein; provided, however, that upon the termination of this Agreement in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Except as provided in Section 13 hereof, each and every contract, deed or other instrument hereafter executed covering or conveying the Land or the Project or any portion thereof or interest therein shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Land or the Project are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Land or the Project.

Section 13. Term. This Agreement shall remain in full force and effect until the expiration of the Qualified Project Period; provided, however, that this Agreement shall automatically terminate in the event of involuntary noncompliance with the provisions of this Agreement caused by fire or other casualty, seizure, requisition, foreclosure or transfer by deed in lieu of foreclosure, change in a federal law or an action of a federal agency that prevents the Issuer from enforcing the provisions hereof, or condemnation or a similar event (as determined by Bond Counsel), but only if within a reasonable period thereafter (i) the Bonds are retired in full or (ii) the proceeds received as a result of such event are used to finance a project that complies with the provisions hereof and any other applicable requirements of the Code and the Regulations. In the case of foreclosure or transfer of title by deed in lieu of foreclosure or similar event (as determined by Bond Counsel), such termination will cease to be in effect if, at any time during the remainder of the Qualified Project Period following such event, the Owner or an Affiliated Party to the Owner, obtains an ownership interest in the Project for federal tax purposes.



Upon the termination of the Qualified Project Period, and the satisfaction by the Owner of all obligations under this Agreement, the Issuer, the Trustee and the Owner shall, upon the written request of the Owner, and at Owner's sole expense, execute and record a Notice of Termination of Land Use Restriction Agreement, the form of which is attached hereto as Exhibit B.

Section 14. Correction of Noncompliance. The failure of the Owner to comply with any of the provisions of this Agreement shall not be deemed a default hereunder unless such failure has not been corrected within a period of 60 days following the date that the Owner, or with respect to the requirements of Sections 2 or 3 hereof, any of the parties hereto, learned of such failure or should have learned of such failure by the exercise of reasonable diligence (which 60-day period may be extended if (i) such failure cannot reasonably be corrected within such 60-day period, (ii) diligent action to correct such failure commences within such 60-day period, (iii) such action is diligently pursued until such failure is corrected, and (iv) with respect to a failure to comply with any of the requirements of Sections 2 or 3 hereof, the Owner delivers to the Issuer and the Trustee an opinion of Bond Counsel to the effect that such longer cure period will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes). After the Trustee learns of such failure, the Trustee shall attempt with reasonable diligence to notify the Owner and the Issuer of such failure by telephonic and written communication. Notwithstanding anything to the contrary herein, the Member shall have the right, but not the obligation, to cure a default hereunder within the applicable cure period.

Section 15. Modification of Tax Covenants. Notwithstanding the provisions of Section 22(b) hereof, to the extent any amendments, modifications or changes to the Regulations or the Code shall, in the written opinion of Bond Counsel addressed to the Issuer, the Owner and the Trustee, impose requirements upon the ownership, occupancy or operation of the Project different than those imposed by the Regulations or the Code and stated herein, and the Owner's failure to comply with such different requirements would produce a material and substantial risk that interest on the Bonds will become subject to federal income taxation, then this Agreement shall be amended and modified in accordance with such requirements. The parties hereto agree to execute, deliver, and record, if applicable, any and all documents or instruments necessary in the opinion of and in the form approved by Bond Counsel to effectuate the intent of this Section 15.

Section 16. Burden and Benefit. The Issuer, the Trustee and the Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the Land in that the Owner's legal interest in the Land and the Project is rendered less valuable thereby. The Trustee, the Issuer and the Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the Land by enhancing and increasing the enjoyment and use of the Land and the Project by Lower-Income Persons and Eligible Persons, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued. The Owner hereby expressly acknowledges that this Agreement is necessary to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds issued by the Issuer to finance the Loan and covenants and agrees that in connection with the acquisition, rehabilitation, ownership and operation of the Project, it shall, and shall require any subsequent purchaser of the Project to, fully comply with all terms and conditions of this Agreement.

Section 17. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project.

Section 18. Application of Insurance and Condemnation Proceeds. Subject to the provisions of the Loan Agreement and the other Loan Documents, if during the Qualified Project Period, the Project is damaged or destroyed or if all or a portion of the Land or Project is taken through eminent domain proceedings, or under the threat thereof, proceeds from insurance on the Project or any condemnation awards pertaining to such eminent domain proceedings shall be applied as provided in the Loan Documents.

