

PRELIMINARY OFFICIAL STATEMENT DATED JUNE __, 2010**New Issue – Book-Entry Only**

[Standard & Poor's] “___” (See “RATINGS” herein)

In the opinion of Quint & Thimmig LLP, Bond Counsel, subject to compliance by the Issuer and the Borrower with certain covenants, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, except for interest on any Bond for any period during which such Bond is owned by a person who is a substantial user of the facilities financed by the Bonds or any person considered to be related to such person (within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the “Code”)), (ii) is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Code, and (iii) is not taken into account in computing adjusted current earnings, which is an adjustment in determining the federal alternative minimum tax for certain corporations. In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes. See “TAX MATTERS” herein.

\$ _____
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City of San José, California
Multifamily Housing Revenue Bonds
(Orvieto Family Apartments)
Series 2010B-1

Dated: Delivery Date**Due: As shown on inside cover**

The City of San José, California (the “*Issuer*”) has agreed to issue the bonds captioned above (the “*Bonds*”). The Bonds shall bear interest at the Fixed Rate set forth on the inside front cover page hereof and as described herein. Interest on the Bonds will be payable semiannually on February 1 and August 1 of each year (each an “*Interest Payment Date*”), commencing February 1, 2011. The Bonds will be fully registered bonds without coupons, in the minimum denomination of \$5,000 principal amount or any integral multiple thereof. The Bonds are registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“*DTC*”). The principal of and interest on the Bonds are payable by the Trustee for the Bonds by wire transfer directly to DTC, which will in turn remit such payments to its participants for subsequent disbursement to the beneficial owners of the Bonds. See “THE BONDS—Book-Entry Only System of Registration” herein.

The Bonds will be issued and secured pursuant to a Trust Indenture, dated as of July 1, 2010 (the “*Indenture*”), between the Issuer and Wells Fargo Bank, National Association, as trustee (the “*Trustee*”). Simultaneously with the issuance of the Bonds, the Issuer will enter into a Financing Agreement, dated as of the date of the Indenture (the “*Financing Agreement*”), with the Trustee and Orvieto Family Apartments, L.P., a California limited partnership (the “*Borrower*”), to make a mortgage loan (the “*Bond Mortgage Loan*”) to the Borrower for the purpose of financing the acquisition and construction of Orvieto Family Apartments, a multifamily residential rental project located in the City of San José, California, as further described herein (the “*Project*”) and to pay certain costs of issuance of the Bonds.

The Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States of America (“*Freddie Mac*”), has agreed to provide credit enhancement for payments of principal and interest under the Bond Mortgage Loan in an amount equal to principal and interest on the Bonds and payments of the Purchase Price of the Bonds through the issuance of a direct-pay Credit Enhancement Agreement dated as of July 1, 2010 (the “*Credit Enhancement Agreement*”) between the Trustee and Freddie Mac.

FREDDIE MAC

The Credit Enhancement Agreement will terminate on the earliest of (a) the date the Bonds shall have been paid in full, (b) August 6, 2029 or (c) the redemption (or purchase in lieu thereof) of the Bonds or upon substitution of an Alternate Credit Facility under the Indenture as more fully described herein. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein and Appendix B, “FORM OF CREDIT ENHANCEMENT AGREEMENT” hereto.

The Bonds will be subject to redemption prior to their stated maturity dates at the prices, on the terms and upon the occurrence of the events described herein. The maturity of the Bonds may be accelerated upon the occurrence of certain events as further described herein. See “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE—Events of Default” and “—Acceleration; Other Remedies Upon an Event of Default” herein. Persons who purchase Bonds at a price in excess of their principal amount risk the loss of any premium paid in the event the Bonds are redeemed prior to maturity. See “THE BONDS” and “CERTAIN BONDHOLDERS’ RISKS” herein.

THE BONDS ARE NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DO NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER OF THE CITY OF SAN JOSE, CALIFORNIA, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, BUT ARE PAYABLE SOLELY FROM THE REVENUES AND PROPERTY PLEDGED THEREFOR IN THE INDENTURE, INCLUDING, WITHOUT LIMITATION, ITS INTEREST IN PAYMENTS RECEIVED UNDER THE BOND MORTGAGE NOTE AND THE CREDIT FACILITY, AND NONE OF THE CITY OF SAN JOSE, CALIFORNIA, THE STATE OF CALIFORNIA OR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON.

THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, ANY AGENCY OF THE UNITED STATES OF AMERICA, OR OF FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC. FREDDIE MAC HAS NO OBLIGATION TO PURCHASE, DIRECTLY OR INDIRECTLY, ANY OF THE BONDS, BUT WILL BE OBLIGATED PURSUANT TO THE CREDIT ENHANCEMENT AGREEMENT TO PROVIDE FUNDS TO THE TRUSTEE TO PAY THE PURCHASE PRICE OF THE BONDS UNDER THE CIRCUMSTANCES DESCRIBED THEREIN. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT ARE OBLIGATIONS SOLELY OF FREDDIE MAC AND ARE NOT BACKED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

The Bonds are offered when, as and if issued and received by RBC Capital Markets Corporation (the “*Underwriter*”), subject to the approving opinion of Quint & Thimmig LLP, San Francisco, California, Bond Counsel to the Issuer. Certain legal matters will be passed upon for Freddie Mac by its Legal Division and by Katten Muchin Rosenman LLP, Washington, D.C., for the Borrower by Cox Castle & Nicholson LLP, San Francisco, California, for the Underwriter by Chapman and Cutler LLP, San Francisco, California and for the Issuer by the City Attorney’s Office of San José, California. It is expected that the Bonds will be available for delivery to The Depository Trust Company in New York, New York, on or about July 14, 2010.

**RBC Capital Markets®**

Dated: June __, 2010

*Preliminary; subject to change.

MATURITIES, AMOUNTS, INTEREST RATES AND PRICES

Term Bonds

| MATURITY DATE | PRINCIPAL AMOUNT | INTEREST RATE | PRICE | CUSIP |
|------------------|---------------------|------------------|--------|-------|
| August 1, 2020 | \$ * | _____% | _____% | _____ |
| August 1, 2029 | \$ * | _____% | _____% | _____ |

* Preliminary; subject to change.

No broker, dealer, salesman or other person has been authorized by the Issuer, the Borrower, or RBC Capital Markets Corporation (the “*Underwriter*”) to give any information or to make any representations with respect to the Bonds other than those contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized by the Issuer, the Borrower or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

The information in this Official Statement has been obtained from the Issuer, the Borrower, the Construction Phase Credit Facility Provider, Freddie Mac (to the limited extent noted below) and DTC and other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness by the Construction Phase Credit Facility Provider or Freddie Mac (except with respect to the description under the caption “FREDDIE MAC”) and is not to be construed as a representation of the Issuer (except with respect to the description under the captions “THE ISSUER” and “ABSENCE OF LITIGATION—The Issuer”) or the Underwriter. In particular, the Issuer has not provided or approved any information in this Official Statement except with respect to the information under the captions “THE ISSUER” and “ABSENCE OF LITIGATION—The Issuer” and takes no responsibility for any other information contained in this Official Statement.

Freddie Mac has not provided or approved any information in this Official Statement, except with respect to the description under the caption “FREDDIE MAC,” and takes no responsibility for any other information contained in this Official Statement. Freddie Mac makes no representation as to the other contents of this Official Statement, the suitability of the Bonds for any investor, the feasibility or performance of the Project, or compliance with any securities, tax or other laws or regulations. Freddie Mac’s role is limited to entering into the Credit Enhancement Agreement described herein. The Servicer makes no representation as to the contents of this Official Statement, the suitability of the Bonds for any investor, the feasibility or performance of the Project, or compliance with any securities, tax or other laws or regulations.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein since the date hereof.

While the City of San José, California maintains an internet website for various purposes, none of the information on such website is incorporated by reference in this Official Statement or is intended to assist investors in making an investment decision or to provide any continuing information with respect to the Bonds.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES AGENCY OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

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* Preliminary; subject to change.

OFFICIAL STATEMENT

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City of San José, California
Multifamily Housing Revenue Bonds
(Orvieto Family Apartments)
Series 2010B-1

INTRODUCTION

The following introductory statement is subject in all respects to more complete information contained elsewhere in this Official Statement. The order and placement of materials in this Official Statement, which includes the cover page and appendices hereto, are not to be deemed to be a determination of relevance, materiality or relative importance, and this Official Statement, including the cover page and appendices hereto, must be considered in its entirety. Certain capitalized terms used in this Official Statement are defined herein and in the appendices hereto. All capitalized terms used in this Official Statement that are not otherwise defined herein shall have the meanings ascribed to them in the Indenture, the Subordinate Indenture, the Financing Agreement, the Regulatory Agreement, the Construction Phase Credit Reimbursement Agreement, the Freddie Mac Reimbursement Agreement, the Bond Mortgage Note, the Construction Phase Credit Facility, the Credit Enhancement Agreement, the Continuing Disclosure Agreement and the Pledge Agreement (as each such term is hereinafter defined).

The purpose of this Official Statement, which includes the cover page and appendices hereto, is to provide information in connection with the issuance and sale by the City of San José, California (the "*Issuer*") of the above-captioned bonds (the "*Bonds*"). The Bonds are being issued in accordance with Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the "*Act*") and pursuant to a Trust Indenture, dated as of July 1, 2010 (the "*Indenture*"), between the Issuer and Wells Fargo Bank, National Association, as trustee (the "*Trustee*"). There will be executed and delivered a Financing Agreement, dated as of the date of the Indenture (the "*Financing Agreement*"), by and among the Issuer, Orvieto Family Apartments, L.P., a California limited partnership (the "*Borrower*") and the Trustee, pursuant to which a mortgage loan (the "*Bond Mortgage Loan*") will be made by the Issuer to the Borrower to finance the acquisition and construction of Orvieto Family Apartments, a multifamily residential rental project located in the City of San José, California (the "*Project*") and to pay certain costs of issuance of the Bonds. Citibank, N.A. (the "*Servicer*") shall act as initial servicer for the Bond Mortgage Loan. See "THE PROJECT, THE REGULATORY AGREEMENTS, THE BORROWER AND THE CITY LOAN" herein. The Issuer will assign all of its right, title and interest in and to the Financing Agreement (except the Unassigned Rights) to the Trustee for the benefit of the registered owners of the Bonds.

* Preliminary; subject to change.

The Borrower's repayment obligations in respect of the Bond Mortgage Loan will be evidenced by a Bond Mortgage Note dated the Dated Date (together with all riders and addenda thereto, the "*Bond Mortgage Note*") delivered to the Issuer, which Bond Mortgage Note will be endorsed by the Issuer to the Trustee pursuant to the Indenture. To secure the Borrower's obligations under the Bond Mortgage Note, the Borrower and the City of San José Finance Authority (the "*Authority*") will execute and deliver to the Issuer a First Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) Together With Ground Lessor Subordination and Joinder (the "*Bond Mortgage*") with respect to the Project, which Bond Mortgage will be assigned to the Trustee.

The Borrower will cause to be delivered to the Trustee on the Delivery Date, as defined herein, a direct-pay Credit Enhancement Agreement dated as of July 1, 2010 (the "*Credit Enhancement Agreement*" or "*Credit Facility*") between the Federal Home Loan Mortgage Corporation ("*Freddie Mac*" or the "*Credit Facility Provider*") and the Trustee which will provide for draws in an amount equal to the Guaranteed Payments with respect to the Bond Mortgage Loan. See Appendix B-- "FORM OF CREDIT ENHANCEMENT AGREEMENT."

The Borrower's reimbursement obligations to Freddie Mac for draws made under the Credit Enhancement Agreement will be evidenced by a Reimbursement and Security Agreement dated as of July 1, 2010 (the "*Reimbursement Agreement*" or "*Freddie Mac Reimbursement Agreement*") between the Borrower and Freddie Mac.

To secure the Borrower's reimbursement obligations under the Reimbursement Agreement, the Borrower will execute and deliver to Freddie Mac on the Delivery Date a Second Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) Together With Ground Lessor Subordination and Joinder dated as of July 1, 2010 (the "*Reimbursement Mortgage*") with respect to the Project. See "SECURITY AND SOURCES OF PAYMENT OF THE BONDS."

JPMorgan Chase Bank, N.A. (the "*Bank*" and the "*Construction Phase Credit Facility Provider*") has agreed, pursuant to the terms and subject to the conditions of the Construction Phase Credit Reimbursement Agreement, to facilitate the financing of the Bond Mortgage Loan by providing a Construction Phase Credit Facility to Freddie Mac during the Construction Phase.

The Issuer, the Trustee, the Bank and Freddie Mac have also entered into an Intercreditor Agreement dated as of July 1, 2010 (the "*Intercreditor Agreement*") in connection with Freddie Mac's provision of credit enhancement. See "SUMMARY OF CERTAIN PROVISIONS OF THE INTERCREDITOR AGREEMENT."

At the request of the Borrower, the Bank will (a) enter into the Construction Phase Credit Reimbursement Agreement with the Borrower, (b) enter into the Construction Phase Financing Agreement with Freddie Mac and the Servicer and (c) issue or arrange for issuance of the Construction Phase Credit Facility to Freddie Mac.

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

Phase. If the Conversion Notice is not issued prior to the Forward Commitment Maturity Date (a) Conversion will not occur, (b) the Bonds will be subject to mandatory redemption, unless the Bonds are purchased by or for the account of the Construction Phase Credit Facility Provider in accordance with the Indenture, and (c) the Credit Enhancement Agreement will terminate.

The Project is required to be rented at certain affordable rents and occupied by families whose incomes satisfy certain provisions of the Act and the Internal Revenue Code of 1986, as amended (the “Code”), and the applicable income tax regulations issued under the Code as set forth in a Regulatory Agreement and Declaration of Restrictive Covenants, dated as of the date of the Indenture (the “Regulatory Agreement”), among the Borrower, the Issuer and the Trustee. See “THE PROJECT, THE REGULATORY AGREEMENTS, THE BORROWER AND THE CITY LOAN” and “SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” herein.

Simultaneously with the issuance of the Bonds, the Issuer intends to issue approximately \$_____ of its City of San José, California Multifamily Housing Revenue Bonds (Orvieto Family Apartments), Subordinate Series 2010B-2 (the “Subordinate Bonds”). The Bonds will be issued on a basis senior to the Subordinate Bonds, and the indenture pursuant to which the Subordinate Bonds will be issued (the “Subordinate Indenture”) will include certain cross-default provisions with the Indenture.

THE BONDS ARE NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DO NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER OF THE CITY OF SAN JOSE, CALIFORNIA, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, BUT ARE PAYABLE SOLELY FROM THE REVENUES AND PROPERTY PLEDGED THEREFOR IN THE INDENTURE, INCLUDING, WITHOUT LIMITATION, ITS INTEREST IN PAYMENTS RECEIVED UNDER THE BOND MORTGAGE NOTE AND THE CREDIT FACILITY, AND NONE OF THE CITY OF SAN JOSE, CALIFORNIA, THE STATE OF CALIFORNIA OR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON.

Brief descriptions of the Issuer, the Bonds, the security for the Bonds, the Credit Enhancement Agreement, the Freddie Mac Reimbursement Agreement, Freddie Mac, the Project, the Regulatory Agreement, the Borrower, the City Loan, the plan of financing, the Servicer, the Trustee, certain bondholder risks, the Indenture, the Financing Agreement, the Intercreditor Agreement, the Continuing Disclosure Agreement, and other documents and agreements are qualified in their entirety by reference to such documents and agreements, copies of which are available for inspection at the offices of the Trustee, Wells Fargo Bank, National Association, 707 Wilshire Boulevard, 17th Floor, Los Angeles, California 90017.

THE ISSUER

The Issuer is a municipal corporation and charter city organized and existing under its Charter and the laws of the State of California. The Issuer is authorized by the Act to issue the Bonds and to make the Bond Mortgage Loan. On June 15, 2010, the City Council of the Issuer adopted a resolution authorizing the issuance of the Bonds, and approving and authorizing the execution by the Issuer of the Indenture, the Financing Agreement, the Regulatory Agreement and the Intercreditor Agreement.

THE BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY OUT OF THE REVENUES, RECEIPTS, AND OTHER MONEYS PLEDGED THEREFOR UNDER THE INDENTURE. THE BONDS ARE NOT A DEBT OF THE STATE, THE ISSUER (EXCEPT TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE, AND NONE OF THE STATE, THE ISSUER (EXCEPT TO THE LIMITED EXTENT SET FORTH IN THE INDENTURE) OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE IS LIABLE FOR THE PAYMENT OF THE BONDS. NEITHER THE FAITH AND CREDIT OF THE STATE, THE ISSUER OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS.

THE ISSUER HAS PROVIDED THE INFORMATION IN THIS SECTION AND UNDER THE HEADING “ABSENCE OF LITIGATION—THE ISSUER,” AND THE ISSUER IS NOT RESPONSIBLE FOR ANY OF THE OTHER INFORMATION CONTAINED IN THIS OFFICIAL STATEMENT.

THE BONDS

GENERAL

The Bonds are issued in fully registered form and are registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York (“DTC”). DTC acts as securities depository for the Bonds. Individual purchases are made in book-entry form. Purchasers will not receive certificates representing their interest in the Bonds purchased. So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, references herein to the Bondholders or registered owners of the Bonds mean Cede & Co. and not the beneficial owners of the Bonds.

So long as Cede & Co. is the registered owner of the Bonds, principal of and interest on the Bonds are payable by the Trustee by wire transfer in immediately available funds, to Cede & Co., as nominee for DTC. DTC will, in turn, remit such amounts to any broker dealer, bank or other financial institution for which DTC holds Bonds from time to time as securities depository (“DTC Participants”) for subsequent disbursement to the beneficial owners. See “THE BONDS—Book-Entry Only System” herein.

The Bonds shall be issued in Authorized Denominations and shall bear interest payable on each Interest Payment Date at the rates shown on the inside front cover of this Official Statement. The Bonds issued on the Delivery Date shall be dated the Delivery Date. Bonds issued after the Delivery Date shall be dated the date they are authenticated by the Trustee.

Interest on the Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds shall be payable on each Interest Payment Date. The Bonds shall bear interest from the later of the Delivery Date or the most recent Interest Payment Date to which interest has been paid or provided for and shall be payable on each Interest Payment Date, in each case from the Interest Payment Date next preceding the date of authentication thereof to which interest has been paid or duly provided for, unless the date of authentication is an Interest Payment Date to which interest has been paid or duly provided for, in which case from the date of authentication of the Bond, or unless no interest has been paid or

duly provided for on the Bonds, in which case from the Delivery Date, until payment of the principal of the Bond has been made or duly provided for. Notwithstanding the foregoing, if a Bond is authenticated after a Record Date and before the following Interest Payment Date, such Bond shall bear interest from such Interest Payment Date; *provided, however*, that if there shall be a default in the payment of interest due on such Interest Payment Date, then the Bonds shall bear interest from the next preceding Interest Payment Date to which interest has been paid or duly provided for, or, if no interest has been paid or duly provided for on the Bonds, from the Delivery Date. The Bonds will mature, subject to redemption prior to maturity, on the dates set forth on the inside front cover page of this Official Statement.

The Person in whose name any Bond is registered on the Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date (unless such Bond has been called for redemption on a redemption date which is prior to such Interest Payment Date); notwithstanding the cancellation of such Bond upon any registration of transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date; *provided, however*, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such defaulted interest shall be paid as described in the next paragraph.

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

Payment of the principal of the Bonds and premium, if any, and interest on the Bonds shall be paid by check mailed on the Interest Payment Date to the registered owner thereof at such registered owner’s address as it appears on the Bond Register on the Record Date. Upon written request of a registered owner of at least \$1,000,000 in principal amount of Bonds Outstanding received by the Trustee at least five Business Days prior to such Record Date, all payments of principal, premium, if any, and interest on the Bonds less any reasonable wire transfer fees imposed by the Trustee shall be paid by wire transfer in immediately available funds to an account within the United States designated by such registered owner.

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

BOOK-ENTRY ONLY SYSTEM OF REGISTRATION

The Bonds will be available in book-entry form only in Authorized Denominations. Purchasers of the Bonds will not receive certificates representing their interests in the Bonds purchased.

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for the Bonds, in the aggregate principal amount thereof, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17 A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“*Direct Participants*”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“*DTCC*”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“*Indirect Participants*”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“*Beneficial Owner*”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written

confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Trustee on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts

of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC, the Trustee, or, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Bonds purchased or tendered, through its Participant, to the tender agent or the remarketing agent, as applicable, and shall effect delivery of such Bonds by causing the Direct Participant to transfer the Participant’s interest in the Bonds, on DTC’s records, to the Tender Agent. The requirement for physical delivery of Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Bonds are transferred by Direct Participants on DTC’s records and followed by a book-entry credit of tendered Bonds to the DTC account of the Tender Agent.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to Issuer or Trustee. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered in accordance with the terms of the Indenture.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC in accordance with the terms of the Indenture.

The information in this section concerning DTC and DTC’s book-entry system has been obtained from sources that Borrower believes to be reliable, but the Borrower takes no responsibility for the accuracy thereof.

MANDATORY PURCHASE OF THE BONDS

[The Bonds shall be purchased from the sources prescribed in the Indenture upon being tendered or deemed tendered pursuant to the Indenture on any Substitution Date. Bonds shall be purchased for a Purchase Price equal to the principal amount thereof plus interest accrued thereon to the Settlement Date. Bonds shall be purchased upon delivery of the Bonds (with an appropriate transfer of registration form executed in blank and in form satisfactory to the Trustee) to the Trustee, at or prior to 9:30 a.m., Washington, D.C. time, on the Settlement Date. The Trustee shall hold all Bonds delivered to the Trustee in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until money representing the Purchase Price of such Bonds shall have been delivered to or for the account of or order of such Bondholders. While a “book-entry-only” system is in effect with respect to the Bonds, delivery of Bonds for purchase on the Settlement Date shall be effected in the manner set forth by the depository. See “BOOK-ENTRY ONLY SYSTEM OF REGISTRATION” above.

Bonds not delivered to the Trustee on or prior to 9:30 a.m., Washington, D.C. time, on the Settlement Date will be deemed tendered and purchased for all purposes of the Indenture, and interest will cease to accrue on such Bonds on the related Settlement Date.

Payment of the Purchase Price of any Bond shall be made by 3:00 p.m., Washington, D.C. time, on the Settlement Date by check or by wire transfer (if requested in writing by the Bondholder), but only upon delivery and surrender of such Bond to the Trustee.

If the Trustee has received the items required by the Indenture, the Trustee will not later than the 9th day before any such Substitution Date, notify the Bondholders by first-class mail that all outstanding Bonds (other than Purchased Bonds) will be subject to mandatory tender and if not so tendered, will be deemed to have been tendered for purchase on each Substitution Date, as provided in the Indenture, at the Purchase Price.

No Bonds are to be purchased pursuant to the Indenture if an Event of Default under the Indenture (other than certain Events of Default under the Indenture with respect to defaults by the Issuer) has occurred and is continuing and would not be cured as a result of such tender of the Bonds; nor is any Bond to be purchased pursuant to the Indenture if such Bond is registered in the name of the Issuer, the Borrower or the Credit Facility Provider, or known by the Trustee (the Trustee will have no duty to inquire as to any such nominees) to be registered in the name of any general partner, member or guarantor of the Borrower unless the Credit Facility will be in full force and effect after such purchase with respect to such Bonds.]

MANDATORY TENDER OF BONDS

[Holders of the Bonds will be required to tender their Bonds to the Trustee on any Substitution Date in accordance with and subject to the provisions of the Indenture. Any Bond required to be tendered on a Substitution Date that is not tendered as of such date will be deemed to have been tendered to the Trustee on such date and will thereafter cease to bear interest and no longer be considered to be Outstanding under the Indenture.]

PROVISIONS FOR AN ALTERNATE CREDIT FACILITY

The Borrower, pursuant to the Financing Agreement, is permitted, with the written confirmation to the Trustee of the Credit Facility Provider that the provisions of the Reimbursement Agreement have been satisfied (but without the consent of the Issuer, the Trustee or the Bondholders), to provide an Alternate Credit Facility to replace the then existing Credit Facility on any Interest Payment Date occurring on or after August 1, 2020 (being the date that the Bonds maturing on August 1, 2029 may first be optionally redeemed at a price of par plus accrued interest to the redemption date), and, without the consent of the Borrower (and without the consent of the Issuer, the Trustee or the Bondholders), the Credit Facility Provider may provide any other form of “credit support” in substitution for the then existing Credit Facility; *provided that*, in either case, the conditions of the Financing Agreement are satisfied.

The Bonds are subject to mandatory tender for purchase on any Substitution Date from the sources available pursuant to the Indenture, at a Purchase Price equal to the principal amount

thereof plus accrued interest to the Substitution Date; provided, however, such mandatory tender is subject to (a) the receipt by the Tender Agent on the Substitution Date of remarketing proceeds in an amount equal to one hundred percent (100%) of the Purchase Price of the Outstanding Bonds, and (b) the receipt by the Trustee of an Alternate Credit Facility and the other documents required by the Financing Agreement. If, for any reason, (i) the Tender Agent does not receive remarketing proceeds in an amount sufficient to pay one hundred percent (100%) of the Purchase Price of the Outstanding Bonds, or (ii) the Alternate Credit Facility and the other documents required by the Financing Agreement are not received by the Trustee by 2:00 p.m., Washington D.C. time, on the Substitution Date, the Bonds will be returned to the Holders thereof and such Bonds will continue to be subject to the terms of the Indenture.

Upon receipt by the Trustee of a form of the Alternate Credit Facility to be in effect on and after the Substitution Date, the form of the disclosure document (if any) to be used following on the Substitution Date, and a form of the documents required pursuant to the Financing Agreement, the Trustee shall establish the Substitution Date. Such Substitution Date shall be an Interest Payment Date and shall be not less than five (5) days following the Trustee's receipt of the Alternate Credit Facility to be in effect on and after the Substitution Date (which Alternate Credit Facility may be delivered in escrow), and such other required documents. The existing Credit Facility shall remain in effect until the effective date of the Alternate Credit Facility.

The Trustee shall give notice to the owners of the Bonds, by first class mail not less than nine (9) days before the Substitution Date specifying: (i) the Substitution Date; (ii) that all Bonds must be surrendered to the Tender Agent for purchase not later than 9:30 a.m., Washington, DC time, on the Substitution Date, and (iii) that such tender is subject to cancellation if the conditions to the substitution of an Alternate Credit Facility are not satisfied on the Substitution Date.

Unless such tender is revoked by the Trustee, as provided by the Indenture, any Bond not tendered to the Tender Agent for purchase in accordance with the provisions of the Indenture on the Substitution Date (including any Substitution Date which fails to occur) will be deemed to have been tendered for purchase on such Substitution Date pursuant to the Indenture for all purposes of the Indenture; provided, however, payment on such Bonds will only be made upon presentation thereof.

The Trustee will draw on the existing Credit Facility in accordance with the Indenture with regard to the purchase of Bonds pursuant to the Indenture prior to the delivery of the then outstanding Credit Facility to the Credit Facility Provider and prior to providing notice to the then existing Credit Facility Provider that the Alternate Credit Facility is in effect; provided, however, that the Trustee will not surrender the existing Credit Facility until all draws have been honored by the related Credit Facility Provider.

