
FUNDING LOAN AGREEMENT

By and among

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Funding Lender

CITY AND COUNTY OF DENVER, COLORADO,
as Governmental Lender

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Fiscal Agent

Dated as of [_____] 1, 2021

Relating to:

\$15,425,000
City and County of Denver, Colorado
Multifamily Housing Revenue Note
(The Rose on Colfax Project)
Series 2021

TABLE OF CONTENTS

Page

ARTICLE I
DEFINITIONS; PRINCIPLES OF CONSTRUCTION

2

Section 1.1.	Definitions.....	2
Section 1.2.	Effect of Headings and Table of Contents.....	13
Section 1.3.	Date of Funding Loan Agreement	13
Section 1.4.	Designation of Time for Performance	13
Section 1.5.	Interpretation.....	13

ARTICLE II
TERMS; GOVERNMENTAL LENDER NOTE

13

Section 2.1.	Terms	13
Section 2.2.	Form of Governmental Lender Note.....	15
Section 2.3.	Execution and Delivery of Governmental Lender Note	15
Section 2.4.	Authentication.....	16
Section 2.5.	Registration and Transfer of Governmental Lender Note	16
Section 2.6.	Restrictions on Transfer.....	17

ARTICLE III
PREPAYMENT

18

Section 3.1.	Prepayment of the Governmental Lender Note from Prepayment Under the Borrower Note.....	18
Section 3.2.	[Reserved].....	18
Section 3.3.	Notice of Prepayment	18

ARTICLE IV
SECURITY

18

Section 4.1.	Security for the Funding Loan	18
Section 4.2.	Delivery of Security	20

ARTICLE V
LIMITED LIABILITY

21

Section 5.1.	Source of Payment of Funding Loan and Other Obligations.....	21
Section 5.2.	Exempt from Individual Liability	21
Section 5.3.	Limited Obligation.....	22
Section 5.4.	Limitation of Liability to Revenues	23

ARTICLE VI
CLOSING CONDITIONS; APPLICATION OF FUNDS

23

Section 6.1.	Conditions Precedent to Closing.....	23
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ARTICLE VII
FUNDS AND ACCOUNTS

24

Section 7.1.	Authorization to Create Funds and Accounts	24
Section 7.2.	Investment of Funds.....	24
Section 7.3.	Establishment of Funds.....	24
Section 7.4.	Funding Loan Payment Fund.....	25
Section 7.5.	Expense Fund.....	25
Section 7.6.	Closing Costs Fund.....	26
Section 7.7.	Project Fund.....	26
Section 7.8.	Rebate Fund	30

ARTICLE VIII
REPRESENTATIONS AND COVENANTS

30

Section 8.1.	General Representations	30
Section 8.2.	No Encumbrance on Security	31
Section 8.3.	Repayment of Funding Loan	31
Section 8.4.	Servicer	32
Section 8.5.	Borrower Loan Agreement Performance.....	32
Section 8.6.	Maintenance of Records; Inspection of Records	32
Section 8.7.	Tax Covenants	32
Section 8.8.	Performance by the Borrower.....	34
Section 8.9.	Maintenance of Records	34

ARTICLE IX
DEFAULT; REMEDIES

34

Section 9.1.	Provisions Regarding any Default and Acceleration.....	34
Section 9.2.	Effectiveness of Sections 9.2 Through 9.15 at the Direction of Governmental Lender; Events of Default.....	35
Section 9.3.	Acceleration of Maturity; Rescission and Annulment.....	36
Section 9.4.	Additional Remedies; Funding Lender Enforcement	37
Section 9.5.	Application of Money Collected.....	38
Section 9.6.	Remedies Vested in Funding Lender.....	39
Section 9.7.	Restoration of Positions	39
Section 9.8.	Rights and Remedies Cumulative.....	39
Section 9.9.	Delay or Omission Not Waiver.....	39
Section 9.10.	Waiver of Past Defaults	40

Section 9.11.	Remedies Under Borrower Loan Agreement or Borrower Note	40
Section 9.12.	Waiver of Appraisalment and Other Laws	40
Section 9.13.	Suits To Protect the Security.....	40
Section 9.14.	Remedies Subject to Applicable Law	41
Section 9.15.	Assumption of Obligations	41

ARTICLE X
AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER
DOCUMENTS

41

Section 10.1.	Amendment of Funding Loan Agreement	41
Section 10.2.	Amendments Require Funding Lender Consent.....	41
Section 10.3.	Consents and Opinions	42

ARTICLE XI
THE FISCAL AGENT

42

Section 11.1.	Appointment of Fiscal Agent; Acceptance	42
Section 11.2.	Certain Duties and Responsibilities of Fiscal Agent	42
Section 11.3.	Notice of Defaults	43
Section 11.4.	Certain Rights of Fiscal Agent.....	44
Section 11.5.	Not Responsible for Recitals	45
Section 11.6.	May Hold Funding Loan and the Governmental Lender Note	45
Section 11.7.	Moneys Held in Trust	45
Section 11.8.	Compensation and Reimbursement	46
Section 11.9.	Fiscal Agent Required; Eligibility	46
Section 11.10.	Resignation and Removal; Appointment of Successor.....	46
Section 11.11.	Acceptance of Appointment by Successor	47
Section 11.12.	Merger, Conversion, Consolidation or Succession to Business	48
Section 11.13.	Appointment of Co-Fiscal Agent.....	48
Section 11.14.	Loan Servicing	49
Section 11.15.	No Recourse Against Officers or Employees of Fiscal Agent	49
Section 11.16.	Libor Cessation or Alternative Reference Rate	49
Section 11.17.	Limitation of Liability; Failure To Perform Or Delay	49

ARTICLE XII
MISCELLANEOUS

49

Section 12.1.	Notices	50
Section 12.2.	Term of Funding Loan Agreement	52
Section 12.3.	Successors and Assigns.....	53
Section 12.4.	Legal Holidays	53
Section 12.5.	Governing Law	53
Section 12.6.	Invalidity, Illegality or Unenforceability of Provisions.....	53
Section 12.7.	Execution in Several Counterparts.....	53

Section 12.8.	Nonrecourse Obligation of the Borrower	53
Section 12.9.	Electronic Transactions.....	53
Section 12.10.	Nondiscrimination and Affirmative Action	54
Section 12.11.	Americans with Disabilities Act	54
Section 12.12.	Reference Date.....	54
Section 12.13.	Recycling Transactions.....	54
EXHIBIT A	FORM OF GOVERNMENTAL LENDER NOTE	
EXHIBIT B	FORM OF REQUIRED TRANSFEREE REPRESENTATIONS	
EXHIBIT C	FORM OF WRITTEN REQUISITION (PROJECT FUND)	
EXHIBIT D	FORM OF CLOSING COSTS REQUISITION	
EXHIBIT E	FISCAL AGENT WIRING INSTRUCTIONS	

FUNDING LOAN AGREEMENT

THIS FUNDING LOAN AGREEMENT, dated as of [_____] 1, 2021 (this “Funding Loan Agreement”), is entered into by **WELLS FARGO BANK, NATIONAL ASSOCIATION** (together with any successor hereunder, the “Funding Lender”), the **CITY AND COUNTY OF DENVER, COLORADO** (together with its successors and assigns, the “Governmental Lender”), a legally and regularly created, established, organized and validly existing home rule city, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the “State”) and the Home Rule Charter of the Governmental Lender (the “Charter”), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as fiscal agent (together with any successor fiscal agent hereunder, the “Fiscal Agent”).

RECITALS:

WHEREAS, pursuant to the Charter and the Ordinance, adopted by the City Council of the Governmental Lender on [____], 2021 (the “Ordinance”), authorizing the issuance of revenue notes, and in accordance with the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the “Act”); the Colorado Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended (the “Supplemental Act”), the Governmental Lender is empowered to issue its revenue bonds, notes or other evidences of indebtedness to finance the acquisition, construction and development of multifamily rental housing for persons of low and moderate income at prices or rentals they can afford; and

WHEREAS, the Act, the Supplemental Act, the Charter and the Ordinance authorize the Governmental Lender to: (a) enter into financing agreements with others for the purpose of providing revenues to pay the bonds authorized by this article; to lease, sell, or otherwise dispose of any or all of its projects to others for such revenues and upon such terms and conditions as the governing body may deem advisable; and to grant options to renew any lease or other agreement with respect to the project and to grant options to buy any project at such price as the governing body deems desirable; (b) issue revenue bonds for the purpose of defraying the cost of financing, refinancing, acquiring, improving, and equipping any project, including the payment of principal and interest on such bonds for not exceeding three years, funding any reserve funds which the governing body may deem advisable to establish in connection with the retirement of the proposed bonds or the maintenance of the project, and all other incidental expenses incurred in issuing such bonds; and (c) to secure payment of such bonds as provided in the Act; and

WHEREAS, MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership, duly organized and existing under the laws of the State (together with its successors and assigns, the “Borrower”), has requested the Governmental Lender to enter into this Funding Loan Agreement under which the Funding Lender will (i) advance funds (the “Funding Loan”) to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the “Borrower Loan”) to the Borrower to pay the costs of the acquisition, construction, renovation, rehabilitation, improvement and equipping of an approximately 82-unit affordable multifamily housing facility located at 1510 North Valentia Street in Denver, Colorado, known as The Rose on Colfax (the “Project”); and

WHEREAS, an affiliate of the Borrower will separately finance an early childhood education center located at 1500 North Valentia Street, Denver, Colorado (the “Early Childhood Center”), and no proceeds of the Loan will be used to finance the Early Childhood Center; and

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement of even date herewith (as it may be supplemented or amended, the “Borrower Loan Agreement”), whereby the Governmental Lender agrees to make the Borrower Loan to the Borrower and the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Multifamily Note dated the Closing Date (the “Borrower Note”), and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the Project pursuant to a [Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing] (as it may be supplemented or amended, the “Security Instrument”), of even date herewith made by the Borrower in favor of the Governmental Lender, as assigned to the Fiscal Agent to secure, among other things, the performance by the Governmental Lender of its obligations under the Funding Loan Agreement; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Multifamily Housing Revenue Note (The Rose on Colfax Project) Series 2021 dated the Closing Date (the “Governmental Lender Note”), evidencing its limited obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, and all things necessary to make this Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Note, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS FUNDING LOAN AGREEMENT WITNESSETH:

It is hereby covenanted and declared that (i) the Governmental Lender Note is to be delivered to evidence the payment obligations of the Governmental Lender pursuant to this Funding Loan Agreement and (ii) the collateral subject to this Funding Loan Agreement is to be held and applied by the Fiscal Agent, subject to the covenants and conditions hereinafter set forth, and the Governmental Lender does hereby covenant and agree to and with the Fiscal Agent, for the benefit (except as otherwise expressly provided herein) of the Funding Lender, as follows:

ARTICLE I

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1. Definitions. For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(a) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(b) The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants.”

(c) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(d) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

(e) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(f) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(g) References to the Governmental Lender Note as “tax exempt” or to the “tax exempt status” of the Governmental Lender Note are to the exclusion of interest on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(h) The following terms have the meanings set forth below:

“*Act*” shall have the meaning assigned to such term in the recitals above.

“*Additional Borrower Payments*” shall have the meaning given to such term in the Borrower Loan Agreement.

“*Affiliate*” shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“*Approved Transferee*” means (a) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (b) an affiliate of the Funding Lender, or (c) a trust or custodial arrangement established by the Funding Lender or one of its Affiliates the beneficial interests in which will be owned only by QIBs.

“*Authorized Amount*” shall mean \$15,425,000, the maximum principal amount of the Funding Loan authorized under this Funding Loan Agreement.

“*Authorized Borrower Representative*” means [NAME], [TITLE] as an officer of Mercy Housing Mountain Plains, the sole member of MHMP 15 E Colfax GP LLC, the general partner of MHMP 15 E Colfax LLLP, and such other persons authorized in writing to act on behalf of the Borrower in a certificate signed by an Authorized Borrower Representative.

“*Authorized Governmental Lender Representative*” means the Mayor, the Deputy Mayor, the City Attorney, the Executive Director of the Department of Housing Stability, the Chief Financial Officer, and any other officer or employee of the Governmental Lender, as evidenced by a written certificate furnished to the Funding Lender and the Borrower containing the specimen signature of such person and signed on behalf of the Governmental Lender by an Authorized Governmental Lender Representative. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Governmental Lender Representative.

“*Borrower*” shall mean MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership, and its permitted successors and assigns under the Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as owner of the Project.

“*Borrower Equity Account*” shall mean the Borrower Equity Account of the Project Fund established under Section 7.3.

“*Borrower Loan*” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the maximum aggregate principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

“*Borrower Loan Agreement*” shall mean the Borrower Loan Agreement, dated of even date herewith, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

“*Borrower Loan Agreement Default*” shall mean any event of default set forth in 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall exist if a Borrower Loan Agreement Default shall have occurred and be continuing beyond all applicable notice, grace and cure periods.

“*Borrower Loan Amount*” shall mean the amount of \$15,425,000.

“*Borrower Loan Documents*” shall have the meaning given such term in the Borrower Loan Agreement.

“*Borrower Note*” shall mean the “Borrower Note” as defined in the Borrower Loan Agreement.

“*Business Day*” shall mean any day other than (i) a Saturday or a Sunday, (ii) a day on which federally insured depository institutions in the State or in New York, New York are

authorized or obligated by law, regulation, governmental decree or executive order to be closed, or (iii) a State holiday when the Governmental Lender is authorized or obligated to be closed.