Section 19. Remedies; Enforceability. The benefits of this Agreement shall inure to, and may be enforced by, respectively, the Issuer and the Trustee and its successors, the holders of the Bonds and their successors and assigns to the extent permitted by the Indenture, and solely as to Sections 2, 3 and 7 of this Agreement, the Lower-Income Persons and Eligible Persons and their successors who shall reside or be eligible to reside in units set aside for their occupancy pursuant to Section 3 of this Agreement for the period set forth in Section 13 hereof, whether or not the Loan may be paid in full, and whether or not the Bonds are Outstanding. If a material violation of any of the provisions hereof occurs and is not cured within the period provided by Section 14 hereof, any or all of such parties may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, or to compel specific performance hereunder, it being recognized that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of the Owner's default. The remedies of the beneficiaries of this Agreement other than the Issuer and the Trustee shall be limited to those described in the preceding sentence. In addition to such other remedies as may be provided for herein, if a violation of any of the provisions hereof occurs which is not corrected during the period provided in Section 14 hereof, the Issuer shall have the right (but not the obligation), and is specifically authorized by the Owner, to terminate the manager and appoint a new manager of the Project to operate the Project in accordance with this Agreement and the Loan Agreement and take all actions necessary, in the reasonable judgment of the Issuer, to cure any default by the Owner hereunder, and such new manager assuming such management hereunder shall be paid by or on behalf of the Owner, from the rents, revenues, profits and income from the Project, a management fee not to exceed the prevailing management fee paid to managers of similar housing projects in the area of Broward County, Florida. Subject to Section 13 hereof, the provisions hereof are imposed upon and made applicable to the Land and shall run with the Land and shall be enforceable against the Owner or any other person or entity that has or had an ownership interest in the Project at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time or times. All rights and remedies provided in this Agreement are cumulative, non-exclusive and in addition to any and all rights and remedies that the parties and beneficiaries hereof may otherwise have.

The Owner hereby agrees that the appointment of a new manager may be necessary to serve the public purpose for which the Bonds were issued and to preserve the exclusion from

gross income for federal income tax purposes of interest on the Bonds following a violation of the provisions of this Agreement which is not cured within the period provided in Section 14 hereof. The Owner hereby expressly consents to, and agrees not to contest, the appointment of a new manager to operate the Project following a violation by the Owner of the provisions of this Agreement which is not cured as provided in Section 14 hereof and hereby waives any and all defenses and objections that might otherwise be raised to any such appointment of a new manager in accordance with the terms hereof. The Owner further agrees that the Issuer shall have the right to require the Owner to remove any manager or managing agent whose actions or inactions present a material risk of a breach of the agreements of the Owner herein, including, without limitation, a material risk of an adverse impact on the excludability from gross income for federal income tax purposes of interest on the Bonds and which action or inaction is not being corrected as provided in Section 14 hereof, upon such manager or managing agent being given thirty (30) days' written notice of any violation hereof, and such right shall be expressly acknowledged in any contract between the Owner and any such manager or managing agent.

Section 20. Filing. Upon execution and delivery by the parties hereto, the Owner shall cause this Agreement and all amendments and supplements hereto to be recorded and filed in the official public deed records of Broward County, Florida, and in such manner and in such other places as the Issuer may reasonably request, and shall pay all fees and charges incurred in connection therewith.

Section 21. Governing Law. This Agreement shall be governed by the laws of the State. The venue for any proceeding hereunder shall be a court of appropriate jurisdiction in Broward County, Florida.

Section 22. Amendments.

- (a) The Owner shall not assign its interest hereunder, except by writing and in accordance with the provisions of Section 10 hereof.
- (b) This Agreement shall not be amended, revised, or terminated except by a written instrument, executed by the parties hereto (or their successors in title), and duly recorded in the official public records for Broward County, Florida. Anything to the contrary notwithstanding, the parties hereby agree to amend this Agreement to the extent required in the opinion of Bond Counsel, in order for interest on the Bonds to remain exempt from federal income taxation under Section 103 of the Code. The Owner agrees, from time to time, to take such other actions and steps necessary to comply, and to cause the Project to comply, with the requirements of Section 142(d) of the Code and to enter into modifications and amendments to this Agreement to the extent required by federal law, by any amendment to the Code or by any Regulation promulgated thereunder, in each case so that interest on the Bonds remains exempt from federal income taxes. Any such amendment, revision or termination shall be effected only in accordance with the Indenture.