OPTIONAL REDEMPTION

With the prior written consent of the Credit Facility Provider, the Bonds maturing on August 1, 2029 are subject to optional redemption in whole or in part as a result of optional prepayments on the Bond Mortgage Loan in accordance with the prepayment restrictions set

forth in the Financing Agreement from payments made under the Credit Facility or from other Eligible Funds deposited with the Trustee on any Business Day commencing August 1, 2020 at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, if any, to the redemption date, without premium.

The Bonds maturing on August 1, 2020 are not subject to optional redemption prior to their maturity.

Optional redemption of Bonds at a premium may only be made if the Trustee has received Eligible Funds (not consisting of funds drawn under the Credit Facility) on or prior to the redemption date in an amount sufficient to pay the applicable redemption premium.

The Trustee shall effect an optional redemption of Bonds as described in the paragraphs above, and in the Indenture, not later than 35 days following its receipt of moneys representing an optional prepayment of the Bond Mortgage Loan.

MANDATORY REDEMPTION

The Bonds are subject to mandatory redemption on any Business Day, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, at the earliest practicable date from payments made under the Credit Facility or from funds transferred from the Bond Mortgage Loan Fund to the Redemption Fund pursuant to the Indenture, upon the occurrence of any of the following:

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

(ii) in whole, upon receipt by the Trustee of amounts from the Credit Facility Provider pursuant to the Credit Facility or from funds transferred from the Bond Mortgage Loan Fund to the Redemption Fund pursuant to the Indenture as a result of the occurrence of a default under any Bond Mortgage Loan Document and receipt by the Trustee of a written direction by the Credit Facility Provider to redeem the Bonds pursuant to the Credit Facility; or

(iii) in whole, on the last Business Day which is not less than five days before the date of expiration of any Credit Facility unless the Trustee receives a renewal or extension of or replacement for such Credit Facility meeting the requirements of the Financing Agreement not less than 30 days before the expiration of the then-existing Credit Facility; or

(iv) as to the Bonds maturing on August 1, 2020, in whole, on the Conversion Date; or

(v) as to the term Bonds maturing August 1, 2029, only in part in Authorized Denominations, on each Interest Payment Date following the Conversion Date pursuant to a schedule delivered by the Servicer on or prior to the Conversion Date with the written consent of the Credit Facility Provider based upon the principal amount of Bonds Outstanding on the Conversion Date, an assumed interest rate of ___% and an amortization period of ___ months; *provided* that if less than all the Bonds maturing August 1, 2029 shall have been redeemed pursuant to an optional redemption or a mandatory redemption as the result of a prepayment of the Bond Mortgage Loan from casualty insurance proceeds or condemnation awards, the amount of Bonds to be redeemed in each year from sinking fund installments as provided in the Indenture shall be decreased by an amount, in proportion, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Loan in such year as determined by the Trustee; or

(vi) in part, but only on the following Interest Payment Dates in the following amounts:

| Bonds Maturing August 1, 2020 | |
|-------------------------------|---------------------------------|
| <u>Redemption Date</u> | <u>Sinking Fund Payment</u> |
| August 1, 2013 | \$ |
| February 1, 2014 | |
| August 1, 2014 | |
| February 1, 2015 | |
| August 1, 2015 | |
| February 1, 2016 | |
| August 1, 2016 | |
| February 1, 2017 | |
| August 1, 2017 | |
| February 1, 2018 | |
| August 1, 2018 | |
| February 1, 2019 | |
| August 1, 2020 | |
| February 1, 2020 | |
| August 1, 2020 [†] | |

[†] Maturity Date

| Bonds Maturing August 1, 2029 | |
|-------------------------------|--------------------------------|
| Redemption <u>Date</u> | Sinking Fund <u>Payment</u> |
| February 1, 2021 | \$ |
| August 1, 2021 | |
| February 1, 2022 | |
| August 1, 2022 | |
| February 1, 2023 | |
| August 1, 2023 | |
| February 1, 2024 | |
| August 1, 2024 | |
| February 1, 2025 | |
| August 1, 2025 | |
| February 1, 2026 | |
| August 1, 2026 | |
| February 1, 2027 | |
| August 1, 2027 | |
| February 1, 2028 | |
| August 1, 2028 | |
| February 1, 2029 | |
| August 1, 2029 [†] | |

† Maturity Date

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

(viii) in whole on or after the Forward Commitment Maturity Date, if the Conversion Notice is not issued by the Servicer prior to the Forward Commitment Maturity Date; or

(ix) as to the Bonds maturing August 1, 2029 only, in part, in the event that the Borrower elects to make a Pre-Conversion Loan Equalization Payment which is in excess of the then outstanding principal amount of the Bonds maturing on August 1, 2020, in an amount equal to the amount prepaid by the Borrower; or

(x) as to the term Bonds maturing August 1, 2029 only, in part, in the event and to the extent that amounts remaining in the Bond Mortgage Loan Fund are transferred to the Redemption Fund pursuant to the Indenture for application to the redemption of Bonds.

SELECTION OF BONDS FOR REDEMPTION

The Trustee shall select Bonds subject to mandatory redemption as described in paragraph (v) above under “Mandatory Redemption” pursuant to the Indenture by lot within the appropriate maturity. If less than all the Bonds then Outstanding shall be called for redemption other than as a result of mandatory redemption as described in paragraph (v) above under “Mandatory Redemption” pursuant to the Indenture, the Trustee shall redeem an amount of Bonds so that the resulting decrease in debt service on the Bonds in each semiannual period ending on an Interest Payment Date is proportional, as nearly as practicable, to the decrease in the payments on the Bond Mortgage Note in each such semiannual period as verified by the Servicer, and the Bonds shall be selected by lot within each maturity, the cost of such selection being at the Borrower’s expense.

Bonds shall be redeemed pursuant to the Indenture only in Authorized Denominations.

NOTICE OF REDEMPTION

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

Notices of redemption are to state the redemption date and the redemption price the place or places where amounts due upon such redemption will be payable, and, if less than all of the then Outstanding Bonds are called for redemption, are to state (i) the numbers of the Bonds to be redeemed by giving the individual certificate number of each Bond to be redeemed or shall state that all Bonds between two stated certificate numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption; (ii) the CUSIP numbers of all Bonds being redeemed if available; (iii) the amount of each Bond being redeemed (in the case of a partial redemption); (iv) the date of issue of the Bond as originally issued; (v) the rate of interest borne by each Bond redeemed; (vi) the maturity date of each Bond being redeemed; (vii) the possibility of a purchase of Bonds in lieu of redemption, if applicable; (viii) the conditions, if any, which must be satisfied in order for the redemption to take place on the scheduled date of redemption (including, to the extent applicable, notice that a redemption of Bonds at a premium is conditioned upon the receipt by the Trustee of Eligible Funds not consisting of funds drawn under the Credit Facility in an amount sufficient to pay the redemption premium); and (ix) any other descriptive information needed to identify accurately the Bonds being redeemed.

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

Notice of such redemption is also to be sent by first class mail, overnight delivery service, facsimile transmission or other secure means, postage prepaid, to the Credit Facility Provider, to the Servicer, to the Construction Phase Credit Facility Provider (prior to the Conversion Date), to the Rating Agency, to all municipal registered Securities Depositories and to at least two of the national Information Services that disseminate securities redemption notices, when possible, at the time of the mailing of notices described by the first paragraph above, and in any event no later than simultaneously with the mailing of notices described by the first paragraph above; *provided* that neither failure to receive such notice nor any defect in any notice so mailed will affect the sufficiency of the proceedings for the redemption of such Bonds.

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

Failure to give notice by mailing to the registered owner of any Bond designated for redemption or tender or to any depository or information service will not affect the validity of the proceedings for the redemption of any other Bond if notice of such redemption has been mailed as provided in the Indenture.

EFFECT OF NOTICE OF REDEMPTION

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

PURCHASE OF BONDS IN WHOLE IN LIEU OF REDEMPTION

Notwithstanding anything in the Indenture to the contrary, but subject to the Special Purchase in Lieu of Redemption provisions of the Indenture, at any time during which the Bonds are subject redemption in whole, all (but not less than all) of the Bonds to be redeemed may be purchased by the Trustee (for the account of the Borrower or the Credit Facility Provider or their respective designee, as directed by such party) on the date which would be the redemption date at the direction of the Credit Facility Provider or the Borrower, with the prior written consent of the Credit Facility Provider (which direction shall specify that such purchase is pursuant to the Indenture and will be given no later than 12:00 noon, Washington, D.C., time on such

redemption date), at a purchase price equal to the redemption price which would have been applicable to such Bonds on the redemption date. The Bonds shall be purchased in lieu of redemption only from amounts provided by the Credit Facility Provider or from other Eligible Funds. In the event the Trustee is so directed to purchase Bonds in lieu of redemption, no notice to the holders of the Bonds to be so purchased (other than the notice of redemption otherwise required under the Indenture) shall be required, and the Trustee shall be authorized to apply to such purpose the funds in the Redemption Fund which would have been used to pay the redemption price for such Bonds if such Bonds had been redeemed rather than purchased. Such Bonds so purchased for the account of the Borrower shall for all purposes under the Indenture constitute Purchased Bonds held by the Custodian pursuant to the Pledge Agreement.

The Credit Facility Provider shall have the right to transfer the Purchased Bonds (without reinstatement of the then existing Credit Facility or delivery to the Trustee of an Alternate Credit Facility, which will result in such Bonds being unrated) only to a single Bondholder which has provided the Trustee with an investment letter in the form prescribed by the Indenture (and otherwise subject to the provisions of the Indenture), provided that an opinion of Bond Counsel is delivered to the Trustee to the effect that such transfer will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. Such Purchased Bonds shall not be transferred unless and until the Credit Facility is reinstated, except to a single Bondholder which has provided the Trustee with an investment letter in the form prescribed by the Indenture, and if not remarketed or transferred as provided in the Indenture, shall be redeemed and cancelled automatically by the Trustee on the date which is two (2) years from the date of purchase, unless an opinion of Bond Counsel is delivered to the Trustee to the effect that not redeeming and canceling such Purchased Bonds will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. Any purchase of Bonds as described by this section is not intended as an extinguishment of the debt represented by the Bonds.

SPECIAL PURCHASE IN LIEU OF REDEMPTION

If all Bonds Outstanding are called for redemption in whole under the Indenture as described above in paragraphs (ii), (vii) and (viii) under “Mandatory Redemption” at any time that the Construction Phase Credit Facility is in effect, the Bonds may, in lieu of such redemption, be purchased (“*Special Purchase Bonds*”) by the Trustee, at the written direction of the Construction Phase Credit Facility Provider to the Trustee with the written consent of the Credit Facility Provider, for the account of the Construction Phase Credit Facility Provider, so long as the Construction Phase Credit Facility Provider has fully and timely honored, and has paid the Credit Facility Provider the full amount drawn by the Credit Facility Provider under, the Construction Phase Credit Facility. Any purchase of Bonds as described in this section shall be in whole and not in part. Such purchase shall be made on the date the Bonds are otherwise scheduled to be redeemed (the “*Special Purchase Date*”). The purchase price of the Special Purchase Bonds (the “*Special Purchase Price*”) shall be equal to the principal amount of the Special Purchase Bonds, plus accrued interest, if any, on the Special Purchase Bonds to the Special Purchase Date. The payment source shall consist solely of funds to be advanced by the Credit Facility Provider under the Credit Facility.

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

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

The Trustee shall proceed to take such action as is required under the Credit Facility to receive payments from the Credit Facility Provider under the Credit Facility as if the Special Purchase Bonds were to be redeemed pursuant to the Indenture in order to pay the Special Purchase Price of the Bonds on the Special Purchase Date.

The purchase of Bonds as described in this section shall not constitute a merger or extinguishment of the indebtedness of the Issuer evidenced by the Bonds so purchased or of the indebtedness of the Borrower under the Bond Mortgage Loan; Special Purchase Bonds shall for all purposes be regarded as Outstanding under the Indenture, except as otherwise expressly provided for in the Indenture. Upon the purchase of any Bond as described in this section, the notice of redemption previously given with respect to such Bond shall be deemed to be a notice of mandatory tender of such Bond.

Following any purchase of Bonds described in the first or fourth paragraph of this section, in no event shall the Credit Facility (or any funds advanced under the Credit Facility) directly or indirectly secure, or provide a source of payment of amounts due from time to time with respect to, the Special Purchase Bonds. From and after the Special Purchase Date and until the Construction Phase Credit Facility Provider honors a draw upon the Construction Phase Credit Facility in order to accomplish a purchase of Bonds as described in this section, the Credit Facility Provider shall continue to be entitled to all rights, privileges, benefits and security granted to the Credit Facility Provider under the Bond Documents and the Bond Mortgage Loan Documents. In no event shall Freddie Mac be deemed to be the owner of any Special Purchase Bond whether as described by this section or otherwise unless such Bond is transferred to, and registered in the name of, Freddie Mac in accordance with the provisions of the Indenture and only at the written direction of Freddie Mac.

Special Purchase Bonds shall not be transferred to another registered owner without the written approval of the Issuer given in its sole discretion, unless Moody's, S&P or another nationally recognized rating agency confers a rating on such Bonds or such interests in such Bonds which places the same in one of the three highest rating categories (without regard to plus or minus designations) maintained by such agency; provided, however, that prior to any transfer the Issuer and Trustee shall have received an Opinion of Bond Counsel to the effect that the purchase and transfer of the Special Purchase Bonds will not adversely affected the exclusion from gross income for federal income tax purposes of the interest payable on the Special Purchase Bonds.

DEMAND FOR AND MANDATORY PURCHASE OF BONDS

Any Bonds (other than Purchased Bonds), or any units of principal amount thereof in Authorized Denominations, will be purchased from the proceeds of remarketing thereof as described in the Indenture or from the sources prescribed in the Indenture, upon being tendered or deemed tendered pursuant to the Indenture, on any Substitution Date (even if such Substitution Date for which notice has been given by the Trustee to the Bondholders fails to occur). Bonds will be purchased for a Purchase Price equal to the principal amount thereof, or of any units thereof purchased in Authorized Denominations, plus interest accrued thereon, if any, to the Settlement Date. Bonds will be purchased upon delivery of such Bond (with an appropriate transfer of registration form executed in blank and in form satisfactory to the Tender Agent) to the Tender Agent, at or prior to 9:30 a.m., Washington, DC time, on the Settlement Date. In the event that a depository is appointed pursuant to the Indenture and a "book-entry only" system is in effect with respect to the Bonds, delivery of Bonds for purchase on the Settlement Date will be effected in the manner set forth by such depository.

Bonds not delivered to the Tender Agent on or prior to 9:30 a.m., Washington, DC time, on the Settlement Date will be deemed tendered and purchased for all purposes of the Indenture and interest will cease to accrue on such Bonds on the related Settlement Date. Payment of the Purchase Price of any Bond will be made by 3:00 p.m., Washington, D.C. time, on the Settlement Date by check or by wire transfer (if requested in writing by the Bondholder) or as designated in the Tender Notice with respect to such Bond, but only upon delivery and surrender of such Bond to the Tender Agent.

If the Trustee has received the items required by the Indenture, the Trustee will (i) not later than the fifteenth (15th) day before any Substitution Date (or, if such day is not a Business Day, then on the next succeeding Business Day), notify the Tender Agent by telephone, promptly confirmed in writing, with a copy to the Remarketing Agent and (ii) not later than the ninth (9th) day before any Substitution Date, notify the Bondholders by first class mail, that all outstanding Bonds (other than Purchased Bonds) will be subject to mandatory tender and if not so tendered, will be deemed to have been tendered for purchase on the Substitution Date as provided in the Indenture, at the Purchase Price. Such notices from the Trustee will be treated as a Tender Notice for all purposes of the Indenture.

Anything in the Indenture to the contrary notwithstanding, no Bonds will be purchased pursuant to the Indenture or remarketed pursuant to the Indenture if an Event of Default under

the Indenture (other than an Event of Default relating to failure to observe or perform any non-payment-related covenant) has occurred and is continuing and would not be cured as a result of such tender and remarketing of the Bonds or following a declaration of acceleration of the Bonds; nor will any Bond be purchased as described in this Section if such Bond is registered in the name of the Issuer, the Borrower or the Credit Facility Provider, or known by the Trustee (the Trustee will have no duty to inquire as to any such nominees) to be registered in the name of any general partner, member or guarantor of the Borrower or any nominee of the Issuer, the Borrower, the Credit Facility Provider, or any such general partner, member or guarantor of the Borrower unless the Alternate Credit Facility will be in full force and effect with respect to such Bonds after such purchase.

Holders of Bonds will be required to tender their Bonds to the Tender Agent on any Substitution Date in accordance with and subject to the provisions of the Indenture.

Any Bond required to be tendered on a Substitution Date which is not tendered as of such date will be deemed to have been tendered to the Tender Agent on such date and will thereafter cease to bear interest and no longer be considered to be Outstanding under the Indenture.

REMARKETING OF BONDS

Upon receipt of any notice from the Trustee of Bonds deemed to have been tendered in accordance with the Indenture or purchased in lieu of redemption pursuant to the Indenture, the Remarketing Agent will offer for sale and use its best efforts to market the Bonds referred to in such Tender Notice or such notice from the Trustee (which will be deemed to be a Tender Notice as provided in the Indenture) at a price of par plus accrued interest to the Settlement Date, in accordance with the Remarketing Agreement; provided, however, that the Remarketing Agent will not offer for sale or sell such Bonds to the Issuer, the Borrower or any general partner or any guarantor of the Borrower. The Remarketing Agent has no obligation to remarket Bonds registered in the name of the Borrower, the Credit Facility Provider or any general partner or guarantor of the Borrower unless the Credit Facility will be in full force and effect after such remarketing. On the Business Day immediately prior to each Settlement Date (each, a "Remarketing Date"), the Remarketing Agent will give telephonic notice, promptly confirmed in writing and transmitted by facsimile or Electronic Notice, to the Trustee, the Tender Agent, the Borrower, and the Credit Facility Provider by 11:00 a.m., Washington, DC time, stating whether all tendered Bonds have been remarketed successfully, specifying the names, addresses, and taxpayer identification numbers of the purchasers of, and the principal amount and denominations of, such Bonds, if any, for which it has found purchasers as of such Remarketing Date, and the Purchase Price at which the Bonds are to be sold (which will be par plus accrued interest to the Settlement Date). The Remarketing Agent will instruct such purchasers to deliver to the Tender Agent, no later than 9:30 a.m., Washington, DC time, on the Settlement Date, in immediately available funds, the amount required to purchase such Bonds. Upon receipt by the Tender Agent of such amount from such purchasers, the Tender Agent will deliver the Bonds to the respective new purchasers upon deposit of the Purchase Price with the Tender Agent. The Tender Agent will hold all Bonds delivered to it in trust for the benefit of the respective Bondholders which will have so delivered such Bonds until moneys representing the Purchase Price of such Bonds will have been delivered to or for the account of or to the order of such

Bondholders. The Tender Agent will remit the Purchase Price of such Bonds to the tendering Bondholder or Bondholders entitled to the same as provided in the Indenture. In the event that any purchaser which will have been identified by the Remarketing Agent to the Trustee and the Tender Agent fails to pay the Purchase Price for any Bonds prior to 10:00 a.m., Washington, DC time, on the Settlement Date, the Tender Agent will not be obligated to accept such amount after such time. The Tender Agent will immediately notify by telephone the Trustee, the Credit Facility Provider, the Borrower and the Remarketing Agent of any such failure to receive the Purchase Price for such Bonds. On the Settlement Date, the Tender Agent will notify by telephone the Trustee, the Credit Facility Provider, the Borrower and the Remarketing Agent of the amount of funds held by the Tender Agent as of 10:00 a.m., Washington, DC time, on such date constituting the Purchase Price of the Bonds remarketed by the Remarketing Agent, promptly confirmed in writing and transmitted by facsimile. The Tender Agent will hold all moneys delivered to it for the purchase of Bonds (including any remarketing proceeds or proceeds of draws on the Credit Facility) in trust in a non-commingled account to be known as the "Bond Purchase Fund" for the benefit of the person or entity which has so delivered such moneys until the Bonds purchased with such moneys have been delivered to or for the account of such person. Such moneys will be held uninvested except as directed in writing by the Credit Facility Provider and then only in Qualified Investments of the type described in clauses (a) and (b) of the definition thereof and maturing the earlier of (i) 30 days from the date of investment or (ii) when needed. The Issuer and the Borrower will not have any right, title or interest in such moneys.

Except with respect to Bonds to be held under the terms of the Pledge Agreement and any Bonds purchased in lieu of redemption or acceleration pursuant to the provisions hereof, the Issuer, the Borrower or any general partner or any guarantor of the Borrower may not purchase any Bonds, from the Remarketing Agent or otherwise.

PURCHASE OF BONDS NOT REMARKETED

In the event that either the Tender Agent has not received notice of successful remarketing of tendered Bonds by the day which is one (1) Business Day prior to the Settlement Date, or the proceeds of remarketing of any tendered Bond have not been received by the Tender Agent on or prior to 10:00 a.m., Washington, DC time on the Settlement Date, the Trustee will, within the time required by the terms of the Credit Facility, draw on the then existing Credit Facility in an amount sufficient to enable the Tender Agent to pay the Purchase Price of each such Bond. On each Settlement Date, the Trustee will pay or cause to be paid to the Tender Agent the Purchase Price of any Bonds tendered pursuant to the Indenture and which have not been remarketed pursuant to the Indenture, but only from (i) moneys obtained by the Trustee pursuant to the Credit Facility then in effect to enable the Trustee to pay the Purchase Price of such tendered Bonds, which amounts will be transferred by the Trustee to the Tender Agent at or before 3:00 p.m., Washington, DC time, on the Settlement Date; (ii) Eligible Funds from the Borrower to the extent that moneys obtained pursuant to (i) above are insufficient on any date to pay the Purchase Price of tendered Bonds; and (iii) in connection with a mandatory tender, amounts in the Bond Mortgage Loan Fund.

Upon receipt of such Purchase Price and upon receipt of the Bonds tendered for purchase

as described above, the Tender Agent will pay such Purchase Price to the registered owners thereof; provided, that if the Purchase Price was theretofore paid from the proceeds of a draw on the Credit Facility, the Tender Agent will pay such amount to the Credit Facility Provider. Any amounts drawn under the Credit Facility to purchase Bonds will be used solely for such purpose. Any Bonds so purchased with amounts drawn under the Credit Facility by the Trustee will be Purchased Bonds and will be registered as provided in the Pledge Agreement. Amounts drawn under the Credit Facility which are not used to purchase Bonds as described herein will be remitted by the Trustee or the Tender Agent to the Credit Facility Provider promptly upon payment of the Purchase Price of the Bonds.

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

TRUST ESTATE

Under the Indenture, the Issuer grants to the Trustee a security interest in the following (said property being herein referred to as the “*Trust Estate*”), in order to secure the payment of principal of, premium, if any, and interest on the Bonds according to their tenor and effect, the payment to Freddie Mac of the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee in accordance with the provisions thereof and of the Credit Enhancement Agreement and Reimbursement Agreement, or the payment of amounts due and owing to any other Credit Facility Provider following termination of the Credit Enhancement Agreement, and the performance and observance by the Issuer of all the covenants expressed or implied in the Indenture and in the Bonds:

- (a) All right, title and interest of the Issuer in and to all Revenues;
- (b) All right, title and interest of the Issuer in and to the Financing Agreement, the Bond Mortgage Note, the Credit Facility and the Bond Mortgage (other than the Unassigned Rights), including all extensions and renewals of the terms thereof, if any, including, but without limiting the generality of the foregoing, the present and continuing right to receive, receipt for, collect or make claim for any of the moneys, income, revenues, issues, profits and other amounts payable or receivable thereunder (including all casualty insurance benefits or condemnation awards subject to the interest of the Credit Facility Provider under the Reimbursement Agreement and the Intercreditor Agreement) whether payable under the above-referenced documents or otherwise, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer or any other person is or may become entitled to do under said documents, subject in all cases to the Issuer’s Unassigned Rights; and
- (c) Except for amounts in the Rebate Fund, the Administration Fund, [the Borrower Equity Account of the Bond Mortgage Loan Fund] and the Cost of Issuance Fund, all funds, money and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security under the Indenture for the Bonds by the Issuer or by anyone on its

behalf or with its written consent to the Trustee, which is authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture.

LIMITED OBLIGATIONS

THE BONDS ARE NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DO NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER OF THE CITY OF SAN JOSE, CALIFORNIA, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF, BUT ARE PAYABLE SOLELY FROM THE REVENUES AND PROPERTY PLEDGED THEREFOR IN THE INDENTURE, INCLUDING, WITHOUT LIMITATION, ITS INTEREST IN PAYMENTS RECEIVED UNDER THE BOND MORTGAGE NOTE AND THE CREDIT FACILITY, AND NONE OF THE CITY OF SAN JOSE, CALIFORNIA, THE STATE OF CALIFORNIA OR ANY SUCH POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON. THE BONDS HAVE BEEN ISSUED IN ACCORDANCE WITH THE ACT.

NO MEMBER, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY MEMBER, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THE BONDS AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

THE BONDS, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND SHALL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE AND ARE AND SHALL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME SHALL BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THE INDENTURE AND IN THE FINANCING AGREEMENT.

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

Any obligation of the Issuer under the Indenture to the Credit Facility Provider by reason of the pledge of the Trust Estate for the benefit of the Credit Facility Provider pursuant to the granting clause of the Indenture shall be limited as provided therein.

ADDITIONAL BONDS AND SUBORDINATE FINANCING

Simultaneously with the issuance of the Bonds, the Issuer intends to issue approximately \$_____ of its Subordinate Bonds. The Bonds will be issued on a basis senior to the Subordinate Bonds, and the Subordinate Indenture will include certain cross-default provisions with the Indenture. The Issuer will loan the proceeds of the Subordinate Bonds to the Borrower for purposes of financing portions of the construction by the Borrower of the Project not financed by the Bonds.

Subject to the approval of the Credit Facility Provider, the Borrower may obtain additional financing for the Project at a future date. Such additional financing could be in the form of additional bonds issued by the Issuer. Subject to approval of the Credit Facility Provider, additional Bonds could be issued on a parity basis with the Bonds pursuant to a supplemental trust indenture *provided* that the issuance thereof was not materially adverse to the interest of the Bondholders. Such additional financing could also be in the form of additional conventional loans, the payment obligations with respect to which would be subordinate to the Borrower's payment obligations under the Bond Mortgage Loan. Should the Borrower obtain additional financing, such additional financing could also involve restructuring of the Bonds which could result in an early redemption of the Bonds. Additionally, any increased repayment obligations of the Borrower could increase the likelihood of an early redemption of the Bonds. Any such redemption would be at a price equal to the principal amount of the Bonds to be redeemed, plus accrued interest to the date of redemption, without premium.

THE CREDIT ENHANCEMENT AGREEMENT AND THE FREDDIE MAC REIMBURSEMENT AGREEMENT

THE CREDIT ENHANCEMENT AGREEMENT

In addition to the other security provided under the Indenture, the Bonds will be secured by the Credit Enhancement Agreement. Pursuant to the Credit Enhancement Agreement, Freddie Mac is required to pay Guaranteed Payments with respect to the Bond Mortgage Loan when and in the amounts due, and the Purchase Price of the Bonds in accordance with the terms of the Indenture and Credit Enhancement Agreement. The obligations of Freddie Mac under the Credit Enhancement Agreement are unsecured obligations of Freddie Mac. See "FREDDIE MAC" herein and Appendix B hereto.