“*Charter*” shall have the meaning assigned thereto in the recitals.

“*City*” shall mean the City and County of Denver, Colorado.

“*Closing Costs Fund*” shall mean the fund of that name established under Section 7.3(d) hereof.

“*Closing Date*” shall mean [_____] , 2021, the date that initial Funding Loan proceeds are disbursed hereunder.

“*Code*” shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“*Conditions to Conversion*” shall have the meaning given such term in the Construction Funding Agreement.

“*Construction Funding Agreement*” means that certain Construction Funding Agreement dated of even date herewith, between the Funding Lender, as agent, solely for the purpose of disbursing the Borrower Loan for the Governmental Lender and the Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent, solely for the purpose of disbursing the Borrower Loan for the Governmental Lender to the Fiscal Agent for disbursement to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

“*Control*” shall mean, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

“*Conversion Date*” shall have the meaning given such term in the Borrower Loan Agreement.

“*Default*” shall mean the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document or a Borrower Loan Agreement Default.

“*Equity Investor*” shall mean Wells Fargo Affordable Housing Community Development Corporation, a North Carolina corporation and any successor thereto.

“*Event of Default*” shall have the meaning ascribed thereto in Article IX hereof.

“*Expense Fund*” shall mean the fund of that name established under Section 7.3(c) hereof.

“*Fiscal Agent*” shall mean Wells Fargo Bank, National Association, as fiscal agent hereunder, and any successor fiscal agent or co-fiscal agent appointed under this Funding Loan Agreement.

“*Fiscal Agent’s Fees*” shall mean the ongoing compensation and expenses payable to the Fiscal Agent as follows:

(a) the annual administration fees of the Fiscal Agent, for the ordinary services of the Fiscal Agent rendered under this Funding Loan Agreement during each twelve-month period and shall be equal to [_____] % of: (i) prior to the Conversion Date, the maximum principal amount of the Governmental Lender Note issuable hereunder and (ii) following the Conversion Date, the outstanding principal amount of the Governmental Lender Note, with a minimum annual amount of \$[_____] , payable annually in advance on the Closing Date and then each subsequent [_____] 1, commencing [_____] 1, 2022];

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

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

“*Fitch*” shall mean Fitch, Inc., or its successor.

“*Funding Lender*” shall mean Wells Fargo Bank, National Association, a national banking association, and any successor under this Funding Loan Agreement and the other Funding Loan Documents.

“*Funding Loan*” shall have the meaning assigned to such term in the recitals above.

“*Funding Loan Agreement*” shall mean this Funding Loan Agreement, dated as of [_____] 1, 2021, by and among the Funding Lender, the Governmental Lender and the Fiscal Agent, as it may from time to time be supplemented, modified or amended by one or more instruments supplemental hereto entered into pursuant to the applicable provisions hereof.

“*Funding Loan Documents*” shall mean (i) this Funding Loan Agreement, (ii) the Borrower Loan Agreement, (iii) the Governmental Lender Note, (iv) the Regulatory Agreement, (v) the Tax Certificate, (vi) the Borrower Loan Documents, (vii) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (viii) all amendments, modifications, renewals and substitutions of any of the foregoing.

“*Funding Loan Payment Fund*” shall mean the fund of that name established under Section 7.3(a) hereof.

“*GAAP*” shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

“*Governmental Lender*” shall mean the City and County of Denver, Colorado, a legally and regularly created, established, organized and validly existing home rule city, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State and the Charter.

“*Governmental Lender Closing Costs*” shall mean the fees, costs and expenses incurred in connection with the closing of the Funding Loan and issuance of the Governmental Lender Note, including, without limitation, the Governmental Lender’s initial fee as described in Section 7(n) of the Regulatory Agreement.

“*Governmental Lender Fee*” shall mean [0.25% not to exceed \$25,000]. The Governmental Lender Fee is payable to the Governmental Lender on or before the Closing Date from amounts in the Closing Costs Fund or otherwise by the Borrower, and the Ongoing Governmental Lender Fee.

“*Governmental Lender Note*” shall mean that certain City and County of Denver, Colorado Multifamily Housing Revenue Note (The Rose on Colfax Project) Series 2021 dated the Closing Date in the original maximum principal amount of \$15,425,000 made by the Governmental Lender and payable to the Funding Lender, as it may be amended or replaced, the form of which is contained in Exhibit A to this Funding Loan Agreement.

“*Highest Rating Category*” shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating category given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax exempt municipal debt established by S&P is “A 1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG 1” (for fixed rate) or “VMIG 1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (i) both S&P and Moody’s rate a Permitted Investment and (ii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

“*Maturity Date*” shall mean [____ 1, 20__].

“*Maximum Rate*” shall mean the lesser of (i) [12]% per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

“*Minimum Beneficial Ownership Amount*” shall mean the greater of (a) \$250,000; or (b) 15% of the outstanding principal amount of the Funding Loan.

“*Moody’s*” shall mean Moody’s Investors Service, Inc., or its successor.

“*Note Proceeds Account*” means the Note Proceeds Account of the Project Fund, including any subaccounts, established under Section 7.3.

“*Ongoing Governmental Lender Fee*” shall mean the ongoing fee of the Governmental Lender in connection with any third-party contract or agreement for compliance monitoring of the Project initially in an amount not to exceed \$[5,250], or such other amounts as may be paid, from time to time, by the Governmental Lender for compliance monitoring of the Project. The Governmental Lender Annual Fee is payable annually in advance to the Governmental Lender on each [_____] 1], so long as any portion of the Governmental Lender Note is outstanding.

“*Opinion of Counsel*” shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“*Ordinance*” means the ordinance adopted by the Governmental Lender authorizing the Governmental Lender Note, and the execution and delivery of the Loan Documents to which it is a party.

“*Permitted Investments*” shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement:

(a) Direct obligations of the United States of America including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America (“*Government Obligations*”).

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America, or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Demand deposits or time deposits with, or certificates of deposit issued by, the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000 and maturing in less than 365 days; provided that the Fiscal Agent or such other institution has been rated at least “*VMIG-1*”/“*A-1+*” by Moody’s/S&P which deposits,

accounts or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency.

(d) Bonds (including tax-exempt bonds), bills, notes or other obligations of or secured by Fannie Mae, Freddie Mac, the Federal Home Loan Bank or the Federal Farm Credit Bank.

(e) Money market funds rated AAA by S&P which are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended, which may be administered by the Fiscal Agent or its affiliates.

(f) Collateralized Investment Agreements or Repurchase Agreements with financial institutions rated in the "A" category or higher without regard to qualifiers, by at least one Rating Agency. The agreement must be continually collateralized with obligations specified in paragraphs (a), (b) and/or (d) above, eligible for wire through the Federal Reserve Bank System or the DTC/PTC as applicable, and at a level of at least 103% of the amount on deposit and valued no less than daily. The collateral must be held by a third party custodian and be free and clear of all liens and claims of third parties. Securities must be valued daily, marked-to-market at current market price plus accrued interest. If the market value of the securities is found to be below the required level, the provider must restore the market value of the securities to the required level within one business day. Permitted collateral must be delivered to and held in a segregated account by the Fiscal Agent or a custodian (the "Collateral Agent"), and the Collateral Agent cannot be the provider. The collateral must be delivered to the Collateral Agent before/simultaneous with payment (perfection by possession of certificated securities). Acceptable collateral must be free and clear of all liens and claims of third parties and shall be registered in the name of the Collateral Agent for the benefit of the Governmental Lender and the Fiscal Agent. The agreement shall state that the Collateral Agent has a valid and perfected first priority security interest in the securities, any substituted securities and all proceeds thereof.

(g) Any other investment authorized by the laws of the State, if such investment is approved in advance in writing by the Funding Lender in its sole discretion.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment or any agreement with a maturity profile greater than the date(s) on which funds representing the corpus

of the investment may be needed under the Funding Loan Documents. This exception (1) shall not apply to Permitted Investments listed in paragraph (g).

(2) Any obligation bearing interest at an inverse floating rate.

(3) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(4) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

“*Person*” shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

“*Pledged Revenues*” shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of the following (but excepting therefrom any amounts credited to the Closing Costs Fund or the Expense Fund): (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Borrower Loan, the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon (except any amounts on deposit in the Closing Costs Fund).

“*Project*” shall have the meaning given to that term in the Borrower Loan Agreement.

“*Project Fund*” shall mean the fund of that name established under Section 7.3(b) hereof.

“*Rating Agency*” shall mean any one and each of S&P, Moody’s and Fitch then rating the Permitted Investments or any other nationally recognized statistical rating agency then rating the Permitted Investments which has been approved by the Funding Lender.

“*Regulations*” shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

“*Regulatory Agreement*” shall mean that certain Tax Regulatory Agreement, dated as of the date hereof, by and among the Governmental Lender, the Borrower and the Fiscal Agent, as hereafter amended or modified.

“*Required Transferee Representations*” shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

“*Resolution*” shall mean the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

“*Responsible Officer*” shall mean any officer within the [Corporate Trust] department (or any successor group) of the Fiscal Agent, including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Fiscal Agent customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, who is responsible for the administration of this Funding Loan Agreement.

“*Securities Act*” shall mean the Securities Act of 1933, as amended.

“*Security*” shall mean the security for the performance by the Governmental Lender of its obligations under the Governmental Lender Note and this Funding Loan Agreement as more fully set forth in Article IV hereof.

“*Security Instrument*” shall mean the Construction Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned by the Governmental Lender to the Fiscal Agent, without recourse, to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

“*Servicer*” shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and/or the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially, the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

“*Servicing Agreement*” shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan.

“*Standard & Poor’s*” or “*S&P*” means S&P Global Ratings, a division of S&P Global Inc., and any successor to its rating agency business.

“*State*” shall mean the State of Colorado.

“*State Equity Investor*” means Affordable Housing Fund Colorado I LLC, a Missouri limited liability company.

“*Supplemental Act*” the Colorado Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended.

“*Tax Certificate*” shall mean the Federal Tax Exemption Certificate, dated the Closing Date, executed and delivered by the Governmental Lender and the Borrower, including all exhibits

and other attachments thereto and in each case as may be amended, modified, supplemented and replaced from time to time.

“*Tax Counsel*” shall mean Kutak Rock LLP or any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

“*Tax Counsel Approving Opinion*” shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“*Tax Counsel No Adverse Effect Opinion*” shall mean an opinion of Tax Counsel substantially to the effect that the taking of the action specified therein will not, in and of itself, adversely affect any exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

“*UCC*” shall mean the Uniform Commercial Code as in effect in the State.

“*Unassigned Rights*” shall mean the Governmental Lender’s rights to reimbursement and payment of its fees, costs and expenses and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement, its rights to attorneys’ fees under Sections 5.11, 5.13, 5.14 and 5.15 thereof, its rights to indemnification under Sections 5.15 and 9.1.4 thereof, its rights of access under Section 5.17 thereof, its rights to receive notices, reports and other statements and its rights to consent to certain matters, including but not limited to its right to consent to amendments to this Funding Loan Agreement, the Borrower Loan Agreement and the Regulatory Agreement, and otherwise as provided in this Funding Loan Agreement and the Borrower Loan Agreement and the Governmental Lender’s indemnification, consent and enforcement rights and rights to payment of fees, costs and expenses under the Regulatory Agreement.

“*Written Certificate*,” “*Written Certification*,” “*Written Consent*,” “*Written Direction*,” “*Written Notice*,” “*Written Order*,” “*Written Registration*,” “*Written Request*,” and “*Written Requisition*” shall mean a written certificate, certification, consent, direction, notice, order, request or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative, or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer, the Fiscal Agent, the Governmental Lender or such other Person as required under the Funding Loan Documents.

“*Yield*” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

Section 1.2. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.3. Date of Funding Loan Agreement. The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

Section 1.4. Designation of Time for Performance. Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

Section 1.5. Interpretation. The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

ARTICLE II

TERMS; GOVERNMENTAL LENDER NOTE

Section 2.1. Terms.

(a) **Principal Amount.** The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) **Draw-Down Funding.** The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender to the Fiscal Agent (pursuant to the wiring instructions on Exhibit F attached hereto) for payment to or for the benefit of the Borrower for the account of the Governmental Lender as and when needed to make each advance in accordance with the disbursement provisions of the Construction Funding Agreement, Section 7.7 hereof, and Section 2.11 of the Borrower Loan Agreement. Subject to the terms and conditions of the Borrower Loan Agreement, this Funding Loan Agreement and the Construction Funding Agreement, the Funding Lender agrees to advance, on behalf of the Governmental Lender, to the Fiscal Agent for disbursement to the Borrower under the Borrower Loan Agreement and the Construction Funding Agreement, the amount of the initial advance equal to \$[] on the Closing Date and the Governmental Lender agrees that such advance shall be deemed an advance on the Funding Loan for the account of the Governmental Lender under this Funding Loan Agreement. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after three years from the Closing Date provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion. The Funding Lender shall provide written notice to the Governmental Lender and Fiscal Agent of any change in the Outside Conversion Date or Extended Outside Conversion Date (each as defined in the Construction Funding Agreement).