Section 23. Trustee or Compliance Agent to Monitor Compliance Upon Request of Issuer. If the Issuer requests in writing that the Trustee (and the Trustee agrees to such request)

or Compliance Agent assume the role of compliance monitoring, the Trustee or Compliance Agent, as the case may be, shall receive and examine all other reports, certifications and other documents required to be delivered to the Issuer or the Trustee or Compliance Agent hereunder and shall notify the Issuer promptly of non-compliance with this Agreement. In such event the Trustee or Compliance Agent shall include in its monthly statement described above a statement as to whether it has received the rent rolls and whether any of the information in any such documents received by the Trustee or Compliance Agent indicates the Owner has failed to comply with any of the requirements contained in this Agreement. The Trustee or Compliance Agent shall be authorized to charge reasonable fees and expenses to the Owner if it assumes such role.

Section 24. Notice. All notices and other communications required or permitted under this Agreement must be in writing and shall be deemed to have been duly given (i) when delivered, if sent by registered or certified mail (return receipt requested), (ii) when delivered, if delivered personally, (iii) when transmitted, if sent by facsimile if a confirmation of transmission is produced by the sending machine (and a copy of each facsimile promptly shall be sent by first class United States mail, postage fully prepaid), (iv) when delivered, if sent by overnight mail or overnight courier, or (v) on the date delivery is refused, as indicated on the return receipt or the delivery records of the delivery service, as applicable, in each case to the parties at the addresses listed in the first paragraph of this Agreement. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Owner to the others, shall also be given to the Trustee. Copies of all notices sent pursuant to this Agreement shall be sent in accordance with Section 13.08 of the Indenture.

Section 25. Severability. If any provision hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 26. Multiple Counterparts. This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 27. Release of Trustee. Notwithstanding anything in this Agreement to the contrary, on and after the date the Bonds are no longer outstanding under the Indenture, the Trustee shall be released as a party to this Agreement and discharged from any duties or obligations hereunder. The Trustee's rights to indemnification provided for in the Indenture, the Loan Agreement and this Agreement shall survive such release and discharge.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE FOR  
LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

**IN WITNESS WHEREOF**, the Issuer, the Trustee, and the Owner have caused this Agreement to be executed and delivered on their behalf by their duly authorized representatives as of the date first set forth above.

**ISSUER:**

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

[SEAL]

By: \_\_\_\_\_  
Colleen LaPlant, Vice Chair

ATTEST:

\_\_\_\_\_  
Milette Thurston, Assistant Secretary

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by COLLEEN LAPLANT and MILETTE THURSTON, Vice Chair and Assistant Secretary, respectively, of the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, a public body corporate and politic, this \_\_\_\_ day of \_\_\_\_\_, 2017, on behalf of said Authority. They are personally known to me or have produced a valid driver’s license as identification.

(SEAL)

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**COUNTERPART SIGNATURE PAGE FOR  
LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

IN WITNESS WHEREOF, the Issuer, the Trustee, and the Owner have caused this Agreement to be executed and delivered on their behalf by their duly authorized representatives as of the date first set forth above.

**TRUSTEE:**

WITNESSES:

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee

\_\_\_\_\_  
Print: \_\_\_\_\_

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

\_\_\_\_\_  
Print: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by \_\_\_\_\_, as \_\_\_\_\_ and Trust Officer of THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., this \_\_\_\_ day of \_\_\_\_\_, 2017, on behalf of said bank. Said person is personally known to me or has produced a valid driver's license as identification.

(SEAL)

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**COUNTERPART SIGNATURE PAGE FOR  
LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

IN WITNESS WHEREOF, the Issuer, the Trustee, and the Owner have caused this Agreement to be executed and delivered on their behalf by their duly authorized representatives as of the date first set forth above.