FREDDIE MAC'S OBLIGATIONS WITH RESPECT TO THE BONDS WILL BE SOLELY AS PROVIDED IN THE CREDIT ENHANCEMENT AGREEMENT. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT WILL BE OBLIGATIONS SOLELY OF FREDDIE MAC, A SHAREHOLDER-OWNED, GOVERNMENT-SPONSORED ENTERPRISE ORGANIZED UNDER THE LAWS OF THE UNITED STATES. FREDDIE MAC HAS NO OBLIGATION TO PURCHASE, DIRECTLY OR INDIRECTLY, ANY OF THE BONDS, BUT WILL BE OBLIGATED PURSUANT TO THE CREDIT ENHANCEMENT AGREEMENT TO PROVIDE FUNDS TO THE TRUSTEE TO PAY THE PURCHASE PRICE OF THE BONDS UNDER THE CIRCUMSTANCES DESCRIBED THEREIN. THE BONDS ARE NOT A DEBT OF THE UNITED

STATES, ANY AGENCY THEREOF, OR OF FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OR BY FREDDIE MAC.

THE FREDDIE MAC REIMBURSEMENT AGREEMENT

The following is a brief summary of certain provisions of the Freddie Mac Reimbursement Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Freddie Mac Reimbursement Agreement, a copy of which is on file with the Trustee. Capitalized terms used in this caption and not otherwise defined herein shall have the meanings given them in the Freddie Mac Reimbursement Agreement.

Under the Freddie Mac Reimbursement Agreement, the Borrower is obligated to repay Freddie Mac all sums of money advanced by Freddie Mac to the Trustee under the Credit Enhancement Agreement. The Freddie Mac Reimbursement Agreement also provides that the Borrower is to pay the Freddie Mac Credit Enhancement Fee, the Servicing Fee, and other fees and expenses as provided therein.

Under the provisions of the Freddie Mac Reimbursement Agreement, Freddie Mac may declare an event of default if any one of the following occurs:

(a) The Borrower fails to pay when due any amount payable by the Borrower under the Freddie Mac Reimbursement Agreement, including, without limitation, any fees, costs or expenses.

(b) The Borrower fails to perform its obligations with respect to certain negative covenants under the Freddie Mac Reimbursement Agreement.

(c) The Borrower fails to observe or perform any other term, covenant, condition or agreement set forth in the Freddie Mac Reimbursement Agreement which failure continues for a period of 30 days after notice of such failure by Freddie Mac to Borrower (unless such default cannot with due diligence be cured within 30 days but can be cured within a reasonable period and will not, in Freddie Mac's sole discretion, adversely affect Freddie Mac or result in impairment of the Freddie Mac Reimbursement Agreement, the Bond Mortgage, the Reimbursement Mortgage or any other security given under any other documents executed by the Borrower in connection with the Bond issue (collectively, the "*Borrower Documents*"), in which case no Event of Default will be deemed to exist so long as Borrower has commenced to cure the default or Event of Default within 30 days after receipt of notice, and thereafter diligently and continuously prosecutes such cure to completion). However, no such notice or grace periods will apply in the case of any such failure which could, in Freddie Mac's judgment, absent immediate exercise by Freddie Mac of a right or remedy under the Freddie Mac Reimbursement Agreement, result in harm to Freddie Mac, impairment of the Freddie Mac Reimbursement Agreement, the Bond Mortgage, the Reimbursement Mortgage or any other Borrower Document.

(d) The Borrower fails to observe or perform any other term, covenant, condition or agreement set forth in any of the other Borrower Documents or there otherwise occurs an “Event of Default” under the Reimbursement Mortgage or an event of default under any of the other Borrower Documents (taking into account any applicable cure period).

(e) Any representation or warranty made by or on behalf of the Borrower in the Freddie Mac Reimbursement Agreement, in any other Borrower Document or in any certificate delivered by the Borrower to Freddie Mac or to the Servicer pursuant to the Freddie Mac Reimbursement Agreement or any other Borrower Document is inaccurate or incorrect in any material respect when made or deemed made.

(f) A default or event of default occurs under the terms of any other indebtedness permitted to be incurred by the Borrower (after taking into account any applicable cure period).

(g) Prior to the Conversion Date, Freddie Mac is given a “Direction to Draw” (as defined in the Construction Phase Financing Agreement) by the Construction Phase Credit Facility Provider.

Upon the occurrence of an event of default under the Freddie Mac Reimbursement Agreement, Freddie Mac may declare all the obligations of the Borrower under the Freddie Mac Reimbursement Agreement to be immediately due and payable, in which case all such obligations will become due and payable, without presentment, demand, protest or notice of any kind, including notice of default, notice of intent to accelerate or notice of acceleration. In addition to the foregoing, Freddie Mac has the right to take such action at law or in equity, without notice or demand, as it deems advisable to protect and enforce the rights of Freddie Mac against the Borrower in and to the Project conveyed by the Bond Mortgage or the Reimbursement Mortgage, including, but not limited to, the following actions: (a) demand cash collateral or Qualified Investments in the full amount of the obligations under the Bonds whether or not then due and payable by Freddie Mac under the Credit Enhancement Agreement; (b) give written notice to the Trustee stating that an event of default has occurred and is continuing under the Freddie Mac Reimbursement Agreement and directing the Trustee to cause the mandatory redemption (or purchase in lieu) of the Bonds; or (c) exercise any rights and remedies available to Freddie Mac under any of the Borrower Documents.

Freddie Mac has the right, to be exercised in its discretion, to waive any Event of Default under the Freddie Mac Reimbursement Agreement. Unless such waiver expressly provides to the contrary, any waiver so granted will extend only to the specific event or occurrence which gave rise to the Event of Default so waived and not to any other similar event or occurrence which occurs subsequent to the date of such waiver.

The obligations of the Borrower under the Freddie Mac Reimbursement Agreement will be secured by the Reimbursement Mortgage. Bondholders will have no rights under the Reimbursement Mortgage.

The Freddie Mac Reimbursement Agreement can be amended by Freddie Mac and the Borrower without the consent of, or notice to, the Issuer, the Trustee or the holders of the Bonds.

FREDDIE MAC

The information presented under this caption "FREDDIE MAC" has been supplied by Freddie Mac. None of the Issuer, the Trustee, the Borrower or the Underwriter has independently verified such information, and none assumes responsibility for the accuracy of such information. The information is qualified in its entirety by reference to the Incorporated Documents, as defined below.

Freddie Mac is a shareholder-owned government-sponsored enterprise created on July 24, 1970 pursuant to the Federal Home Loan Mortgage Corporation Act, Title III of the Emergency Home Finance Act of 1970, as amended, 12 U.S.C. §§ 1451-1459 (the "*Freddie Mac Act*"). Freddie Mac's statutory mission is (i) to provide stability in the secondary market for residential mortgages; (ii) to respond appropriately to the private capital market; (iii) to provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities); and (iv) to promote access to mortgage credit throughout the United States (including central cities, rural areas and underserved areas) by increasing the liquidity of mortgage financing. Neither the United States nor any agency or instrumentality of the United States is obligated, either directly or indirectly, to fund the mortgage purchase or financing activities of Freddie Mac or to guarantee Freddie Mac's securities or obligations.

Freddie Mac's principal business consists of the purchase of (i) first-lien, conventional residential mortgages subject to certain maximum loan limits and other underwriting requirements under the Freddie Mac Act and (ii) securities backed by such mortgages. Freddie Mac finances its mortgage purchases and mortgage-backed securities purchases through the issuance of a variety of securities, primarily pass-through mortgage participation certificates and unsecured debt, as well as with cash and equity capital.

On September 7, 2008, the Director of the Federal Housing Finance Agency ("*FHFA*") appointed FHFA as conservator of Freddie Mac in accordance with the Federal Housing Finance Reform Act of 2008 (the "*Reform Act*") and the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. On September 7, 2008, in connection with the appointment of FHFA as conservator, Freddie Mac and the U.S. Department of the Treasury ("*Treasury*") entered into a Senior Preferred Stock Purchase Agreement. Also, pursuant to its authority under the Reform Act, Treasury announced that it has established the Government Sponsored Enterprise Credit Facility (a lending facility to ensure credit availability to Freddie Mac, Fannie Mae, and the Federal Home Loan Banks that will provide secured funding on an as needed basis under terms and conditions established by the Treasury Secretary to protect taxpayers) and a program under which Treasury will purchase Government Sponsored Enterprise (including Freddie Mac) mortgage-backed securities (MBS) in the open market. The announcements by FHFA and Treasury and descriptions of these programs are available at their respective websites: <http://www.OFHFA.gov> and <http://www.Treasury.gov>.

Freddie Mac registered its common stock with the U.S. Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934 (the “Exchange Act”), effective July 18, 2008. As a result, Freddie Mac files annual, quarterly and current reports, proxy statements and other information with the SEC. Prior to July 18, 2008, Freddie Mac prepared an annual Information Statement (containing annual financial disclosures and audited consolidated financial statements) and Information Statement Supplements (containing periodic updates to the annual Information Statement).

As described below, Freddie Mac incorporates certain documents by reference in this Official Statement, which means that Freddie Mac is disclosing information to you by referring you to those documents rather than by providing you with separate copies. Freddie Mac incorporates by reference in this Official Statement its proxy statement, and all documents that Freddie Mac files with the SEC pursuant to Section 13(a), 13(c) or 14 of the Exchange Act, after July 18, 2008 and prior to the completion of the offering of the related Bonds, excluding any information that Freddie Mac may “furnish” to the SEC but that is not deemed to be “filed.” Freddie Mac also incorporates by reference its Registration Statement on Form 10, in the form declared effective by the SEC on July 18, 2008 (the “Registration Statement”). These documents are collectively referred to as the “Incorporated Documents” and are considered part of this Official Statement. You should read this Official Statement, in conjunction with the Incorporated Documents. Information that Freddie Mac incorporates by reference will automatically update information in this Official Statement. Therefore, you should rely only on the most current information provided or incorporated by reference in this Official Statement.

You may read and copy any document Freddie Mac files with the SEC at the SEC’s public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. These SEC filings are also available to the public from the SEC’s web site at <http://www.sec.gov>.

Freddie Mac makes no representations as to the contents of this Official Statement, the suitability of the Bonds for any investor, the feasibility of performance of any project, or compliance with any securities, tax or other laws or regulations. Freddie Mac’s role is limited to discharging its obligations under the Credit Enhancement Agreement.

FREDDIE MAC’S OBLIGATIONS WITH RESPECT TO THE BONDS ARE SOLELY AS PROVIDED IN THE CREDIT ENHANCEMENT AGREEMENT. THE OBLIGATIONS OF FREDDIE MAC UNDER THE CREDIT ENHANCEMENT AGREEMENT WILL BE OBLIGATIONS SOLELY OF FREDDIE MAC, A SHAREHOLDER-OWNED, GOVERNMENT-SPONSORED ENTERPRISE ORGANIZED UNDER THE LAWS OF THE UNITED STATES OF AMERICA. FREDDIE MAC HAS NO OBLIGATION TO PURCHASE, DIRECTLY OR INDIRECTLY, ANY OF THE BONDS, BUT WILL BE OBLIGATED, PURSUANT TO THE CREDIT ENHANCEMENT AGREEMENT, TO PROVIDE FUNDS TO THE TRUSTEE TO PAY THE PURCHASE PRICE OF THE BONDS UNDER THE CIRCUMSTANCES DESCRIBED THEREIN. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, ANY AGENCY THEREOF, OR OF FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC.

THE PROJECT, THE REGULATORY AGREEMENTS, THE BORROWER AND THE CITY LOAN

The following has been provided solely by the Borrower. Certain financial information with respect to the Project is included herein. Neither the Issuer, Freddie Mac, the Servicer nor the Underwriter, nor any of their officers or employees, make any representations as to the accuracy or sufficiency of such information.

THE PROJECT

The Project, known as Orvieto Family Apartments, is located on an approximately 1.7 acre site at 80 Montecito Vista Drive in San José, California. The Project is a new construction apartment complex that will contain 92 units located in one building above a subterranean parking garage, which covers the bulk of the site.

The Project amenities include a landscaped courtyard on the podium above the garage, a children’s playground, a community laundry facility, and community space, including a kitchen and resident services programs provided by onsite staff. Unit amenities include a full appliance package in the kitchen, including a dishwasher and garbage disposal, wood cabinets, carpet, and mini-blinds. The Project includes approximately 163 parking spaces. The unit mix of the Project is as follows:

| NUMBER OF UNITS | COMPOSITION | APPROXIMATE SQUARE FOOTAGE |
|-----------------|--------------------|----------------------------|
| 31 | 1 Bedroom – 1 Bath | 710 |
| 31 | 2 Bedroom – 2 Bath | 1,006 |
| 30 | 3 Bedroom – 2 Bath | 1,344 |

REGULATORY AGREEMENTS

Regulatory Agreement. The Regulatory Agreement imposes certain requirements with respect to the tax-exempt status of the Bonds under the Code, which include a set-aside of 40% of the units for rental to Low Income Tenants. See “SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” for a description of the requirements affecting the operation of the Project in order to assume compliance with the Code.

Other Land Use Restriction Agreements. In addition, in connection with the low income housing tax credits being allowed to the Borrower in connection with the Project, the Borrower will execute the Indenture of Restrictive Covenants (the “LIHTC LURA”) in accordance with Section 42 of the Code. The LIHTC LURA will, among other things, require that the Borrower lease 59% of the units in the Project to tenants earning 50% or less of the area median gross income, 16% of the units in the Project to tenants earning 45% or less of the area median gross income and 25% of the units in the Project to tenants earning 30% or less of the area median gross income. Rents on all restricted units will be limited to 30% of an amount equal to the applicable area median income limit, as outlined above, adjusted for family size, all in accordance with Section 42 of the Code.

City 55-Year Affordability Restrictions. In connection with the City Loan (defined below) for the Project, the Borrower will execute a First Amendment to 55-Year Affordability Restrictions, which will amend the 55-Year Affordability Restrictions, dated March 3, 2009 (as amended, the “*Affordability Restrictions*”), entered into by and between the Borrower and the City in connection with the purchase of real property for the Project. The Affordability Restrictions will require, among other things, that 24 units be made available to households at or below 30% of area median gross income, 13 units be made available to households at or below 45% of area median gross income and 54 units be made available to households at or below 50% of area median gross income, with 1 unrestricted manager’s unit.

THE BORROWER

The Borrower is Orvieto Family Apartments, L.P., formed in California for the sole purpose of leasing, constructing and operating the Project. The general partners of the Borrower are Eden Orvieto LLC, a California limited liability company, and ROEM Orvieto Family, LLC, a newly formed California limited liability. The investor limited partner is Garnet LIHTC Fund XXI, LLC, a Delaware limited liability company, and the special limited partner is Transamerica Affordable Housing, Inc., a California Corporation. The sole member of ROEM Orvieto Family, LLC is Roem Development Corporation, a California corporation (“*ROEM*”) that was organized in 1988. ROEM has built a portfolio of affordable housing rental properties. ROEM currently owns 12 properties, totaling approximately 1,500 units, through its various affiliated entities. These properties are all located in San José, California.

The Borrower has not acquired and does not intend to acquire any substantial assets or engage in any substantial business activities other than those related to the Project. However, affiliates of the Borrower may engage in the acquisition, development, ownership and management of other similar types of projects that may be competitive with the Project.

LOW INCOME HOUSING TAX CREDITS

Simultaneously with the issuance of the Bonds, the Borrower expects to admit Garnet LIHTC Fund XXI, LLC, a Delaware limited liability company, and Transamerica Affordable Housing Inc., a California corporation, as the sole limited partners with an aggregate 99.99% ownership interest in the Borrower. The currently anticipated aggregate equity contribution is \$8,238,282, plus AEGON closing costs (estimated to be \$90,000), subject to the terms and conditions set forth in Borrower’s amended and restated partnership agreement. The initial equity installment is currently anticipated to be \$1,235,742, plus AEGON closing costs, subject to the terms and conditions set forth in Borrower’s amended and restated partnership agreement. The completion and permanent loan conversion equity installments are each currently anticipated to be \$3,295,313, subject to the terms and conditions set forth in Borrower’s amended and restated partnership agreement. [AEGON to confirm the amount of equity expected to be applied to redemption of the Bonds.]

THE CITY LOAN

In addition to the proceeds under the Bond Mortgage Loan, the Borrower will secure a deferred payment loan from the Issuer (the “*City Loan*”). See “PLAN OF FINANCING – SOURCES OF FUNDS.” The City Loan will have a term of [33 or 38] years and will bear interest at a rate of 4% per annum. Interest will be deferred and payable only from surplus cash flow.

THE CONTRACTOR

The Contractor for the Development will be ROEM Builders, Inc., a California corporation (the “*Contractor*”). The Contractor and its affiliated construction companies have been constructing and rehabilitating multifamily rental housing developments since 1999 and have constructed approximately 1,700 units of multifamily residential housing.

THE ARCHITECT

The architect for the Development is KTG Y Group, Inc. (the “*Architect*”). The Architect has been the principal architect for numerous multifamily developments throughout the United States.

PROPERTY MANAGEMENT

The Project will be managed by FPI Management, Inc. (the “*Manager*”). The Manager is one of the largest third-party managers of multifamily real estate in the United States. It currently manages more 50,000 units, including more than 10,000 units of affordable housing.

LIMITED RECOURSE TO BORROWER

The Borrower and its partners will not (subject to certain exceptions to nonrecourse liability set forth in the Freddie Mac Reimbursement Agreement and the Financing Agreement) be personally liable for payments on the Bond Mortgage Note, the payments on which are to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower will have substantial funds available for the Project. Accordingly, neither the Borrower’s financial statements nor those of its members and managers are included in this Official Statement.

PLAN OF FINANCING*

[TO BE UPDATED BY THE BORROWER]

The total permanent project costs of the Project are estimated by the Borrower to be approximately \$_____ million, not including interim sources or uses of funds or accrued

* Preliminary; subject to change.

interest on the Bonds. Simultaneously with the issuance of the Bonds, the Issuer intends to issue approximately \$_____ of its Subordinate Bonds, which will mature on _____, 20___. A portion of the proceeds of the Subordinate Bonds will be applied to completion of the Project. The permanent sources and uses of funds for the Project reflect a pre-Conversion redemption of Bonds in the amount of approximately \$_____ million and are estimated to be as follows:

SOURCES OF FUNDS

| | |
|------------------------------|-----------|
| Bond Proceeds (1) | \$ |
| Subordinate Bond Proceeds | |
| City Loan | |
| Accrued Interest (City Loan) | |
| Tax Credit Equity | |
| Interest Income (2) | |
| Income from Operations | |
| Deferred Developer Fee | |
| TOTAL | <u>\$</u> |

USES OF FUNDS

| | |
|-------------------------|-----------|
| Hard Construction Costs | \$ |
| Financing Costs | |
| Operating Reserves | |
| Developer Fee | |
| Soft Costs | |
| TOTAL | <u>\$</u> |

(1) Reflects a pre-Conversion redemption of Bonds in the amount of approximately \$_____ million.

(2) Reflects income on Bond proceeds invested in the Bond Mortgage Loan Fund.

THE SERVICER

After the Conversion Date, the Servicer will perform mortgage-servicing functions with respect to the Bond Mortgage Loan pursuant to the Freddie Mac Reimbursement Agreement and related documents on behalf of and in accordance with Freddie Mac requirements. The servicing arrangements between Freddie Mac and the Servicer for the servicing of the Bond Mortgage Loan are solely between Freddie Mac and the Servicer and neither the Issuer nor the Trustee is deemed to be party thereto or has any claim, right, obligation, duty or liability with respect to the servicing of the Bond Mortgage Loan.

The Servicer will be obligated, pursuant to its arrangement with Freddie Mac and Freddie Mac's servicing requirements, to perform diligently all services and duties specifically prescribed by Freddie Mac. Freddie Mac will monitor the Servicer's performance and has the right to remove the Servicer with or without cause. The duties performed by the Servicer include general loan servicing responsibilities, collection and remittance of principal and interest payments, administration of mortgage escrow accounts and collection of insurance claims.

The Servicer makes no representation as to the contents of this Official Statement, the suitability of the Bonds for any investor, the feasibility of performance of the Project or compliance with any securities, tax or other laws or regulations. The Servicer's role is limited to originating, processing and servicing the Bond Mortgage Loan pursuant to the Freddie Mac Reimbursement Agreement and the Borrower Documents.

THE TRUSTEE

The Issuer has appointed Wells Fargo Bank, National Association to serve as the Trustee. The Trustee is to carry out those duties assignable to it under the Indenture and Bond Documents. Except for the contents of this section, the Trustee has not reviewed or participated in the preparation of this Official Statement and assumes no responsibility for the contents, accuracy, fairness or completeness of the information set forth in this Official Statement or for the recitals contained in the Indenture or the Bonds, or for the validity, sufficiency, or legal effect of any of such documents.

Furthermore, the Trustee has no oversight responsibility, and is not accountable, for the use or application by the Issuer of any of the Bonds authenticated or delivered pursuant to the Indenture or for the use or application of the proceeds of such Bonds by the Issuer or Borrower. The Trustee has not evaluated the risks, benefits, or propriety of any investment in the Bonds and makes no representation, and has reached no conclusions, regarding the value or condition of any assets or revenues pledged or assigned as security for the Bonds, the technical or financial feasibility of the Project, or the investment quality of the Bonds, about all of which the Trustee expresses no opinion and expressly disclaims the expertise to evaluate.

Additional information about the Trustee may be found at its website at <http://www.wellsfargo.com/>. Neither the information on the Trustee's website, nor any links from that website, is a part of this Official Statement, nor should any such information be relied upon to make investment decisions regarding the Bonds.

CERTAIN BONDHOLDERS' RISKS

The purchase of the Bonds will involve a number of risks. In addition to factors set forth elsewhere in this Official Statement, purchasers of Bonds should carefully consider the following risk factors in connection with investment in the Bonds. The following summary does not purport to be comprehensive or definitive, of some of such risk factors.

FAILURE OF CONVERSION; PRE-CONVERSION LOAN EQUALIZATION

If the principal amount of the Bond Mortgage Loan, as finally determined in accordance with the Construction Phase Financing Agreement will be less than the original principal amount of the Bond Mortgage Loan, the principal amount of the Bond Mortgage Loan must, as a Condition to Conversion, be reduced by the Borrower's prepayment of the Bond Mortgage Loan in part (a "Pre-Conversion Loan Equalization Payment"). Upon such prepayment, a corresponding portion of the principal amount of the Bonds will be subject to mandatory

redemption as provided in the Indenture. Any such mandatory redemption, or purchase of Bonds by the Borrower in lieu of such redemption, will be at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date. No such redemption will be made at a premium. If such prepayment in part is required as a Condition to Conversion and is not made, Conversion will not occur and the Bonds will be subject to mandatory redemption or purchase in whole, as described above. See “THE BONDS—Mandatory Redemption” herein. Conversion may not occur for any of a number of reasons, including failure to complete construction or to adequately lease the Project in accordance with the terms of the Forward Commitment.

CREDIT FACILITY AS PRIMARY SECURITY FOR BONDS; RECENT EVENTS

It is possible, in the event of the occurrence of some event precluding Freddie Mac from honoring its obligations to make payments as required in the Credit Facility, that the financial resources of the Borrower will be the only source of payment on the Bonds. There can be no assurance that the financial resources of the Borrower would be sufficient to pay the principal of, premium if any, and interest on the Bonds or the Purchase Price thereof in the event the Trustee were forced to seek recourse against the Borrower. See “Enforceability and Bankruptcy” below and “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

No review of the business or affairs of Freddie Mac has been conducted by the Issuer, the Borrower or the Underwriter in connection with the offering of Bonds. No assurance can be given by the Issuer, the Borrower or the Underwriter as to Freddie Mac’s ability to pay amounts due under the Credit Facility. See “RATINGS” herein, and “APPENDIX B – FORM OF CREDIT ENHANCEMENT AGREEMENT” herein.

NO BORROWER PERSONAL LIABILITY

Neither the Borrower nor its partners have been or will be (subject to certain exceptions to nonrecourse liability for the benefit of Freddie Mac to be set forth in the Freddie Mac Reimbursement Agreement and the Reimbursement Mortgage) personally liable for payments on the Bond Mortgage Loan, nor will the Borrower be (subject to certain exceptions to nonrecourse liability to be set forth in the Bond Mortgage and subject to certain exceptions to nonrecourse liability set forth in the Financing Agreement with respect to the Issuer and the payment of the rebate amount) personally liable under the other documents executed in connection with the issuance of the Bonds and the making of the Bond Mortgage Loan. All payments on the Bond Mortgage Loan are expected to be derived from revenues generated by the Project.

LIMITED OBLIGATIONS

The Bonds are limited obligations of the Issuer payable solely from certain funds pledged to and held by the Trustee pursuant to the Indenture and the Credit Facility.

FREDDIE MAC’S OBLIGATIONS WITH RESPECT TO THE BONDS ARE SOLELY AS PROVIDED IN THE CREDIT ENHANCEMENT AGREEMENT. THE OBLIGATIONS OF FREDDIE MAC UNDER THE

CREDIT ENHANCEMENT AGREEMENT WILL BE OBLIGATIONS SOLELY OF FREDDIE MAC, A SHAREHOLDER OWNED, GOVERNMENT SPONSORED ENTERPRISE ORGANIZED UNDER THE LAWS OF THE UNITED STATES OF AMERICA. FREDDIE MAC HAS NO OBLIGATION TO PURCHASE, DIRECTLY OR INDIRECTLY, ANY OF THE BONDS, BUT WILL BE OBLIGATED, PURSUANT TO THE CREDIT ENHANCEMENT AGREEMENT, TO PROVIDE FUNDS TO THE TRUSTEE TO PAY THE PURCHASE PRICE OF THE BONDS UNDER THE CIRCUMSTANCES DESCRIBED THEREIN. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, ANY AGENCY THEREOF, OR OF FREDDIE MAC, AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA OR BY FREDDIE MAC.

THE BONDS, TOGETHER WITH INTEREST THEREON, AND REDEMPTION PREMIUM, IF ANY, ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER SECURED BY THE TRUST ESTATE, ARE AND SHALL ALWAYS BE PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE AND ARE AND SHALL ALWAYS BE A VALID CLAIM OF THE OWNER THEREOF ONLY AGAINST THE REVENUES AND INCOME DERIVED FROM THE TRUST ESTATE, WHICH REVENUES AND INCOME SHALL BE USED FOR NO OTHER PURPOSE THAN TO PAY THE PRINCIPAL INSTALLMENTS OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS, EXCEPT AS MAY BE EXPRESSLY AUTHORIZED OTHERWISE IN THE INDENTURE AND IN THE FINANCING AGREEMENT.