(c) **Origination Date; Maturity.** The Funding Loan shall be originated on the Closing Date. The Funding Loan shall mature on the Maturity Date at which time the principal amount of the Governmental Lender Note, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) **Principal.** The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances with respect to the Borrower Note under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of such Governmental Lender Note previously received from payments of corresponding principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Fiscal Agent shall keep a record of all principal advances and principal repayments made under the Governmental Lender Note and shall upon written request provide the Governmental Lender and the Funding Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(e) **Interest.** Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement; provided, however, that in no event shall interest paid on the Governmental Lender Note exceed the Maximum Rate.

(f) **Corresponding Payments.** The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Note. The Governmental Lender Note shall be payable from payments on the Borrower Note.

(g) **Usury.** The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, under any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount

as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

Section 2.2. Form of Governmental Lender Note. As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be a physical certificated instrument substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement or State law. In connection with Conversion, the Funding Lender shall have the right to exchange the then existing Governmental Lender Note on or after the Conversion Date for a new Governmental Lender Note with a dated date of the Conversion Date and in a stated principal amount equal to the then outstanding principal amount of the Governmental Lender Note, which principal amount will equal the Permanent Period Amount of the Borrower Loan as represented by the Borrower Note.

Section 2.3. Execution and Delivery of Governmental Lender Note. The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of Authorized Governmental Lender Representatives. Any facsimile signatures shall have the same force and effect as if said officers had manually signed the Governmental Lender Note. In case any officer of the Governmental Lender whose manual or facsimile signature shall appear on the Governmental Lender Note shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also the Governmental Lender Note may bear the facsimile signatures of, or may be signed by, such persons as at the actual time of the execution thereof shall be the proper officers to sign the Governmental Lender Note although at the date of such Governmental Lender Note such persons may not have been such officers.

Section 2.4. Authentication. The Governmental Lender Note shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this Funding Loan Agreement unless a certificate of authentication on the Governmental Lender Note, substantially in the form set forth in Exhibit A hereto, shall have been manually executed by the Fiscal Agent. The Fiscal Agent shall authenticate the Governmental Lender Note by execution of the certificate of authentication on or attached to the Governmental Lender Note, and the certificate of

authentication so executed on or attached to such Governmental Lender Note shall be conclusive evidence that it has been authenticated and delivered under this Funding Loan Agreement.

Section 2.5. Registration and Transfer of Governmental Lender Note.

(a) The Fiscal Agent acknowledges that the Funding Lender is the initial holder of the Governmental Lender Note and shall remain the sole holder of the Governmental Lender Note except as otherwise provided herein.

(b) The Fiscal Agent, on behalf of the Governmental Lender, shall provide for the registration of the Governmental Lender Note and the registration of transfers thereof. In that regard, the Fiscal Agent shall maintain a register which shall contain a record of every Governmental Lender Note at any time authenticated hereunder, together with the name and address of the holder thereof, the date of authentication, the date of transfer or payment, and such other matters as may be deemed appropriate by the Fiscal Agent or the Governmental Lender. The Governmental Lender, the Fiscal Agent and any agent of the Governmental Lender or the Fiscal Agent may treat the person in whose name the Governmental Lender Note is registered as the owner of such Governmental Lender Note for the purpose of receiving payment of such Governmental Lender Note and for all other purposes whatsoever whether or not the respective Governmental Lender Note payments are overdue, and, to the extent permitted by law, neither the Governmental Lender, the Fiscal Agent nor any such agent shall be affected by notice to the contrary.

(c) The transfer of the Governmental Lender Note is subject to registration by the holder thereof only upon compliance with the conditions for registration of transfer imposed on the holder under this Section 2.5 and under Section 2.6 hereof. Upon surrender of a Governmental Lender Note at the principal corporate trust office of the Fiscal Agent, the Governmental Lender shall execute (if necessary), and the Fiscal Agent shall authenticate and deliver, in the name of the designated transferee or transferees (but not registered in blank or to “bearer” or a similar designation), a new Governmental Lender Note of a like principal amount, and having the same stated maturity, tenor and interest rate.

(d) A Governmental Lender Note delivered in exchange for or upon transfer of a Governmental Lender Note shall be a valid limited obligation of the Governmental Lender evidencing the same debt, and entitled to the same benefits under this Funding Loan Agreement, as the respective Governmental Lender Note surrendered for such exchange or transfer.

(e) Registration of the transfer of the Governmental Lender Note may be made on the Fiscal Agent’s register by the holder thereof in person or by such holder’s attorney duly authorized in writing. A Governmental Lender Note presented or surrendered for registration of transfer or exchange shall (i) be accompanied by evidence of compliance with the provisions of Section 2.6 hereof, (ii) be duly endorsed or be accompanied by a written instrument or instruments of transfer, in a form satisfactory to the Fiscal Agent, duly executed and with guaranty of signature of the holder thereof or his, her or its attorney duly authorized in writing and (iii) include written instructions as to the details of the

transfer of such Governmental Lender Note. The Governmental Lender Note shall not be transferred through the services of the Depository Trust Company or any other third-party registrar.

(f) No service charge shall be made to the registered holder of a Governmental Lender Note for any registration, transfer or exchange, but the Fiscal Agent and the Governmental Lender may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection with any transfer or exchange of a Governmental Lender Note, and any legal or unusual costs of transfers.

Section 2.6. Restrictions on Transfer. Transfers shall be limited to (i) affiliates of the Funding Lender, (ii) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which will be owned by qualified institutional buyers only and (iii) qualified institutional buyers that are also commercial banks having capital and surplus of \$5,000,000,000 or more and which has executed a letter containing representations and warranties as to it being a sophisticated investor in form and substance mutually satisfactory to the obligor on the Governmental Lender Note and the Funding Lender.

(a) The Funding Lender shall deliver to the Fiscal Agent and the Governmental Lender the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Closing Date.

(b) The Funding Lender shall have the right to sell (i) in its entirety, the Governmental Lender Note and the Funding Loan or (ii) a participation interest or other beneficial ownership interest in the Governmental Lender Note and the Funding Loan, to the extent permitted by Section 2.6(c) below, provided that such sale shall be only to Approved Transferees that execute and deliver to the Governmental Lender and the Fiscal Agent the Required Transferee Representations.

(c) Notwithstanding the other provisions of this Section 2.6, no beneficial ownership interest in the Governmental Lender Note and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount.

(d) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Note.

(e) The Fiscal Agent shall not authenticate or register a Governmental Lender Note unless the conditions of this Section 2.6 have been satisfied.

Section 2.7. Supplemental Public Securities Act Provisions. Section 11-57-204 of the Supplemental Act provides that a public entity, including the Governmental Lender, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. Pursuant to the Ordinance, the Governmental Lender has elected to apply all of the provisions of the Supplemental Act to the Governmental Lender Note.

ARTICLE III

PREPAYMENT

Section 3.1. Prepayment of the Governmental Lender Note from Prepayment Under the Borrower Note. The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds received by the Governmental Lender to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note, at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

Section 3.2. [Reserved].

Section 3.3. Notice of Prepayment. Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to Funding Lender in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

ARTICLE IV

SECURITY

Section 4.1. Security for the Funding Loan. To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Fiscal Agent and to the Funding Lender, as their interests may appear (except as limited herein), for the benefit of the holder from time to time of the Governmental Lender Note, a lien on and security interest in the following described property (excepting, in each case however, the Unassigned Rights and amounts excluded from the definition

of Pledged Revenues) (said property, rights and privileges being herein collectively called, the “Security”):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan, the Borrower Loan Agreement, the Borrower Note and the other Borrower Loan Documents, including, without limitation, all rents, revenues and receipts derived thereunder by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments (except those related to the Unassigned Rights) derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held by the Fiscal Agent under this Funding Loan Agreement (other than any amounts held in the Closing Costs Fund, the Expense Fund and any Rebate Amount held hereunder), subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Fiscal Agent or the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Fiscal Agent or the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort,

contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

Section 4.2. Delivery of Security. To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned its right, title and interest in the Security to the Fiscal Agent for the benefit of the holder from time to time of the Governmental Lender Note. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Fiscal Agent the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

(a) The Borrower Note endorsed without recourse to the Fiscal Agent by the Governmental Lender;

(b) The originally executed Borrower Loan Agreement and Regulatory Agreement;

(c) A copy of the executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Fiscal Agent, in recordable form;

(d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Fiscal Agent's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and

(e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

The Governmental Lender shall deliver and deposit with the Fiscal Agent or the Funding Lender such additional documents, financing statements, and instruments as the Fiscal Agent, at the direction of the Funding Lender or the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Fiscal Agent of its lien and security interest in and to the Security including, at the request of the Funding Lender, at the expense of the Borrower.

ARTICLE V

LIMITED LIABILITY

Section 5.1. Limited Liability. None of the Governmental Lender or any person executing the Governmental Lender Note is liable personally on the Governmental Lender Note or subject to any personal liability or accountability by reason of its execution and delivery. The Governmental Lender shall not be directly, indirectly, contingently, or morally obligated to pay the principal of, premium, if any, or interest on the Governmental Lender Note, except from Pledged Revenues. The Governmental Lender's sole source of moneys to pay principal of, premium, if any, or interest on the Governmental Lender Note will be provided by such Pledged Revenues.

THE GOVERNMENTAL LENDER NOTE IS A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER PAYABLE SOLELY FROM AND SECURED ONLY BY THE PLEDGED REVENUES, AND OTHER FUNDS AND MONEYS AND SECURITY PLEDGED AND ASSIGNED HEREUNDER. THE GOVERNMENTAL LENDER NOTE SHALL CONSTITUTE A VALID CLAIM OF THE FISCAL AGENT THEREOF AGAINST THE PLEDGED REVENUES, WHICH ARE PLEDGED TO SECURE THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL LENDER NOTE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE UNASSIGNED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THIS FUNDING LOAN AGREEMENT. THE GOVERNMENTAL LENDER NOTE SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE GOVERNMENTAL LENDER, THE STATE OR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE, AND NEITHER THE GOVERNMENTAL LENDER, THE STATE NOR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE SHALL BE LIABLE FOR PAYMENT OF THE GOVERNMENTAL LENDER NOTE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO EXCEPT AS SET FORTH HEREIN, NOR IN ANY EVENT SHALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL LENDER NOTE BE PAYABLE OUT OF ANY FUNDS, ASSETS OR PROPERTIES OTHER THAN THOSE PLEDGED TO THAT PURPOSE BY THE GOVERNMENTAL LENDER HEREIN (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE UNASSIGNED RIGHTS). THE GOVERNMENTAL LENDER NOTE SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. THE GOVERNMENTAL LENDER NOTE DO NOT CONSTITUTE A DEBT, LOAN, CREDIT OR PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE GOVERNMENTAL LENDER, THE STATE OR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE, AND NONE OF THE GOVERNMENTAL LENDER NOTE OR ANY OF THE GOVERNMENTAL LENDER'S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE FUNDING LOAN, THE GOVERNMENTAL LENDER NOTE, OR HEREUNDER, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE GOVERNMENTAL LENDER, THE STATE, OR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

Section 5.2. Exempt from Individual Liability; No Recourse. No obligation, covenant, condition or agreement contained herein or in the Governmental Lender Note shall be deemed to be an obligation, covenant, condition or agreement of any past, present or future officer, member, director, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Governmental Lender in their individual capacity, and no recourse shall be had for the payment of the principal of, or premium, if any, or interest on, and any sum that may be due and unpaid by the Governmental Lender on the Governmental Lender Note or for any claim based thereon or upon any obligation, covenant, provision, condition or agreement contained in this Funding Loan Agreement or in the Governmental Lender Note against any past, present or future officer,

member, director, trustee, fiscal agent, counsel, financial advisor, attorney, official, employee or agent of the Governmental Lender, either directly or through the Governmental Lender, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, director, trustee, attorney, financial advisor, fiscal agent, counsel, official, employee or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of this Funding Loan Agreement and the delivery of the Governmental Lender Note.

Neither the officers, members, directors, financial advisors, attorneys, trustees, fiscal agents, counsel, officials, employees or agents of the Governmental Lender nor any person executing the Governmental Lender Note or this Funding Loan Agreement shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Note or the execution of this Funding Loan Agreement. No covenant, stipulation, obligation or agreement of the Governmental Lender contained in this Funding Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future officers, members, directors, trustees, fiscal agents, counsel, officials, employees or agents of the Governmental Lender in other than that person's official capacity.

All obligations of the Governmental Lender hereunder and under the other Funding Loan Documents are special, limited obligations payable solely from funds made available to the Governmental Lender under the Borrower Loan Agreement or the other Funding Loan Documents, and no recourse shall be had to the Governmental Lender or to any employees, agents or members of the Governmental Lender in satisfaction of any amounts due or liabilities incurred pursuant to the Governmental Lender's issuance of the Governmental Lender Note and related actions, inactions or transactions, except from such funds.

Anything in this Funding Loan Agreement to the contrary notwithstanding, it is expressly understood by the parties to this Funding Loan Agreement that (a) the Governmental Lender may rely exclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Governmental Lender by the Fiscal Agent, the Servicer, the Funding Lender or the owner of the Governmental Lender Note as to the existence of any fact or state of affairs, (b) the Governmental Lender shall not be under any obligation under this Funding Loan Agreement to perform any record keeping or to provide any legal services, it being understood that such services shall be performed or caused to be performed by the Fiscal Agent or by the Servicer and (c) none of the provisions of this Funding Loan Agreement shall require the Governmental Lender to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Funding Loan Agreement, unless it shall first have been adequately indemnified to its satisfaction against any costs, expenses and liability which it may incur as a result of taking such action.