**OWNER:**

CVII – LANDINGS AT COCONUT CREEK LLC,  
a Delaware limited liability company

WITNESSES:

\_\_\_\_\_  
Print: \_\_\_\_\_

By: ML CASA VII, LP, a Delaware limited  
partnership, its sole member

\_\_\_\_\_  
Print: \_\_\_\_\_

By: ML CASA VII Management, LLC, a  
Delaware limited liability company, its  
general partner

By: CASA Partners VII GP, LLC, a  
Delaware limited liability  
company, its manager

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_ as \_\_\_\_\_ of CASA PARTNERS VII GP, LLC, a Delaware limited liability company, the manager of ML CASA VII MANAGEMENT, LLC, a Delaware limited liability company, the general partner of ML CASA VII, LP, a Delaware limited partnership, the sole member of CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company, on behalf of the limited partnership and limited liability companies. Said person is personally known to me or has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**



**EXHIBIT "B"**

**FORM OF  
NOTICE OF TERMINATION OF LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

ABOVE SPACE RESERVED FOR  
RECORDING PURPOSES ONLY

This NOTICE OF TERMINATION OF LAND USE RESTRICTION AGREEMENT (the "Termination") is executed as of \_\_\_\_\_, 20\_\_\_\_, with an effective date of \_\_\_\_\_, 20\_\_\_\_, by the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA (the "Authority"), THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, as trustee (the "Trustee"), and \_\_\_\_\_, a Florida \_\_\_\_\_ (the "Current Owner").

1. That certain Land Use Restriction Agreement dated as of \_\_\_\_\_ 1, 2017 and recorded \_\_\_\_\_, 2017, in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Broward County, Florida (the "Land Use Restriction Agreement").

2. The Qualified Project Period, as defined in the Land Use Restriction Agreement, ended on \_\_\_\_\_, and the Authority has authorized the execution and delivery of this Termination.

3. By execution of this Termination, the Land Use Restriction Agreement will be terminated.

4. All payments of any amounts due under the Land Use Restriction Agreement are fully paid and all obligations thereunder have been met. There is currently no default under the Land Use Restriction Agreement.

IN WITNESS WHEREOF, the Authority, the Trustee and the Current Owner hereby agree to terminate the Land Use Restriction Agreement.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE FOR  
NOTICE OF TERMINATION OF LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

IN WITNESS WHEREOF, the parties have caused this Notice of Termination of Land Use Restriction Agreement to be executed in their respective names by their duly authorized representative as of the day and year first written above.

**CURRENT OWNER:**

WITNESSES:

\_\_\_\_\_  
Print: \_\_\_\_\_

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

\_\_\_\_\_  
Print: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of the \_\_\_\_\_. Said person is personally known to me or has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

My Commission No.: \_\_\_\_\_

**COUNTERPART SIGNATURE PAGE FOR  
NOTICE OF TERMINATION OF LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

IN WITNESS WHEREOF, the parties have caused this Notice of Termination of Land Use Restriction Agreement to be executed in their respective names by their duly authorized representative as of the day and year first written above.

**THE AUTHORITY:**

WITNESSES:

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

\_\_\_\_\_  
Print: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

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

WITNESSES:

[SEAL]

\_\_\_\_\_  
Print: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Print: \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was executed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ and \_\_\_\_\_, as Chair and Secretary, respectively, of the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, who executed the foregoing instrument and acknowledged to me that they did such on behalf of the Authority.

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**COUNTERPART SIGNATURE PAGE FOR  
NOTICE OF TERMINATION OF LAND USE RESTRICTION AGREEMENT**

**(The Landings at Coconut Creek Apartments)**

IN WITNESS WHEREOF, the parties have caused this Notice of Termination of Land Use Restriction Agreement to be executed in their respective names by their duly authorized representative as of the day and year first written above.

**TRUSTEE:**

WITNESSES:

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee

\_\_\_\_\_  
Print: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

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

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by \_\_\_\_\_, as a \_\_\_\_\_ of THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on behalf of said bank. Said person is personally known to me or has produced a valid driver's license as identification.

(SEAL)

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**EXHIBIT "D"**

**FORM OF ASSIGNMENT**

**[ATTACHED]**

**THIS INSTRUMENT PREPARED**

**BY AND RETURN TO:**

Junious D. Brown III, Esq.  
Nabors Giblin & Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, Florida 32308

Draft #2 11/02/17  
NGN File No.: 370.36

**ASSIGNMENT OF BOND MORTGAGE DOCUMENTS  
(The Landings at Coconut Creek)**

**THIS ASSIGNMENT OF BOND MORTGAGE DOCUMENTS** (this "Assignment") is dated as of December \_\_, 2017, by HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, a public body corporate and politic organized and existing under the laws of the State of Florida (together with its successors and assigns, "Assignor"), whose address for notice is 110 N.E. Third Street, Suite 300, Ft. Lauderdale, Florida 33301, Attention: Executive Director, to THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association (together with its successors and assigns, "Assignee"), as trustee under that certain Trust Indenture, dated as of December 1, 2017, by and between Assignor and Assignee (the "Indenture"), whose address for notice is 10161 Centurion Parkway, Jacksonville, Florida 32256, Attention: Corporate Trust Department.

**WITNESSETH:**

FOR VALUE RECEIVED, Assignor does hereby bargain, sell, convey, assign, pledge and grant to the Assignee, its successors and assigns, without recourse, all of the right, title and interest of Assignor in and to the following, subject only to the provisions of the Indenture permitting the application thereof to the purposes and on the terms and conditions set forth therein:

1. That certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated as of even date herewith (the "Mortgage") from CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company (the "Borrower"), to the Assignor, to be recorded immediately prior to this Assignment in the Official Records of Broward County, Florida (the "Records"), securing the Note and Loan Agreement (as defined therein), and covering the real property described on Exhibit "A" attached hereto;

2. That certain Assignment of Rents and Leases, dated as of December 1, 2017 (the "Assignment of Leases") from the Borrower to the Assignor, to be recorded immediately prior to this Assignment in the Records;

3. All other agreements, instruments, documents and certificates evidencing, securing, or relating to any of the aforementioned documents assumed or delivered on behalf of the Borrower, including all Net Proceeds (as defined by the Indenture) of insurance or condemnation awards, and all amendments, modifications, supplements, renewals and restatements of the foregoing, reserving, however, the Reserved Rights (as defined in the Indenture) of the Assignor;

4. All right, title and interest of the Assignor in and to the funds and accounts under the Indenture except as otherwise provided therein; and

5. All money and securities from time to time held by the Assignee under the terms of the Indenture and all other rights of every name and nature from time to time hereafter by delivery or writing of any kind pledged, assigned or transferred as and for additional security under the Indenture or the Loan Agreement to the Assignee by the Assignor or by anyone on its behalf, or with its written consent.

6. The Assignee executes this Assignment in order to evidence its acceptance hereof.

7. This Assignment will be construed in accordance with and governed by the laws of the State of Florida.

8. This Assignment will be binding upon and inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assigns.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this instrument through its duly authorized officers effective as of the date first written above.

**ASSIGNOR:**

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA

WITNESSES:

\_\_\_\_\_  
Print: \_\_\_\_\_

By: \_\_\_\_\_  
Ruth T. Cyrus, Chair

\_\_\_\_\_  
Print: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2017 by RUTH T. CYRUS, the Chair of HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA. Said person is personally known to me or has produced a driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_



IN WITNESS WHEREOF, the undersigned have executed this instrument through its duly authorized officers effective as of the date first written above.

**ASSIGNEE:**

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

WITNESSES:

\_\_\_\_\_  
Print: \_\_\_\_\_

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

Name: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2017 by \_\_\_\_\_, the \_\_\_\_\_ of THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. Said person is personally known to me or has produced a driver's license as identification.

\_\_\_\_\_  
Notary Public; State of Florida

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

My Commission No.: \_\_\_\_\_

**EXHIBIT “A”**

**Legal Description**

(The Landings at Coconut Creek)

**EXHIBIT "E"**

**FORM OF PLACEMENT AGENT AGREEMENT**

**[ATTACHED]**

## **PLACEMENT AGENT AGREEMENT**

**THIS PLACEMENT AGENT AGREEMENT** dated as of December 1, 2017 (herein, the “Agreement”), is by and between the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, a public body corporate and politic organized under Part IV of Chapter 159, Florida Statutes, as amended and supplemented (together with its permitted successors and assigns, the “Issuer”), and RBC CAPITAL MARKETS, LLC and RAYMOND JAMES & ASSOCIATES, INC., as Placement Agents (herein, collectively, the “Agents”), in connection with the issuance of the Bonds (as defined below) and consented to by CVII - LANDINGS AT COCONUT CREEK LLC, a Delaware limited liability company (together with its successors and permitted assigns, the “Borrower”) with respect to the Bonds.

### **A. Background.**

The Issuer proposes to issue its Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek), in one or more series, in the aggregate principal amount of \$\_\_\_\_\_ (the “Bonds”) to provide financing to the Borrower for the acquisition, rehabilitation and equipping of a 268-unit multifamily residential rental development in Broward County, Florida (the “County”) known as The Landings at Coconut Creek (the “Development”).