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

NO ACCELERATION OR EARLY REDEMPTION UPON LOSS OF TAX EXEMPTION ON THE BONDS

The Bonds are not subject to acceleration or redemption, and the rate of interest on the Bonds is not subject to adjustment, by reason of the interest on the Bonds being included in gross income for purposes of federal income taxation. Such event could occur if the Borrower (or any subsequent owners of the Project) does not comply with the provisions of the Financing Agreement and the Regulatory Agreement which are designed, if complied with, to satisfy the continuing compliance requirements of the Internal Revenue Code of 1986, as amended (the "Code"), in order for the interest on the Bonds to be excludable from gross income for purposes of federal income tax.

REDEMPTION PRIOR TO MATURITY

Purchasers of Bonds should consider the fact that the Bonds are subject to redemption prior to maturity at a redemption price equal to their principal amount plus accrued interest. This could occur, for example, in the event that the Bond Mortgage Loan is prepaid at the option of the Borrower, or as a result of casualty or condemnation award payments affecting the Project or a default under the Bond Mortgage or under the Freddie Mac Reimbursement Agreement. See "THE BONDS" herein.

ECONOMIC FEASIBILITY

The economic feasibility of the Project depends in large part upon its being substantially occupied at projected rent levels. There can be no assurance that in the future the Borrower will be able to market Project units at rates which will enable it to make timely payments on the Bond Mortgage Loan.

COMPETING FACILITIES

The Issuer, the Borrower, and persons who may or may not be affiliated with the Issuer or the Borrower may own, finance, develop, construct, and operate other facilities in the area of the Project that could compete with the Project. Any competing facilities, if so constructed, could adversely affect occupancy and revenues of the Project.

ENFORCEABILITY AND BANKRUPTCY

The remedies available to the Trustee and the holders of the Bonds upon an event of default under the Financing Agreement, the Credit Facility, or the Indenture are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay.

Under existing laws and judicial decisions, the remedies provided under the aforesaid documents may not readily be available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds and the aforesaid documents will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

NORMAL RISKS

Normal risks attending any investment in real estate include possible adverse use of adjoining land, fire or other casualty, condemnation, increased taxes, changes in demand for such facilities, increases in utility rates, adverse general and local economic conditions, energy shortages, a decline in property values in the Project, increases in operating costs due to inflation, non-compliance of tenants with the terms of their leases, unfavorable governmental regulation (such as enactment of rent controls), force majeure and uninsurable risks, construction strikes and decrease in the relative popularity of real estate investments as contrasted with other investments. These risks and many others cannot be controlled by the Borrower and may have a substantial bearing on the profitability and financial feasibility of the Project, and which may affect the realizable value of the real estate and other collateral securing payment of the Bonds.

ENVIRONMENTAL MATTERS

There are potential risks relating to environmental liability associated with the ownership of any property, including the Project. If hazardous substances are found to be located on the Project, the owners of the Project, including the Borrower, may be held liable for costs and other

liabilities relating to such hazardous substances. In the event of foreclosure of the Project or active participation in the management of the Project by the Trustee on behalf of the Bondholders, the Trustee (and, indirectly, the Bondholders) may be held liable for costs and other liabilities related to hazardous substances, if any, on the site of the Project on a strict liability basis and such costs may exceed the value of the Project.

MANAGEMENT OF THE PROJECT

The successful operation of the Project will depend, to a large extent, upon the management services provided by the manager of the Project and upon the ability of the Borrower to lease the units, keeping the Project substantially occupied through the term of the Bonds. There is no assurance that the manager will operate the Project on a profitable basis. There can be no assurance that the Project will be operated in a manner which will provide sufficient moneys to pay principal and interest on the Bonds and to operate and maintain the Project.

EFFECT OF INCREASES IN OPERATING EXPENSES

It is impossible to predict future increases in operating expenses. Substantial increases in operating expenses will affect future net operating income of the Project and the ability of the Borrower to meet its debt service obligations, primarily, its reimbursement obligations to the Credit Facility Provider.

EFFECT OF POTENTIAL FREDDIE MAC REORGANIZATION

On May 11, 2010, the United States Senate passed an amendment, SA 3938, which requires the Secretary of the Treasury to conduct a study and develop recommendations regarding the options for ending the conservatorship of Freddie Mac. The amendment lists such options as (i) the gradual wind-down and liquidation of Freddie Mac; (ii) the privatization of Freddie Mac; (iii) the incorporation of the functions of Freddie Mac into a Federal agency; (iv) the dissolution of Freddie Mac into smaller companies; and (v) any other measures the Secretary of the Treasury determines appropriate. If Freddie Mac loses its conservatorship, its ability to make payments pursuant to the Credit Enhancement Agreement may be impaired.

SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

The following is a summary of certain provisions of the Indenture. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Indenture, a copy of which is on file with the Trustee.

ESTABLISHMENT OF FUNDS

In addition to the Bond Mortgage Loan Fund, comprised of a Bond Proceeds Account and a Borrower Equity Account, established pursuant to the Indenture, the Trustee will establish,

maintain and hold in trust the following funds and accounts, each of which shall be disbursed and applied only as authorized under the Indenture:

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

The funds and accounts established pursuant to the Indenture will be maintained in the corporate trust department of the Trustee as segregated trust accounts, separate and identifiable from all other funds held by the Trustee. The funds and accounts established under the Indenture will bear a designation clearly indicating that the funds deposited therein are held for the benefit of (i) the Holders of the Bonds respecting the Revenue Fund, the Bond Fund and the Redemption Fund, and (ii) the Borrower respecting the Administration Fund, Cost of Issuance Fund and the Rebate Fund.

The Trustee shall, at the written direction of an authorized representative of the Issuer, and may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of the Indenture with respect to a deposit or use of money in the funds established under the Indenture, or result in commingling of funds not permitted under the Indenture.

BOND MORTGAGE LOAN FUND

Deposit; Disbursement. On the Delivery Date, the Trustee shall receive the proceeds of the sale of the Bonds and shall deposit a portion of such proceeds into the Bond Proceeds Account of the Bond Mortgage Loan Fund as provided in the Indenture. The Trustee shall deposit the Borrower Equity Deposit into the Borrower Equity Account of the Bond Mortgage Loan Fund, as well as any additional amounts delivered from time to time to the Trustee and directed by the Borrower or Servicer to be deposited therein (excluding any proceeds of the Bonds), as provided in the Indenture.

Disbursements from Bond Proceeds Account. Amounts on deposit in the Bond Proceeds Account of the Bond Mortgage Loan Fund shall be disbursed from time to time by the Trustee, for the purpose of paying Costs of the Project that are approved by the Construction Phase Credit Facility Provider pursuant to the terms, conditions and provisions of the Construction Phase Credit Documents. In addition, amounts in the Bond Proceeds Account may be used to reimburse the Credit Facility Provider for the same or for transfer to the Redemption Fund and the Rebate Fund pursuant to the Indenture.

Transfers and Acquisitions from Bond Proceeds Account. The Trustee shall make disbursements from the Bond Proceeds Account of the Bond Mortgage Loan Fund for purposes described in the Indenture only upon the receipt of Requisitions, each in the form attached to the Indenture, signed in all cases by an Authorized Officer of the Issuer and Borrower and countersigned by an Authorized Officer of the Construction Phase Credit Facility Provider (signifying the approval of the Requisition by the Construction Phase Credit Facility Provider) and the Issuer; *provided, however,* that amounts necessary to reimburse the Credit Facility Provider for draws on the Credit Facility to pay interest on the Bonds prior to the date on which the Project is placed in service shall be paid from the Bond Proceeds Account automatically without need of Requisition or written direction. The Borrower will provide written notice to the Trustee of the date on which the Project is placed in service. The Trustee shall have no duty to determine whether any requested disbursement from the Bond Proceeds Account of the Bond Mortgage Loan Fund complies with the terms, conditions and provisions of the Construction Phase Credit Documents. The countersignature of the Authorized Officer of the Construction Phase Credit Facility Provider on a Requisition shall be deemed a certification and, insofar as the Trustee and the Issuer are concerned, constitute conclusive evidence that all of the terms, conditions and requirements of the Construction Phase Credit Documents applicable to such disbursement have been fully satisfied or waived. The Trustee shall, immediately upon each receipt of a completed Requisition signed by an Authorized Officer of the Issuer and Borrower and countersigned by an Authorized Officer of the Construction Phase Credit Facility Provider, initiate procedures with the provider of a Qualified Investment to make withdrawals as necessary to fund the Requisition. In connection with each Requisition, the Issuer agrees that if the Issuer has not objected in writing to any Requisition within five Business Days of receipt of a request for approval of such disbursement, the Issuer shall be deemed to have approved such disbursement. Furthermore, if the Issuer and the Construction Phase Credit Facility Provider disagree as to whether a particular disbursement shall be approved or disapproved, they shall meet and confer in good faith, upon the request of either of them in an effort to resolve the matter, which meeting may be by telephonic or electronic means, or may be at a personal meeting. If they fail to agree upon the approval or disapproval of a disbursement following such good faith efforts, the Construction Phase Credit Facility Provider can approve the disbursement, which shall be acknowledged by a signature of the Trustee on the Requisition, and pay it from the proceeds of the Bonds.

Timing. If a Requisition signed by the Authorized Officer of the Borrower and countersigned by an Authorized Officer of the Construction Phase Credit Facility Provider and the Issuer is received by the Trustee, the requested disbursement shall be paid by the Trustee as soon as practicable, but in no event later than five Business Days following receipt thereof by the

Trustee. Upon final disbursement of all amounts on deposit in the Bond Mortgage Loan Fund, the Trustee shall close the Bond Mortgage Loan Fund.

Notwithstanding anything to the contrary contained in the Indenture:

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

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

Transfers to Effect Certain Mandatory Redemptions of Bonds. Immediately prior to (i) any mandatory redemption of Bonds as described herein under paragraph (ii) of “THE BONDS—Mandatory Redemption” or (ii) any mandatory redemption of Bonds in whole as described herein under paragraph (x) of “THE BONDS—Mandatory Redemption,” any amounts then remaining in the Bond Proceeds Account or the Borrower Equity Account of the Bond Mortgage Loan Fund shall, at the written direction of the Credit Facility Provider, be transferred to the Redemption Fund to be applied to mandatory redemptions of Bonds as required under the Indenture.

Any amounts remaining on deposit in the Bond Proceeds Account of the Bond Mortgage Loan Fund upon the earlier of (1) the Conversion Date and not required to pay Costs of the Project not yet due and payable or being contested in good faith, in each case determined in accordance with the Construction Phase Credit Documents, or (2) the Forward Commitment Maturity Date shall be transferred to the Redemption Fund and applied to the redemption of Bonds pursuant to the Indenture as described under paragraph (x) of “THE BONDS—Mandatory Redemption,” *provided* that if the Forward Commitment Maturity Date occurs prior to the Conversion Date and if the Trustee purchases the Bonds for the account of the Construction Phase Credit Facility Provider pursuant to the Indenture, such transfer shall be made no later than three (3) years after the Forward Commitment Maturity Date, upon the request of the Construction Phase Credit Facility Provider; *provided* that any amounts in the Bond Mortgage Loan Fund in excess of the amount needed to reimburse the Construction Phase Credit Facility provider to the related redemption of the Bonds shall be transferred to the Rebate Fund.

Investment Income on Bond Mortgage Loan Fund. Amounts on deposit in the Bond Mortgage Loan Fund shall be invested as provided in the Indenture. All Investment Income earned on amounts on deposit in the Bond Mortgage Loan Fund shall be retained in and credited to and become a part of the amounts on deposit in each of the Bond Proceeds Account and the Equity Account of the Bond Mortgage Loan Fund.

Disbursements from Borrower Equity Account. Up to and including the Conversion Date, the Trustee shall disburse amounts held in the Borrower Equity Account of the Bond Mortgage Loan Fund automatically without need of Requisitions or written direction (except as provided in the Indenture to (i) pay the Construction Phase Credit Facility Fee so long as the Construction Phase Credit Facility is outstanding, (ii) reimburse the Credit Facility Provider for draws under the Credit Facility to pay interest on the Bonds, to the extent there are insufficient funds in the Bond Proceeds Account for such reimbursement or for any time period following the date the Project is placed in service, (iii) [reserved]; (iv) timely pay the Issuer Fee, the Ordinary Trustee's Fees and Expenses, (v) pay any Rating Agency fees due and owing and (vi) otherwise as directed in writing by an Authorized Officer of the Construction Phase Credit Facility Provider. On the Conversion Date, to the extent not applied for the purposes set forth in the Indenture, funds remaining in the Borrower Equity Account shall be transferred to the Borrower or its designee.

APPLICATION OF REVENUES

All Revenues shall be deposited by the Trustee, promptly upon receipt thereof, to the General Account of the Revenue Fund, except (i) the proceeds of the Bonds received by the Trustee on the Delivery Date, which shall be applied in accordance with the applicable provisions of the Indenture; (ii) amounts paid pursuant to the Credit Facility, which shall be deposited in the Credit Facility Account; (iii) the Bond Fee Component received from the Servicer or the Borrower, which shall be deposited to the Administration Fund; (iv) as otherwise specifically provided in the Indenture with respect to certain deposits into the Redemption Fund; (v) as otherwise specifically provided in the Indenture with respect to deficiencies in the Administration Fund; (vi) as otherwise specifically provided in the Indenture with respect to deposits into the Credit Facility Reimbursement Account; (vii) with respect to investment earnings to the extent required under the terms of the Indenture to be retained in the funds and accounts to which they are attributable; (viii) with respect to amounts required to be transferred between funds and accounts as provided in the Indenture.

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

FIRST: To the Bond Fund from money, if any, in the Credit Facility Account of the Revenue Fund, an amount equal to the principal of and interest due on the Bonds on such date (excluding principal or interest on any Purchased Bonds and excluding the

principal constituting a mandatory sinking fund payment on any Bonds on such Interest Payment Date); and

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

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

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

Immediately upon receipt, the Trustee shall deposit directly to the Redemption Fund (i) Net Proceeds representing casualty insurance proceeds or condemnation awards paid as a prepayment of the Bond Mortgage Loan to the extent the same will not be applied to costs of reconstruction, such amount to be applied to reimburse the Credit Facility Provider for a draw under the Credit Facility in such amount to provide for extraordinary mandatory redemption of all or a portion of the Bonds pursuant to the Indenture; (ii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the optional redemption of all or a portion of the Bonds pursuant to the Indenture; (iii) Eligible Funds (other than draws under the Credit Facility) paid to the Trustee to be applied to the payment of any redemption premium in connection with an optional redemption of all or a portion of the Bonds; and (iv) amounts transferred to the Redemption Fund from the Bond Mortgage Loan Fund pursuant to the Indenture.

Immediately upon receipt, the Trustee shall deposit directly to the Administration Fund the Bond Fee Component received from the Servicer (from and after Conversion) or the Borrower.

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

Immediately upon receipt, the Trustee shall deposit directly to the Administration Fund amounts required to be paid pursuant to the Financing Agreement from the Borrower.

Prior to the Conversion Date, if the Trustee receives moneys from the Construction Phase Credit Facility Provider on behalf of the Borrower designated as a “Monthly Interest Amount” pursuant to the Construction Phase Financing Agreement, the Trustee will immediately deposit such Monthly Interest Amount into the Credit Facility Reimbursement Account. Amounts on deposit in the Credit Facility Reimbursement Account will be used solely to reimburse Freddie Mac for amounts drawn under the Credit Enhancement Agreement to pay interest on the Bonds. No later than two Business Days prior to each Interest Payment Date, the Trustee will disburse any amounts on deposit in the Credit Facility Reimbursement Account to Freddie Mac as reimbursement for the upcoming interest draw under the Credit Enhancement Agreement. To the extent amounts on deposit in the Credit Facility Reimbursement Account will be insufficient to reimburse Freddie Mac for the upcoming interest draw on the Credit Enhancement Agreement, the Trustee will provide notice of such deficiency to Freddie Mac and the Construction Phase Credit Facility Provider no later than four (4) Business Days prior to the related Interest Payment Date. Amounts on deposit in the Credit Facility Reimbursement Account will be invested solely in Qualified Investments of the type described in subparagraph (g) of the definition of Qualified Investments in the Indenture. Investment Income earned on amounts on deposit in the Credit Facility Reimbursement Account will be retained therein until otherwise disbursed to Freddie Mac. Following the Conversion Date, the Trustee will disburse any amounts on deposit in the Credit Facility Reimbursement Account pursuant to Freddie Mac’s direction and following final disbursement the Trustee will close the Credit Facility Reimbursement Account.

APPLICATION OF BOND FUND

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

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

No amount shall be charged against the Bond Fund except as expressly provided in the Indenture.

APPLICATION OF REDEMPTION FUND

Any moneys credited to the Redemption Fund and not otherwise restricted shall be applied FIRST, to reimburse the Credit Facility Provider to the extent of any draw made under the Credit Facility for mandatory redemption of the Bonds pursuant to the Indenture; SECOND, to pay the redemption price of Bonds called for redemption pursuant to the Indenture; and THIRD, to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent money then available in accordance with the Indenture in the General Account of the Revenue Fund and the Administration Fund is insufficient to make up such deficiency, *provided* that no money to be used to effect a redemption for which a conditional notice of redemption, the conditions of which have been satisfied, or an unconditional notice of redemption has been provided or money which are held for payment of Bonds which are no longer Outstanding under the Indenture shall be so transferred to the Bond Fund.

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

No amount shall be charged against the Redemption Fund except as expressly provided in the Indenture.

APPLICATION OF ADMINISTRATION FUND

Prior to the earlier of the Conversion Date or the payment in full of all Bonds Outstanding, amounts on deposit in the Administration Fund shall be applied on each Interest Payment Date as follows: first, to the payment of accrued fees that are included in the Bond Fee Component that are due and payable; second, to the Construction Phase Credit Facility Provider any fees due and payable under the Construction Phase Credit Reimbursement Agreement; and third, to the Issuer or the Trustee any Extraordinary Administrative Expenses.

On or after the Conversion Date, amounts in the Administration Fund shall be withdrawn or maintained, as appropriate, by the Trustee and used FIRST, in accordance with the Indenture, to make up any deficiency in the Bond Fund on any Interest Payment Date, to the extent money then available in the General Account of the Revenue Fund are insufficient to make up such deficiency; SECOND, to pay to the Trustee when due the Ordinary Trustee's Fees and Expenses; THIRD, to pay to the Issuer when due the Issuer Fee; FOURTH, to pay the reasonable fees and expenses of a Rebate Analyst when due in connection with the computations relating to arbitrage rebate required under the Indenture and the Financing Agreement, upon receipt of an invoice from the Rebate Analyst; FIFTH, to deposit to any Custodial Escrow Account any deficiency in the amount held therein as certified in writing by the Servicer (or subsequent holder of the account) to the Trustee; SIXTH, [reserved]; SEVENTH, to pay to the Trustee any Extraordinary Trustee's Fees and Expenses due and payable from time to time, as set forth in an invoice submitted to the Issuer, the Borrower and the Credit Facility Provider; EIGHTH, to pay to the Issuer any extraordinary expenses it may incur in connection with the Bonds or the Indenture from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac including but not limited to Extraordinary Administrative Expenses; NINTH, to pay to the Credit Facility

Provider any unpaid portion of the amounts due under the Freddie Mac Reimbursement Agreement, as certified in writing by the Credit Facility Provider to the Trustee; TENTH, to pay to the Servicer any unpaid portion of the Ordinary Servicing Fees and Expenses and any Extraordinary Servicing Fees and Expenses due and owing from time to time, as set forth in an invoice submitted to the Trustee and Freddie Mac; ELEVENTH, to make up any deficiency in the Redemption Fund on any redemption date of Bonds, to the extent money then available in accordance with the Indenture in the Redemption Fund are insufficient to redeem Bonds called for redemption on such redemption date; TWELFTH, to pay to the Rating Agency when due the annual rating maintenance fee, if upon receipt of invoices by the Trustee; THIRTEENTH, to pay to the Dissemination Agent when due the Dissemination Agent's Fee and FOURTEENTH, to transfer any remaining balance after application as aforesaid to the General Account of the Revenue Fund.

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

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

No amount shall be charged against the Administration Fund except as expressly provided in the Indenture.

INVESTMENT OF FUNDS

The moneys held by the Trustee shall constitute trust funds for the purposes thereof. Any money attributable to each of the funds and accounts under the Indenture shall be invested by the Trustee, at the written direction of the Borrower and, during such time that the Credit Enhancement Agreement is the Credit Facility, subject to the terms of the Credit Enhancement Agreement, at least two (2) Business Days prior to the date of investment, in Qualified Investments which mature on the earlier of (i) six months from the date of investment and (ii) the date such moneys are needed; *provided*, that if the Trustee shall have entered into any investment agreement requiring investment of moneys in any fund or account under the Indenture in accordance with such investment agreement and if such investment agreement constitutes a Qualified Investment, such moneys shall be invested in accordance with such requirements; and *provided, further*, that all funds derived from draws on the Credit Facility shall be held uninvested or shall be invested only in Government Obligations which shall mature or are subject to tender or redemption at par on or prior to the earlier of: (i) 30 days from the date of investment or (ii) the date such money is required to be applied pursuant to the provisions of the Indenture. Except as otherwise provided in the preceding sentence, in the absence of the written direction of the Borrower, the Trustee shall invest amounts on deposit in the funds and accounts

established under the Indenture in investments described in subparagraph (g) of the definition of Qualified Investments. Such investments may be made through the investment or securities department of the Trustee or any of its affiliates, as agent or principal. The Trustee shall not invest any funds held by it under the Indenture in the absence of written direction from the Borrower. All such Qualified Investments purchased with money in any fund or account under the Indenture shall mature, or shall be subject to redemption or withdrawal without discount or penalty at the option of the Trustee, prior to the next succeeding Interest Payment Date. The Trustee may purchase from or sell to itself or an affiliate, as principal or agent, securities authorized by the Indenture. Any instruction from the Borrower shall be deemed to include a representation that the investment constitutes a Qualified Investment and is in accordance with the terms of the Indenture and the Tax Certificate.

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

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

The Issuer (and the Borrower by its execution of the Financing Agreement) acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer or the Borrower the right to receive brokerage confirmations of security transactions as they occur, the Issuer and the Borrower specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Borrower (and the Issuer by request) periodic cash transaction statements which include detail for all investment transactions made by the Trustee under the Indenture.

REBATE FUND; COMPLIANCE WITH TAX CERTIFICATE

The Rebate Fund shall be established by the Trustee and held and applied as described in the Indenture. On any date on which any amounts are required by applicable federal law to be rebated to the federal government, amounts shall be deposited into the Rebate Fund by the Borrower for such purpose. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the rebate requirement (as set forth in the Tax Certificate) and as calculated by the Rebate Analyst, for payment to the United States government, and neither the Issuer, the Borrower, the Credit Facility Provider nor the

Bondholders shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by the Indenture and by the Tax Certificate. The Trustee shall conclusively be deemed to have complied with such provisions if it follows the written instructions of the Issuer, Bond Counsel or the Rebate Analyst, including supplying all necessary information in the manner set forth in the Tax Certificate, and shall not be required to take any actions under the Tax Certificate in the absence of written instructions from the Issuer, Bond Counsel or the Rebate Analyst.

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

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

The Trustee shall pay, as directed by the Issuer, Bond Counsel or the Rebate Analyst, to the United States Treasury, out of amounts in the Rebate Fund: (a) not later than 60 days after the end of (A) the fifth Bond Year, and (B) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the Rebatable Arbitrage calculated as of the end of such Bond Year; and (b) 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 to the Internal Revenue Service Center (Ogden, Utah 84201) 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 the Indenture to the contrary, the obligation to remit payment of the Rebatable Arbitrage to the United States and to comply with all other requirements of the Indenture, the Financing Agreement and the requirements of the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

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

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

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

COST OF ISSUANCE FUND

The Trustee shall use moneys on deposit to the credit of the Cost of Issuance Fund to pay the costs of issuance on the Delivery Date or as soon as practicable thereafter in accordance with written instructions to be given to the Trustee by the Borrower, upon delivery to the Trustee of appropriate invoices for such expenses and a requisition in the form attached as an exhibit to the Indenture. Amounts in the Costs of Issuance Fund funded with proceeds of the Bonds, if any, shall be expended prior to the application of the Costs of Issuance Deposit Amounts remaining on deposit in the Cost of Issuance Fund six (6) months after the Delivery Date shall be refunded to the Borrower. Upon such final disbursement, the Trustee shall close the Cost of Issuance Fund.

PAYMENTS UNDER BOND MORTGAGE LOAN

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

DRAWINGS UNDER CREDIT FACILITY

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

The Trustee shall draw moneys under the Credit Facility in accordance with the terms thereof in an amount sufficient to make timely payments of the principal of and interest, but not premium, on the Bonds when due and payable (i.e., on Interest Payment Dates, at Bond maturity or upon the redemption or acceleration of the maturity of the Bonds). The Trustee shall not, however, be permitted to draw on the Credit Facility to pay principal of and interest on Purchased Bonds or Special Purchase Bonds.

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

Upon Borrower's request, the Trustee shall send to the Borrower a copy of any documents which are presented to the Credit Facility Provider in connection with a drawing on the Credit Facility concurrently with its submission of those documents to the Credit Facility Provider. The Borrower shall be permitted to provide the Trustee with an Alternate Credit Facility in accordance with the Indenture and the Financing Agreement.

EVENTS OF DEFAULT

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

- (a) failure to pay the principal of, premium, if any, or interest on any Bond (other than Purchased Bonds or Special Purchase Bonds) when due, whether on an Interest Payment Date, at the stated maturity thereof, by proceedings for redemption thereof, by acceleration or other declaration; or
- (b) failure by the Credit Facility Provider to make when due a required payment under the Credit Facility; or
- (c) failure to observe or perform any of the other covenants, agreements or conditions on the part of the Issuer (other than those set forth in the Indenture) set forth in the Indenture or in the Bonds and the continuance thereof for a period of thirty (30) days after written notice to the Issuer from the Trustee or the Holders of more than 51% of the principal amount of the Bonds then Outstanding at such time specifying such default and requiring the same to be remedied; *provided*, that the Credit Facility Provider shall have directed in writing that the same shall have constituted an Event of Default.

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

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

ACCELERATION; OTHER REMEDIES UPON AN EVENT OF DEFAULT

Upon the occurrence of an Event of Default as provided in paragraph (a) above, the Trustee shall, but so long as no Event of Default has occurred and is then continuing as described in paragraph (b) above, only upon receipt from the Credit Facility Provider of a written notice directing such acceleration (which notice may be given in the sole discretion of the Credit Facility Provider), by notice in writing delivered to the Issuer and the Borrower, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable and such principal and interest shall thereupon become and be immediately due and payable; *provided, however*, that interest shall continue to accrue until the principal amounts owing with respect to the Bonds have been paid.

Upon the occurrence of an Event of Default as provided in paragraph (c) above, the Trustee may, but so long as no Event of Default has occurred and is then continuing as described in paragraph (b) above, only upon receipt of the written consent of the Credit Facility Provider (which consent may be given in the sole discretion of the Credit Facility Provider), by notice in writing delivered to the Issuer, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; *provided, however*, that interest on the Bonds shall continue to accrue until the principal amounts owing with respect to the Bonds have been paid.

Upon the occurrence of an Event of Default described in paragraph (b) above, the Trustee may, and upon the written request of the Holders of more than 51% of the principal amount of the Bonds then Outstanding and receipt of indemnity satisfactory to it shall, by notice in writing delivered to the Issuer and the Borrower, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; *provided, however*, that interest shall continue to accrue upon such declaration until the principal amounts owing with respect to the Bonds have been paid.