It is recognized that notwithstanding any other provision of this Funding Loan Agreement, neither the Borrower, the Fiscal Agent, the Funding Lender nor any owner of the Governmental Lender Note shall look to the Governmental Lender for damages suffered by the Borrower, the Fiscal Agent, the Funding Lender or such owner of a Governmental Lender Note as a result of the failure of the Governmental Lender to perform any covenant, undertaking or obligation under this Funding Loan Agreement, the Borrower Loan Agreement, the Governmental Lender Note or any

of the other documents referred to herein, or as a result of the incorrectness of any representation made by the Governmental Lender in any of such documents, nor for any other reason. Although this Funding Loan Agreement recognizes that such documents shall not give rise to any pecuniary liability of the Governmental Lender, nothing contained in this Funding Loan Agreement shall be construed to preclude in any way any action or proceeding (other than that element of any action or proceeding involving a claim for monetary damages against the Governmental Lender) in any court or before any governmental body, agency or instrumentality or otherwise against the Governmental Lender or any of its officers or employees to enforce the provisions of any of such documents which the Governmental Lender is obligated to perform and the performance of which the Governmental Lender has not assigned to the Fiscal Agent or any other person; provided, however, that as a condition precedent to the Governmental Lender proceeding pursuant to this Section 5.2, the Governmental Lender shall have received satisfactory indemnification.

Section 5.3. Limitation of Liability to Revenues. Notwithstanding anything contained in this Funding Loan Agreement, the Governmental Lender shall not be required to advance any moneys derived from the proceeds of taxes collected by the Governmental Lender, the State or by any political subdivision thereof or from any source of income of any of the foregoing other than the Pledged Revenues for any of the purposes mentioned in this Funding Loan Agreement, whether for the payment of the principal of or interest on the Governmental Lender Note or for any other purpose of this Funding Loan Agreement.

ARTICLE VI

CLOSING CONDITIONS; APPLICATION OF FUNDS

Section 6.1. Conditions Precedent to Closing. Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender and the Governmental Lender in their sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, (other than the requirements in clauses (h) and (i) as applicable to deliverables to the Governmental Lender, or the requirements in clauses (f) and (j) below, each of which may only be waived by the Governmental Lender), including but not limited to the following:

- (a) Receipt by the Funding Lender of the original executed Governmental Lender Note, authenticated by the Fiscal Agent;
- (b) Receipt by the Fiscal Agent of the original executed Borrower Note, endorsed by the Governmental Lender to the Fiscal Agent;
- (c) Receipt by the Fiscal Agent of executed counterparts of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Certificate, the Security Instrument, and any UCC financing statement required by the Security Instrument;
- (d) Receipt by the Fiscal Agent of a certified copy of the Resolution;
- (e) Receipt by the Fiscal Agent and Governmental Lender of an executed Required Transferee Representations from the Funding Lender;

(f) Delivery into escrow or to the Fiscal Agent, as appropriate, of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;

(g) Receipt by the Funding Lender and the Governmental Lender of a Tax Counsel Approving Opinion;

(h) Receipt by the Funding Lender of an Opinion of Counsel from Tax Counsel to the effect that the Governmental Lender Note is exempt from registration under the Securities Act of 1933, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender; and

(j) Receipt by the Funding Lender and the Governmental Lender of any other documents or opinions that the Funding Lender, the Governmental Lender or Tax Counsel may require.

ARTICLE VII

FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts. Except as provided in Section 7.3 hereof, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender, the Fiscal Agent (as directed by the Funding Lender) and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

Section 7.2. Investment of Funds. Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested in Permitted Investments at the direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Certificate.

Section 7.3. Establishment of Funds. There are established with the Fiscal Agent the following funds and accounts:

(a) The Funding Loan Payment Fund;

- (b) The Project Fund, and within the Project Fund a Note Proceeds Account, and a Borrower Equity Account;
- (c) The Expense Fund;
- (d) The Closing Costs Fund; and
- (e) The Rebate Fund.

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement (except the Closing Costs Fund, the Expense Fund and the Rebate Fund) shall be held by the Fiscal Agent for the benefit of the Funding Lender, and shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

All money to be deposited with or paid to the Fiscal Agent shall be wired to the Fiscal Agent pursuant to the wiring instructions contained in Exhibit F attached hereto. The Fiscal Agent shall provide Written Notice of any change to such wiring instructions to the Funding Lender and the Borrower no less than five Business Days prior to the next payment date for which such revised instructions will be applicable.

Section 7.4. Funding Loan Payment Fund. The Governmental Lender and the Borrower shall have no interest in the Funding Loan Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

The Fiscal Agent shall deposit into the Funding Loan Payment Fund any amounts received from the Borrower as payments of principal of, premium, if any, or interest on the Borrower Loan and any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement, including any Pledged Revenues not required to be deposited to the Expense Fund or not otherwise specifically directed in writing to be deposited into other funds created by this Funding Loan Agreement.

The Fiscal Agent shall apply all amounts on deposit in the Funding Loan Payment Fund in the following order of priority:

First, to pay or provide for the payment of the interest then due on the Funding Loan to the registered owner of the Governmental Lender Note;

Second, to pay or provide for the payment or the prepayment of principal (and premium, if any) on the Funding Loan to the registered owner of the Governmental Lender Note, provided moneys have been transferred or deposited into the Funding Loan Payment Fund for such purpose; and

Third, to pay or provide for the payment of the Funding Loan on the Maturity Date or earlier prepayment or acceleration date to the registered owner of the Governmental Lender Note.

Section 7.5. Expense Fund. The Fiscal Agent shall deposit in the Expense Fund the amounts required by the Regulatory Agreement or the Borrower Loan Agreement to be paid by the Borrower to the Governmental Lender or the Fiscal Agent. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender, the Rebate Analyst and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent to pay (i) on each [_____] 1, commencing [_____] 1, 20____], or at the direction of the Governmental Lender, the Ongoing Governmental Lender Fee, (ii) on each [_____] 1, commencing [_____] 1, 2022], to the Fiscal Agent amounts due pursuant to subpart (a) of the definition of “Fiscal Agent’s Fees” herein, (iii) upon receipt, to the Fiscal Agent, any amounts due to the Fiscal Agent which have not been paid, other than amounts paid in accordance with clause (ii) hereof, (iv) upon receipt, to, or at the direction of, the Governmental Lender, any amounts owing the Governmental Lender by the Borrower and then due and unpaid, other than amounts paid in accordance with clause (i) hereof and (v) the Rebate Analyst’s Fee when due.

In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two Business Days to the Fiscal Agent of the amount of such deficiency.

Written notice of any insufficiency, which results in the Governmental Lender not receiving the Ongoing Governmental Lender Fee on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within 10 days of the respective due date.

Upon payment by the Borrower of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

Notwithstanding anything herein to the contrary, the Fiscal Agent, on behalf of the Governmental Lender, shall prepare and submit a written invoice to the Borrower for payment of the Ongoing Governmental Lender Fee not later than 30 days prior to the due date for payment of such the Ongoing Governmental Lender Fee, and shall remit moneys received by the Borrower to the Governmental Lender for payment of such fee.

Section 7.6. Closing Costs Fund. On the Closing Date, the Borrower shall deposit or cause to be deposited with the Fiscal Agent, for deposit in the Closing Costs Fund, the amount of \$[_____]. Amounts in the Closing Costs Fund shall be disbursed by the Fiscal Agent to pay Governmental Lender Closing Costs on the Closing Date or as soon as practicable thereafter as follows: moneys on deposit in the Closing Costs Fund shall be applied to: (a) pay as stated in a completed requisition in the form of Exhibit D; (b) pay the Fiscal Agent its closing fee of \$[_____]; and (c) pay all fees of the Department of Local Affairs of the State of Colorado that relate to the Governmental Lender Note’s private activity bond volume cap allocation, if any. Any interest earnings on amounts on deposit in the Closing Costs Fund shall remain in the Closing Costs Fund. Any moneys remaining in the Closing Costs Fund (including investment proceeds) after the earlier of (i) the payment of all costs of issuance as certified in writing to the Fiscal Agent by the Borrower

or (ii) a period of five months after the Closing Date, shall be paid to the Borrower Equity Account of the Project Fund and the Closing Costs Fund shall be closed.

Section 7.7. Project Fund.

(a) All proceeds of the Funding Loan provided by the Funding Lender shall be deposited to the applicable series subaccount of the Note Proceeds Account of the Project Fund. The Fiscal Agent shall disburse moneys in the Project Fund for the acquisition and construction of the Project, to pay other Qualified Project Costs and to pay other costs related to the Project as further provided herein.

Not less than 95% of the moneys deposited in the Note Proceeds Account of the Project Fund representing the proceeds of the Funding Loan, including investment income thereon, will be expended for Qualified Project Costs (the "95% Requirement"). The amounts on deposit in the Note Proceeds Account of the Project Fund shall not be applied to the payment of Governmental Lender Closing Costs.

Before any payment shall be made from the Project Fund, the Regulatory Agreement shall have been executed and submitted to a title company for recordation in the official records of the City and County of Denver and there shall be filed with the Fiscal Agent a Written Requisition of the Borrower substantially in the form attached hereto as Exhibit C and (i) approved by the Funding Lender pursuant to the terms, conditions and provisions of the Construction Funding Agreement. The Governmental Lender agrees that if the Governmental Lender has not objected in writing to any disbursement from the Note Proceeds Account or Borrower Equity Account within five Business Days of receipt of a request for acknowledgment of such disbursement, the Governmental Lender shall be deemed to have acknowledged such disbursement.

In addition to the above, in connection with a Written Requisition:

(i) Only the signature of an authorized officer of the Funding Lender and the Governmental Lender shall be required on a Written Requisition during any period in which a default by the Borrower has occurred and is then continuing under the Borrower Loan (notice of which default has been given in writing by an authorized officer of the Funding Lender to the Fiscal Agent and the Governmental Lender, and the Fiscal Agent shall be entitled to conclusively rely on any such Written Notice as to the occurrence and continuation of such a default).

(ii) The Fiscal Agent shall disburse amounts in the Project Fund (first from the Borrower Equity Account and second from any other account or subaccount of the Project Fund) for the payment of interest due on the Governmental Lender Note upon receipt from the Funding Lender of a statement detailing the amount due (and without any need for a Written Requisition or any approval by the Borrower or acknowledgment by the Governmental Lender), provided that the Fiscal Agent shall provide written notice of such disbursements to the Governmental Lender.

(iii) The Fiscal Agent may conclusively rely on all Written Requisitions, the execution of the Written Requisitions by the Authorized Borrower Representative and the approval of all Written Requisitions by the Funding Lender and acknowledgment by the Governmental Lender, as required by this Section, as conditions of payment from the Project Fund, which Written Requisitions constitute, as to the Fiscal Agent, irrevocable determinations that all conditions to payment of the specified amounts from the Project Fund have been satisfied. These documents shall be retained by the Fiscal Agent, subject at all reasonable times to examination by the Borrower, the Governmental Lender, the Funding Lender and the agents and representatives thereof upon reasonable notice to the Fiscal Agent. The Fiscal Agent is not required to inspect the Project or the construction work or to make any independent investigation with respect to the matters set forth in any Written Requisition or other statements, orders, certifications, acknowledgments and approvals received by the Fiscal Agent. The Fiscal Agent is not required to obtain completion bonds, lien releases or otherwise supervise the acquisition, construction, renovation, equipping, improvement and installation of the Project.

(b) Upon receipt of each Written Requisition submitted by the Borrower and approved in writing by the Funding Lender and acknowledged in writing by the Governmental Lender, as applicable, the Fiscal Agent shall promptly, but in any case within three Business Days, except as provided in subsection (a) above, make payment from the appropriate account and subaccount within the Project Fund in accordance with such Written Requisition. The Fiscal Agent shall have no duty to determine whether any requested disbursement from the Project Fund complies with the terms, conditions and provisions of the Funding Loan Documents or, in the case of disbursements from the Note Proceeds Account, constitutes payment of Qualified Project Costs or complies with the 95% Requirement. The approval in writing of a Written Requisition by the Funding Lender and acknowledgement by the Governmental Lender, as applicable, shall be deemed a certification and, insofar as the Fiscal Agent and the Governmental Lender are concerned, shall constitute conclusive evidence that all of the terms, conditions and requirements of the Funding Loan Documents applicable to such disbursement have been fully satisfied or waived and the Written Requisition from the Borrower shall, insofar as the Fiscal Agent and the Governmental Lender, as applicable, are concerned, constitute conclusive evidence that the costs described in the Written Requisition constitute Qualified Project Costs or other permitted Project costs.

The Fiscal Agent shall immediately provide Written Notice to the Borrower, the Funding Lender and the Governmental Lender if there are not sufficient funds available to or on deposit with the Fiscal Agent to make the disbursements as and when required by this Section 7.7(b). Except as provided in the next sentence, all such payments shall be made by check or draft payable, or by wire transfer, either (i) directly to the person, firm or corporation to be paid, (ii) to the Borrower and such person, firm or corporation, or (iii) upon receipt by the Funding Lender and the Governmental Lender, as applicable, of evidence that the Borrower has previously paid such amount and Written Direction to the Fiscal Agent as to such as evidenced by the Funding Lender's approval and the Governmental Lender's acknowledgment, as applicable, of the Written Requisition, to the Borrower. Upon the occurrence of an Event of Default of the Borrower of which the Fiscal

Agent has knowledge as provided herein, which is continuing under the Funding Loan Documents, with the Written Consent of the Funding Lender, the Fiscal Agent may apply amounts on deposit in the Project Fund to the payment of principal of and interest on the Funding Loan. If a Written Requisition signed by the Authorized Borrower Representative and countersigned by an authorized officer of the Funding Lender and the Governmental Lender is received by the Fiscal Agent, the requested disbursement shall be paid by the Fiscal Agent as soon as practicable, but in no event later than three Business Days following receipt thereof by the Fiscal Agent. Upon final disbursement of all amounts on deposit in the Project Fund, the Fiscal Agent shall close the Project Fund.