The Bonds will initially be acquired directly by Bank of America, N.A., a national banking association (the “Purchaser”) pursuant to the requirements of the Issuer’s administrative code and policies (herein, collectively the “Issuer’s Requirements”).

Upon satisfaction of certain conditions subsequent and in compliance with the Issuer’s Requirements, future investment banking services may be required in connection with the Bonds (herein, the “Future Services”).

### **B. Role of Agents.**

In connection with the initial issuance of the Bonds, the Agents have performed, at the request of and on behalf of the Issuer, the following services on or before the closing of the Bonds:

1. Assisted in the determination of the readiness to proceed of the bond issue with regard to the granting of private activity allocation to the financing which are to be issued on a tax-exempt basis.
2. Created a distribution list for the financing participants and financing timetable and coordinated the processing of the transaction.
3. Continuously consulted with the financing participants to ensure that the timetable was being met, and scheduled and hosted conference calls.

4. Consulted with the Issuer's staff regarding policy issues that arose in connection with the financing.

On a limited basis, reviewed and commented on the financing documents to ensure that the Issuer's Requirements were reflected therein and to improve the structure of the transaction.

Assisted in the coordination of all aspects of the financing as it relates to the Issuer or the County.

The foregoing is hereby collectively referred to as the "Agents' Services".

**C. Limitations of Agents' Role; No Liability.** The Issuer and Borrower acknowledge and agree that: (i) the Agents' Services contemplated by this Agreement are an arm's length, commercial transaction between the Issuer and the Agents in which the Agents are not acting as a municipal advisor, financial advisor or fiduciary to the Borrower or Issuer; (ii) the Agents have not assumed any advisory or fiduciary responsibility to the Borrower or Issuer with respect to the services contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Agents have provided other services or are currently providing other services to the Borrower or Issuer on other matters); (iii) the only obligations the Agents have to the Issuer or Borrower with respect to the services contemplated hereby expressly are set forth in this Agreement; and (iv) the Issuer and Borrower have consulted their respective legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Notwithstanding the Agents' Services described above, the Agents have not done any of the following nor do they assume any responsibility or liability for such actions:

1. Advised the Purchaser on the financial feasibility of the Development.
2. Prepared or disseminated any offering materials.
3. Investigated or determined the credit worthiness or accreditation of the Purchaser. In that regard the Issuer will receive an accredited investor letter.
4. Provided any advice regarding obtaining a rating or credit enhancement for the transaction.

It should be noted that the Issuer has retained the services of a registered financial advisor in connection with the issuance of the Bonds. The Agents are not acting as a financial advisor for the Issuer or Borrower for purposes of Rule G-23 of the Municipal Securities Rulemaking Board, nor acting as a municipal advisor to either the Issuer or the Borrower. Neither of the Agents shall be responsible or liable for any negligence or willful misconduct of the other Agent.

**D. Fees for Agents' Services.**

The Borrower will pay the Agents for the Agents' Services rendered a fee on or before the closing of the Bonds equal to \$[31,000], plus reasonable out-of-pocket expenses.

**Future Agents' Services.**

In the event the Borrower and the Issuer determine that there will be Future Services relating to the Bonds, the Agents will act, on behalf of the Issuer, as placement agent, remarketing agent or underwriter, as the structure so dictates. The fees and expenses associated with any future engagement will be determined at such time that the details of such engagement and scope of service are identified.

**E. Governing Law; Multiple Counterparts.**

This Agreement shall be governed by Florida law and may be signed in multiple counterparts.

**F. Amendments; Modifications.**

This Agreement may not be amended or modified except by written agreement signed by all parties hereto.

[SIGNATURE PAGE TO FOLLOW]

**SIGNATURE PAGE FOR PLACEMENT AGENT AGREEMENT**

**(The Landings at Coconut Creek)**

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed in their respective names by their duly authorized representatives as of the day and year first set forth above.

**HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA**

By: \_\_\_\_\_  
Ruth T. Cyrus, Chair

**RBC CAPITAL MARKETS, LLC**

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

**RAYMOND JAMES & ASSOCIATES, INC.**

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

**CVII – LANDINGS AT COCONUT CREEK  
LLC**, a Delaware limited liability company

By: ML CASA VII, LP, a Delaware limited partnership, its sole member

By: ML CASA VII Management, LLC, a Delaware limited liability company, its general partner

By: CASA Partners VII GP, LLC, a Delaware limited liability company, its manager

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

**EXHIBIT "F"**

**FORM OF TRUSTEE FEE AGREEMENT**

**[ATTACHED]**



TRUSTEE FEE AGREEMENT

Between

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

DATED AS OF December 1, 2017

PROVIDING FOR

A FEE SCHEDULE FOR SERVICES RENDERED BY THE TRUSTEE FOR

\$ \_\_\_\_\_

HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA  
MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2017  
(THE LANDINGS AT COCONUT CREEK)

## **TRUSTEE FEE AGREEMENT**

This TRUSTEE FEE AGREEMENT (the "Agreement") dated as of December 1, 2017, by and between the HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA (the "Issuer"), a public body corporate and politic created under the laws of the State of Florida, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, having a corporate trust office in Jacksonville, Florida and duly qualified to exercise trust powers under the laws of the State of Florida, as trustee (the "Trustee").

### **WITNESSETH:**

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the Issuer and the Trustee agree as follows:

### **ARTICLE I PREAMBLE**

1.1 The Trustee submitted certain proposals to serve as trustee or in a similar capacity for all financings of the Issuer during calendar year 2017, including the Issuer's \$ \_\_\_\_\_ Housing Finance Authority of Broward County, Florida Multifamily Housing Revenue Bonds, Series 2017 (The Landings at Coconut Creek) (the "Bonds"). All capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Indenture (as hereinafter defined).

1.2 Said proposals contain a description of the types of services to be provided, a schedule of fees for the various services to be provided and a brief discussion of the Trustee's corporate qualifications and capabilities.

1.3 The Trustee is willing to provide the services described in its proposals and in the loan documents pertaining to the Bonds at the rates set forth in said proposals, and the Issuer is willing to accept the services of the Trustee set forth in the Trustee's proposals at the rates provided therein. The Issuer and the Trustee desire to enter into this Agreement to establish the terms of said proposals for the services of the Trustee with respect to the Bonds.

### **ARTICLE II SCOPE OF SERVICES AND FEES**

The Trustee hereby accepts all of the duties, responsibilities and obligations imposed on it as Trustee under the terms of the Trust Indenture dated as of December 1, 2017 between the Issuer and the Trustee (the "Indenture") and hereby confirms the accuracy of all of the representations and warranties, if any, of the Trustee contained therein. The terms of this Agreement attached hereto as Exhibit "A" are accepted and adopted by reference by the parties to this Agreement. Such terms include the services to be provided by the Trustee and the fees and costs to be charged by the Trustee for such services. The fees and charges set forth in Exhibit "A" include all expenses incurred by the Trustee in connection with the execution and delivery and closing of the Bonds. Exhibit "A" comprises one (1) page.

**ARTICLE III  
OTHER PROVISIONS**

This Agreement shall continue in full force and effect and be binding on both the Issuer and the Trustee for so long as the Indenture is in effect.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO  
TRUSTEE FEE AGREEMENT**

**(The Landings at Coconut Creek)**

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement as of the date first above written.

**ISSUER:**

HOUSING FINANCE AUTHORITY OF  
BROWARD COUNTY, FLORIDA

[SEAL]

By: \_\_\_\_\_  
Ruth T. Cyrus, Chair

ATTEST:

By: \_\_\_\_\_  
Milette Thurston, Assistant Secretary

**COUNTERPART SIGNATURE PAGE TO  
TRUSTEE FEE AGREEMENT**

**(The Landings at Coconut Creek)**

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement as of the date first above written.

**TRUSTEE:**

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee

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

## **EXHIBIT “A”**

### **Services to be provided by Trustee:**

The Trustee shall provide all services required of the Trustee as set forth in (i) the Indenture, and (ii) all other documents executed in connection with the Bonds to which the Trustee is a party.

### **Fees and Expenses of Trustee:**

The fees and expenses of the Trustee shall be all such fees and expenses of the Trustee set forth in the Indenture and all other documents executed in connection with the Bonds, and shall be paid by the Borrower (as defined in the Indenture) at the times and in the manner set forth in the Indenture and the Loan Agreement (as defined in the Indenture).

**EXHIBIT "G"**

**TERM SHEET**

**[ATTACHED]**

*Confidential*

**BANK OF AMERICA MERRILL LYNCH  
TH REAL ESTATE - CASA VII, LP  
THE LANDINGS AT COCONUT CREEK  
PROPOSED BOND TERMS**

Issuer: Housing Finance Authority of Broward County

Bond Type: Tax-exempt Multifamily Housing Revenue Bonds

Purpose: To partially finance or refinance the acquisition and rehabilitation of 268 rental apartments, referred to as the Landings at Coconut Creek

Property Address: 4854 Fishermans Drive, Coconut Creek, FL 33063

Issuance Type: Private Placement to be held only by Qualified Institutional Investors and Accredited Investors

Purchaser: Bank of America, N.A. or affiliate (“BANA”)

Bond Par Amount: Not to exceed \$33,000,000

Coupon Interest Rate: Market Rate to be set on the Pricing Date (as to be agreed upon by Placement Agent and Purchaser), and fixed for Initial Term

Pricing Date: On or about 12/12/17

Final Maturity: Up to 40 years, subject to tax restrictions

Initial Term: 15 years

Mandatory Tender: The Bonds shall be subject to Mandatory Tender at the end of the Initial Term

Call Protection: Par call at any time after 3 years

Amortization: None during Initial Term – interest only

Security: First mortgage lien on the Property, and other customary assignments and collateral

Ratings: None

Minimum Denominations: \$500,000

Bond Payment Dates: Quarterly, beginning 1/1/18 and on the first day of each January, April, July and October. Sponsor shall deposit 1/12 of scheduled debt service each month with the Trustee

*(Indicative Terms, For Discussion Purposes Only - Subject to Internal Approval and Due Diligence.)*



*Confidential*

**BANK OF AMERICA MERRILL LYNCH  
TH REAL ESTATE - CASA VII, LP  
THE LANDINGS AT COCONUT CREEK  
PROPOSED BOND TERMS**

Tax Exemption:	The Bondholder and its counsel shall review bond counsel opinions, and other documentation, to verify in its sole discretion that the Bond constitutes debt for federal income tax purposes and that interest on the Bond shall be exempt from federal income taxation under Section 103 of the Internal Revenue Code
Trustee:	Appointed by the Issuer and/or Sponsor, but subject to BANA approval
Placement Agent:	Selected by the Issuer.
Rehab Funds:	<p>A minimum amount equal to 15% of the Bond Proceeds used to purchase the buildings shall be deposited into a separate account established under the Indenture to fund the proposed Rehab Budget. Such funds shall be released by the Trustee upon:</p> <ul style="list-style-type: none"><li>• No event of default exists;</li><li>• Receipt of a draw request submitted by the Sponsor and approved by BANA;</li><li>• Receipt of certification from the Sponsor (and acceptable to BANA) stating that the funds being requested constitute “good costs” for determining minimum rehab expenditures by the Internal Revenue Service;</li><li>• Lien releases from contractors, if work is subject to lien;</li></ul>
Documentation:	Standard and customary bond documents, including a bond and tax opinion acceptable to BANA
Servicing:	Borrower shall provide reporting as outlined in the attached Exhibit
Investor Letter:	BANA is prepared to execute an Investor Letter satisfactory to the parties
Conditions Precedent:	Conditions precedent to the Closing will consist of the usual and customary provisions for similar transactions, including approval by multiple Bank of America Merrill Lynch internal committees and BANA’s (and its counsel’s) satisfaction with all due diligence matters and documentation
Due Diligence:	Standard due diligence for a transaction of this nature as determined by BANA

*Confidential*

**BANK OF AMERICA MERRILL LYNCH  
TH REAL ESTATE - CASA VII, LP  
THE LANDINGS AT COCONUT CREEK  
PROPOSED BOND TERMS**

**EXHIBIT TO TERM SHEET - SERVICING REPORTS**

- Monthly rehabilitation status reports
- Monthly leasing / occupancy report on an accrual basis (by the 15<sup>th</sup> day of each month)
- Operating statement (with budget to actual comparisons, month and YTD)
- Rent Roll
- Security deposit report, upon request
- Market survey of competing properties, upon request
- Reports required under the regulatory / land use restriction agreement, when due
- Annual Operating Budget and annual capital plan
- Annual audited financial statements for the conduit borrower
- Insurance policies, annual renewals