The payment on the Bonds resulting from a declaration of acceleration on the Bonds as the result of an Event of Default described in paragraphs (a) or (c) above shall be made from the Credit Facility.

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

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

(i) by mandamus or other suit, action or proceeding at law or in equity, to enforce the payment of the principal of, premium, if any, or interest on the Bonds then Outstanding, or for the specific performance of any covenant or agreement in the Indenture, the Credit Facility, the Financing Agreement or the Regulatory Agreement, or to require the Issuer to carry out any other covenant or agreement with Bondholders and to perform its duties under the Act;

(ii) by pursuing any available remedies under the Financing Agreement, the Regulatory Agreement or the Credit Facility;

(iii) by realizing or causing to be realized through sale or otherwise upon the security pledged under the Indenture; and

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

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

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

RIGHTS OF BONDHOLDERS

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

WAIVER BY ISSUER

Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Issuer nor anyone claiming through or under it shall set up, claim

or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of the Indenture; and the Issuer, for itself and all who may claim through or under it, has waived under the Indenture, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisement and redemption to which it may be entitled under the laws of the State and the United States of America.

APPLICATION OF MONEY AFTER DEFAULT

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

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

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

(b) So long as no Event of Default described in paragraph (b) under the heading "Events of Default" above has occurred and is then continuing under the Indenture for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement (including, without limitation, with respect to Freddie Mac all Freddie Mac Credit Enhancement Fees and Freddie Mac Reimbursement Amounts).

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

FIRST: To the payment to the Persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available is not sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference; and

SECOND: To the payment to the Persons entitled thereto of the unpaid principal of and premium, if any (which payment of premium shall not be

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

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

(e) If an Event of Default described in paragraph (b) under the heading “Events of Default” above has occurred and is then continuing for the payment to the Credit Facility Provider of all amounts then due and unpaid under the Reimbursement Agreement to the date of such Event of Default.

RIGHTS OF THE CREDIT FACILITY PROVIDER

If an Event of Default described in paragraph (a) or (c) under the heading “Events of Default” above under shall have occurred and so long as no Event of Default has occurred and is then continuing as described under paragraph (b) under the caption “Events of Default” above, upon receipt of the written direction of the Credit Facility Provider (which direction may be given in the sole discretion of the Credit Facility Provider), the Trustee shall be obligated to exercise any right or power conferred by the remedial provisions of the Indenture in the manner set forth in such written direction of the Credit Facility Provider. If such written direction expressly states that the Trustee may exercise one or more of the rights and powers conferred in the provision therein described as the Trustee shall deem to be in the interest of the Bondholders and the Credit Facility Provider, the Trustee shall exercise one or more of such rights and powers as the Trustee shall deem to be in the best interests of the Bondholders and the Credit Facility Provider; *provided, however*, that in any event, so long as no Event of Default has occurred and is then continuing as described in paragraph (b) under the heading “Events of Default” above, the Trustee may not undertake any action to realize, through sale or otherwise, upon the Bond Mortgage Loan without the express written direction of the Credit Facility Provider. So long as no Event of Default has occurred and is then continuing as described in paragraph (b) under the heading “Events of Default” above, in the case of an Event of Default as described in paragraph (a) or (c) under the heading “Events of Default” above, the Credit Facility Provider shall have the right, by an instrument in writing executed and delivered to the Trustee, to direct

the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee.

SUPPLEMENTAL INDENTURES NOT REQUIRING CONSENT OF BONDHOLDERS

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

(a) to cure any ambiguity or formal defect, omission, inconsistency or ambiguity in the Indenture in a manner not materially adverse to the Holder of any Bond to be Outstanding after the effective date of the change;

(b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred and that are not contrary to or inconsistent with the Indenture or the rights of the Trustee under the Indenture as theretofore in effect;

(c) to subject to the lien and pledge of the Indenture additional revenues, properties or collateral;

(d) to modify, amend or supplement the Indenture or any indenture supplemental thereto in such manner as to permit the qualification thereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under any state blue sky laws;

(e) to make such additions, deletions or modifications as may be, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider, necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

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

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

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

(i) to modify, amend or supplement the Indenture in any other respect which is not materially adverse to the Holders of the Bonds to be Outstanding after the effective

date of the change and which does not involve a change described in the following section.

SUPPLEMENTAL INDENTURES REQUIRING CONSENT OF BONDHOLDERS

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

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes described under this heading, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed, postage prepaid, to all registered Bondholders and to the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Bondholders. Thirty days after the date of the mailing of such notice, the Issuer and the Trustee may enter into such supplemental indenture substantially in the form described in such notice, but only if there shall have first been or is simultaneously delivered to the Trustee the required consents, in writing, of the Credit Facility Provider, the Construction Phase Credit Facility Provider and the Holders of not less than the percentage of Bonds required by the Indenture and described in this section. If the Holders of not less than the percentage of Bonds required by the Indenture as described in this section shall have consented to and approved the execution and delivery of a supplemental indenture as provided in the Indenture, no Holder of any Bond shall have any right to object any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as described in this section and in the Indenture permitted and provided, the Indenture shall be and be deemed to be modified and amended in accordance therewith. The Trustee may

rely upon an opinion of counsel as conclusive evidence that execution and delivery of a supplemental indenture has been effected in compliance with the provisions of the Indenture.

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

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

AMENDMENTS TO FINANCING AGREEMENT NOT REQUIRING CONSENT OF BONDHOLDERS

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

- (a) as may be required by the provisions of the Credit Facility, by the Financing Agreement or by the Indenture;
- (b) to cure any ambiguity or formal defect or omission in the Financing Agreement;
- (c) in connection with any other change in the Financing Agreement which will not materially adversely affect the interest of the Trustee or the Bondholders;
- (d) to modify or amend the Financing Agreement as necessary to maintain the then current rating on the Bonds;
- (e) to make such additions, deletions or modifications as may be necessary, in the opinion of Bond Counsel delivered to the Issuer, the Trustee and the Credit Facility Provider to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;
- (f) [reserved]; or

(g) to modify, alter, amend or supplement the Financing Agreement in connection with the delivery of an Alternate Credit Facility to the extent such modification, alteration, amendment or supplement will not materially adversely affect the interest of the owners of the Bonds.

AMENDMENTS TO FINANCING AGREEMENT REQUIRING CONSENT OF BONDHOLDERS

Except for the amendments, changes or modifications of the Financing Agreement described under the heading “Amendments to Financing Agreement Not Requiring Consent of Bondholders” above, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Financing Agreement without the consent of the Credit Facility Provider, the Borrower and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, and without the giving of notice and the written approval or consent of the Holders of at least 51% of the aggregate principal amount of the Bonds then Outstanding given and procured in accordance with the procedure described under the heading “Supplemental Indentures Requiring Consent of Bondholders” above; *provided, however*, that nothing described under this heading shall permit, or be construed as permitting, any amendment, change or modification of the Borrower’s obligation to make the payments required under the Financing Agreement. If at any time the Issuer and the Borrower shall request the consent of the Trustee to any such proposed amendment, change or modification of the Financing Agreement, the Trustee shall cause notice of such proposed amendment, change or modification to be given in the same manner as described under the heading “Supplemental Indentures Requiring Consent of Bondholders” above. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal office of the Trustee for inspection by Bondholders.

AMENDMENTS TO THE CREDIT FACILITY

The Trustee and the Issuer may, without the consent of, or notice to, any of the Bondholders, enter into any amendment, change or modification of the Credit Facility (a) as may be required by the provisions of the Credit Facility (including but not limited to provisions in the Credit Enhancement Agreement), (b) to cure any ambiguity or formal defect or omission in the Credit Facility, (c) in a manner which is not prejudicial to the interests of the Bondholders (which shall be conclusively evidenced by an opinion of counsel delivered to the Trustee, the Issuer and the Credit Facility Provider or by a written confirmation from the Rating Agency of the then existing rating on the Bonds delivered to the Trustee, the Issuer and the Credit Facility Provider), or (d) as may be required to maintain the then current rating on the Bonds. Except for the amendments, changes and modifications permitted pursuant to the preceding sentence, neither the Trustee, the Credit Facility Provider nor the Issuer shall enter into any amendment, change or modification of the Credit Facility without the giving of notice and the written approval or consent of the Holders or more than 51% of the principal amount of Bonds then Outstanding given and procured in accordance with the procedures set forth in the Indenture.

RATING CONFIRMATION FOR CERTAIN AMENDMENTS

Notwithstanding the provisions of headings “Amendments to Financing Agreement Not Requiring Consent of Bondholders” and “Amendments to Financing Agreement Requiring Consent of Bondholders” above, the Trustee shall not execute or acknowledge or consent to, as applicable, any amendment to the Borrower’s payment obligations under the Financing Agreement or any modification to or substitution for the Bond Mortgage Note without first obtaining a written confirmation from the Rating Agency that its then rating on the Bonds will not be adversely affected by such amendment, modification or substitution.

OPINION OF BOND COUNSEL REQUIRED

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

TRUSTEE

The Trustee, prior to an Event of Default as defined in the Indenture and after the curing or waiver of all such events which may have occurred, shall perform such duties and only such duties as are specifically set forth in the Indenture. The Trustee, during the existence of any such Event of Default (which shall not have been cured or waived), shall exercise such rights and powers vested in it by the Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under similar circumstances in the conduct of such person’s own affairs.

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

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

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

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

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

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

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

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

The Trustee and any successor Trustee may at any time resign from the trusts created under the Indenture by giving written notice to the Issuer, the Borrower, the Tender Agent, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, and by giving notice by certified mail or overnight delivery service to each Holder of the Bonds then Outstanding. Such notice to the Issuer, the Borrower, the Tender Agent, the Credit Facility Provider and, prior to the Conversion Date, the Construction Phase Credit Facility Provider, may be served personally or sent by certified mail. The Trustee shall not resign until a successor Trustee has been appointed by the Issuer and such successor has agreed in writing to be bound by the terms of the Indenture and the Intercreditor Agreement. If no successor Trustee shall have been appointed and have accepted appointment within sixty (60) days following delivery of all required notices of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

The Trustee may be removed at any time, by an instrument in writing signed by the Issuer and delivered to the Trustee, the Borrower, the Tender Agent and the Credit Facility Provider. The Trustee may also be removed at any time, either with or without cause, at the request of the Credit Facility Provider, by an instrument in writing signed by the Issuer and delivered to the Trustee and the Borrower. The Trustee may also be removed, if an Event of

Default as described above in paragraph (b) under “Events of Default” shall have occurred and be continuing, by a written instrument or concurrent instruments signed by the Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding and delivered to the Trustee, the Issuer, the Borrower, the Credit Facility Provider and the Construction Phase Credit Facility Provider. The Trustee may also be removed by the Credit Facility Provider following notice to the Issuer and after a thirty day period during which the Issuer may attempt to cause the Trustee to discharge its duties in a manner acceptable to Credit Facility Provider, and in each case written notice of such removal shall be given to the Servicer, the Borrower and to each registered Owner of the Bonds then Outstanding as shown on the Bond Registrar. Any such removal shall take effect on the day specified in such written instrument(s), but the Trustee shall not be discharged from the trusts created under the Indenture until a successor Trustee has been appointed and has accepted such appointment and has agreed in writing to be bound by the duties and obligations of the Trustee under the Indenture and the Intercreditor Agreement.

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

DISCHARGE OF LIEN

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

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

(b) by (i) the deposit or credit to the account of the Trustee, in trust, of money or securities in the necessary amount (as provided in the Indenture) to pay the principal, redemption price and interest whether by redemption, purchase or otherwise, and (ii) the delivery to the Trustee of a written confirmation by the Rating Agency that the rating then existing on the Bonds as of the date of such deposit or credit will not be withdrawn, qualified or reduced, and (iii) receipt by the Issuer and the Trustee of an opinion of Bond Counsel to the effect that such deposit will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes; or

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

and shall have paid all amounts due and owing to the Credit Facility Provider under the Indenture and under the Credit Facility and the Reimbursement Agreement (including, but not limited to the Freddie Mac Reimbursement Amount and the Freddie Mac Credit Enhancement Fee, if applicable), and shall have paid all fees and expenses of, and other amounts owing to, the Trustee, the Servicer and each Paying Agent and the Construction Phase Credit Facility Provider, and if the Issuer shall keep, perform and observe all and singular the covenants and promises in the Bonds and in the Indenture expressed as to be kept, performed and observed by it or on its part, then these presents and the estates and rights granted under the Indenture shall cease, determine and be void, and thereupon the Trustee shall cancel and discharge the lien of the Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien thereof, and reconvey to the Issuer the estate conveyed by the Indenture, and assign and deliver to the Issuer any interest in property at the time subject to the lien of the Indenture which may then be in its possession, except amounts held by the Trustee for the payment of principal of, interest and premium, if any, on the Bonds, the payment of any amounts owed to the United States pursuant to the Indenture or the payment of any amounts payable to the Credit Facility Provider and the Construction Phase Credit Facility Provider.

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

The Trustee shall in no event cause the Bonds to be optionally redeemed from money deposited as described under this heading unless the requirements in the Indenture have been met with respect to such redemption.

REMARKETING AGENT

Prior to any Substitution Date, as required by the Financing Agreement, the Borrower, with the approval of the Credit Facility Provider and the Issuer), will appoint a Remarketing Agent for the Bonds, subject to the conditions set forth in the Indenture. The Remarketing Agent will designate to the Trustee the Principal Office of the Remarketing Agent and signify its acceptance of the duties and obligations imposed upon it under the Indenture by execution of a

Remarketing Agreement. The Remarketing Agent will, and will agree in the Remarketing Agreement to, do each of the following: (a) act as agent for the Issuer in receiving and holding moneys in connection with the remarketing thereof; (b) use its best efforts to remarket Bonds tendered for purchase (including Purchased Bonds) except in the circumstances described in the Indenture and in the Remarketing Agreement; (c) [intentionally omitted] (d) hold all moneys delivered to it under the Indenture for the purchase of Bonds in trust for the benefit of the Person which has so delivered such moneys until such moneys have been delivered to the Tender Agent in accordance with the Indenture, and not commingle such moneys with other funds of the Remarketing Agent; (e) keep such books and records with regard to the remarketing of the Bonds as is consistent with prudent industry practice and make such books and records available for inspection by the Issuer, the Trustee, the Borrower and the Credit Facility Provider at all reasonable times; (f) perform the duties and comply with the provisions set forth in the Indenture; and (g) notify the Tender Agent, the Trustee, the Borrower and the Credit Facility Provider of the status of the remarketing of tendered Bonds one (1) Business Day prior to the Settlement Date and if remarketing proceeds for all tendered Bonds have not been received by the Remarketing Agent by 10:00 a.m., Washington, DC time, on the Settlement Date.

QUALIFICATIONS AND RESIGNATION OR REMOVAL OF REMARKETING AGENT

Any Remarketing Agent will be a commercial bank, national banking association or trust company or a member of the National Association of Securities Dealers, Inc., and authorized by law to perform all the duties imposed upon it by the Indenture and the Remarketing Agreement. Any Remarketing Agent will otherwise satisfy the Credit Facility Provider's then applicable standards, if any, for approved remarketing agents. (b) The Remarketing Agent may at any time resign and be discharged of its duties and obligations created by the Indenture by giving at least sixty (60) days' written notice to the Issuer, the Borrower, the Credit Facility Provider, the Trustee and the Tender Agent, but any such resignation will not be effective until after the Settlement Date with respect to the Substitution Date for which the Remarketing Agent was engaged. (c) The Remarketing Agent may be removed at any time (i) by the Issuer with the written consent of the Credit Facility Provider (which consent will not be unreasonably withheld, conditioned or delayed), (ii) by direction of the Issuer at the written request of the Credit Facility Provider (which direction will not be unreasonably withheld, conditioned or delayed) or (iii) by direction of the Issuer at the request of the Borrower with the consent of the Credit Facility Provider and the Issuer (which direction and consents will not be unreasonably withheld, conditioned or delayed), in each case by an instrument signed by the Issuer and filed with the Remarketing Agent, the Issuer, the Borrower, the Credit Facility Provider and the Trustee (A) if the Remarketing Agent suspends its remarketing efforts or (B) without cause, upon at least thirty (30) days' notice to the Remarketing Agent. Any successor Remarketing Agent will be selected by the Issuer with the written consent of the Credit Facility Provider (unless the Credit Facility Provider has failed to honor a properly presented and conforming draw under the Credit Facility) (which consent will not be unreasonably withheld, conditioned or delayed) and the written consent of the Borrower (which consent will not be unreasonably withheld, conditioned or delayed). No removal of the Remarketing Agent will be effective until after the Settlement Date with respect to the Substitution Date for which the Remarketing Agent was engaged. (d) Upon receipt of notice of resignation or upon termination of the Remarketing Agent's corporate existence or upon removal of the Remarketing Agent pursuant to the Indenture, the Borrower,

with the approval of the Issuer and the Credit Facility Provider, will appoint a successor Remarketing Agent in connection with any subsequent Substitution Date, which must be a trust company or bank or investment bank in good standing, within or without the State. If the Issuer fails or refuses to make such appointment prior to the effective date of the resignation set forth in such notice (or, if earlier, within thirty (30) days of receipt of the Remarketing Agent's notice of resignation), or upon such termination of existence, the Credit Facility Provider may appoint a successor Remarketing Agent. (e) In the event of the resignation or removal of the Remarketing Agent, the Remarketing Agent will pay over, assign and deliver any moneys held by it in such capacity to its successor.

TENDER AGENT

The Trustee, with the written consent of the Credit Facility Provider, will appoint the Tender Agent for the Bonds, subject to the conditions set forth in the Indenture. The Trustee will initially serve as the Tender Agent. The Tender Agent will designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it under the Indenture by a written instrument of acceptance delivered to the Issuer, the Trustee and the Remarketing Agent under which the Tender Agent acknowledges its qualifications and authority to act as Tender Agent under the Indenture and agrees, particularly, as follows: (i) The Tender Agent will, upon receipt of a Tender Notice from any Bondholder (or DTC Participant, with respect to a Bond in "book-entry only" form), give prompt telephonic notice thereof to the Trustee and the Remarketing Agent, specifying the amount of Bonds to be purchased and the Settlement Date, and will, not later than the following Business Day, confirm such telephonic notice in writing and deliver to the Remarketing Agent, the Trustee and the Credit Facility Provider a copy of such Tender Notice. (ii) On each Settlement Date, the Tender Agent will give the Remarketing Agent, the Credit Facility Provider and the Trustee telephonic notice, confirmed in writing by the following Business Day, of the principal amount of Bonds delivered pursuant to the Indenture. (iii) The Tender Agent will hold all Bonds delivered to it pursuant to the Indenture in trust for the benefit of the respective Bondholders which have so delivered such Bonds until such Bonds are required by the Indenture to be delivered to the respective purchasers thereof. (iv) The Tender Agent will cancel all Bonds for which it has received written notice of remarketing from the Remarketing Agent and will authenticate new Bonds in a like aggregate principal amount in the names and in the denominations set forth in the written notice given to the Tender Agent by the Remarketing Agent pursuant to the Indenture. (v) The Tender Agent will deliver Bonds to the purchasers thereof in accordance with the Indenture. The Tender Agent will establish the Bond Purchase Fund as provided in the Indenture. The Tender Agent will remit the Purchase Price of tendered Bonds to the tendering Bondholders in accordance with the Indenture. (vi) The Tender Agent will deliver to the Trustee all tendered Bonds canceled. (vii) The Tender Agent will keep such books and records as is consistent with prudent industry practice and will make such books and records available for inspection by the Issuer, the Trustee and the Credit Facility Provider at all reasonable times. (viii) The Tender Agent will send to the Trustee a copy of its transfer journal evidencing all changes in registration of the Bonds within two (2) days of making such changes. The Tender Agent will pay to tendering Bondholders the Purchase Price of any Bonds for which it has received a Tender Notice and which have not been remarketed pursuant to the Indenture, but solely from the sources listed in the Indenture; and the Tender Agent will pay to tendering Bondholders the Purchase Price of any Bonds for which it

has received a Tender Notice and which have been remarketed pursuant to the Indenture, but solely from amounts received from the Remarketing Agent.

QUALIFICATIONS OF TENDER AGENT

The Tender Agent will be a commercial bank or trust company with a principal office, or with an affiliate with an office, in Los Angeles, California, having a capitalization of at least \$10,000,000 and authorized by law to perform all the duties imposed upon it by the Indenture; provided that, in any event, the Trustee may serve as the Tender Agent so long as the Bonds are in “book-entry-only” form. The Tender Agent will be an affiliate of the Trustee (unless the Tender Agent is the Trustee), unless the Trustee has no affiliate meeting the requirements of the first sentence of this Section, in which case the selection of the Tender Agent will be an entity appointed by the Trustee with the written consent of the Credit Facility Provider and the Issuer. The Tender Agent may at any time resign and be discharged by giving at least sixty (60) days’ notice to the Trustee, the Issuer, the Borrower and the Credit Facility Provider. The Tender Agent may be removed at any time, with the written consent of the Credit Facility Provider and by an instrument signed by the Trustee and filed with the Tender Agent, the Remarketing Agent and the Issuer. In the event of the resignation or removal of the Tender Agent, the Tender Agent will pay over, assign and deliver any moneys and Bonds held by it in such capacity, and will deliver all books and records relating thereto, to its successor or, if there be no successor, to the Trustee. In the event that the Trustee fails to appoint a Tender Agent under the Indenture, or in the event that the Tender Agent resigns or is removed, or is dissolved, or if the property or affairs of the Tender Agent is or are 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 Trustee has not appointed its successor as Tender Agent, the Trustee, notwithstanding the provisions described in the first paragraph under this heading, will be deemed to be the Tender Agent for all purposes of the Indenture until the appointment by the Trustee of the Tender Agent or a successor Tender Agent, as the case may be, notwithstanding the fact that the Trustee may not meet the qualifications set forth in the first paragraph under this heading. Insofar as such provisions may be applicable, the Tender Agent will enjoy the same protective provisions in the performance of its duties under the Indenture as are specified in the Indenture with respect to the Trustee. The Tender Agent will perform such duties, and only such duties, as are specifically set forth in the Indenture and the Agreement and no implied covenants will be read into the Indenture or the Agreement against the Tender Agent.

DEALING IN BONDS

The Credit Facility Provider, the Trustee, the Tender Agent or the Remarketing Agent, in its individual capacity, may each in good faith buy, sell, own, hold and deal in any of the Bonds, and may join in any action which any Bondholder may be entitled to take with like effect as if it did not act in any capacity under the Indenture. The Trustee, the Tender Agent, the Credit Facility Provider or the Remarketing Agent, in its individual capacity, either as principal or agent, may also engage in or be interested in any financial or other transaction with the Issuer or the Credit Facility Provider, and may act as depository, trustee or agent for any committee or body of Bondholders secured hereby or other obligations of the Issuer as freely as if it did not act in any capacity under the Indenture. It is expressly understood that the Trustee and the Tender

Agent in carrying out their respective duties under the Indenture will each be acting as a conduit with respect to deliveries of Bonds for purchase pursuant to the Indenture.

PURCHASED BONDS

Bonds for which the Purchase Price is funded with moneys provided under the Credit Facility and which are not remarketed in accordance with the Remarketing Agreement will be deemed to be Purchased Bonds. The Credit Facility will not constitute security for or provide liquidity for Purchased Bonds.

Purchased Bonds will be owned by the Borrower and pledged to the Custodian under the Pledge Agreement for the benefit of the Credit Facility Provider pursuant to the Pledge Agreement. The Tender Agent, on behalf of the Borrower, will immediately deliver all Purchased Bonds to the Custodian, in registered certificated form or book-entry form in the manner set forth in the Pledge Agreement. If delivered in book-entry form, the Trustee will deliver a written entitlement order to the applicable financial intermediaries on whose records ownership of the Purchased Bonds is reflected directing the intermediaries to credit the security entitlement to the Purchased Bonds to the account of the Custodian and deliver to the Custodian a written confirmation of such credit. All Purchased Bonds will be held under and pursuant to the Pledge Agreement in either certificated form or book entry form, provided that Purchased Bonds held in book entry form will be in the form of Exhibit A-1 attached to the Indenture and transferred immediately to, and continuously held through the Securities Depository under, the Purchased Bond CUSIP Number. The Tender Agent or the Trustee, as applicable, will, upon written direction of the Credit Facility Provider, withdraw Purchased Bonds from the Securities Depository and issue registered certificated Purchased Bonds to be held by the Custodian pursuant to the Pledge Agreement. Failure to pay interest on Purchased Bonds when due or failure to pay principal and interest on Purchased Bonds upon any Redemption Date or Settlement Date or the Maturity Date will not constitute an Event of Default. Upon the Maturity Date, any Redemption Date or date of acceleration, all Purchased Bonds will be deemed canceled. Purchased Bonds will also be canceled upon direction of the Credit Facility Provider. At such time as Purchased Bonds are remarketed by the Remarketing Agent (i) the Trustee or the Tender Agent, as appropriate, will remit the proceeds of the remarketing to the Credit Facility Provider to reimburse the Credit Facility Provider for amounts paid under the Credit Facility to purchase the Bonds (and the Trustee or the Tender Agent will submit a certificate to the Credit Facility Provider in the form contained in the Credit Facility), (ii) the Trustee or Tender Agent, as appropriate, upon receipt of notice from the Credit Facility Provider that it has received reimbursement for the amount provided under the Credit Facility (or notice from the Tender Agent that the Tender Agent has received funds that it will immediately remit to the Credit Facility Provider) and that the Credit Facility has been reinstated in accordance with its terms, the Custodian will release all remarketed Purchased Bonds in accordance with the Pledge Agreement, (iii) the Trustee or the Tender Agent will give written notice to the Remarketing Agent, the Borrower and the Credit Facility Provider that such Bonds are no longer Purchased Bonds, and (iv) the Trustee will immediately transfer such remarketed Bonds to the original CUSIP number and advise the Securities Depository accordingly.

SUMMARY OF CERTAIN PROVISIONS OF THE FINANCING AGREEMENT

The following is a summary of certain provisions of the Financing Agreement. The summary does not purport to be complete or definitive and is qualified by reference to the Financing Agreement, a copy of which is on file with the Trustee.

TERMS OF THE BOND MORTGAGE LOAN

The Bond Mortgage Loan is to (a) be evidenced by a Bond Mortgage Note; (b) be secured by the Credit Facility and the Bond Mortgage; (c) be in the principal amount equal to the principal amount of the Bonds set forth on the cover hereof; (d) bear interest at such rate or rates as provided in the Bond Mortgage Note; (e) provide for principal and interest payments in accordance with the Bond Mortgage Note; and (f) be subject to optional and mandatory prepayment at the times, in the manner and on the terms, and have such other terms and provisions, as provided in the Financing Agreement and the Bond Mortgage Note and as described above. After the Conversion Date, the Servicer will act as the Servicer of the Bond Mortgage Loan pursuant to the Guide.

INITIAL DEPOSITS

On the Delivery Date, proceeds of the Bonds in the amount stated in the Financing Agreement shall be deposited in the Bond Proceeds Account of the Bond Mortgage Loan Fund. Amounts in the Bond Mortgage Loan Fund are to be disbursed to the Borrower as provided in the Indenture. The Borrower will deposit with the Trustee the amount stated in the Financing Agreement for credit to the Cost of Issuance Fund.