(c) [Reserved].

(d) Immediately prior to any mandatory prepayment of the Funding Loan pursuant to the terms hereof, any amounts then remaining in the Project Fund shall, at the written direction of the Funding Lender, be transferred to the Funding Loan Payment Fund to be applied to the prepayment of the Funding Loan pursuant hereto.

(e) Amounts on deposit in the Project Fund shall be invested in Permitted Investments directed in writing by the Borrower. Investment Income earned on amounts on deposit in each account of the Project Fund shall be retained in and credited to and become a part of the amounts on deposit in that account of the Project Fund.

(f) Amounts on deposit in the Funding Loan Payment Fund, Expense Fund, Rebate Fund and Closing Costs Fund shall be invested in Permitted Investments directed in writing by the Borrower. Investment Income earned on amounts on deposit in each account of the Funding Loan Payment Fund, Expense Fund, Rebate Fund and Closing Costs Fund shall be retained in and credited to and become a part of the amounts on deposit in that account of the Funding Loan Payment Fund, Expense Fund, Rebate Fund and Closing Costs Fund.

The Fiscal Agent may make any and all investments permitted under this Funding Loan Agreement through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Fiscal Agent and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Permitted Investments under this Funding Loan Agreement. The Fiscal Agent shall not be liable for any losses from investments made by the Fiscal Agent in accordance with this Funding Loan Agreement.

The Governmental Lender, the Funding Lender and the Borrower (by its execution of the Borrower Loan Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Governmental Lender or the Funding Lender the right to receive brokerage confirmations of security transactions as they occur, the Governmental Lender and the Funding Lender will not receive such confirmations to the extent permitted by law. The Fiscal Agent shall furnish the Borrower, the Funding Lender and the Governmental Lender (to the extent requested by such parties) periodic cash transaction statements which shall include detail for all investment transactions, if any, made by the Fiscal Agent hereunder.

The amounts received upon the sale of the Governmental Lender Note and interest and other investment earnings on those amounts shall be allocated and used for financing Qualified Project Costs of each building and related land in the Project so that the aggregate basis of each such building and related land, within the meaning of Section 42(h)(4) of the Code, shall be financed 50% or more from those amounts.

Section 7.8. Rebate Fund. The Fiscal Agent shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto pursuant to Section 5.35 of the Borrower Loan Agreement.

ARTICLE VIII

REPRESENTATIONS AND COVENANTS

Section 8.1. General Representations. The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a legally and regularly created, established, organized and validly existing home rule city, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State and the Charter of the Governmental Lender, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby; (ii) incur the limited obligations represented by the Governmental Lender Note and apply the proceeds of such obligation for the purpose of financing the Project; and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Note, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, the Funding Loan Documents to which it is a party or otherwise bound

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, the Supplemental Act and the Charter; (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it; or (iii) to its knowledge, the provisions of any agreements and instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into this Funding Loan Agreement, executing and delivering the Governmental Lender Note, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Governmental Lender Note or the Borrower Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) To the best knowledge of the Governmental Lender, no litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Note and this Funding Loan Agreement (the Pledged Revenues) have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the Funding Loan as evidenced by the Governmental Lender Note.

(e) The State of Colorado has provided an allocation of the State's [2019] private activity bond volume cap under Section 146 of the Code to the Governmental Lender for the Governmental Lender Note, the Governmental Lender has timely made any required carry forward election with respect to such volume cap allocation. The Governmental Lender hereby elects to apply the alternative option under clause (2) of the first paragraph of Section 3.01 of IRS Notice 2011-63 with respect to the issue date of the Governmental Lender Note; and, in connection therewith, has directed Tax Counsel to include the information on Form 8038 filed for the Governmental Lender Note that is required by Section 3.03 of said Notice.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, (I) WITH RESPECT TO THE PROJECT OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, THEIR VALUE, DESIGN, CONDITION, HABITABILITY, WORKMANSHIP, QUALITY, CAPACITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH ANY LEGAL REQUIREMENTS, LATENT DEFECTS OR THAT THE PROJECT WILL BE ADEQUATE OR SUFFICIENT FOR THE PURPOSES OF THE BORROWER; (II) WITH RESPECT TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE SALE OF WITH THE FUNDING LOAN OR THE BORROWER LOAN, OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF; OR (III) WITH RESPECT TO THE PLANS AND SPECIFICATIONS TO CONSTRUCT THE PROJECT OR THE ADEQUACY OR SUFFICIENCY OF THE FINANCING. NOTHING IN THIS BORROWER LOAN AGREEMENT SHALL BE CONSTRUED AS REQUIRING THE GOVERNMENTAL LENDER TO PROVIDE ANY FINANCING FOR THE PROJECT OTHER THAN THE PROCEEDS OF THE GOVERNMENTAL LENDER NOTE OR TO PROVIDE SUFFICIENT MONEYS FOR ALL OF THE COSTS OF THE PROJECT.

Section 8.2. No Encumbrance on Security. The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

Section 8.3. Repayment of Funding Loan. Solely from amounts pledged therefor, and subject to the provisions of Article V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

Section 8.4. Servicer. The Funding Lender may appoint a Servicer to service and administer the Funding Loan and/or the Borrower Loan on behalf of the Funding Lender and the Fiscal Agent, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

Section 8.5. Borrower Loan Agreement Performance.

(a) The Funding Lender, the Fiscal Agent and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required or obligated to) perform and observe any such agreement or covenant of the Governmental Lender under the Borrower Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify or cause to be notified the Borrower, the Fiscal Agent, the Servicer, if any, and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice or otherwise has knowledge of such event.

Section 8.6. Maintenance of Records; Inspection of Records.

(a) The Fiscal Agent shall keep and maintain records pertaining to any funds and accounts established hereunder by the Fiscal Agent, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Governmental Lender Note and interests therein. The Fiscal Agent shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Funding Lender and the Governmental Lender and their representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender and the Funding Lender will at any and all times, upon the reasonable request of the Servicer, if any, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender or the Funding Lender, as appropriate, relating to the Project and the Funding Loan, if any, and to make copies thereof.

Section 8.7. Tax Covenants. The Governmental Lender covenants to and for the benefit of the Fiscal Agent and the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will (subject to the limited liability provisions hereof):

(a) Enforce or cause to be enforced all obligations of the Borrower under the Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Regulatory Agreement within a reasonable period after any such violation is first discovered;

(b) Not knowingly take or cause to be taken any other action or actions, or knowingly fail to take any action or actions, which would cause the interest payable on the Governmental Lender Note to be includable in gross income for federal income tax purposes;

(c) Whenever and so often as requested by Funding Lender, the Governmental Lender (at the sole cost and expense of the Borrower) shall do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Governmental Lender on the Governmental Lender Note will be excluded from the gross income of the holder of the Governmental Lender Note, for federal income tax purposes, pursuant to Section 103 of the Code, except in the event where any holder of the Governmental Lender Note or a portion thereof is a “substantial user” of the facilities financed with the Funding Loan or a “related person” within the meaning of Section 147(a) of the Code;

(d) Not knowingly take any action nor, solely in reliance upon the covenants and representations of the Borrower in the Borrower Loan Agreement, in the Regulatory Agreement and in the Tax Certificate, knowingly take any action or permit or suffer any action to be taken if the result of the same would be to cause the Governmental Lender Note to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations;

(e) Require the Borrower to agree, pursuant to the terms and provisions of the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Funding Loan funded with the proceeds of the Governmental Lender Note, or any other moneys which may be deemed to be proceeds of the Funding Loan funded with the proceeds of the Governmental Lender Note pursuant to the Code, which would cause the Governmental Lender Note to be an “arbitrage bond” within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Governmental Lender Note; and

(f) Require the Borrower, solely by causing the Borrower to execute and deliver the Borrower Loan Agreement and the Tax Certificate, to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are

by this reference incorporated into and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full. In the event of any conflict between this Section 8.7 and the requirements of the Tax Certificate, the Tax Certificate shall control.

For purposes of this Section 8.7 the Governmental Lender's compliance shall be based solely on matters within the Governmental Lender's knowledge and control and no acts, omissions or directions of the Borrower, the Fiscal Agent, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

Section 8.8. Performance by the Borrower. Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may perform any such agreement or covenant if no Borrower Loan Agreement Default or potential Default under the Borrower Loan Agreement exists.

Section 8.9. Maintenance of Records. The Funding Lender shall keep and maintain adequate records pertaining to the funds and accounts, if any, established hereunder, including all deposits to and disbursements from said funds and accounts and will provide information and records relating thereto to the Governmental Lender upon written request.

ARTICLE IX

DEFAULT; REMEDIES

Section 9.1. Provisions Regarding any Default and Acceleration. Upon a default by the Governmental Lender of its obligations hereunder or a default by the Borrower of its obligations under the Borrower Loan Documents, the Fiscal Agent shall, subject to the provisions of Article XI, take such actions, and only such actions, to enforce the provisions of this Funding Loan Agreement, the Borrower Loan Documents and the Funding Loan Documents as are specified in writing by the Funding Lender. Notwithstanding the foregoing, or anything else to the contrary herein, no default by the Borrower under the Borrower Loan Agreement or the Borrower Note shall constitute an event of default with respect to the Funding Loan (including, without limitation, a failure to make any payment due with respect to the Funding Loan as a consequence of the Borrower's failure to make any payment due under the Borrower Loan Agreement). The Governmental Lender's, Fiscal Agent's, Funding Lender's and Servicer's remedies with respect to a default under the Borrower Loan Documents shall be as set forth under the Borrower Loan Documents. In the event of a default by the Borrower under the Borrower Loan Documents, the Funding Lender, in its discretion, may accelerate the amounts due under the Borrower Loan Agreement and take other remedial actions available thereunder without accelerating the amounts due with respect to the Funding Loan. Notwithstanding the foregoing, the Funding Lender may, upon the acceleration of the Borrower's obligations under the Borrower Loan Documents, direct the Fiscal Agent to simultaneously accelerate the maturity of the Funding Loan and apply any funds available hereunder to the payment of the Funding Loan (after paying the fees and expenses of the Fiscal Agent and the Governmental Lender). Any portion of the

Funding Loan remaining outstanding upon such an acceleration of the Funding Loan shall be deemed paid upon transfer, to or at the direction of the Funding Lender, of the Borrower Loan Documents and all security therefor free and clear of the lien of this Funding Loan Agreement.

The Governmental Lender shall cooperate with the Fiscal Agent and the Funding Lender in exercising rights and remedies under the Borrower Loan Documents, but only upon being satisfactorily indemnified by the Borrower for any fees or expenses relating thereto as provided in the Borrower Loan Agreement and Regulatory Agreement.

Section 9.2. Effectiveness of Sections 9.2 Through 9.15 at the Direction of Governmental Lender; Events of Default. At the written request of the Funding Lender, the Governmental Lender may authorize, by written notice to the Fiscal Agent, the effectiveness of this Section 9.2 and Sections 9.3 through 9.15. The Governmental Lender's authorization of such provisions may be granted on such terms as the Governmental Lender may determine in its sole and absolute discretion, including, without limitation, provision by the Funding Lender of indemnification reasonably satisfactory to the Governmental Lender. Upon delivery of the above-referenced authorization the provisions of this Section 9.2 and Sections 9.3 through 9.15 shall be effective. Any one or more of the following shall constitute an event of default (an "Event of Default") under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) A default in the payment of any interest upon the Governmental Lender Note when such interest becomes due and payable; or

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise; or

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 12.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" under this Funding Loan Agreement; provided that, so long as the Governmental Lender, or the Borrower on its behalf, has commenced to cure such failure to observe or perform within the 30-day cure period and the subject matter of the default is not capable of cure within said 30-day period and the Governmental Lender, or the Borrower on its behalf, is diligently pursuing such cure to the Funding Lender's satisfaction, with the Funding Lender's Written Direction or Written Consent, then the Governmental Lender, or the Borrower on its behalf, shall have an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default; or

- (d) A default in the payment of any Additional Borrower Payments; or
- (e) Any other “Default” or “Event of Default” under any of the other Funding Loan Documents (taking into account all applicable notice, grace and cure periods therein).

Notwithstanding anything to the contrary contained herein, the Funding Lender hereby agrees that any cure of any default made or tendered by one or more of the Borrower’s limited partners or its designee shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

The foregoing provisions of this Section or any other provision of this Funding Loan Agreement or any Funding Loan Documents notwithstanding, any Event of Default under Section 9.2(a) above (a “Borrower Related Default”) shall not be deemed an Event of Default of the Governmental Lender, and the Governmental Lender shall not be considered to be in default of any of its obligations hereunder with respect thereto under any circumstances, as the Governmental Lender is merely acting in a conduit capacity hereunder and the Governmental Lender Note is secured by and payable solely from amounts received from the Borrower or the Project constituting Security hereunder and is not a debt or indebtedness of the Governmental Lender as further provided in Section 5.1 hereof. Any remedial action hereunder with respect to a Borrower Related Default is therefore limited to action against the Security.

Section 9.3. Acceleration of Maturity; Rescission and Annulment.

(a) Subject to the provisions of Section 9.10 hereof, upon the occurrence of an Event of Default under Section 9.2 hereof, then and in every such case, the Funding Lender or the Fiscal Agent at the direction of the Funding Lender, may declare the outstanding principal of the Funding Loan and the Governmental Lender Note and the interest accrued to be immediately due and payable, by notice to the Governmental Lender and the Borrower and upon any such declaration, all principal of and interest on the Funding Loan and the Governmental Lender Note shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender, rescind and annul such declaration and its consequences if:

(i) There has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan, (2) the principal of the Funding Loan that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) All Events of Default, other than the nonpayment of the principal of the Governmental Lender Note which have become due solely by such declaration

of acceleration, have been cured or have been waived in writing as provided in Section 9.10 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that neither the Fiscal Agent nor the Funding Lender shall pursue any remedies against the Borrower or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

Section 9.4. Additional Remedies; Funding Lender Enforcement.

(a) Upon the occurrence of an Event of Default, the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, may, subject to the provisions of this Section 9.4 and Section 9.10 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender or the Fiscal Agent is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender or the Fiscal Agent hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, or the Fiscal Agent at the direction of the Funding Lender, shall deem expedient. Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Fiscal Agent as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, or the Fiscal Agent at the direction of the Funding Lender, shall have the sole right to waive or forbear any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax exempt status of the interest on the Governmental Lender Note, and provided that the Governmental Lender may enforce specific performance with respect to the Unassigned Rights; provided, however, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(d) 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 the Borrower, the Equity Investor, the State Equity Investor, the Fiscal Agent and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder; provided, however, that any forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.5, 5.15 or 5.16 of the Borrower Loan Agreement (subject to the applicable notice and cure periods) for fees, expenses or indemnification, the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, shall have the right to exercise all its rights and remedies thereunder (subject to Section 9.14 hereof).

Section 9.5. Application of Money Collected. Any money collected by the Funding Lender pursuant to this Article, and any other sums then held by the Funding Lender or the Fiscal Agent as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender or the Fiscal Agent at the direction of the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Governmental Lender Note, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Fiscal Agent, the Servicer and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Note, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Governmental Lender Note) on overdue principal of, and overdue installments of interest on the Governmental Lender Note; provided, however, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion, or the Fiscal Agent at the direction of the Funding Lender;

(c) Third: To the payment of the amounts required to reimburse the Governmental Lender and the Funding Lender for any legal or other out-of-pocket costs incurred by them in connection with exercising their remedies hereunder; and

(d) Fourth: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

If and to the extent this Section 9.5 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.5 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

Section 9.6. Remedies Vested in Funding Lender. All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Note may be prosecuted and enforced by the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

Section 9.7. Restoration of Positions. If the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender or the Fiscal Agent, then and in every such case the Governmental Lender and the Funding Lender or the Fiscal Agent shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the

Funding Lender and the Fiscal Agent shall continue as though no such proceeding had been instituted.

Section 9.8. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Funding Lender or the Fiscal Agent is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.9. Delay or Omission Not Waiver. No delay or omission of the Funding Lender or the Fiscal Agent to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender or the Fiscal Agent may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender or the Fiscal Agent at the direction of the Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.10 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

Section 9.10. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, the Funding Lender or the Fiscal Agent at the direction of the Funding Lender may, subject to Section 9.7 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 9.11. Remedies Under Borrower Loan Agreement or Borrower Note. As set forth in this Section 9.11 but subject to Section 9.10 hereof, the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Note, (provided all applicable notice, cure, and grace periods have expired without cure of such defaults) whether or not the Governmental Lender Note has been accelerated or declared due and payable by reason of an Event of Default.

Section 9.12. Waiver of Appraisal and Other Laws.

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully

do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in Section 9.12(a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.12.

Section 9.13. Suits To Protect the Security. The Funding Lender, or the Fiscal Agent at the direction of the Funding Lender, shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental authority enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender or the Fiscal Agent.

Section 9.14. Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

Section 9.15. Assumption of Obligations. In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

Section 9.16. No Pecuniary Liability of Governmental Lender. No agreements or provisions contained herein nor any agreement, covenant, or undertaking by the Governmental Lender in connection with the Project or the delivery of the Governmental Lender Note shall give rise to any pecuniary liability of the Governmental Lender or a charge against its general credit, or shall obligate the Governmental Lender financially in any way, except as may be payable from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. No failure of the Governmental Lender to comply with any term, covenant, or agreement contained in

the Governmental Lender Note, the Borrower Loan Agreement, this Funding Loan Agreement, or in any document executed by the Governmental Lender in connection with the Project or the delivery of the Governmental Lender Note, shall subject the Governmental Lender to liability for any claim for damages, costs or other financial or pecuniary charge, except to the extent that the same can be paid or recovered from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. No provision, covenant or agreement, or any obligations imposed upon the Governmental Lender, or the breach thereof, shall constitute an indebtedness or multiple fiscal-year obligation of the Governmental Lender within the meaning of any State constitutional or statutory limitation or shall constitute or give rise to a charge against its general credit.

ARTICLE X

AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

Section 10.1. Amendment of Funding Loan Agreement. Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender, the Fiscal Agent and the Governmental Lender; provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender, the Fiscal Agent or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Governmental Lender, the Funding Lender and the Fiscal Agent.

Section 10.2. Amendments Require Funding Lender Consent. Neither the Governmental Lender nor the Fiscal Agent shall consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document (except the Tax Certificate and the Regulatory Agreement) without the prior Written Consent of the Funding Lender, or the Fiscal Agent at the direction of the Funding Lender.

Section 10.3. Consents and Opinions. No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and, in the case of this Funding Loan Agreement, the Fiscal Agent should have also approved the same in writing and (ii) the Funding Lender and the Fiscal Agent shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

ARTICLE XI

THE FISCAL AGENT

Section 11.1. Appointment of Fiscal Agent; Acceptance. The Governmental Lender hereby appoints Wells Fargo Bank, National Association, as Fiscal Agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

Section 11.2. Certain Duties and Responsibilities of Fiscal Agent.

(a) The Fiscal Agent undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent.

(b) If an event of default exists hereunder or under any Borrower Loan Document, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and subject to Section 11.2(c)(iii) hereof, use the same degree of care and skill in its exercise, as a prudent corporate trust officer would exercise or use under the circumstances in the conduct of corporate trust business.

(c) No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, in each case, as finally adjudicated by a court of law, except that:

(i) This subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Fiscal Agent shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

(iii) The Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Funding Lender relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any power conferred upon the Fiscal Agent under this Funding Loan Agreement; and

(iv) No provision of this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it in its sole discretion.

Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Borrower Loan Documents to which it is a party and other related documents, solely in its capacity as Fiscal Agent.

(d) Whether or not therein expressly so provided, every provision of this Funding Loan Agreement and the other Funding Loan Documents relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section.

(e) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Funding Loan Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Funding Loan Agreement.

(f) The permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty.

(g) The rights of the Fiscal Agent and limitations of liability enumerated herein and in Section 11.4 shall extend to actions taken or omitted in its role as assignee of the Governmental Lender under the Borrower Loan Agreement and the other Funding Loan Documents.

Section 11.3. Notice of Defaults. Upon the occurrence of any default hereunder or under any Borrower Loan Document and provided that a Responsible Officer of the Fiscal Agent is aware of or has received Written Notice of the existence of such default, promptly, and in any event within 15 days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, the Equity Investor, the State Equity Investor, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

Section 11.4. Certain Rights of Fiscal Agent. Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request or direction of the Governmental Lender mentioned herein shall be sufficiently evidenced by a certificate or order executed by an Authorized Governmental Lender Representative;

(c) Whenever in the administration of this Funding Loan Agreement or any Borrower Loan Document the Fiscal Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Written Certificate of the Governmental Lender, the Funding Lender, the Servicer or the Borrower, as appropriate;

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement or any Borrower Loan Document at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are adjudicated to have resulted from its own negligence or willful misconduct, provided that nothing contained in this subparagraph (d) shall be construed to require such security or indemnity for the performance by the Fiscal Agent of its obligations under Article VIII hereof;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of its powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice; and

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any Borrower Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or Ongoing Governmental Lender Fee when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Notice of such default by the Governmental Lender, the Servicer or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any Borrower Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer of the Fiscal Agent at the Office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid.

Section 11.5. Not Responsible for Recitals. The recitals contained herein and in the Governmental Lender Note shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Loan.

The Fiscal Agent shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the funding of the Funding Loan.

The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Project. Unless otherwise expressly provided, the Fiscal Agent shall be under no obligation to analyze, review or make any credit decisions with respect to any financial statements, reports, notices, certificates or documents received hereunder but shall hold such financial statements reports, notices, certificates and documents solely for the benefit of, and review by, the Funding Lender and such other parties to whom the Fiscal Agent may provide such information pursuant to this Funding Loan Agreement.

The Fiscal Agent makes no representations as to and shall have no responsibility for the sufficiency of the insurance required under any of the Borrower Loan Documents.

Section 11.6. May Hold Funding Loan and the Governmental Lender Note. The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Loan and the Governmental Lender Note and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not Fiscal Agent.

Section 11.7. Moneys Held in Trust. Moneys held by the Fiscal Agent in trust hereunder need not be segregated from other funds except to the extent hereunder directed or as required by law. The Fiscal Agent shall be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

Section 11.8. Compensation and Reimbursement. Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

When the Fiscal Agent incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

(a) The Governmental Lender has no obligation to pay the Fiscal Agent for services rendered.

(b) As security for the performance of the obligations of the Borrower under this Section and for the payment of such compensation, expenses, reimbursements and indemnity, the Fiscal Agent shall have the right to use and apply any moneys held by it as Pledged Revenues.

(c) The Fiscal Agent's rights to compensation and reimbursement shall survive its resignation or removal, the payment of the Funding Loan or the Borrower Loan or the release of this Funding Loan Agreement.

Section 11.9. Fiscal Agent Required; Eligibility. Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, have at least \$500,000,000 of trust assets under management and have a combined capital and surplus of at least \$2,000,000 as set forth in its most recent published annual report of condition, or (c) be otherwise acceptable to the Funding Lender and the Governmental Lender in their sole and absolute discretion.

Section 11.10. Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Fiscal Agent hereunder and no appointment of a successor Fiscal Agent pursuant to this Article shall become effective until the written acceptance by the successor Fiscal Agent of such appointment.

(b) The Fiscal Agent may resign at any time by giving 60 days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within 45 days after the giving of such notice of resignation, the resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(c) The Fiscal Agent may be removed at any time with 30 days' notice by (i) the Governmental Lender, with the Written Consent of the Funding Lender, (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents), with the Written Consent of the Funding Lender and the Governmental Lender, or (iii) the Funding Lender by Written Notice delivered to the Fiscal Agent, the Equity Investor, the State Equity Investor, the Governmental Lender and the Borrower.

(d) If the Fiscal Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the Office of the Fiscal Agent for any cause, the Governmental Lender shall promptly appoint a successor Fiscal Agent, with the consent of the Funding Lender. In case all or substantially all of the Pledged Revenues and Security shall be in

the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any of the institutions approved by the Governmental Lender to serve as a fiscal agent or trustee) with Written Notice thereof delivered to the Governmental Lender, the Equity Investor, the State Equity Investor, the Borrower, the Servicer, if any, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment in the manner hereinafter provided, the Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(e) The retiring Fiscal Agent shall cause Written Notice of each resignation and each removal of the Fiscal Agent and each appointment of a successor Fiscal Agent to be provided to the Funding Lender. Each notice shall include the name of the successor Fiscal Agent and the address of the office of the successor Fiscal Agent.

Section 11.11. Acceptance of Appointment by Successor.

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent all the estates, properties, rights, powers and duties of the retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights and powers.

(b) No successor Fiscal Agent shall accept its appointment unless at the time of such acceptance such successor Fiscal Agent shall be qualified and eligible under this Article, to the extent operative.

Section 11.12. Merger, Conversion, Consolidation or Succession to Business. Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such

corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Governmental Lender and Funding Lender within 30 days of such succession.

Section 11.13. Appointment of Co-Fiscal Agent. It is the purpose of this Funding Loan Agreement that there shall be no violation of any laws of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Borrower Loan Document or the Regulatory Agreement, and in particular in case of the enforcement of any of them on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Fiscal Agent or hold title to the properties, in trust, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co-fiscal agent. The following provisions of this Section are adopted to these ends.

The Fiscal Agent is hereby authorized to appoint an additional individual or institution as a separate or co-fiscal agent hereunder, upon Written Notice to the Governmental Lender, the Funding Lender and the Borrower, and with the consent of the Governmental Lender and the Funding Lender, but without the necessity of further authorization or consent, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement, any Borrower Loan Document, the Regulatory Agreement or the Borrower Loan Agreement to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co-fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-fiscal agent shall run to and be enforceable by either of them.

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co-fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co-fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, duties and obligations of such separate fiscal agent or co-fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co-fiscal agent.