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

PAYMENTS UNDER THE BOND MORTGAGE NOTE; INDEPENDENT OBLIGATION OF BORROWER

The Borrower agrees to repay the Bond Mortgage Loan at the times and in the amounts necessary to enable the Trustee, on behalf of the Issuer, to pay all amounts payable with respect to the Bonds when due, whether at maturity or upon redemption (with premium, if applicable) acceleration, tender, purchase or otherwise. If the Borrower purchases or otherwise acquires an interest rate hedge with respect to the Bonds which is an interest rate swap whereby the Borrower's obligations thereunder are to make floating rate payments and the obligations of the counterparty are to pay fixed rate payments, the Borrower shall remain liable to make all payments necessary under the Financing Agreement to repay the Bond Mortgage Loan notwithstanding the payment by the Borrower of the floating rate payments thereunder. The obligation of the Borrower to make the payments set forth in the Financing Agreement will be an independent and separate obligation of the Borrower from its obligation to make payments under the Bond Mortgage Note, *provided* that in all events payments made by the Borrower under and pursuant to the Bond Mortgage Note will be credited against the Borrower's obligations under

the Financing Agreement on a dollar for dollar basis. If for any reason the Bond Mortgage Note or any provision of the Bond Mortgage Note is held invalid or unenforceable against the Borrower by any court of competent jurisdiction, the Bond Mortgage Note or such provision of the Bond Mortgage Note will be deemed to be the obligation of the Borrower pursuant to the Financing Agreement to the full extent permitted by law, and such holding will not invalidate or render unenforceable any of the provisions of the Financing Agreement and will not serve to discharge any of the Borrower's payment obligations under the Financing Agreement or eliminate the credit against such obligations to the extent of payments made under the Bond Mortgage Note.

The Borrower acknowledged and agreed the Servicer, from and after the Conversion Date, may collect monthly payments from the Borrower with respect to the Bond Mortgage Loan in accordance with the Reimbursement Agreement, but such payments shall not be credited against the principal or interest due with respect to the Bond Mortgage Loan or the Bond Mortgage Note until and only to the extent such amounts are used to reimburse the Credit Facility Provider for amounts paid under the Credit Facility to pay principal of or interest on the Bonds.

The obligations of the Borrower to repay the Bond Mortgage Loan, to perform all of its obligations under the Bond Mortgage Loan Documents, to provide indemnification pursuant to the Financing Agreement, to pay costs, expenses and charges pursuant to the Financing Agreement and to make any and all other payments required by the Financing Agreement, the Indenture or any other documents contemplated by the Financing Agreement or by the Bond Mortgage Loan Documents shall be absolute and unconditional and shall not be subject to diminution by setoff, recoupment, counterclaim, abatement or otherwise.

Notwithstanding anything contained in any other provision of the Financing Agreement to the contrary (but subject to the provisions of the Intercreditor Agreement), the following obligations of the Borrower shall be and remain the joint and several full recourse obligations of the Borrower, and each of the Borrower's general partners, payable from and enforceable against any and all income, assets and properties of the Borrower and each of its general partners: (i) the Borrower's obligations to the Issuer and the Trustee as set forth in the Financing Agreement; (ii) the Borrower's obligations with respect to indemnification as set forth in the Financing Agreement; and (iii) the Borrower's obligation to pay any and all arbitrage rebate amounts that may be or become owing with respect to the Bonds as provided in the Financing Agreement and the Tax Certificate; and (iv) the Borrower's obligation to pay legal fees and such expenses under the Financing Agreement.

PAYMENT OF CERTAIN FEES AND EXPENSES UNDER THE BOND MORTGAGE NOTE

The payments to be made by the Borrower under the Bond Mortgage Note include certain money to be paid in respect of, among others, the Bond Fee Component, the Ordinary Servicing Fees and Expenses, the Freddie Mac Credit Enhancement Fee, any annual rating maintenance fees of the Rating Agency and amounts required to be deposited in any Custodial Escrow Account pursuant to the Bond Mortgage Loan Documents as set forth in the Financing Agreement. To the extent that any portion of the Bond Fee Component, the Ordinary Servicing

Fees and Expenses, the Freddie Mac Credit Enhancement Fee, any annual rating maintenance fees of the Rating Agency and amounts required to be deposited in a Custodial Escrow Account remain due and owing at any time, such amounts remaining due and owing shall be payable from money on deposit in the Administration Fund as provided in the Indenture or from other money of the Borrower, to the extent that money in the Administration Fund is insufficient for such purposes. All other fees and expenses are be payable from money of the Borrower as provided in the Financing Agreement.

PREPAYMENT OF THE BOND MORTGAGE LOAN

The Borrower will have the option to prepay the Bond Mortgage Loan in full or in part prior to the payment and discharge of all the outstanding Bonds only in accordance with the provisions of the Indenture and the Financing Agreement only with the prior written consent of the Credit Facility Provider. The Borrower will be required to prepay the Bond Mortgage Loan in each case that Bonds are required to be redeemed pursuant to the provisions of the Indenture. The Bonds are subject to redemption in accordance with the terms and conditions set forth in the Indenture. In connection with any prepayment, whether optional or mandatory, in addition to all other payments required under the Bond Mortgage Note, the Borrower is to pay, or cause to be paid to the Servicer (from and after the Conversion Date) or other party as directed by the Credit Facility Provider (or, if no Credit Facility is then in effect, to the Trustee), an amount sufficient to pay the redemption price of the Bonds to be redeemed, including principal, interest and premium (if any), and further including any interest to accrue with respect to the Bond Mortgage Loan and such Bonds between the prepayment date and the redemption date, together with a sum sufficient to pay all fees, costs and expenses in connection with such redemption and, in the case of redemption in whole, to pay all other amounts payable under the Financing Agreement, under the Indenture and the Reimbursement Agreement. The Borrower shall provide notice of the prepayment to the Issuer, the Trustee, the Credit Facility Provider and the Servicer, and prior to the Conversion Date, the Construction Phase Credit Facility Provider, in writing at least 45 days, or such shorter time as is possible in the case of involuntary prepayments, prior to the date on which the Borrower will make the prepayment. Each such notice shall state, to the extent such information is available (a) the amount to be prepaid, (b) the date on which the prepayment will be made by the Borrower, and (c) the cause for the prepayment, if any.

BORROWER'S OBLIGATIONS UPON REDEMPTION OR TENDER

In the event of any redemption, the Borrower will timely pay, or cause to be paid through the Servicer, to the Trustee an amount equal to the principal amount of such Bonds or portions thereof called for redemption, together with interest accrued to the redemption date and premium, if any. In addition, the Borrower will timely pay all fees, costs and expenses associated with any redemption of Bonds. In the event that on any mandatory tender date under and as provided in the Indenture, the Borrower will cause to be paid, under and subject to the terms of the Reimbursement Agreement and the Credit Facility to the Trustee by the applicable times provided in the Indenture an amount equal to the principal amount of such Bonds, together with interest accrued thereon to the mandatory tender date. The Borrower acknowledges that it is required to pay Freddie Mac an amount calculated in accordance with the provisions of the Freddie Mac Reimbursement Agreement upon a prepayment of the Bond Mortgage Loan during

the period beginning on the Conversion Date and ending on the [15th] anniversary of the Conversion Date. The Borrower acknowledges that Purchased Bonds will be purchased by the Trustee for and on behalf of, and registered in the name of, the Borrower and will be pledged to the Credit Facility Provider pursuant to the Pledge Agreement.

ALTERNATE CREDIT FACILITY

The Borrower, with the prior written confirmation of the Credit Facility Provider that the provisions of the Reimbursement Agreement have been satisfied (but without the consent of the Issuer, the Trustee or the Bondholders), may, on any Interest Payment Date occurring on or after August 1, 2020 (being the date that the Bonds may first be optionally redeemed at a price of par plus accrued interest to the redemption date) and subject to the terms of the existing Credit Facility, arrange for the delivery to the Trustee of an Alternate Credit Facility in substitution for the Credit Facility then in effect (referred to as “*credit support*”); *provided that*, without the consent of the Borrower (and without the consent of the Issuer, the Trustee or the Bondholders), the Credit Facility Provider may provide any other form of “credit support” issued by the Credit Facility Provider in substitution for then existing Credit Facility if (A) the conditions of the Indenture are satisfied or (B)(i) the Rating Agency confirms in writing that such substitution will not adversely affect the current rating on the Bonds, (ii) the Credit Facility Provider delivers to the Issuer and the Trustee an opinion of counsel satisfying the requirements of paragraph (c) below, and (iii) such substitute “credit support” does not increase the amounts required to be paid by, or other obligations of, the Borrower. Notwithstanding the foregoing, in any event, no Alternate Credit Facility may be delivered until a Remarketing Agent that satisfies the requirements of the Indenture has been engaged. Any Alternate Credit Facility shall satisfy the following conditions, as applicable:

(a) [Intentionally Omitted].

(b) The Alternate Credit Facility shall (i) be in an amount equal to the aggregate principal amount of the Bonds Outstanding from time to time plus the Interest Requirement (or otherwise provide coverage satisfactory to the Rating Agency); (ii) provide for payment in immediately available funds to the Trustee upon receipt of the Trustee’s request for such payment with respect to any Interest Payment Date or mandatory redemption date pursuant to the Indenture; (iii) be accompanied by a written confirmation from the Rating Agency to the Issuer and the Trustee of the then existing rating on the Bonds; and (iv) have a stated expiration or termination date not sooner than one year following its effective date.

(c) In connection with the delivery of an Alternate Credit Facility, the Trustee must receive (i) an opinion of counsel to the Credit Facility Provider issuing the Alternate Credit Facility, in form and substance satisfactory to the Issuer and the Trustee, relating to the due authorization and issuance of the Alternate Credit Facility, its enforceability, that the statements made relating to the Alternate Credit Facility and Reimbursement Agreement contained in any disclosure document or supplement to the existing disclosure document related to the Bonds are true and correct, that the Alternate Credit Facility is not required to be registered under the Securities Act of 1933, as amended and if required

by the Rating Agency, that payments made by the Credit Facility Provider pursuant to the Credit Facility will not be voidable under Section 547 of the Bankruptcy Code and would not be prevented by the automatic stay provisions of Section 362(a) of the Bankruptcy Code, in the context of a case or proceeding by or against the Borrower, a general partner of the Borrower or by the Issuer under the Bankruptcy Code; and (ii) an opinion of Bond Counsel to the effect that the substitution of such Alternate Credit Facility will not adversely affect the exclusion from gross income, for federal income tax purposes, of the interest payable on the Bonds.

TAX COMPLIANCE

The Borrower has covenanted for the benefit of the Issuer, the Bondholders and the Trustee that the proceeds of the Bonds, the earnings thereon and any other moneys on deposit in any fund or account maintained in respect of the Bonds (whether such moneys were derived from the proceeds of the sale of the Bonds or from other sources) will not be used in a manner which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

The Borrower, for the benefit of the Issuer and each Bondholder, has represented that it has not taken on its behalf, and agrees that it will not take, or permit to be taken on its behalf, any action which would adversely affect the exclusion from gross income for federal income tax purposes of the interest paid on the Bonds, and that it has taken and caused to be taken, and has agreed that it will make and take, or require to be made and taken, all actions that may be required of it, alone and in conjunction with the Issuer, for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes.

EVENTS OF DEFAULT

The following shall be “Events of Default” under the Financing Agreement and the term “Event of Default” shall mean, whenever they are used in the Financing Agreement, one or all of the following events:

(a) Any representation or warranty made by the Borrower in the Bond Documents or any certificate, statement, data or information furnished by the Borrower in connection therewith or included by the Borrower in its application to the Issuer for assistance proves at any time to have been incorrect when made in any material respect;

(b) Failure by the Borrower to pay any amounts due under the Financing Agreement, the Bond Mortgage Note or the Bond Mortgage at the times and in the amounts required by the Financing Agreement, the Bond Mortgage Note and the Bond Mortgage, as applicable, subject to any applicable notice and cure periods;

(c) The Borrower’s failure to observe and perform any of its other covenants, conditions or agreements contained in the Financing Agreement other than as referred to in paragraph (a) above for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given by the Issuer or the Trustee to the Borrower;

provided, however, that if the failure shall be such that it can be corrected but not within such period, the Issuer and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Borrower within such period and diligently pursued until the failure is corrected; or

(d) The occurrence of an “Event of Default” under the Reimbursement Agreement shall at the discretion of the Credit Facility Provider constitute an Event of Default under the Financing Agreement. The occurrence of an Event of Default under the Financing Agreement shall in the discretion of the Credit Facility Provider constitute an Event of Default under the Bond Mortgage Loan Documents and the Reimbursement Agreement.

Nothing described under this heading is intended to amend or modify any of the provisions of the Bond Documents or to bind the Issuer, the Trustee, the Servicer, the Credit Facility Provider or the Construction Phase Credit Facility Provider to any notice and cure periods other than as expressly set forth in the Bond Documents and the Freddie Mac Reimbursement Agreement.

REMEDIES ON DEFAULT

Subject to the Financing Agreement and the provisions of the Intercreditor Agreement, whenever any Event of Default under the Financing Agreement shall have happened and be continuing, the Trustee or the Issuer where so provided may take any one or more of the following remedial steps:

(a) The Issuer shall cooperate with the Trustee as the Trustee acts pursuant to the Indenture.

(b) In the event any of the Bonds shall at the time be Outstanding and not paid and discharged in accordance with the provisions of the Indenture, the Issuer or the Trustee may have access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Borrower.

(c) The Issuer or Trustee may, without being required to give any notice (other than to the Issuer or Trustee, as applicable), except as provided in the Financing Agreement, pursue all remedies of a creditor under the laws of the State, as supplemented and amended, or any other applicable laws.

(d) The Issuer or Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the payments due under the Financing Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under the Financing Agreement.

Any amounts collected pursuant to the Financing Agreement and any other amounts that would be applicable to payment of principal of and interest and any premium on the Bonds

collected pursuant to action described under this heading shall be applied in accordance with the provisions of the Indenture.

The provisions described under this heading are subject to the further limitation that if, after any Event of Default all amounts which would then be payable under the Financing Agreement by the Borrower if such Event of Default had not occurred and was not continuing shall have been paid by or on behalf of the Borrower, and the Borrower shall have also performed all other obligations in respect of which it is then in default under the Financing Agreement, and shall have paid the reasonable charges and expenses of the Issuer, the Trustee, the Servicer, the Credit Facility Provider, and prior to Conversion, the Construction Phase Credit Facility Provider including reasonable attorneys' fees paid or incurred in connection with such default, and shall have paid all amounts owed to the Credit Facility Provider, including but not limited to any Freddie Mac Reimbursement Amounts and Freddie Mac Credit Enhancement Fees (if Freddie Mac is the Credit Facility Provider), and if there shall then be no Event of Default existing under the Indenture, then and in every such case such Event of Default under the Financing Agreement shall be waived and annulled, but no such waiver or annulment shall affect any subsequent or other Event of Default or impair any right consequent thereon.

Notwithstanding anything in the Financing Agreement to the contrary, as long as a Wrongful Dishonor has not occurred with respect to the Credit Facility, none of the Issuer, the Trustee or any other person shall, upon the occurrence of an Event of Default under the Financing Agreement or a default under any other Bond Document, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bond Mortgage Loan, except at the written direction of the Credit Facility Provider, provided that this prohibition shall not be construed to limit the rights of the Issuer or the Trustee to specifically enforce the Regulatory Agreement in order to provide for operation of the Project in accordance with the Code and the laws of the State, including the Act or to otherwise enforce the Unassigned Rights by means of specific performance; and provided, further, that this prohibition shall not be construed to limit the rights of the Issuer, the Trustee or the Servicer, the Credit Facility Provider or any other indemnified party to enforce its rights against the Borrower under any section of the Financing Agreement relating to the payment of fees, federal rebate and indemnification by mandamus or other suit, action or proceeding at law or in equity where such suit, action or proceeding does not seek any remedies under or with respect to the Bond Mortgage, the Reimbursement Mortgage or cause acceleration of the Bond Mortgage Loan.

SUMMARY OF CERTAIN PROVISIONS OF THE INTERCREDITOR AGREEMENT

The following is a summary of certain provisions of the Intercreditor Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Intercreditor Agreement, a copy of which is on file with the Trustee.

The Issuer, Trustee, Freddie Mac and the Construction Phase Credit Facility Provider will agree upon their respective rights arising from an Event of Default under either the Bond Financing Documents or the Bond Mortgage Loan Documents in an Intercreditor Agreement, dated as of the date of the Indenture (the "*Intercreditor Agreement*"). Under the terms of the Intercreditor Agreement, the Issuer, the Trustee, Freddie Mac and the Construction Phase Credit

Facility Provider will agree, among other things, that, until either (a) Freddie Mac fails to honor a draw properly presented in accordance with the terms of the Credit Enhancement Agreement (a “*Wrongful Dishonor*”) or (b) the Credit Enhancement Agreement terminates in accordance with its terms and all of the Borrower’s obligations to Freddie Mac under the Freddie Mac Reimbursement Agreement shall have been paid in full, certain of the rights and remedies of the Issuer, the Trustee and Freddie Mac, under certain of the Bond Financing Documents, including (without limitation) the rights and remedies of the Bond Mortgagee (as defined in the Bond Mortgage) under the Bond Mortgage may (except for the exercise of remedies to preserve the tax exempt status of the Bonds and the Trustee’s right to seek payment of certain fees due under the Financing Agreement) be exercised only with the consent or at the direction of Freddie Mac, in its sole discretion, including (without limitation) the right to waive certain terms and conditions of certain of the Bond Financing Documents pertaining to the Borrower.

Notwithstanding anything to the contrary contained in the Financing Agreement and pursuant to the Intercreditor Agreement, as long as Freddie Mac is not in default of its obligations under the Credit Enhancement Agreement, neither the Issuer, the Trustee nor any other person, upon the occurrence of an Event of Default under the Financing Agreement or any event of default under the Bond Mortgage Loan, is to take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bond Mortgage Loan Documents, except at the direction of Freddie Mac; *provided* that such prohibition will not be construed to limit the rights of the Issuer or the Trustee to specifically enforce the Regulatory Agreement in order to provide for operation of the Project in accordance with the Code and the Act or to enforce other Unassigned Rights or reserved rights of the Trustee.

In connection with delivery of the Credit Enhancement Agreement, Freddie Mac and the Construction Phase Credit Facility Provider will agree in the Construction Phase Financing Agreement to certain conditions to the exercise by Freddie Mac of its remedies pursuant to the Reimbursement Mortgage. The Issuer, the Trustee, the Construction Phase Credit Facility Provider and Freddie Mac will agree that before the Conversion Date and provided that the Construction Phase Credit Facility Provider has honored its obligations under the Construction Phase Credit Facility, any provision requiring the consent of Freddie Mac or direction by Freddie Mac to the Trustee shall also require the consent or direction, as applicable, of the Construction Phase Credit Facility Provider.

SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

The following is a summary of certain provisions of the Regulatory Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Regulatory Agreement, a copy of which is on file with the Trustee.

DEFINITIONS

Unless otherwise expressly provided in the Regulatory Agreement or unless the context clearly requires otherwise, capitalized terms not defined in the Regulatory Agreement shall bear the meaning given them in the Indenture.

“Adjusted Income” means the adjusted income of a person (together with the adjusted income of all persons who intend to reside with such person in one residential unit) as calculated in the manner prescribed in the Code as of the Closing Date.

“Administrator” means the Issuer or any administrator or program monitor appointed by the Issuer to administer the Regulatory Agreement, and any successor so appointed.

“Affiliated Party” means (a) a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, (b) a person who together with the Borrower 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), (c) a partnership and each of its partners (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, and (d) an S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code.

“Affordability Restriction” means the 55-Year Affordability Restrictions, dated March 3, 2009, by the Borrower and the Issuer, in connection with a loan from the Issuer (not from the proceeds of the Bonds), as amended and supplemented by the First Amendment to 55-Year Affordability Restrictions, dated July 14, 2010, by the Borrower and the Issuer, and as it may be further supplemented or amended from time to time.

“Annual City Fee” has the meaning given to such term in the Regulatory Agreement.

“Area” means the San José Primary Metropolitan Statistical Area.

“CDLAC” means the California Debt Limit Allocation Committee or its successors.

“CDLAC Conditions” has the meaning set forth in the Regulatory Agreement.

“Certificate of Continuing Program Compliance” means the Certificate of Continuing Program Compliance and Statistical Report to be filed by the Borrower with the Issuer, the Administrator (if other than the Issuer), the Trustee and the Bondowner Representative at the times specified in the Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached to the Regulatory Agreement or such other form as may from time to time be prescribed by the City.

“Closing Date” means July 14, 2010, being the date that the Bonds were issued for purposes of the Code.

“Completion Certificate” means the certificate of completion of the acquisition and construction of the Project required to be delivered to the Issuer and the Trustee by the Borrower pursuant to the Regulatory Agreement.

“*Completion Date*” means the date of the completion of the acquisition and construction of the Project, as that date shall be certified as provided in the Regulatory Agreement.

“*Housing Act*” means the United States Housing Act of 1937, as amended, or its successor.

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

“*Housing Act*” means the United States Housing Act of 1937, as amended, or its successor.

“*Income Certification*” means a Verification of Income and an Occupancy Certificate in the form attached to the Regulatory Agreement or in such other comparable form as may be provided by the Issuer to the Borrower.

“*Low Income Tenant*” means a tenant (i) whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of lower income families under Section 8 of the Housing Act, provided that the percentage of median gross income that qualifies as Low Income shall be 60% of median gross income for the Area with adjustments for family size, and (ii) whose income does not exceed 60% or less of area median income (as used in this clause (ii), “income” and “area median income” have the meaning specified in, and shall be determined in accordance with the provisions of subsection (d) of Section 142 of the Code). If all the occupants of a unit are students (as defined under Section 151(e)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a tenant’s status as Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in Project by such tenant, on the basis of an Income Certification executed by the tenant, and annually, thereafter.

“*Low Income Units*” means the units in the Project required to be rented to, or held available for occupancy by, Low Income Tenants pursuant to the Regulatory Agreement.

“*Project*” means the leasehold interest of the Borrower in the land under, and the Borrower’s ownership interest in, the 92-unit multifamily rental housing development to be known as Orvieto Family Apartments, which land is described in the Regulatory Agreement, which shall be owned by the Borrower, and consisting of those facilities, including the real property leased to the Borrower, structures, buildings, fixtures or equipment situated thereon, as may at any time exist, the acquisition of which facilities is to be financed, in whole or in part, from the equipment acquired in substitution for, as a renewal of replacement of, or a modification or improvement to, all or any part of such facilities.

“*Qualified Project Costs*” means the Project Costs (excluding Costs of Issuance) incurred after the date which was sixty days prior to July 6, 2009, which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code or are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts within the

meaning of I.R.S. Regulation 1.103-8(a)(1)(i); provided, however, that only such portion of interest accrued during construction of the Project shall constitute a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the Project financed with proceeds of the Bonds or other funds of the Borrower; and provided further that interest accruing after the Completion Date shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), “Qualified Project Costs” shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (c) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof).

“*Qualified Project Period*” means the period beginning on the first day on which at least 10% of the units in the Project are first occupied and ending on the latest of (a) the date which is 15 years after the date on which 50% of the dwelling in the Project are first occupied, (b) the first date on which no Tax-Exempt private activity bonds with respect to the Project are Outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates; provided that, unless otherwise amended or modified in accordance with the terms hereof, the Qualified Project Period for purposes of the Regulatory Agreement shall be 55 years from the Closing Date, as required by the CDLAC Conditions.

“*Regulations*” means the Income Tax Regulations of the Department of the Treasury applicable under the Code from time to time.

“*Regulatory Agreement*” means the Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

“*Tax-Exempt*” means with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from gross income for federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax under the Code.

“*Verification of Income*” means a Verification of Income in the form attached to the Regulatory Agreement or in such other comparable form as may be provided by the Issuer to the Borrower.

RESIDENTIAL RENTAL PROPERTY

The Borrower acknowledges and agrees that the Project is to be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the term of Regulatory Agreement, the Borrower represents, covenants, warrants and agrees as follows:

(a) The Project will be acquired, constructed and operated for the purpose of providing multifamily residential rental property. The Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property comprising a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities in accordance with Section 142(d) of the Code and Section 1.103-8(b) of the Regulations and the provisions of the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in the Project will be similarly constructed units, and each dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or rented for a period of less than 30 consecutive days, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park. Use of units in the Project by guests of tenants on an intermittent basis shall not be considered transient use purposes of the Regulatory Agreement.

(d) No part of the Project will at any time during the Qualified Project Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project of condominium ownership during the Qualified Project Period.

(e) All of the dwelling units in the Project (except for one unit set aside for a resident manager or other administrative use) will be available for rental during the Qualified Project Period on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or rented to Low Income Tenants under the Regulatory Agreement or under the Affordability Restriction.

(f) The Project consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the Project comprise a single

geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in the Project shall be occupied by the Borrower; however, if the Project contains five or more dwelling units, this provision shall not be construed to prohibit occupancy of not more than one dwelling unit by a resident manager or maintenance personnel any of whom may be the Borrower.

(h) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Issuer from enforcing the requirements of the applicable Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the applicable Regulations, it will prepay all of the Bonds, or, if permitted under the provisions of the Financing Agreement with respect to the Bonds, apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the applicable Regulations.

(i) The Borrower will not sell dwelling units within the Project.

(j) In accordance with Section 147(b) of the Code, the average maturity of the Bonds does not exceed 120% of the average reasonably expected economic life of the facilities being financed by the Bonds.

LOWER INCOME TENANTS

Pursuant to the requirements of the Code and the City, the Borrower represents, warrants and covenants as follows:

(a) During the Qualified Project Period, no less than 40% of the total number of completed units in the Project shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this paragraph (a), a vacant unit that was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined.

(b) No tenant qualifying as a Low Income Tenant upon initial occupancy shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants. However, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the applicable income limit for a Low Income Tenant of the same family size, such Low Income Tenant who has ceased to qualify shall be deemed to continue to be a Low Income Tenant for purposes of the occupancy requirement of the Regulatory Agreement until a new Low Income Tenant occupies the unit as required by the Regulatory Agreement.

(c) For the Qualified Project Period, the Borrower will obtain, complete and maintain on file Income Certifications for each Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the Project, and (ii) thereafter, an annual Income Certification with respect to each Low Income Tenant. The Borrower will provide such additional information as may be required in the future by the Code, the State or the Issuer, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to Tax-Exempt obligations. A copy of the most recent Income Certifications for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be attached to each report to be filed with the Issuer as described in this section pursuant to the Regulatory Agreement.

(d) The Borrower shall make a good faith effort to verify that the income information provided by an applicant in a Verification of Income is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Issuer.

(e) The Borrower will maintain complete and accurate records pertaining to the Low Income Units, and will permit any duly authorized representative of the Issuer, the Trustee, the Bondowner Representative, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower will prepare and submit to the Issuer, the Administrator (if other than the Issuer), and the Trustee and the Bondowner Representative, at the end of each calendar quarter until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Borrower. On or before each March 1 during the Qualified Project Period, the Borrower will submit to the Issuer, the Bondowner Representative and the Trustee a draft of the completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, which form shall be submitted to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code); provided that at any point when no Tax-Exempt private activity bonds are Outstanding with regards to the Project, but before the end of the Qualified Project Period, the Owner may submit to the Issuer (in the same manner specified above) such other annual certification as the Issuer may reasonably require.

(g) Within 30 days after the date on which 10% of the dwelling units in the Project

are occupied, the Borrower shall deliver to the Issuer, the Bondowner Representative and the Trustee a written notice specifying such date, and within 30 days after the date on which 50% of the dwelling units in the Project are occupied, the Borrower shall deliver to the Issuer, the Bondowner Representative and the Trustee a written notice specifying such date and the beginning and ending dates of the Qualified Project Period. The Borrower shall cause a copy of such notice to be recorded in the Official Records of the County of Santa Clara, California.

(h) For the Qualified Project Period, all tenant leases or rental agreements shall be subordinate to the Regulatory Agreement and the Security Instrument. All leases pertaining to Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Verification of Income; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Trustee, the Issuer or the Administrator on behalf of the Issuer, and that the failure to provide accurate information in the Verification of Income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the Verification of Income and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) and that if upon any such certification such tenant's Adjusted Income exceeds the applicable income limit under Section 4(b), such tenant may cease to qualify as a Low Income Tenant and such tenant may be evicted.

COVENANTS RUN WITH THE LAND

Notwithstanding Section 1461 of the California Civil Code, the Borrower has subjected the Project to the covenants, reservations and restrictions set forth in the Regulatory Agreement. The Issuer and the Borrower have declared their express intent that the covenants, reservations and restrictions set forth in the Regulatory Agreement shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that on the termination of the Regulatory Agreement said covenants, reservations and restrictions shall expire without the necessity of further action. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof 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.

DEFAULT; ENFORCEMENT

If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains

uncured for a period of 60 days after notice thereof shall have been given by the Issuer, the Bondowner Representative or the Trustee to the Borrower, or for a period of 60 days from the date the Borrower should, with reasonable diligence, have discovered such default, then the Issuer, the Bondowner Representative or the Trustee shall declare an “Event of Default” to have occurred under the Regulatory Agreement; provided, however, that if the default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default under the Regulatory Agreement so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Bond Counsel (filed with the Trustee, the Bondowner Representative and the Issuer), the failure to cure said default within 60 days will not adversely affect the Tax-Exempt status of interest on the Bonds. The Issuer, the Bondowner Representative and the Trustee shall have the right to enforce the obligations of the Borrower under the Regulatory Agreement within shorter periods of time than are otherwise provided in the Regulatory Agreement if necessary to insure compliance with the Act or the Code.

Notwithstanding anything to the contrary contained in the Regulatory Agreement, the Issuer, the Bondowner Representative and the Trustee hereby agree that any cure of any default hereunder made or tendered by one or more of the Borrower’s limited partners shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Following the declaration of an Event of Default under the Regulatory Agreement, the Trustee, as directed by the City and subject to the provisions of the Indenture relative to the Trustee’s duty to exercise remedies generally, or the City may, at its option, take any one or more of the following steps, in addition to all other remedies provided by law or equity:

- (a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants under the Regulatory Agreement or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer, the Bondowner Representative or the Trustee under the Regulatory Agreement;
- (b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project;
- (c) require the Borrower to pay to the Issuer an amount equal to the excess rent or other amounts received by the Borrower for any units in the Project that were in violation of the Regulatory Agreement during the period such violation continued (which payment shall not reduce the amount due under the Bond Mortgage Loan);
- (d) declare a default under the Financing Agreement and proceed with any remedies provided therein; and
- (e) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower under the Regulatory Agreement.

The Trustee, acting consistent with the provisions of the Indenture, shall have the right, in accordance with this Section and the provisions of the Indenture, without the consent or approval of the Issuer, to exercise any or all of the rights or remedies of the Issuer under the Regulatory Agreement; provided that prior to taking any such action, that Trustee shall give the Issuer written notice of its intended action. After the Indenture has been discharged, the Issuer may act on its own behalf to declare an “Event of Default” to have occurred and to take any one or more of the steps specified hereinabove described to the same extent and with the same effect as if taken by the Trustee. The Trustee shall not be deemed to have knowledge of any default hereunder unless the Trustee shall have been specifically notified in writing of such default by the Issuer, the Administrator or by the owners of at least twenty-five percent (25%) of the Bonds outstanding.

The Bondowner Representative, acting consistent with the provisions of the Subordinate Indenture, shall have the right, in accordance with this Section and the provisions of the Subordinate Indenture, without the consent or approval of the Issuer, to exercise any or all of the rights or remedies of the Issuer hereunder; provided that prior to taking any such action, that Bondowner Representative shall give the Issuer written notice of its intended action. After the Subordinate Indenture has been discharged, the Issuer may act on its own behalf to declare an “Event of Default” to have occurred and to take any one or more of the steps specified hereinabove described to the same extent and with the same effect as if taken by the Bondowner Representative.

All fees, costs and expenses of the Trustee, the Bondowner Representative and the Issuer incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

No breach or default under the Regulatory Agreement shall defeat or render invalid the lien of the Bond Mortgage, the Deed of Trust or any other mortgage or like encumbrance upon the Project or any portion thereof given in good faith and for value.

AMENDMENT

Except as provided in the Regulatory Agreement, the Regulatory Agreement may be amended only by a written instrument executed by the parties to the Regulatory Agreement or their successors in title, and duly recorded in the real property records of the County of Santa Clara, California, and only upon receipt by the Issuer, the Bondowner Representative and the Trustee of an opinion from Bond Counsel to the effect that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds and is not contrary to the provisions of the Act.

Anything to the contrary contained in the Regulatory Agreement notwithstanding, the Issuer, the Trustee and the Borrower have agreed to amend the Regulatory Agreement to the extent required, in the opinion of Bond Counsel (filed with the Trustee and the Bondowner Representative), in order that interest on the Bonds remain Tax-Exempt. The parties requesting such amendment shall notify the other parties to the Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Bond Counsel and a request that Bond

Counsel render to the Issuer and the Trustee an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Bonds. This provision shall not be subject to any provision of any other agreement requiring any party to the Regulatory Agreement to obtain the consent of any other person in order to amend the Regulatory Agreement.

Any waiver of, or consent to, any condition under the Regulatory Agreement must be expressly made in writing.

TERM

The Regulatory Agreement and all and each of the provisions thereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided therein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and understood that the provisions thereof are intended to survive the retirement of the Bonds and discharge of the Indenture and the Financing Agreement.

The terms of the Regulatory Agreement to the contrary notwithstanding, the Regulatory Agreement shall terminate and be of no further force and effect (i) in the event of involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date, which prevents the Issuer and the Trustee from enforcing such provisions, or condemnation or (ii) foreclosure, transfer of title by deed in lieu of foreclosure (whereby a third party shall take possession of the Project), exercise of power of sale or a similar event, but only if, in the case of either (i) or (ii), within a reasonable period, either the Bonds are retired or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained in the Regulatory Agreement shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure, the delivery of a deed in lieu of foreclosure, exercise of power of sale, or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure, exercise of power of sale or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provision of the Regulatory Agreement, the Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee, the Bondowner Representative and the Borrower, upon receipt by the Issuer, the Bondowner Representative and the Trustee of an opinion of Bond Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on either series of the Bonds for federal income tax purposes. Upon the termination of the terms of the Regulatory Agreement, the parties to the Regulatory Agreement agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of the Regulatory Agreement in accordance with its terms.

SALE OR TRANSFER OF THE PROJECT; EQUITY INTEREST

For the Qualified Project Period, the Borrower shall not, except as described below, sell, transfer or otherwise voluntarily dispose of the Project, in whole or in part, without the prior written consent of the Issuer and the Trustee, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the Issuer, the Bondowner Representative and the Trustee have received evidence, reasonably acceptable to the Issuer, the Bondowner Representative and the Trustee, that (1) the Borrower shall not be in default hereunder or under the Financing Agreement or the Loan Agreement (which may be evidenced by a Certificate of Continuing Program Compliance) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Issuer; (2) the continued operation of the Project shall comply with the provisions of the Regulatory Agreement; (3) either (a) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects, or (b) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (a) above, or (c) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and (4) the person or entity which is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the purchaser or assignee of any document reasonably requested by the Issuer, the Bondowner Representative or the Trustee with respect to the assumption of the Borrower's obligations under the Regulatory Agreement and, if the Senior Bonds are outstanding at the time of transfer, the Financing Agreement and, if the Subordinate Bonds are outstanding at the time of the transfer, the Loan Agreement, including without limitation an instrument of assumption hereof and thereof, and delivery to the Issuer of an opinion of such purchaser or assignee's counsel to the effect that each such document and the Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee, subject to bankruptcy and other standard limitations affecting creditor's rights; (C) receipt by the Issuer of an opinion of Bond Counsel to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Bonds; and (D) receipt by the Issuer, the Bondowner Representative and Trustee of all fees and/or expenses then currently due and payable to the Issuer, the Bondowner Representative and Trustee under any of the Issuer Documents or the Loan Documents. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of the Regulatory Agreement as described in this section, other than pursuant to a foreclosure or deed in lieu of foreclosure following a default under the Financing Agreement or the Reimbursement Agreement, shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under the Regulatory Agreement. Nothing in under the Regulatory Agreement as described in this Section shall affect any provision of any other document or instrument between the Borrower and any other party

which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project.

The written consent of the Issuer to any transfer of the Project shall constitute conclusive evidence that the transfer is not in violation of the Regulatory Agreement as described in this section. Upon any sale or other transfer that complies with the Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder to the extent such obligations have been fully assumed in writing by the transferee of the Project. Except as otherwise provided in the Regulatory Agreement, any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of the Regulatory Agreement as described in this section, except as provided immediately below.

Interests in the Borrower may be transferred without the consent of the Issuer, including without limitation, a transfer by the investor limited partner of its interest in the Borrower to another investment entity sponsored by AEGON USA Realty Advisors, LLC. The Borrower acknowledges that a sale or exchange of fifty percent (50%) or more of the capital and profits interests in the Borrower in any twelve-month period will be treated for federal tax purposes as a change in ownership of the Project at the time the fifty percent (50%) transfer occurs. The Borrower further acknowledges that there is a possibility of some or all of the Bonds being reissued at various points in the financing and that a change in ownership of the Project within six months of a reissuance or refunding of either series of the Bonds will cause the interest paid on the reissued or refunding bonds not to be excluded from gross income for federal tax purposes.

For the Qualified Project Period, the Borrower shall not: (1) except pursuant, or subordinate, to the provisions of the Regulatory Agreement, the Bond Mortgage and the Deed of Trust (and upon receipt by the Borrower of an opinion of Bond Counsel (a copy of which shall be filed by the Borrower with the Bondowner Representative and the Trustee) that such action will not adversely affect the Tax-Exempt status of interest on either series of the Bonds), or except upon a sale, transfer or other disposition of the Project in accordance with the terms of the Regulatory Agreement, the Financing Agreement, the Loan Agreement, or the Bond Mortgage or the Deed of Trust encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

FREDDIE MAC RIDER

During such time that Freddie Mac is the Credit Facility Provider, the provisions of the Freddie Mac Rider attached to the Regulatory Agreement (the "*Freddie Mac Rider*") are incorporated into the Regulatory Agreement by reference as if fully set forth in the Regulatory Agreement. Notwithstanding anything contained in the Regulatory Agreement or in the Freddie Mac Rider, in no event shall the provisions of the Freddie Mac Rider be construed to contravene State law.

CONTINUING DISCLOSURE

The Borrower has determined that no financial or operating data concerning the Borrower is material to an evaluation of the offering of the Bonds or to any decision to purchase, hold or sell the Bonds and the Borrower will not provide any such information. The Borrower has undertaken all responsibilities for any continuing disclosure to the Beneficial Owners and Holders of any of the Bonds as described below, and the Borrower shall have no liability to the Beneficial Owners or Holders of any of the Bonds or any other person with respect to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “Rule”).

The Borrower and the Trustee, as dissemination agent (the “Dissemination Agent”) have entered into a Continuing Disclosure Agreement, dated as of the date of the Indenture (the “Continuing Disclosure Agreement”). The Continuing Disclosure Agreement obligates the Borrower to send, or cause to be sent, certain financial information with respect to the Project to the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access (EMMA) site at <http://emma.msrb.org> and to provide notice, or cause notice to be provided, to the Municipal Securities Rulemaking Board upon the occurrence of certain enumerated events for the benefit of the Beneficial Owners and Holders of any of the Bonds. The form of the Continuing Disclosure Agreement is attached as Appendix D hereto. Within the last five years, the Borrower has never failed to comply in all material respects with any previous undertaking with respect to the Rule to provide annual reports or notices of material events.

A failure by the Borrower to comply with the provisions of the Continuing Disclosure Agreement will not constitute a default under the Indenture or the Financing Agreement (although Bondholders will have any available remedy at law or in equity). Nevertheless, such a failure to comply must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds.

TAX MATTERS

Federal tax law contains a number of requirements and restrictions which apply to the Bonds, including investment restrictions, periodic payments of arbitrage profits to the United States, requirements regarding the proper use of bond proceeds and the facilities financed therewith, and certain other matters. The Issuer and the Borrower have covenanted to comply with all requirements that must be satisfied in order for the interest on the Bonds to be excludable from gross income for federal income tax purposes. Failure to comply with certain of such covenants could cause interest on the Bonds to become includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds.

Subject to compliance by the Issuer and the Borrower with the above-referenced covenants, under present law, in the opinion of Bond Counsel, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, except for interest on any Bond for any period during which such Bond is owned by a person who is a substantial user of the Project or any person considered to be related to such person (within the

meaning of Section 147(a) of the Internal Revenue code of 1986, as amended (the “Code”), (ii) is not included as an item of tax preference in computing the federal alternative minimum tax for individuals and corporations and (iii) is not taken into account in computing “adjusted current earnings” as described below.

In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

In rendering its opinion, Bond Counsel will rely upon certifications of the Issuer and the Borrower with respect to certain material facts within the Issuer’s and the Borrower’s knowledge. Bond Counsel’s opinion represents its legal judgment based upon its review of the law and the facts that it deems relevant to render such opinion and is not a guarantee of a result.

The Code includes provisions for an alternative minimum tax (“AMT”) for corporations in addition to the corporate regular tax in certain cases. The AMT for a corporation, if any, depends upon the corporation’s alternative minimum taxable income (“AMTI”), which is the corporation’s taxable income with certain adjustments. One of the adjustment items used in computing the AMTI of a corporation (with certain exceptions) is an amount equal to 75% of the excess of such corporation’s “adjusted current earnings” over an amount equal to its AMTI (before such adjustment item and the alternative tax net operating loss deduction). “Adjusted current earnings” would generally include certain tax-exempt interest, but not interest on the Bonds.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including without limitation, corporations subject to the branch profits tax, financial institutions, certain insurance companies, certain S corporations, individual recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry tax-exempt obligations. Prospective purchasers of the Bonds should consult their tax advisors as to the applicability of any such collateral consequences.

There are or may be pending in the Congress of the United States legislative proposals, including some that carry retroactive effective dates, that, if enacted, could alter or amend the federal tax matters referred to above or affect the market value of the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, it would apply to bonds issued prior to enactment. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal tax legislation. Bond Counsel expresses no opinion regarding any pending or proposed federal tax legislation.

The Internal Revenue Service (the “Service”) has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Service, interest on such tax-exempt obligations is includable in the gross income of the owners thereof for federal income tax purposes. It cannot be predicted whether or not the Service will commence an audit of the Bonds. If an audit is commenced, under current procedures the Service may treat the Issuer as a taxpayer and the Bondholders may have no right to participate in such procedure. The

commencement of an audit could adversely affect the market value and liquidity of the Bonds until the audit is concluded, regardless of the ultimate outcome.

UNDERWRITING

RBC Capital Markets Corporation (the “*Underwriter*”), has entered into a Bond Purchase Agreement to purchase the Bonds at the prices shown on the inside cover page hereof. For its services under the Bond Purchase Agreement, the Underwriter will be paid a fee of \$_____, from which the Underwriter will pay certain expenses.

The Bond Purchase Agreement provides that the Underwriter will purchase all of the Bonds if any are purchased and that such obligations under such Bond Purchase Agreement to accept delivery of the Bonds are subject to certain terms and conditions, including the approval of certain legal matters by counsel and delivery of the Bonds. The public offering prices of the Bonds may be changed from time to time at the discretion of the Underwriter. The Underwriter may offer and sell Bonds to certain dealers (including dealers depositing Bonds into investment trust) and certain dealer banks and banks acting as agent at prices lower than the prices set forth on the inside front cover page hereof.

The Borrower has agreed, pursuant to the Bond Purchase Agreement, to indemnify the Underwriter and the Issuer against certain liabilities relating to this Official Statement.

RATINGS

[Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc.] (the “*Rating Agency*”) has assigned to the Bonds the ratings set forth on the cover hereof. The ratings reflect only the views of the rating agency, and an explanation of the significance of such ratings may be obtained from it. No assurance can be given that the ratings will be maintained for any given period of time or that the ratings may not be revised downward or withdrawn entirely by the rating agency if, in its judgment, circumstances so warrant. Any such downward change in or withdrawal of the ratings may have an adverse effect on the market price of the Bonds. The Underwriter and the Issuer have undertaken no responsibility after issuance of the Bonds to assure the maintenance of the ratings or to oppose any such revision or withdrawal.

See “CERTAIN BONDHOLDERS’ RISKS” herein for a brief discussion of a recent Rating Agency announcement affirming the ratings on Freddie Mac’s senior unsecured debt.

CERTAIN LEGAL MATTERS

Certain legal matters relating to the authorization and validity of the Bonds will be subject to an approving opinion of Quint & Thimmig LLP, San Francisco, California, as Bond Counsel. Certain legal matters will be passed upon for Freddie Mac by its Legal Division and by Katten Muchin Rosenman LLP, Washington, D.C., for the Borrower by Cox Castle & Nicholson LLP, San Francisco, California, for the Underwriter by Chapman and Cutler LLP, San Francisco,

California and for the Issuer by the City Attorney's Office of the City of San José, California. Payment of the fees of certain counsel to the transaction is contingent upon the issuance and delivery of the Bonds as described herein.

ABSENCE OF LITIGATION

THE ISSUER

There is no pending or, to the knowledge of the Issuer, any threatened litigation against the Issuer that in any way questions or affects the validity of the Bonds or any proceedings or transactions relating to their issuance or remarketing.

THE BORROWER

There is no pending or, to the knowledge of the Borrower, any threatened litigation against the Borrower which in any way questions the validity of the Bonds or any proceedings or transactions relating to their issuance or remarketing, or that would materially adversely affect the Borrower's obligations under the Bond Documents.

ENFORCEABILITY OF REMEDIES

The remedies available to the Trustee and the owners of the Bonds upon an Event of Default under the Indenture, the Financing Agreement, the Credit Enhancement Agreement, if delivered, or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

MISCELLANEOUS

Any statements herein involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Issuer or the Underwriter and the purchasers or owners of any of the Bonds.

[Remainder of Page Left Blank Intentionally]

[Borrower's Signature Page to Official Statement]

ORVIETO FAMILY APARTMENTS, L.P., a California
limited partnership

By: Eden Orvieto LLC,
a California limited liability company,
its Managing General Partner

By: Eden Investments, Inc., a California
nonprofit public benefit corporation,
its Member/Manager

By: _____
Name: Linda Mandolini
Title: Executive Director

By: ROEM Orvieto Family, LLC,
a California limited liability company,
its Co-General Partner

By: _____
Name: Jonathan Emami
Title: Manager

APPENDIX A

DEFINITIONS OF CERTAIN TERMS

The following terms, as used in this Official Statement, have the respective meanings provided below (unless otherwise defined in this Official Statement).

“*Act*” means Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California, as supplemented and amended to the Delivery Date.

“*Administration Fund*” means the Administration Fund established by the Trustee pursuant to the Indenture.

“*Advance*” has the meaning set forth in the Credit Enhancement Agreement.

“*Affiliate*” as applied to any person, means any other person directly or indirectly controlling, controlled by, or under common control with, that person. For the purposes of this definition, “control” (including with correlative meanings, the terms “controlling,” “controlled by” an “under common control with”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, partnership interests or by contract or otherwise.

“*Alternate Credit Facility*” means a letter of credit, surety bond, insurance policy, standby purchase agreement, guaranty, mortgage-backed security or other credit facility, collateral purchase agreement or similar agreement issued by a financial institution (including without limitation Freddie Mac) which provides security for payment of (i) the principal of and interest on the Bonds (but in no case less than all of the Outstanding Bonds when due) or (ii) the Bond Mortgage Loan in an amount not less than the Guaranteed Payment, which Alternate Credit Facility is provided in accordance with the Financing Agreement. Neither the Letter of Credit (including any extension or renewal thereof), nor the Credit Enhancement Agreement is an “Alternate Credit Facility.”

“*Alternate Credit Facility Provider*” means the provider of an Alternate Credit Facility.

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

“*Authorized Attesting Officer*” means the City Clerk of the Issuer, or such other officer or official of the Issuer who, in accordance with the laws of the State or the governing documents of the Issuer, or practice or custom, regularly attests or certifies official acts and records of the Issuer, and includes any assistant or deputy officer to the principal officer or officers exercising such responsibilities.

“Authorized Officer” means (i) when used with respect to the Issuer, the Issuer’s City Manager, Director of Finance, Assistant Director of Finance, Debt Administrator, Director of Housing, the Treasury Division Manger and any officer or employee of the Issuer, and any other officer or employee of the Issuer designated to perform a specified act, to sign a specified document or to act generally, on behalf of the Issuer by a written certificate furnished to the Trustee, which certificate is signed by an Authorized Officer of the Issuer and contains the specimen signature of such other officer or employee of the Issuer, (ii) when used with respect to the Borrower, the manager of the Co-General Partner of the Borrower and such additional Person or Persons, if any, duly designated by the Borrower in writing to act on its behalf, (iii) when used with respect to the Trustee, any authorized signatory of the Trustee, or any person who is authorized in writing to take the action in question on behalf of the Trustee, (iv) when used with respect to the Servicer, any Executive Vice President or Senior Vice President of the Servicer and such additional person or persons, if any, duly designated by the Servicer in writing to act on its behalf, (v) when used with respect to the Credit Facility Provider, any person who is authorized in writing to take the action in question on behalf of the Credit Facility Provider (vi) prior to Conversion, when used with respect to Freddie Mac, any person who is authorized in writing to take the action in question on behalf of Freddie Mac and (vii) when used with respect to the Construction Phase Credit Facility Provider, any person who is authorized in writing to take the action in question on behalf of the Construction Phase Credit Facility Provider.

“Bank” means JPMorgan Chase Bank, N.A., and its successors and assigns.

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

“Bond Counsel” means (i) Quint & Thimmig LLP, or (ii) any other firm of attorneys selected by the Issuer experienced in matters relating to the issuance of obligations by states and their political subdivisions that is listed as municipal bond attorneys in The Bond Buyer’s Municipal Marketplace selected by the Issuer and is acceptable to the Borrower and the Credit Facility Provider.

“Bond Documents” means, collectively, the Indenture, the Bonds, the Intercreditor Agreement, the Tax Certificate and the Bond Mortgage Loan Documents and any other agreements and documents relating to the Bonds.

“Bond Fee Component” means the regular, ongoing fees due from time to time to the Issuer, the Trustee, the Dissemination Agent, the Rebate Analyst and the Custodian, expressed in terms of a percentage of the principal amount of Outstanding Bonds (including Purchased Bonds) on an annual basis. The Issuer Fee is equal to 0.125% of the initial principal amount of the Bonds, such that if a portion of the principal of the Bonds is repaid by means of maturity or earlier redemption, an amount equal to one-eighth of one percent of the Outstanding principal amount of the Bonds shall constitute a portion of the Bond Fee Component, and the Issuer Fee in excess of such amount shall be paid by the Borrower to the Trustee as required by the Financing Agreement.

“*Bond Financing Documents*” means, collectively, the Indenture, the Bonds, the Financing Agreement, the Tax Certificate, the Continuing Disclosure Agreement and the Bond Mortgage Loan Documents.

“*Bond Fund*” means the Bond Fund established by the Trustee pursuant to the Indenture.

“*Bond Mortgage*” means the First Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) Together With Ground Lessor Subordination and Joinder, dated as of July 1, 2010, together with all riders and addenda thereto, from the Borrower and the Authority for the benefit of the Issuer, securing payment of the Bond Mortgage Loan, as such Bond Mortgage may from time to time be amended, modified or supplemented.

“*Bond Mortgage Loan*” means the loan made by the Issuer to the Borrower pursuant to the Financing Agreement for the purpose of providing funds to the Borrower to finance costs of the acquisition, construction and equipping of the Project.

“*Bond Mortgage Loan Documents*” means the Bond Mortgage, the Bond Mortgage Note, the Financing Agreement, the Regulatory Agreement, any Custodial Escrow Agreement, the Credit Facility, the Reimbursement Agreement, the Reimbursement Mortgage, the Intercreditor Agreement, the Pledge Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Bond Mortgage Loan, or any portion thereof, or to the Borrower’s reimbursement obligations to the Credit Facility Provider.

“*Bond Mortgage Loan Fund*” means the Bond Mortgage Loan Fund established by the Trustee pursuant to the Indenture.

“*Bond Mortgage Note*” means the Bond Mortgage Note dated the Dated Date from the Borrower to the Issuer in the principal amount of \$8,080,000*, together with all riders and addenda thereto, evidencing the Borrower’s obligation to repay the Bond Mortgage Loan, as such Bond Mortgage Note may from time to time be amended, modified or supplemented, as such Bond Mortgage Note has been assigned by the Issuer to the Trustee.

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

“*Bond Registrar*” means the Trustee acting as such, and any other bond registrar appointed pursuant to the Indenture.

“*Bond Resolution*” means the resolution adopted by the Issuer on June 15, 2010, authorizing the issuance of the Bonds.

“*Bond Year*” means, with respect to the Bonds, each one-year period that ends at the close of business on the day in the calendar year that is selected by Borrower consistent with the

* Preliminary; subject to change.

Tax Certificate. The first and last Bond Years may be short periods. If no day is selected by Borrower before the earlier of the final maturity of the Bonds or the date that is five years after the Delivery Date, each Bond Year ends on each anniversary of the Delivery Date and on the final maturity of the Bonds.

“*Bonds*” means the City of San José, California Multifamily Housing Revenue Bonds (Orvieto Family Apartments) Series 2010B-1 issued pursuant to the provisions of the Indenture.

“*Bondholder*” or “*Holder*” or “*owner of the Bonds*” or “*Owner*” or “*registered owner*” means any person who shall be the owner of any Bond or Bonds as shown on the Bond Register.

“*Borrower*” means Orvieto Family Apartments, L.P., a limited partnership duly organized and existing under the laws of the State of California, or any of its permitted successors or assigns, as owner of the Project.

“*Borrower Equity Account*” means the Borrower Equity Account of the Bond Mortgage Loan Fund established by the Trustee pursuant to the Indenture.

“*Business Day*” means any day other than (i) a Saturday, (ii) a Sunday, (iii) a day on which the Federal Reserve Bank of New York (or other agent acting as the Credit Facility Provider’s fiscal agent identified to the Trustee) is authorized or obligated by law or executive order to remain closed, (iv) a day on which the Principal Office of the Credit Facility Provider is closed or (v) a day on which (a) banking institutions in the City of New York or in the city in which the Principal Office of the Trustee, the Principal Office of the Tender Agent, or the Principal Office of the Credit Facility Provider and prior to the Conversion Date, the Principal Office of the Construction Phase Credit Facility Provider is located are authorized or obligated by law or executive order to be closed or (b) the New York Stock Exchange is closed.

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

“*Code*” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“*Completion Date*” means the date on which the construction of the Project is completed, in accordance with the Credit Facility Provider’s requirements, as evidenced by a certification of the Servicer delivered to the Issuer, the Trustee, Freddie Mac, the Bank and the Borrower.

“*Conditions to Conversion*” has the meaning given to that term in the Construction Phase Financing Agreement.

“*Construction Phase*” has the meaning given to that term in the Construction Phase Financing Agreement.

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

“*Construction Phase Credit Facility*” means, collectively those irrevocable, standby letters of credit issued on the Delivery Date by the Bank in favor of Freddie Mac or any replacement construction phase credit facility acceptable to the Credit Facility Provider.

“*Construction Phase Credit Facility Provider*” means the Bank, as provider of the Construction Phase Credit Facility, and its successors and assigns, provided that when any action or consent under the Indenture is to be taken or given by the Construction Phase Credit Facility Provider, such action or consent shall be taken or given by the Bank.

“*Construction Phase Credit Facility Fee*” means the quarterly fee owed to the Construction Phases Credit Facility Provider pursuant to the Construction Phase Credit Reimbursement Agreement.

“*Construction Phase Credit Reimbursement Agreement*” means the Reimbursement Agreement dated as of July 1, 2010 between the Borrower and the Bank, as such agreement may be amended, modified, supplemented or restated from time to time.

“*Construction Phase Financing Agreement*” means the Construction Phase Financing Agreement, dated as of July 1, 2010 by and among Freddie Mac, the Servicer and the Bank, as such agreement may be amended, modified, supplemented or restated from time to time.

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

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

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

“*Conversion Notice*” means a written notice by the Servicer to the Issuer, the Trustee, the Borrower, the Bank and Freddie Mac given prior to the Forward Commitment Maturity Date (a) stating that each of the Conditions to Conversion has been satisfied prior to the Forward Commitment Maturity Date or, if any Condition to Conversion has not been satisfied prior to the

Forward Commitment Maturity Date, has been waived in writing by Freddie Mac prior to the Forward Commitment Maturity Date, and (b) specifying the Conversion Date.

“*Cost*,” “*Costs*” or “*Costs of the Project*” means costs paid with respect to the Project that are (i) properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general Federal income tax principles and in accordance with United States Treasury Regulations Section 1.103-8(a)(1), (ii) are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) are paid after the earlier of 60 days prior to December 10, 2008 (being the Issuer’s Director of Finance and Director of Housing executed a declaration expressing the intent of the Issuer to issue tax-exempt debt to provide financing for the Project), and (iv) if the Costs of the Project were previously paid and are to be reimbursed with proceeds of the Bonds such costs were (A) costs of issuance of the Bonds, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations Section 1.150-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition or construction of the Project that do not exceed twenty percent (20%) of the issue price of the Bonds (as defined in United States Treasury Regulations Section 1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid); *provided however*, that if any portion of the Project is being constructed or developed by the Borrower or an Affiliate (whether as a developer, a general contractor or a subcontractor), “*Cost*,” “*Costs*” or “*Costs of the Project*” shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such Affiliate in developing or constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Borrower or such Affiliate (but excluding any profit component) and (c) any overhead expenses incurred by the Borrower or such Affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction or development of the Project or payments received by such Affiliate due to early completion of the Project (or any portion thereof).

“*Costs of Issuance*” means (i) the fees (excluding ongoing fees), costs and expenses of (a) the Issuer, the Issuer’s counsel and the Issuer’s financial advisor, (b) the Underwriter (including discounts to the Underwriter or other purchasers of the Bonds, other than original issue discount, incurred in the issuance and sale of the Bonds) and the Underwriter’s counsel, (c) Bond Counsel, (d) the Trustee and the Trustee’s counsel, (e) the Servicer and the Servicer’s counsel, if any, (f) the Construction Phase Credit Facility Provider’s counsel, (g) the Borrower’s counsel and the Borrower’s financial advisor, if any, (h) Freddie Mac’s counsel (i) the Bank and its counsel, and (j) the Rating Agency (ii) costs of printing the offering documents relating to the sale of the Bonds and (iii) all other fees, costs and expenses directly associated with the authorization, issuance, sale and delivery of the Bonds, including, without limitation, printing costs, costs of reproducing documents, filing and recording fees.

“*Costs of Issuance Deposit*” means the deposit to be made by the Borrower with the Trustee on the Delivery Date for deposit to the Borrower Equity Account of the Costs of Issuance Fund, which deposit shall equal the amount as defined in the Indenture comprised of sources other than the proceeds of the Bonds.

“*Cost of Issuance Fund*” means the Cost of Issuance Fund established by the Trustee pursuant to the Indenture.

“*Credit Enhancement Agreement*” means, the Credit Enhancement Agreement dated as of July 1, 2010 between Freddie Mac and the Trustee, as such Credit Enhancement Agreement may from time to time be amended or supplemented.

“*Credit Facility*” means the Credit Enhancement Agreement or any Alternate Credit Facility at that time in effect held by the Trustee for the benefit of the Bondholders.

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

“*Custodial Escrow Account*” means, collectively, the account or accounts established and held by the Servicer in accordance with the Guide or otherwise, for the purpose of funding (i) escrows for taxes, insurance and related payments and costs, if required by Freddie Mac, (ii) a reserve for replacements for the Project, if required by Freddie Mac, and (iii) a debt service reserve for the Bond Mortgage Loan, if required by Freddie Mac.

“*Custodial Escrow Agreement*” means any agreement (which agreement may be the Guide or Forward Commitment, as applicable) pursuant to which a Custodial Escrow Account is established and maintained.

“*Custodian*” means Wells Fargo Bank, National Association, not in its individual capacity but solely in its capacity as collateral agent for the Credit Facility Provider under the Pledge Agreement, and any successor in such capacity.

“*Dated Date*” means July 14, 2010.

“*Delivery Date*” means July 14, 2010, the date of initial delivery of the Bonds to the initial purchasers thereof against payment therefor.

“*Dissemination Agent*” means initially [Wells Fargo Bank, National Association], or any dissemination agent subsequently appointed in accordance with the Continuing Disclosure Agreement.

“*Dissemination Agent’s Fee*” means the annual fee for the Dissemination Agent’s fees and expenses in rendering its services under the Continuing Disclosure Agreement during each twelve month period, which fee is equal to (and shall not exceed) \$[_____] and shall be

payable [semi-]annually [in arrears on] [in advance on the Delivery Date and] each [_____ and] [_____] commencing [_____] [thereafter].

“*DTC*” means The Depository Trust Company, New York, New York, as securities depository for the Bonds pursuant to the Indenture.

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

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

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

“*Extraordinary Administrative Expenses*” means and includes, but not by way of limitation, any costs of litigation, investigation or audit by the IRS or other authority which may be reasonably incurred by the Issuer or the Trustee in connection with the Bonds or the Indenture, including the costs and fees of any attorney or other experts retained by the Issuer or the Trustee in connection therewith.

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

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

“*Extraordinary Trustee’s Fees and Expenses*” means all those fees, expenses and disbursements earned or incurred by the Trustee as described in the Indenture during any Bond

Year for Extraordinary Services, as set forth in a detailed invoice to the Borrower, the Bank and the Credit Facility Provider.

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

“*Fee Owner*” means the City of San José Financing Authority, and its successors and assigns.

“*Financing Agreement*” means the Financing Agreement, dated as of July 1, 2010, among the Borrower, the Issuer and the Trustee, as such Financing Agreement may from time to time be amended or supplemented.

“*Fixed Rate*” means, as to the term Bonds maturing August 1, 2020 the rate of [____]% per annum and as to the term Bonds maturing August 1, 2029 the rate of [____]%.

“*Forward Commitment*” means Freddie Mac’s commitment to the Servicer, dated _____, 2010 accepted by the Servicer, pursuant to which Freddie Mac has agreed to provide credit enhancement and liquidity support for the Bonds.

“*Forward Commitment Maturity Date*” means _____ 1, _____, unless extended by Freddie Mac in accordance with the Forward Commitment and Construction Phase Financing Agreement.

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

“*Freddie Mac Credit Enhancement Fee*” has the meaning given to that term in the Freddie Mac Reimbursement Agreement.

“*Freddie Mac Enhancement Payment*” means the amount required to be paid by Freddie Mac to the Trustee with respect to any Guaranteed Payment or with respect to any payment of Purchase Price for tendered Bonds.

“*Freddie Mac Pledge Agreement*” or “*Pledge Agreement*” means that certain Pledge, Security and Custody Agreement, dated as of the date of the Indenture, by and between the Custodian and the Borrower, as modified or amended from time to time.

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

“*Freddie Mac Reimbursement Amount*” has the meaning set forth in the Freddie Mac Reimbursement Agreement.

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

“*Ground Lease*” means the Ground Lease by and between the Fee Owner, as landlord, and the Borrower, as tenant, dated as of _____ 1, 2010.

“*Guaranteed Payment*” has the meaning provided in the Credit Enhancement Agreement.

“*Guide*” means the Freddie Mac Delegated Underwriting for Targeted Affordable Housing Guide and the Freddie Mac Multifamily Seller/Service Guide, as applicable, as the same may be amended, modified or supplemented from time to time.

“*Indenture*” means the Trust Indenture, dated as of July 1, between the Issuer and the Trustee, as Trust Agreement may from time to time be amended or modified, together with any other indentures supplemental thereto.

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

“*Intercreditor Agreement*” means the Intercreditor Agreement, dated on or before the Delivery Date, among the Issuer, the Trustee, Freddie Mac and the Bank, as the same may be amended or supplemented.

“Interest Payment Date” means (i) February 1, 2011, and each February 1 and August 1 thereafter; (ii) the maturity date of the Bonds; and (iii) for Bonds subject to redemption, but only with respect to such Bonds, the date of redemption (or purchase in lieu of redemption).

“Interest Requirement” means 189 days’ interest computed at the Fixed Rate or, such lesser number of days as may be acceptable to the Rating Agency, as confirmed in writing by the Rating Agency.

“Investment Income” means the earnings and profits derived from the investment of moneys pursuant to the Indenture.

“Issuer” means the City of San José, California, and its successors and assigns.

“Issuer Fee” means the annual fee of the Issuer equal to 0.125% of the initial principal amount of the Bonds, payable by the Borrower in equal semiannual installments on each February 1 and August 1, commencing February 1, 2011. The term “Issuer Fee” does not include the amount payable by the Borrower on the Delivery Date in accordance with the Financing Agreement.

“Letter of Credit” means the unconditional irrevocable letter of credit provided by the Bank to Freddie Mac on or before the Delivery Date pursuant to the Construction Phase Financing Agreement.

“Market Risk Event” means (a) legislation enacted by the Congress, (b) a final non-appealable decision rendered by a court established under Article III of the Constitution of the United States, or the United States Tax Court, or (c) an order, ruling or regulation issued by the United States Department of the Treasury or the Internal Revenue Service, with the purpose or effect, directly or indirectly, of causing interest received by any Bondholder (other than a Bondholder who is a “substantial user” of the Project or a “related person” of a substantial user (each within the meaning of Section 147(a) of the Code)) to be included in the gross income of such Bondholder for purposes of federal income taxation.

“Maturity Date” means the applicable maturity date of the Bonds set forth on the cover page of this Official Statement.

“Moody’s” means Moody’s Investors Service, Inc., and its successors and assigns.

“Net Bond Proceeds” means the total proceeds derived from the issuance, sale and delivery of the Bonds, representing the total purchase price of the Bonds, including any premium paid as part of the purchase price of the Bonds, but excluding the accrued interest, if any, on the Bonds paid by the initial purchaser of the Bonds.

“Net Proceeds” when used with respect to any insurance or condemnation award, means the proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses incurred in the collection of gross insurance proceeds or a condemnation award, including reasonable attorney fees.

“*Official Statement*” means this Official Statement dated June __, 2010 relating to the sale and issuance of the Bonds, as the same may be supplemented or amended.

“*Ordinary Servicing Fees and Expenses*” means the ordinary fees payable to the Servicer in connection with the servicing of the Bond Mortgage Loan under the Guide, payable monthly in arrears on the first day of each month, commencing on the date and in an amount provided in the Forward Commitment.

“*Ordinary Trustee’s Fees and Expenses*” means the annual administration fee for the Trustee’s ordinary fees and expenses in rendering its services under the Indenture as Trustee during each twelve month period, which is equal to (and shall be payable semiannually [in arrears on] [in advance] on the Delivery Date and each February 1 and August 1 thereafter commencing February 1, 2011.

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

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

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

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

(d) For the purpose of determining whether the holders of the requisite amount of Bonds Outstanding have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or pursuant to the Indenture, Bonds owned by or for the account of the Borrower or any person owned, controlled by, under common control with or controlling the Borrower shall be disregarded and deemed to be not Outstanding, unless all Bonds shall be so owned, and provided that the Trustee has knowledge of the foregoing; provided, further, that all Purchased Bonds shall be deemed to be Outstanding, and the Trustee shall follow any direction provided by the Credit Facility Provider with respect to Purchased Bonds for the purposes hereof. (Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee shall establish, to the satisfaction of the Trustee, the pledgee’s right to vote such Bonds, and in the event of a dispute as to the existence of such right, any decision by the Trustee taken upon the

advice of counsel shall constitute full protection to the Trustee.) The term “control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. Beneficial ownership of 5% or more of a class of securities having general voting power to elect a majority of the board of directors of a corporation shall be conclusive evidence of control of such corporation.

“*Paying Agent*” means the Trustee acting as such, and any other paying agent appointed pursuant to the Indenture.

“*Permanent Phase*” has the meaning given to that term in the Construction Phase Financing Agreement.

“*Person*” means an individual, corporation, firm, association, partnership, limited liability company, trust or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“*Pledge Agreement*” or “*Freddie Mac Pledge Agreement*” means that Pledge, Security and Custody Agreement, dated as of the date of the Indenture, by and between the Custodian and the Borrower, as modified or amended from time to time.

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

“*Principal Office of the Credit Facility Provider*” means so long as Freddie Mac is the Credit Facility Provider, the office of Freddie Mac located at 8100 Jones Branch Drive, MS B4Q, McLean, Virginia 22102, Attention: Director of Multifamily Loan Accounting or such other office or offices as Freddie Mac may designate from time to time, or the office of any Alternate Credit Facility Provider where it principally conducts its business of serving as credit facility provider under indentures pursuant to which municipal or governmental obligations are issued, or such other office or offices as the Credit Facility Provider may designate from time to time.

“*Principal Office of the Trustee*” means the office of the Trustee specified in the Indenture, or such other office or offices as the Trustee may designate in writing from time to time, or the office of any successor Trustee where it principally conducts its business of serving as trustee under indentures pursuant to which municipal or governmental obligations are issued.

“*Project*” means the Borrower’s leasehold interest in land and 84 residential rental apartment units, and related fixtures, equipment, furnishings and site improvements known as Orvieto Family Apartments located at 80 Montecito Vista Drive, San José, California, including the fee interest of the Authority in the real estate described in the Bond Mortgage.

“*Purchase Price,*” with respect to any Bond required to be purchased pursuant to the mandatory tender provisions of the Indenture, means the principal amount of such Bond plus the

interest accrued thereon to the Settlement Date, and with respect to any Bond to be purchased in whole in lieu of redemption pursuant to the Indenture means the principal amount of such Bond plus any redemption premium due thereon plus interest accrued thereon to the Settlement Date.

“*Purchased Bond*” means any Bond during the period from and including the date of its purchase by the Trustee on behalf of and as agent for the Borrower with amounts provided by the Credit Facility Provider under the Credit Facility, to, but excluding, the date on which such Bond is (a) transferred pursuant to and in accordance with the Indenture; or (b) redeemed or otherwise cancelled.

“*Qualified Investments*” means any of the following if and to the extent the same (i) are acquired at Fair Market Value, (ii) are legal for the investment of the Issuer’s moneys at the time such investment is made or contracted for, and (iii) are explicitly permitted under the Issuer’s Investment Policy as in effect at the time of the investment (the current version of which was approved by the City Council of the Issuer on June 9, 2009, and which may be amended from time to time): (a) direct and general obligations of the United States of America; (b) obligations of any agency or instrumentality of the United States the payment of the principal of and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America; (c) senior debt obligations of Freddie Mac; (d) senior debt obligations of Fannie Mae; (e) demand deposits or time deposits with, or certificates of deposit issued by, the Trustee or its affiliates or any bank organized under the laws of the United States or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000; *provided* that the Trustee or such other institution has been rated at least “A-1+” by S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation; (f) investment agreements with Freddie Mac or a bank or any insurance company or other financial institution which has a rating assigned by S&P to its outstanding long-term unsecured debt which is the highest rating (as defined below) for long-term unsecured debt obligations assigned by S&P, and which are approved by the Credit Facility Provider; (g) shares or units in any money market mutual fund (including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee provide investment advisory or other management services) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the United States government, and which fund has been rated “Aaa” by S&P; or (h) any other investments approved in writing by the Credit Facility Provider. For purposes of this definition, the “highest rating” shall mean a rating of at least “A-1+” for obligations with less than one year maturity; at least “P-1” for obligations with a maturity of one year or greater but less than three years; and at least “AAA” for obligations with a maturity of three years or greater. Qualified Investments must be limited to instruments that have a predetermined fixed-dollar amount of principal due at maturity that cannot vary or change and interest, if tied to an index, shall be tied to a single interest rate index plus a single fixed spread, if any, and move proportionately with such index.

“*Qualified Project Costs*” means costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to a capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with United States Treasury Regulations § 1.103-8(a)(1); *provided, however*, that

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

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

“*Rebate Analyst*” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code, selected and retained by the Borrower at the expense of the Borrower, with the prior written consent of the Issuer, to make the computations required under the Indenture and the Financing Agreement. The initial Rebate Analyst is Bond Logistix LLC.

“*Rebate Fund*” means the Rebate Fund established by the Trustee pursuant to the Indenture.

“*Record Date*” means the 15th day of the month preceding any Interest Payment Date.

“*Redemption Fund*” means the Redemption Fund established by the Trustee pursuant to the Indenture.

“Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of July 1, 2010 by and among the Borrower, the Issuer and the Trustee, together with all amendments and supplements thereto.

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

“Reimbursement Mortgage” means the Second Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (California) Together With Ground Lessor Subordination and Joinder, dated as of July 1, 2010, from the Borrower and the Authority to Freddie Mac, as the same may be further amended, restated or supplemented from time to time.

“Remarketing Agent” means the remarketing agent appointed pursuant to the Indenture or any successors or assigns thereof permitted under the Indenture.

“Remarketing Agent’s Fee” means the fee payable to the Remarketing Agent as compensation for the Remarketing Agent’s services in remarketing the Bonds then Outstanding in connection with a Substitution Date. Such fee, which will be acceptable to the Borrower, the Remarketing Agent and the Credit Facility Provider, will be due and payable on the Remarketing Date.

“Remarketing Agreement” means a Remarketing Agreement between the Remarketing Agent and the Borrower, or any similar agreement between the Remarketing Agent and the Borrower, in each case as originally executed or as it may be amended or supplemented from time to time in accordance with its terms.

“Remarketing Date” means each date on which the Remarketing Agent is required to notify the Trustee, the Tender Agent, the Borrower and the Credit Facility Provider whether it has found purchasers for all of the Bonds to be tendered on the Settlement Date, as set forth in the Indenture.

“Requisition” means, with respect to the Bond Mortgage Loan Fund, the requisitions in the forms attached to the Indenture required to be submitted in connection with certain disbursements from the Bond Mortgage Loan Fund and from the Cost of Issuance Fund.

“Responsible Officer” means any officer of the Trustee employed within or otherwise having regular responsibility in connection with the corporate trust department of the Trustee and who is located at the Principal Office of the Trustee.

“Revenue Fund” means the Revenue Fund established by the Trustee pursuant to Indenture.

“*Revenues*” means (i) all payments made with respect to the Bond Mortgage Loan pursuant to the Financing Agreement, the Bond Mortgage Note or the Bond Mortgage, including all casualty or other insurance benefits and condemnation awards paid in connection therewith (subject in all events to the interests of the Credit Facility Provider therein under the terms of the Credit Facility and the Reimbursement Security Documents), (ii) payments made by the Credit Facility Provider pursuant to the Credit Facility and (iii) all moneys and securities held by the Trustee in the funds and accounts established pursuant to the Indenture (excluding moneys or securities in the Cost of Issuance Fund, the Administration Fund, the Borrower Equity Account of the Bond Mortgage Loan Fund and the Rebate Fund), together with all investment earnings thereon.

“*S&P*” means Standard & Poor’s Ratings Services, a division of The McGraw Hill Companies, Inc., and its successors and assigns.

“*Securities Depositories*” means (a) The Depository Trust Company, 55 Water Street, 50th Floor, New York, N.Y. 10041-0099 Attention: Call Notification Department, Facsimile: (212) 855-7232; or (b) any registered securities depository which has been designated in a certificate of the Issuer delivered to the Trustee; or such other securities depositories as the Issuer may designate in a certificate of the Issuer delivered to the Trustee and the Credit Facility Provider.

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

“*Settlement Date*” means any date on which any Bond is purchased or deemed purchased pursuant to the Indenture.

“*Special Purchase Bonds*” has the meaning given to that term in the Indenture.

“*Special Purchase Date*” has the meaning given to that term in the Indenture.

“*Special Purchase Price*” has the meaning given to that term in the Indenture.

“*State*” means the State of California.

“*Subordinate Bonds*” has the meaning given to such term in the Recitals to the Regulatory Agreement.

“*Substitution Date*” means any Interest Payment Date established for the mandatory tender and purchase of the Bonds in connection with the delivery to the Trustee of an Alternate Credit Facility pursuant to the Indenture.

“*Tax Certificate*” means the Tax Certificate, dated as of the Delivery Date and executed and delivered by the Issuer and the Borrower.

“*Tender Agent*” means Wells Fargo Bank, National Association and its successors in such capacity.

“*Trustee*” means Wells Fargo Bank, National Association and its successors in trust under the Indenture.

“*Trust Estate*” has the meaning set forth in the Granting Clauses of the Indenture.

“*Unassigned Rights*” means (a) all of the Issuer’s right, title and interest in and to all reimbursement rights of the Issuer, (b) all rights of the Issuer to receive the Issuer Fee and payment of any amounts due to the Issuer under Section 4.2(b)(vii) of the Financing Agreement, (c) the right to receive notices and to make any determination and to grant any approval or consent to anything in the Indenture or any Bond Mortgage Loan Document requiring the determination, consent or approval of the Issuer, (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Tax Certificate and in the Regulatory Agreement and to enforce the Borrower’s compliance with applicable federal tax law and State law (including the Act), subject to the Intercreditor Agreement, (e) any and all rights, remedies and limitations of liability of the Issuer set forth in the Indenture or any Bond Mortgage Loan Document regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act and in the Indenture or any Bond Mortgage Loan Document, (4) the maintenance of insurance by the Borrower, (5) no liability or the limited liability of the Issuer to any and/or all parties, (6) no warranties of suitability or merchantability by the Issuer, (7) the Issuer’s rights to indemnification from the Borrower as provided in the Financing Agreement and the Regulatory Agreement, subject to the Intercreditor Agreement, (8) the Issuer’s rights to enforce restrictions on transfer of ownership, subject to the Intercreditor Agreement, (9) the Issuer’s right to inspect books, records and premises, and (10) to amend the Indenture and the Bond Mortgage Loan Documents in accordance with the provisions thereof, as applicable, and (f) all rights of the Issuer in connection with any amendment to or modification of the Indenture or any Bond Mortgage Loan Document.

APPENDIX B

FORM OF CREDIT ENHANCEMENT AGREEMENT

[to be provided]

APPENDIX C

FORM OF BOND COUNSEL OPINION

July __, 2010

City of San José, California
200 East Santa Clara Street
San Jose, California 95113-1905

OPINION: \$ _____ City of San José, California Multifamily Housing Revenue Bonds (Orvieto Family Apartments), Series 2010B-1

Members of the City Council:

We have acted as bond counsel in connection with the issuance by the City of San José, California (the “Issuer”) of its \$ _____ City of San José, California Multifamily Housing Revenue Bonds (Orvieto Family Apartments), 2010B-1 (the “Bonds”) pursuant to Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the “Act”), and a Trust Indenture, dated as of July 1, 2010 (the “Indenture”), by and between the Issuer and Wells Fargo Bank, National Association, as trustee (the “Trustee”), approved by the Issuer by a resolution adopted on June 15, 2010. The proceeds of the Bonds will be used to make a loan to Orvieto Family Apartments, L.P., a California limited partnership (the “Borrower”), pursuant to the terms of a Financing Agreement, dated as of July 1, 2010 (the “Financing Agreement”), among the Issuer, the Trustee and the Borrower.

In connection with this opinion, we have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon representations of the Issuer contained in the Indenture and in the certified proceedings and other certifications of public officials and of the Borrower, furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, that:

1. The Issuer is a municipal corporation and charter city, duly organized and existing under its charter and the laws of the State of California, with the power to enter into the Indenture and the Financing Agreement, perform the agreements on its part contained in the Indenture and the Financing Agreement, and issue the Bonds.
2. The Indenture and the Financing Agreement have been duly approved by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer in accordance with their respective terms.

3. The Indenture creates a valid lien on the funds pledged by the Indenture for the security of the Bonds.

4. The Bonds have been duly authorized, executed and delivered by the Issuer and are valid and binding limited obligations of the Issuer, payable solely from the sources provided therefor in the Indenture.

5. Subject to compliance by the Issuer and the Borrower with certain covenants, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, except for interest on any Bond for any period during which such Bond is owned by a person who is a substantial user of the facilities financed by the Bonds or any person considered to be related to such person (within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code")) (ii) is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Code, and (iii) is not taken into account in computing adjusted current earnings, which is an adjustment in determining the federal alternative minimum tax for certain corporations. Failure to comply with certain of such covenants could cause interest on the Bonds to be includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds.

6. The interest on the Bonds is exempt from personal income taxation imposed by the State of California.

Ownership of the Bonds may result in other tax consequences to certain taxpayers, and we express no opinion regarding any such collateral consequences arising with respect to the Bonds.

The rights of the owners of the Bonds and the enforceability of the Bonds, the Indenture and the Financing Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and may also be subject to the exercise of judicial discretion in accordance with general principles of equity.

In rendering this opinion, we have relied upon certifications of the Issuer, the Borrower and others with respect to certain material facts. Our opinion represents our legal judgment based upon such review of the law and facts that we deem relevant to render our opinion and is not a guarantee of a result. This opinion is given as of the date hereof and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

APPENDIX D

FORM OF CONTINUING DISCLOSURE AGREEMENT

[to be provided]