Section 11.14. Loan Servicing. The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint a Servicer to service and administer the Borrower Loan as set forth in a Servicing Agreement. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of any Servicer or for any acts or omissions of such Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

Section 11.15. No Recourse Against Officers or Employees of Fiscal Agent. No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

Section 11.16. Libor Cessation or Alternative Reference Rate. The Fiscal Agent shall not be under any obligation (a) to monitor, determine or verify the unavailability or cessation of the LIBOR Rate (as defined in the Borrower Note) (or other applicable Index (as defined in the Borrower Note)), or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any benchmark transition event, (b) to select, determine or designate any replacement Index (as defined in the Borrower Note), or whether any conditions to the designation of such a rate have been satisfied, or (c) to select, determine or designate any successor Index other modifier to any replacement or successor Index, or (d) to determine whether or what conforming changes are necessary or advisable, if any, in connection with any of the foregoing.

Section 11.17. Limitation of Liability; Failure To Perform Or Delay. The Fiscal Agent shall not be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Funding Loan Agreement as a result of the unavailability of the LIBOR Rate (as defined in the Borrower Note) and absence of a designated replacement rate or Index (as defined in the Borrower Note), including as a result of any inability, delay, error or inaccuracy on the part of any other transaction party, including without limitation the Funding Lender or the Servicer, in providing any direction, instruction, notice or information required or contemplated by the terms of this Funding Loan Agreement and reasonably required for the performance of such duties.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Notices.

(a) All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows:

If to the Governmental Lender: City and County of Denver, Colorado
 Department of Finance
 201 West Colfax Avenue
 Department 1010
 Denver, CO 80202
 Email: Michael.Kerrigan@denvergov.org
 Attention: Chief Financial Officer

With a copies to:

Office of Department of Housing Stability
201 West Colfax Avenue
Sixth Floor
Denver, CO 80202
Email: Nicholas.Emenhiser@denvergov.org
Attention: Executive Director

Denver City Attorney's Office
1437 Bannock Street
Room 353
Denver, CO 80202
Email: Bradley.Neiman@denvergov.org
Attention: City Attorney

Kutak Rock LLP
1801 California Street, Suite 3000
Denver, CO 80202
Attention: Frederic H. Marienthal, Esq.
Email: Frederic.Marienthal@kutakrock.com

If to the Fiscal Agent:

Wells Fargo Bank, National Association
[ADDRESS]
Attention: [_____]]
Phone: [(____) ____ - ____]
Email: [_____]]

If to the Borrower:

MHMP 15 E Colfax LLLP
c/o Mercy Housing Mountain Plains
1600 Broadway, Suite 2000
Denver, CO 80202
Attention: Joe Rosenblum, General Counsel
Phone: (303) 830 -3409
Email: jrosenblum@mercyhousing.org

with a copy to (which shall not constitute notice to Borrower):

Applegate & Thorne-Thomsen
425 South Financial Place, Suite 1900
Chicago, IL 60605
Attention: Paul Davis
Phone: (312) 491-2205
Email: pdavis@att-law.com

with a copy to:

Wells Fargo Affordable Housing Community
Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288

with a copy to:

Pillsbury Winthrop Show Pittman LLP
1200 17th Street, NW
Washington, D.C. 20036
Attention: Craig A. de Ridder, Esq.

If to the Funding Lender:

Wells Fargo Bank, National Association
301 S. College Street, MAC D1053-170
Charlotte, NC 28288
Attn: Manager, CLI Deal Management
and
Wells Fargo Bank, National Association
Community Lending & Investment (59448)
MAC C7300-11H
1700 Lincoln Street, 11th Floor
Denver, CO 80203
Attention: Scott Horton
Email: scott.horton@wellsfargo.com

with a copy to:

Kutak Rock LLP
1801 California Street, Suite 3000
Denver, CO 80202
Attention: Micah Halverson, Esq.
Email: Micah.Halverson@kutakrock.com

and

Prior to the Conversion Date,
with a copy to:

Wells Fargo Bank, National Association
[ADDRESS]
Attention: [_____]]
Phone: [() ____ - ____]
Email: [_____]]

Following the
Conversion Date,
with a copy to:

Wells Fargo Bank, National Association
[ADDRESS]
Attention: [_____]]
Phone: [(____) ____ - ____]
Email: [_____]]

And a copy of any notices
of default sent to:

Wells Fargo Bank, National Association
[ADDRESS]
Attention: [_____]]
Phone: [(____) ____ - ____]
Email: [_____]]

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

Section 12.2. Term of Funding Loan Agreement. This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto, provided however that the rights of the Governmental Lender to indemnity, non-liability and payment of all reasonable fees and expenses shall survive the cancellation and termination of this Funding Loan Agreement pursuant to this Section.

Section 12.3. Successors and Assigns. All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not. Except as otherwise provided herein, the terms of this Funding Loan Agreement and the Funding Loan Documents shall bind and inure to the benefit of the heirs, successors and assigns of the parties hereto.

Section 12.4. Legal Holidays. In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period from and after such date and prior to the date of payment.

Section 12.5. Governing Law. This Funding Loan Agreement and the Governmental Lender Note shall be governed by and shall be enforceable in accordance with the internal laws of the State, without regard to conflict of laws principles.

Section 12.6. Invalidity, Illegality or Unenforceability of Provisions. If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

Section 12.7. Execution in Several Counterparts. This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 12.8. Nonrecourse Obligation of the Borrower. Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement pursuant to Section 4.1.37 or other provisions of the Borrower Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

Section 12.9. Electronic Transactions. The transactions described in this Funding Loan Agreement may be conducted and the related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 12.10. Reference Date. This Funding Loan Agreement is dated for reference purposes only as of [_____] 1, 2021 and will not be effective and binding upon the parties hereto

[Signatures Follow]

IN WITNESS WHEREOF, the Funding Lender, the Fiscal Agent and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Funding Lender**

By _____
Scott Horton, Director

[Funding Lender Signature Page to Funding Loan Agreement - The Rose on Colfax]

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Fiscal Agent**

By _____
[]
[]

[Fiscal Agent Signature Page to Funding Loan Agreement - The Rose on Colfax]

**GOVERNMENTAL LENDER:
CITY AND COUNTY OF DENVER**

ATTEST:

By: _____
Paul D. Lopez,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By: _____
Michael B. Hancock, MAYOR

APPROVED AS TO FORM:
Kristin M. Bronson
Attorney for the City and County of Denver

REGISTERED AND COUNTERSIGNED:

By: _____
City Attorney

By: _____
Brendan J. Hanlon, CFO

By: _____
Timothy O'Brien, Auditor

[Governmental Lender Signature Page to Funding Loan Agreement - The Rose on Colfax]

EXHIBIT A-1

FORM OF GOVERNMENTAL LENDER NOTE

THIS GOVERNMENTAL LENDER NOTE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AS SET FORTH IN THE FUNDING LOAN AGREEMENT.

**CITY AND COUNTY OF DENVER, COLORADO
MULTIFAMILY HOUSING REVENUE NOTE
(THE ROSE ON COLFAX PROJECT)
SERIES 2021**

\$_[_____]

[_____] , 2021

FOR VALUE RECEIVED, the undersigned CITY AND COUNTY OF DENVER, COLORADO (“Obligor”), a legally and regularly created, established, organized and validly existing home rule city, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the “State”) and the Home Rule Charter (the “Charter”), promises to pay to the order of WELLS FARGO BANK, NATIONAL ASSOCIATION (together with its successors and assigns, “Holder”), solely from amounts pledged therefor under the below-defined Funding Loan Agreement, the maximum principal sum of [_____] DOLLARS (\$[_____]), on [_____] 1, 20[___] or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

This Governmental Lender Note is issued pursuant to the Charter and the Ordinance, adopted by the City Council of the Governmental Lender on [_____] , 2021 (the “Ordinance”), authorizing the issuance of revenue notes, and in accordance with the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the “Act”) and the Colorado Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11, Colorado Revised Statutes, as amended (the “Supplemental Act”).

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of [_____] 1, 2021 (the “Funding Loan Agreement”), among Obligor, Wells Fargo Bank, National Association, as fiscal agent (the “Fiscal Agent”), an amount in immediately available funds sufficient to pay the principal amount of this Governmental Lender Note then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on this Governmental Lender Note in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of this Governmental Lender Note so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement or the Borrower Loan Agreement (as defined below).

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on this Governmental Lender Note then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction and permanent loan (the “Borrower Loan”) made by Obligor from proceeds of the Funding Loan to MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership, as borrower (the “Borrower”), under that certain Borrower Loan Agreement, dated as of [_____] 1, 2021 (as the same may be modified, amended or supplemented from time to time, the “Borrower Loan Agreement”), between the Obligor and the Borrower. Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment terms of the Borrower Note, payments on which are passed-through under this Governmental Lender Note.

None of the Governmental Lender or any person executing this Governmental Lender Note is liable personally on this Governmental Lender Note or subject to any personal liability or accountability by reason of its execution and delivery. The Governmental Lender shall not be directly, indirectly, contingently or morally obligated to pay the principal of, premium, if any, or interest on the Governmental Lender Note, except from Pledged Revenues.

THIS GOVERNMENTAL LENDER NOTE IS A SPECIAL, LIMITED OBLIGATION OF THE GOVERNMENTAL LENDER PAYABLE SOLELY FROM PLEDGED REVENUES, AND OTHER FUNDS AND MONEYS AND SECURITY PLEDGED AND ASSIGNED UNDER THE FUNDING LOAN AGREEMENT. THIS GOVERNMENTAL LENDER NOTE SHALL CONSTITUTE A VALID CLAIM OF THE FISCAL AGENT THEREOF AGAINST THE PLEDGED REVENUES, WHICH ARE PLEDGED TO SECURE THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THIS GOVERNMENTAL LENDER NOTE (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE UNASSIGNED RIGHTS), AND WHICH SHALL BE USED FOR NO OTHER PURPOSE EXCEPT AS EXPRESSLY AUTHORIZED IN THE FUNDING LOAN AGREEMENT. THIS GOVERNMENTAL LENDER NOTE SHALL NOT BE A DEBT OR INDEBTEDNESS OF THE GOVERNMENTAL LENDER, THE STATE OR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE, AND NEITHER THE GOVERNMENTAL LENDER, THE STATE NOR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE SHALL BE LIABLE FOR PAYMENT OF THIS GOVERNMENTAL LENDER NOTE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO EXCEPT AS SET FORTH IN THE FUNDING LOAN AGREEMENT, NOR IN ANY EVENT SHALL PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE GOVERNMENTAL LENDER NOTE BE PAYABLE OUT OF ANY FUNDS, PROPERTIES OR ASSETS OTHER THAN THOSE PLEDGED TO THAT PURPOSE BY THE GOVERNMENTAL LENDER IN THE FUNDING LOAN AGREEMENT (BUT NOT FUNDS RESULTING FROM THE EXERCISE OF THE UNASSIGNED RIGHTS). THIS GOVERNMENTAL LENDER NOTE SHALL NOT CONSTITUTE AN INDEBTEDNESS OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. THIS GOVERNMENTAL LENDER NOTE DOES NOT CONSTITUTE A DEBT, LOAN, CREDIT OR PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE GOVERNMENTAL LENDER, THE STATE OR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE, AND NONE OF THIS GOVERNMENTAL LENDER NOTE OR ANY OF THE GOVERNMENTAL LENDER’S

AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE FUNDING LOAN, THIS GOVERNMENTAL LENDER NOTE, OR UNDER THE FUNDING LOAN AGREEMENT, SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE GOVERNMENTAL LENDER, THE STATE, OR ANY POLITICAL SUBDIVISION OF EITHER THE GOVERNMENTAL LENDER OR THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

No obligation, covenant, condition or agreement contained in the Funding Loan Agreement or in this Governmental Lender Note shall be deemed to be an obligation, covenant, condition or agreement of any past, present or future officer, member, financial advisor, attorney, director, trustee, fiscal agent, counsel, official, employee or agent of the Governmental Lender in their individual capacity, and no recourse shall be had for the payment of the principal of, or premium, if any, or interest on, and any sum that may be due and unpaid by the Governmental Lender on this Governmental Lender Note or for any claim based thereon or upon any obligation, covenant, condition or agreement contained in the Funding Loan Agreement or in this Governmental Lender Note against any past, present or future officer, member, director, trustee, fiscal agent, financial advisor, attorney, counsel, official, employee or agent of the Governmental Lender, either directly or through the Governmental Lender, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, director, trustee, fiscal agent, financial advisor, attorney, counsel, official, employee or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of the Funding Loan Agreement and the delivery of this Governmental Lender Note.

Neither the officers, members, directors, trustees, financial advisor, attorney, fiscal agents, counsel, officials, employees or agents of the Governmental Lender nor any person executing this Governmental Lender Note or the Funding Loan Agreement shall be liable personally on this Governmental Lender Note or under the Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of this Governmental Lender Note or the execution of the Funding Loan Agreement. No covenant, stipulation, obligation or agreement of the Governmental Lender contained in the Funding Loan Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future officers, members, directors, trustees, fiscal agents, financial advisor, attorney, counsel, officials, employees or agents of the Governmental Lender in other than that person's official capacity.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or under the Funding Loan Agreement at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

The rights and remedies of the Holder hereof during the occurrence of a default are as set forth in the Funding Loan Agreement. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Subject to the limits on liability set forth herein and in the Funding Loan Agreement, and solely from the collateral pledged therefor, Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

The transfer of this Governmental Lender Note is subject to certain restrictions as provided in the Funding Loan Agreement and described below and to registration by the holder in person or by the holder's attorney hereof upon surrender of this Governmental Lender Note at the principal corporate trust office of the Fiscal Agent, duly endorsed or accompanied by a written instrument or instruments of transfer in form satisfactory to the Fiscal Agent and executed and with guaranty of signature by the holder hereof or his, her or its attorney duly authorized in writing, containing written instructions as to the details of the registration of the transfer of this Governmental Lender Note. Thereupon the Obligor shall execute (if necessary) and the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees (but not registered in blank or to "bearer" or a similar designation), a new Governmental Lender Note.

BY ITS ACQUISITION HEREOF, THE HOLDER OF THIS GOVERNMENTAL LENDER NOTE AGREES (A) THAT IT HAS EXECUTED REQUIRED TRANSFEREE REPRESENTATIONS IN SUBSTANTIALLY THE FORM REQUIRED BY THE FUNDING LOAN AGREEMENT AND THAT IT WILL NOT SELL OR OTHERWISE TRANSFER THIS GOVERNMENTAL LENDER NOTE EXCEPT AS PROVIDED IN THE FUNDING LOAN AGREEMENT, AND (B) THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS GOVERNMENTAL LENDER NOTE IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt

payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Lender Note or caused this Governmental Lender Note to be duly executed and delivered by its authorized representative as of the date first set forth above.

OBLIGOR:

CITY AND COUNTY OF DENVER

ATTEST:

By: _____
Paul D. Lopez,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By: _____
Michael B. Hancock, MAYOR

APPROVED AS TO FORM:

Kristin M. Bronson
Attorney for the City and County of Denver

REGISTERED AND COUNTERSIGNED:

By: _____
City Attorney

By: _____
Brendan J. Hanlon, CFO

By: _____
Timothy O'Brien, Auditor

CERTIFICATE OF AUTHENTICATION

This Governmental Lender Note is the Governmental Lender Note described in the within mentioned Funding Loan Agreement.

Date of Authentication: _____

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Fiscal Agent**

By _____
Name:
Title:

EXHIBIT B

FORM OF REQUIRED TRANSFEREE REPRESENTATIONS

City and County of Denver
Denver, Colorado

Kutak Rock LLP
Denver, Colorado

Wells Fargo Bank, National Association, as Fiscal Agent
[_____,_____]

\$15,425,000
City and County of Denver, Colorado
Multifamily Housing Revenue Note
(The Rose on Colfax Project)
Series 2021

[_____] , 20[_____]

The undersigned as holder (the “Holder”) of a loan (the “Funding Loan”) in the aggregate maximum principal amount of \$15,425,000 from WELLS FARGO BANK, NATIONAL ASSOCIATION (the “Funding Lender”) to the CITY AND COUNTY OF DENVER, COLORADO (the “Governmental Lender”) under a Funding Loan Agreement dated as of [_____] 1, 2021 (the “Funding Loan Agreement”) among the Funding Lender, WELLS FARGO BANK, NATIONAL ASSOCIATION, as fiscal agent (the “Fiscal Agent”) and the Governmental Lender (the “Funding Lender”) which Funding Loan is evidenced by the Multifamily Housing Revenue Note (The Rose on Colfax Project) Series 2021 (the “Governmental Lender Note”) issued under the Funding Loan Agreement, hereby represents and warrants to you as follows:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project to be able to evaluate the risk and merits of the investment represented by the Funding Loan. The Holder is able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable lender would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the Borrower, the use of proceeds of the Funding Loan and the Funding Loan, the Governmental Lender Note and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to extend the Funding Loan and purchase the Governmental Lender Note. In entering into this transaction the Holder acknowledges that it has not relied upon any representations or opinions of the Governmental Lender relating to the legal consequences to the Funding Lender or other aspects of its making the Funding Loan and acquiring the Governmental Lender Note, nor has it looked to, nor expected the

Governmental Lender to undertake or require any credit investigation or due diligence reviews relating to the Borrower, its financial condition or business operations, the Project (including the financing or management thereof), or any other matter pertaining to the merits or risks of the transactions contemplated by the Funding Loan Agreement and the Borrower Loan Agreement, or the adequacy of the funds pledged to the Funding Lender to secure repayment of the Governmental Lender Note.

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing the Governmental Lender Note for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Governmental Lender Note; provided, however, that the Holder may sell or transfer the Governmental Lender Note in whole or any participation interests in the Governmental Lender Note, to an Approved Transferee, subject to delivery to the Governmental Lender and the Fiscal Agent of representations from the transferee in substantially the same substance as these Required Transferee Representations with no revisions except as may be approved in writing by the Governmental Lender. The Holder shall not sell or transfer the Governmental Lender Note or any interest therein to a party related to or affiliated with the Borrower or any general partner, limited partner or member of the Borrower without the prior written consent of the Governmental Lender.

5. The Holder understands that the Governmental Lender Note is a limited obligation of the Governmental Lender, payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Governmental Lender Note are expressly limited as set forth in the Funding Loan Agreement and related documents.

6. The Holder hereby waives the requirement of any “due diligence investigation or inquiry” by the Governmental Lender, by each official of the Governmental Lender, each employee of the Governmental Lender, each member of the City Council of the Governmental Lender, and by counsel to the Governmental Lender, the Fiscal Agent, counsel to the Fiscal Agent and Tax Counsel in connection with the authorization, execution and delivery of the Governmental Lender Note and the Holder’s purchase of the Governmental Lender Note, other than, in the case of counsel, such professional due diligence normally and customarily required for such counsel to deliver any opinion delivered by it in connection with the issuance of the Governmental Lender Note. The Holder recognizes and agrees that the Governmental Lender, by each official of the Governmental Lender, each employee of the Governmental Lender, each member of the City Council of the Governmental Lender, counsel to the Governmental Lender, the Fiscal Agent, counsel to the Fiscal Agent and Tax Counsel have made no representations or statements (expressed or implied) with respect to the accuracy or completeness of any of the materials reviewed by the Holder in connection with the Holder’s purchase of the Governmental Lender Note. In making an investment decision, the Holder is relying upon its own examination of the Governmental Lender, the Borrower, the Project and the terms of the Governmental Lender Note.

7. The Holder understands that (a) the Governmental Lender Note has not been registered with any federal or state securities agency or commission, and (b) no credit rating has been sought or obtained with respect to the Governmental Lender Note, and the Holder

acknowledges that the Governmental Lender Note is a speculative investment and that there is a high degree of risk in such investment.

8. The Holder acknowledges that the Governmental Lender Note is a limited obligation of the Governmental Lender, payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and is not an obligation payable from the general revenues or other funds of the Governmental Lender, the State or any political subdivision of the State. The Holder acknowledges that the Governmental Lender is issuing the Governmental Lender Note on a conduit, nonrecourse basis, and has no continuing obligations with respect thereto except as expressly set forth in the Funding Loan Agreement.

9. The Holder agrees to indemnify and hold harmless the Governmental Lender, the Governmental Lender's officials, officers, directors, employees, agents, attorneys, accountants, advisors, consultants, servants and the members of the governing board of the Governmental Lender, past, present and future, with respect to any claim asserted against any of them that is based upon the Holder's sale, transfer or other disposition of its interest in the Funding Loan in violation of the provisions hereof or of the Funding Loan Agreement or any inaccuracy in any statement made by the Holder in these representations.

10. The Holder has the authority to make the Funding Loan and acquire the Governmental Lender Note and to execute this letter and other documents and instruments required by the executed by the Holder in connection with its acquisition of the Governmental Lender Note. The individual who is executing this letter on behalf of the undersigned is a duly appointed, qualified and authorized signatory for the Holder and authorized to cause the Holder to make the certifications, representations and warranties contained herein by the execution of this letter on behalf of the Holder.

11. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

[Signature Page to Required Transferee Representations]

_____, as Holder

By _____
[NAME]
[TITLE]

EXHIBIT C

**FORM OF WRITTEN REQUISITION
(Project Fund)**

Draw # _____

Wells Fargo Bank, National Association, as Fiscal Agent
[ADDRESS]
Attention: [Corporate Trust]

Re: City and County of Denver, Colorado Multifamily Housing Revenue Note (The Rose on Colfax) Series 2021 dated [____], 2021

This requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of [____] 1, 2021 (the "Funding Loan Agreement") among Wells Fargo Bank, National Association (the "Funding Lender"), the City and County of Denver, Colorado (the "Governmental Lender") and Wells Fargo Bank, National Association, as fiscal agent (the "Fiscal Agent") pursuant to which the above-referenced note (the "Governmental Lender Note") was issued. Capitalized terms not defined herein shall have the meanings assigned thereto in the Funding Loan Agreement.

1. You are requested to disburse funds in the amount of \$_____ from the Note Proceeds Account and/or \$_____ from the [Borrower Equity Account] of the Project Fund as Draw # _____ pursuant to Section 7.7 of the Funding Loan Agreement in the amount(s) and to the person(s) as follows:

[Insert grid (see below) summarizing all funds, including amount, source and payee, which are being requisitioned from the Fiscal Agent pursuant to this requisition.]

2. The undersigned certifies that:

(i) the obligation stated on this Requisition has been incurred in or about the acquisition, construction or equipping of the Project, each item is a proper charge against the Project Fund, and the obligation has not been the basis for a prior requisition that has been paid;

(ii) [for requisitions from the Note Proceeds Account: this Requisition contains no items representing any Governmental Lender Closing Costs or any other amount constituting an issuance cost under Section 147(g) of the Code and] payment of the costs referenced herein will not violate any representation, warranty or covenant of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement or the Tax Certificate;

(iii) [for requisitions from the Note Proceeds Account: not less than 95% of the sum of: (a) the amounts requisitioned by this Requisition to be funded from the Note Proceeds Account of the Project Fund; plus (b) all amounts previously disbursed from the

Note Proceeds Account of the Project Fund have been or will be applied by the Borrower to pay Qualified Project Costs (as defined in the Regulatory Agreement);

(iv) the Borrower acknowledges that fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a “related person” (within the meaning of Section 144(a)(3) of the Code) are not deemed to be Qualified Project Costs; and

(v) as of the date hereof, no event or condition has happened or is happening or exists that constitutes, or that with notice or lapse of time or both, would constitute, an Event of Default under the Funding Loan Agreement or under the Borrower Loan Agreement.

3. You hereby authorize the Funding Lender to use the wire instructions contained in Exhibit F of the Funding Loan Agreement to wire the funds to the Fiscal Agent, and the Funding Lender may continue to rely on these instructions until it shall have received any written notice of modification or revocation from you.

Dated: _____, 20__

MHMP 15 E Colfax LLLP,
a Colorado limited liability limited partnership

By: MHMP 15 E Colfax GP LLC, a Colorado limited liability company, its general partner

By: Mercy Housing Mountain Plains, a Colorado nonprofit corporation, its sole member

By: _____
Dee Walsh
President

[Signature Page to Project Fund Requisition - The Rose on Colfax]

WELLS FARGO BANK, NATIONAL ASSOCIATION

By _____
[Name]
[Title]

Date _____

[Signature Page to Project Fund Requisition - The Rose on Colfax]

EXHIBIT D

FORM OF CLOSING COSTS REQUISITION

Wells Fargo Bank, National Association, as Fiscal Agent
[Address]
Attention: [Corporate Trust]

Re: City and County of Denver, Colorado Multifamily Housing Revenue Note (The Rose on Colfax Project) Series 2021 dated [____], 2021

The undersigned, an Authorized Representative of MHMP 15 E Colfax LLLP, a Colorado limited liability limited partnership (the “Borrower”), hereby certifies to you that he/she is authorized and empowered to submit this requisition to you and that attached hereto as Schedule “A” is a schedule of issuance costs incurred in connection with the closing of the funding loan evidenced by the above described Governmental Lender Note (the “Governmental Lender Note”), including the names and addresses of the payees and the specific amounts payable to each such payee, and that to the best of the undersigned’s information and belief, such amounts are true and correct.

This requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of [____] 1, 2021 (the “Funding Loan Agreement”) among Wells Fargo Bank, National Association. (the “Funding Lender”), the City and County of Denver, Colorado (the “Governmental Lender”) and Wells Fargo Bank, National Association, as fiscal agent pursuant to which the Governmental Lender Note was issued and delivered. You are hereby instructed to withdraw from the Closing Costs Fund created under the Funding Loan Agreement the amounts shown across from each payee listed on Schedule “A” hereto and pay such amounts to each such payee by wire transfer or by such other means as is acceptable to you and any such payee.

Very truly yours,

Date: _____

MHMP 15 E Colfax LLLP,
a Colorado limited liability limited partnership

By: MHMP 15 E Colfax GP LLC, a Colorado limited liability company, its general partner

By: Mercy Housing Mountain Plains, a Colorado nonprofit corporation, its sole member

By: _____
Dee Walsh
President

WELLS FARGO BANK, NATIONAL ASSOCIATION

By _____
[Name]
[Title]

Date _____

SCHEDULE "A"

Note: City and County of Denver, Colorado Multifamily Housing Revenue Note (The Rose on Colfax Project) Series 2021 dated [____], 2021

Payee:

Amount:

Method of Payment:

Description of Expense:

EXHIBIT E

FISCAL AGENT WIRING INSTRUCTIONS

Bank Name: Wells Fargo Bank, National Association

Bank City and State:

ABA Number:

Account Name:

Account Number:

For Further Credit Account Name:

Reference: