CALL AND NOTICE OF
REGULAR MEETING
AT 6:45 PM
OF THE
VALLEJO HOUSING AUTHORITY
COUNCIL CHAMBERS
555 SANTA CLARA STREET,
VALLEJO, CA
SEPTEMBER 24, 2019

CHAIR
Bob Sampayan

MEMBERS:
Pippin Dew, Vice Chair
Hakeem Brown
Robert H. McConnell
Katy Miessner
Hermie R. Sunga
Rozzana Verder-Aliga
Margie Verdan

1. CALL TO ORDER

2. ROLL CALL

3. CONSENT CALENDAR AND APPROVAL OF AGENDA

A. **APPROVAL OF MINUTES**

Recommendation: Approve the Housing Authority minutes for the June 11, 2019 special meeting.

Contact: Dawn G. Abrahamson, Secretary (707) 648-4528
Dawn.Abrahamson@cityofvallejo.net

B. **AMEND AND RESTATE THE LOAN TERMS UNDER THE REGULATORY AGREEMENT FOR THE BAY VIEW VISTA SENIOR APARTMENTS**

Recommendation:

Adopt a Resolution authorizing the Executive Director to execute various documents amending and restating loan obligations between the Housing Authority and Bay View Vista Apartments as described in the staff report including:

- a roll-over to the current outstanding principal and accrued interest in the amount of $1,400,000,
- an extension of the loan term,
- an authorization to assign the loan to Bayview Vallejo AR, L.P. by executing the Amended and Restated Promissory Note.

Contact: Judy Shepard-Hall, Housing and Community Development Manager, (707) 648-4408
judy.shepard-hall@cityofvallejo.net

4. ACTION CALENDAR

NOTICE: Members of the public wishing to address the Housing Authority on Action Calendar Items are requested to submit a completed speaker card to the Secretary. Each speaker is limited to five minutes pursuant to Vallejo Municipal Code Section 2.02.420.

A. RECOMMEND APPROVAL OF REVISIONS TO THE VALLEJO HOUSING AUTHORITY'S ADMINISTRATIVE PLAN

Recommendation: Recommend the Housing Authority Board Members approve revisions to the Vallejo Housing Authority's (VHA) Administrative Plan (Admin Plan).

Contact: Judy Shepard-Hall, Housing and Community Development Manager
(707) 648-4408
judy.shepard-hall@cityofvallejo.net

5. ADJOURNMENT

Dated: Thursday, September 19, 2019

Dawn G. Abrahamson for

Bob Sampayan, Chair

I, Dawn Abrahamson, Secretary, do herby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo Housing Authority., at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 5:00 p.m., Thursday, September 19, 2019.

Dated: Thursday, September 19, 2019

Dawn G. Abrahamson

Dawn G. Abrahamson, City Clerk

Consent A

VALLEJO HOUSING AUTHORITY
SPECIAL MEETING MINUTES
COUNCIL CHAMBERS

JUNE 11, 2019

1. CALL TO ORDER

The meeting was called to order at 6:50 p.m.

2. ROLL CALL

Present: Chair Sampayan, Vice Chair Dew, Boardmembers Brown, McConnell, Miessner, Sunga, Verder-Aliga and Verdan
Absent: None
Staff present: Executive Director Nyhoff, City Attorney Quintana and Secretary Abrahamson

3. CONSENT CALENDAR AND APPROVAL OF AGENDA

ACTION: Moved by Chair Dew and carried unanimously, unless otherwise noted, approval of the Agenda and the Consent Calendar.

A. APPROVAL OF MINUTES

Recommendation: Approve the Housing Authority meeting minutes for the March 26, 2019 regular meeting

Contact: Dawn G. Abrahamson, Secretary (707) 648-4527
Dawn.Abrahamson@cityofvallejo.net

Action: Approved minutes.

B. CITY TREASURER'S INVESTMENT REPORT

Recommendation: Accept the City Treasurer's Investment Report for the quarter ended March 31, 2019.

Contact: Rekha Nayar, Finance Director, (707) 648-4592
Rekha.Nayar@cityofvallejo.net

Action: Accepted City Treasurer's Investment Report for quarter ended March 31, 2019.

4. ACTION CALENDAR

A. FISCAL YEAR 2019-20 HOUSING AUTHORITY BUDGET

Recommendation: Conduct a public hearing and upon conclusion adopt a Resolution (Attachment 1) approving the Fiscal Year (FY) 2019-20 Vallejo Housing Authority (VHA) Budget, as set forth in Attachment 2.

Contact: Judy Shepard-Hall, Housing and Community Development Manager

(707) 648-4408
judy.shepard-hall@cityofvallejo.net

Housing & Community Development Manager Shepard-Hall provided an overview of the FY 19-20 budget.

Chair Sampayan opened the public hearing. There being no speakers, the public hearing was closed.

Action: Moved by Vice Chair Dew and carried unanimously to adopt Resolution No. 19-001.

5. ADJOURNMENT

The meeting adjourned at 6:53 p.m.

____
BOB SAMPAYAN, CHAIR

ATTEST:

____
DAWN G. ABRAHAMSON
SECRETARY

City of VALLEJO California

CONSENT CALENDAR 3.B.

DATE: September 24, 2019

TO: Mayor and Members of the City Council

FROM: Judy Shepard-Hall, Housing & Community Development Manager

SUBJECT: AMEND AND RESTATE THE LOAN TERMS UNDER THE REGULATORY AGREEMENT FOR THE BAY VIEW VISTA SENIOR APARTMENTS

RECOMMENDATION

Adopt a Resolution authorizing the Executive Director to execute various documents amending and restating loan obligations between the Housing Authority and Bay View Vista Apartments as described in the staff report including:

- a roll-over to the current outstanding principal and accrued interest in the amount of $1,400,000,
- an extension of the loan term,
- an authorization to assign the loan to Bayview Vallejo AR, L.P. by executing the Amended and Restated Promissory Note.

REASONS FOR RECOMMENDATION

In 2003, the Redevelopment Agency of the City of Vallejo loaned the current owner, Solano Vista II Housing Investors, LP, $1,700,000, accompanied by a 55-year Affordable Housing Covenant that required not less than 20 units be rented to qualified very-low, and not less than 172 be rented to low-income senior households. Highridge Costa Housing Partners, LLC (HCHP), an affiliate to one of the existing general partners of the current property owner, seeks to complete the acquisition and rehabilitation of the 194-unit Bay View Vista Senior Apartments at 445 Redwood Street by assigning the outstanding loan to the eventual new owner, Bayview Vallejo AR, L.P. Assigning the loan, $1,386,758.99 principal including the $9,718.93 accrued interest, to Bayview Vallejo AR, L.P., includes amending the current Promissory Note with a maturity date of 2059 (Attachment 1), updating the Affordable Housing Covenant to reflect a new 55-year affordability covenant (Attachment 2), and updating the Deed of Trust (Attachment 3).The loan assignment and extension will infuse $4,850,000 into the property through building improvements. The rehabilitation will extend the useful life of the property, increase its natural resource efficiency, and guarantee affordable units for seniors for an additional 55-year affordability term.

BACKGROUND AND DISCUSSION

The current owner originally received an allocation of 9% tax credits in 2001 to construct Bay View Vista Senior Apartments, with rents restricted to ensure affordability for 55 years. In 2005, the Redevelopment Agency of the City of Vallejo entered into an Affordable Housing Covenant, which outlined certain terms between the City and the current owner, and approved a loan in the amount of $1,700,000.

In order to complete the acquisition and rehabilitation of the Bay View Vista Senior Apartments by the soon-to-be new owner, Bayview Vallejo AR, L.P., HCHP needed to apply and secure new bond financing from the California Debt Limit Allocation Committee and low-income housing tax credits from the California Tax Credit Allocation Committee. An IRS-mandated Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing was conducted and a Resolution was adopted by the City Council on June 25, 2019 approving the issuance of bonds.

Upon acquisition of the property, Bayview Vallejo AR, L.P. will expend approximately $4,850,000 ($25,000/unit) in rehabilitation improvements, which will make the building 10% more energy-efficient extending its useful life, including substantially reducing the property's overall water consumption as mandated by California water supply agencies.

HCHP is requesting the following from the Vallejo Housing Authority (VHA) as housing successor agency to the dissolved Redevelopment Agency of the City of Vallejo:

1. Roll over the current outstanding principal and a portion of the accrued interest totaling $1,400,000 as part of the new financing, and extend the existing maturity date to 2059
2. Execute an Amended and Restated Promissory Note
3. Execute an Amended and Restated Regulatory Agreement
4. Execute a Subordination Agreement (Attachment 4)
5. Execute an Assignment and Assumption Agreement (Attachment 5)
6. Execute a Declaration of Restrictive Covenants, Conditions and Restrictions

Given that the current owner is financing approximately 23% of the total project (compared to the VHA's loan of 4%), they are asking that after full payment of the deferred developer fee, 50% of the available cash flow be applied towards their note and 50% applied towards the VHA's loan. The property will be purchased by Bayview Vallejo AR, L.P. for its appraised value, estimated at $24,800,000.

As a result of the sale, Bay View Vista Senior Apartments, its residents. the City of Vallejo, and the Vallejo Housing Authority will benefit from the following improvements:

- Approximately $4,850,000 worth of improvements extending the useful life of the affordable housing community for seniors
- Increased energy efficiency of each residential building, including several water reducing measures such as turf removal, drip irrigation, and installation of drought-tolerant landscaping and ground coverings consistent with California’s mandate on the reduction of water consumption
- Extension of the existing income and rent restrictions for an additional 55 years once rehabilitation is complete
- Increase in replacement reserves from an estimated $225 per unit or $43,650 annually to $300 per unit or $58,200 annually

FISCAL IMPACT

As of July 31, 2019, payments of $1,516,926 have been made with a remaining balance of $1,396,477.92 ($1,386,758.99 in principal balance and $9,718.93 of accrued interest). The current loan bears an annual interest of 5%, matures on December 31, 2035, and is repaid in annual installment payments equal to 50% of available cash flow from net operating income after debt service and after the repayment in full of the deferred developer fee note.

If approved, the amended and restated loan will extend the maturity date to December 31, 2059, and will retain the annual interest of 5%, repaid in the same terms as described above. The VHA will receive approximately $80,000 at the close of the bonds as part of a partial pay-down of the existing VHA loan.

As part of the acquisition, costs incurred by the VHA, that are associated with this roll-over financing exercise (i.e., outside legal expenses) will be covered by HCHP.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

1.	Resolution to Approve the Loan Rollover to Promote the Rehabilitation of the Bay View Vista Senior Apartmetns CAO stamp (1)
2.	CCR Agreement -Bayview Vallejo AR L.P_ CAO Stamp
3.	04 First Amendment to Participation Agreement v1-Bayview Vallejo AR LP CAO Stamp (1)
4.	03 Modification of Deed of Trust-Bayview Vallejo AR LP CAO Stamp (1)
5.	01 AR Promissory Note (Agency Loan) -Bayview Vallejo AR LP CAO Stamp (1)
6.	05 Assignment & Assumption Agt v1-Bayview Vallejo AR LP CAO Stamp (1)
7.	Resolution to Authorize Approval of a CCR Agreement of the Bay View Vista Senior Apartmetns (002) CAO Stamp (2)

CONTACT

Judy Shepard-Hall, Housing and Community Development Manager, (707) 648-4408
judy.shepard-hall@cityofvallejo.net

Approved as to form:
By: ______________
Claudia Quintana
City Attorney

RESOLUTION NO. 19-_____ N.C.

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE HOUSING AUTHORITY OF THE CITY OF VALLEJO APPROVING THE LOAN ROLLOVER TO PROMOTE THE REHABILITATION OF THE BAY VIEW VISTA SENIOR APARTMENTS

WHEREAS, in 2003, the Redevelopment Agency of the City of Vallejo (the the "Former RDA") provided a $1,700,000 loan of Redevelopment Agency funds at 5% interest (the "Bay View Vista Loan") for the development of a 194-unit affordable senior housing development located at 425 Redwood Street in Vallejo, California (the "Bay View Vista Development"); and

WHEREAS, the Former RDA and Solano Vista II Housing Investors, L.P. entered into a regulatory agreement recorded in connection with such loan which remains on title; and

WHEREAS, the Bay View Vista Development needs rehabilitation and Solano Vista II Housing Investors, L.P. intends to sell the Bay View Vista Development to Bayview Vallejo AR, LP; and

WHEREAS, on June 25, 2019, the City Council approved a TEFRA Resolution for the issuance of bonds by the Golden State Finance Authority to complete the acquisition and rehabilitation of the Bay View Vista Development; and

WHEREAS, in order to further assist in the acquisition and rehabilitation of the Bay Vista Development, the Housing Authority of the City of Vallejo (the "Authority"), as the Successor Agency to the Former RDA desires to amend and restate the loan documents to reflect the rollover of the new principal amount equal to the unpaid principal amount plus interest accruing; and

WHEREAS, the loan will bear interest at a rate of 5% repaid in annual installment payments remaining after payment of development and operating costs of the Bay View Vista Development and will be secured by a deed of trust recorded against title to the Bay View Vista Development; and

WHEREAS, the Authority will continue to restrict units for qualified very-low and low-income households for an additional 55 years; and

WHEREAS, the Authority desires to amend and restate the Former RDA Regulatory Agreement in a manner that is consistent with the Authority's concurrent approvals; and

WHEREAS, the rehabilitation of the Development, the loan, and the Regulatory Agreement are categorically exempt as a Class 1 exemption pursuant to State CEQA Guidelines Section 15301 or 15378 because the rehabilitation work will be performed to existing facilities; and

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby approves the loan rollover; and

BE IT FURTHER RESOLVED, that the Authority approves the negotiation and execution of documents evidencing the Bay View Vista loan by the Executive Director or the Executive Director's designee,

BE IT FURTHER RESOLVED, that the Authority hereby authorizes the Executive Director or the Executive Director's designee to act on behalf of the Authority to negotiate and have the Housing Authority enter into a Regulatory Agreement to replace the Former RDA Regulatory Agreement.

BE IT FURTHER RESOLVED, that the Authority hereby authorizes the Executive Director or the Executive Director's designee to take such other actions as may be reasonably necessary to facilitate the Bay View Vista Loan, the recordation of the Authority Regulatory Agreement, and the rehabilitation of the Bay View Vista Development.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon its adoption.

Adopted by the Board of Directors of the Vallejo Housing Authority at a regular meeting held on September 24, 2019 with the following vote:

AYES:

NOES:

ABSENT

ABSTAIN:

____
BOB SAMPAYAN, CHAIR

ATTEST:

____
DAWN G. ABRAHAMSON, SECRETARY

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Vallejo
____
Vallejo, CA 94590
Attn: City Clerk

Approved as to form:
By: ____________________
Claudia Quintana
City Attorney

Space above line for Recorder's use only
Exempt from Recording Fees pursuant to Govt. Code § 27383

HOUSING AUTHORITY OF THE CITY OF VALLEJO

DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING (Bayview Vista Senior Apartments)

THIS DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING (this "**CCR Agreement**") is dated as of ___________, 20___ (the "**Effective Date**"), and is made by and between the HOUSING AUTHORITY OF THE CITY OF VALLEJO, as housing successor to the Redevelopment Agency of the City of Vallejo (the "**Authority**"), and BAYVIEW VALLEJO AR, L.P. a California limited partnership (the "**Owner**"), with reference to the following recited facts (each, a "**Recital**").

RECITALS

A. The Owner owns or will own and operates that certain real property specifically defined as the "**Property**" in Section 1.1.61 of this CCR Agreement, which is improved with a one hundred ninety four (194) unit multifamily rental housing development, which provides rental housing to Low-income Senior Households at affordable rents (the "**Project**");

B. On January 11, 2005, the Redevelopment Agency of the City of Vallejo (the "**Redevelopment Agency**") made a loan in the principal amount of $1,700,000.00, to Owner from the Redevelopment Agency's low and moderate income housing fund to assist in the development of the Project (the "**Agency Loan**");

C. As consideration for the Agency Loan, Owner's predecessor in interest, Solano Vista II Housing Investors, L.P., a California limited partnership (the "**Original Owner**") executed a promissory note in favor of the Redevelopment Agency, which was secured by a Deed of Trust with Assignment of Rents recorded against the Property;

D. As further consideration for the Agency Loan, Original Owner entered into that certain Affordable Housing Covenant with the Redevelopment Agency dated as of January 11, 2005 and recorded in the Official Records on March 1, 2005 as Instrument Number 2005-28454, (the "**Original Covenant**"), pursuant to which Original Owner agreed to rent not less than 20 of the 194 units in the Project to Very-Low Income Senior Households. Pursuant to Health and Safety Code section 34172,the Redevelopment Agency was dissolved as of February 1, 2012, and the Redevelopment Agency's housing functions and assets, including the Redevelopment Agency's interest in the Agency Loan and the Original Covenant, were assumed by the the Authority pursuant to Health and Safety Code section 34176;

E. In connection with the development of the Project, Original Owner obtained an allocation of nine percent (9%) low income housing tax credits. The fifteen (15) year tax credit compliance period has expired. Original Owner and Owner have requested that the Authority as Housing Successor approve a resyndication and restructuring package that includes (i) Original Owner's sale and transfer of the Project to Owner, (ii) Owner's obtainment of a reservation of 4% low income housing tax credits, and an allocation of tax-exempt senior revenue bonds in the approximate amount of $23,575,000 (the "**Bonds**"), (iii) Owner's construction of certain rehabilitation improvements to the Project, and (iv) an extension and modification of the terms of the Agency Loan. The Authority is willing to approve such resyndication/restructuring package provided that Owner agrees to the terms and conditions of this CCR Agreement

F. This CCR Agreement supersedes and replaces the Original Covenant in its entirety, and shall, subject to the terms and conditions set forth herein, restrict the use of the Property for a term of fifty-five (55) years commencing on the date of this CCR Agreement set forth in the introductory paragraph hereof, to ensure that each Affordable Unit to be constructed within the Project shall, at all times until expiration of such fifty-five (55) year period, be occupied or reserved for occupancy by a Qualifying Household (as defined in Section 1.1.63 of this CCR Agreement) at an Affordable Rent (as defined in Section 1.1.2 of this CCR Agreement);

G. The purpose of this CCR Agreement is to create such conditions, covenants, restrictions, reservations, agreements, liens, servitudes and charges upon the Property and the Project and subject to which each and every part of the Property and the Project shall be developed, occupied, owned, maintained, held, leased, rented, sold and conveyed;

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES, COVENANTS AND UNDERTAKINGS SET FORTH IN THIS CCR AGREEMENT AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE OWNER AND THE AUTHORITY COVENANT, DECLARE AND AGREE FOR THEMSELVES, THEIR SUCCESSORS AND ASSIGNS, AS FOLLOWS:

1. DEFINITIONS

1.1 Definitions. As used in this CCR Agreement, the following words, phrases and terms shall have the meaning as provided in the initial paragraph of this CCR Agreement, the Recitals or in this Section 1, unless the specific context of usage of a particular word, phrase or term may otherwise require:

1.1.1 **Affiliate**. Any other Person, directly or indirectly, Controlling or Controlled by or under common Control with the Owner. **"Affiliated"** shall have the correlative meaning.

1.1.2 **Affordable Rent**. In reference to each Affordable Unit, "Affordable Rent" shall be set at a level which is no higher than 30 percent of gross income for a Very-Low Income Household, adjusted for household size based on number of bedrooms in the applicable unit, as set forth in Sections 6910-6932 of Title 25 of the California Code of Regulations, with allowance for utilities, as such allowance may be established by the Housing Authority of the County of Solano, California, from time to time.

1.1.3 **Affordable Units**. One hundred ninety-two (192) of the one hundred ninety-four (194) residential units included in the Project , which are restricted by Owner for rental to and occupancy by Qualifying Households in accordance with the terms and conditions of this Agreement.

1.1.4 **Annual Report**. A report in substantially the form of Exhibit "C" attached to this CCR Agreement or in such other form as subsequently reasonably required by the Authority.

1.1.5 **Area Median Income**. The then current area median income for Solano County, as determined by and published by the California Department of Housing and Community Development (HCD) in the California Code of Regulations or the United States Department of Housing and Urban Development ("HUD") as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, whichever figures are higher. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen months, then the Authority shall provide Owner with other income determinations which are reasonably similar with respect to method of calculation to those previously published by HCD or HUD.

1.1.6 **Available**. When an Affordable Unit is held available for occupancy by a Qualifying Household. An Affordable Unit shall be considered to be held available for occupancy by a Qualifying Household, until occupied or reoccupied by a Qualifying Household, provided that the Owner is exercising bona fide good faith efforts to let or rerent the Affordable Unit to a Qualifying Household.

1.1.7 **Authority**. The Housing Authority of the City of Vallejo as successor to the Redevelopment Agency of the City of Vallejo.

1.1.8 **Authority Parties**. Collectively, Authority, the City, their governing bodies, elected and appointed officials, employees, agents and attorneys.

1.1.9 **Authority Party**. Individually, Authority, the City their governing bodies, elected and appointed officials, employees, agents or attorneys.

1.1.10 **Bankruptcy Law**. Title 11, United States Code, and any other or successor State or Federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

1.1.11 **Bankruptcy Proceeding**. Any proceeding, whether voluntary or involuntary, under any Bankruptcy Law.

1.1.12 **Building Equipment**. All fixtures incorporated into the Project and used, useful, or necessary to operate the Project as such (including boilers; compactors; compressors; conduits; ducts; elevators; engines; equipment; escalators; fittings; heating, ventilating and air conditioning systems; irrigation systems; machinery; and pipes), as opposed to operating any business in the Project.

1.1.13 **Capital Improvements**. Any Restoration, Renovation or addition of any Structure, any Building Equipment or the exterior finishes of any Building.

1.1.14 **City**. The City of Vallejo, California, a municipal corporation.

1.1.15 **City Manager**. The appointed City Manager of the City, or her designee.

1.1.16 **Claim**. Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature, and if an Indemnitor improperly fails to provide a defense for an Indemnitee, then Legal Costs of counsel retained by the Indemnitee) and any judgment.

1.1.17 **Condemnation**. Any of the following: (a) Any temporary or permanent taking of (or of the right to use or occupy) all or any part of the Property by condemnation, eminent domain, or any similar proceeding; or (b) any action by any Government not resulting in an actual transfer of an interest in (or of the right to use or occupy) all or any part of the Property, but creating a right to compensation, such as a change in grade of any street upon which the Property abuts.

1.1.18 **Construction**. Any alteration, construction, excavation, demolition, grading, development, expansion, reconstruction, redevelopment, repair, restoration, or other work affecting the Property, including new construction.

1.1.19 **Control**. Possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of Equity Interests, by contract or otherwise.

1.1.20 **Controlling and Controlled**. Exercising or having Control.

1.1.21 **County**. The County of Solano, California.

1.1.22 **Deed of Trust**. That certain Deed of Trust With Assignment of Rents, executed by Original Owner as Trustor, in favor of the Redevelopment Agency as Beneficiary, dated March 1, 2005 and recorded on March 1, 2005 in the Official Records of the County as Document No. 2005-28455, as assigned to and assumed by Owner pursuant to that certain Assignment and Assumption Agreement dated as of the date hereof and recorded concurrently herewith in the Official Records of the County, and as modified pursuant to that certain Modification to Deed of Trust dated as of the date hereof and recorded concurrently herewith in the Official Records of the County.

1.1.23 **Default Interest**. Interest at an annual rate equal to the lesser of: (a) eight percent (8%) per annum; or (b) the Usury Limit.

1.1.24 **Environmental Claim**. Any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements and expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law or Hazardous Substance Discharge.

1.1.25 **Environmental Law**. Any Law regarding any of the following at, in, under, above, or upon the Property: (a) air, environmental, ground water, or soil conditions; or (b) clean-up, remediation, control, disposal, generation, storage, release, discharge, transportation, use of, or liability or standards of conduct concerning, Hazardous Substances.

1.1.26 **Equity Interest**. All or any part of any direct or indirect equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest in a limited liability company, or other interest of an ownership or equity nature) in any entity, at any tier of ownership, that directly or indirectly owns or holds any ownership or equity interest in a Person.

1.1.27 **Event of Default**. The occurrence of any one or more of the following:

(a) *Monetary Default*. A Monetary Default that continues for fifteen (15) calendar days after Notice from the City, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such payment;

(b) *Reporting Default*. If the Owner fails to deliver any Annual Report as and when required in Section 2.7.6 or fails or refuses to allow and cooperate with any Authority audit of Project Records in accordance with Section 2.10, each after fifteen (15) calendar days Notice of such failure;

(c) *Bankruptcy or Insolvency*. Owner admits in writing that it is unable to pay its debts as they become due or becomes subject to any Bankruptcy Proceeding (except an involuntary Bankruptcy Proceeding dismissed within one hundred twenty (120) days after commencement), or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Owner's assets or Owner's interest in this CCR Agreement (unless such appointment, attachment, execution, or other seizure was involuntary, and is contested with diligence and continuity and vacated and discharged within one hundred twenty (120) days);

(d) *Transfer*. The occurrence of a Transfer, whether voluntarily or involuntarily or by operation of Law, in violation of the terms and conditions of this CCR Agreement;

(e) *Non-Monetary Default*. Any Non-Monetary Default, other than those specifically addressed in Section 1.1.26(b), Section 1.1.26(c) or Section 1.1.26(d), that is not cured within thirty (30) days after Notice to the Owner describing the Non-Monetary Default in reasonable detail, or, in the case of a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) days after the effective date of such Notice, if the Owner does not do all of the following: (a) within thirty (30) days after Notice of such Non-Monetary Default, advise the Authority of the intention of the Owner to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such period, and then diligently prosecute such cure to completion; and (c) complete such cure within a reasonable time under the circumstances.

1.1.28 **Executive Director**. The appointed executive Director of Authority.

1.1.29 **Federal**. The federal government of the United States of America.

1.1.30 **Foreclosure Event**. Defined in Section 3.14.7.

1.1.31 **Full Insurable Value**. The actual cost of replacing the property in question, without allowance for depreciation, as calculated from time to time (but not more often than once every calendar year) by the insurance company or companies providing property insurance coverage for such property.

1.1.32 **Government**. Each and every governmental agency, Authority, bureau, department, quasi-governmental body, or other entity or instrumentality having or claiming jurisdiction over the Property or the Project (or any activity this CCR Agreement requires or allows), including the government of the United States of America, the State and the County governments and their subdivisions and municipalities, including the Authority, the City, and all other applicable governmental agencies, authorities, and subdivisions thereof. "Government" shall also include any planning commission, board of standards and appeals, department of buildings, city council, zoning board of appeals, design review board or committee or similar body having or claiming jurisdiction over the Property or any activities on or at the Property.

1.1.33 **Hazardous Substance**. Any flammable substances, explosives, radioactive materials, asbestos, asbestos-containing materials, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, medical wastes, toxic substances or related materials, explosives, petroleum, petroleum products, and any "hazardous" or "toxic" material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a "hazardous substance" under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) substances designated as "hazardous substances" pursuant to 33 U.S.C. § 1321; (c) defined as a "hazardous waste" under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq*., as amended; (d) defined as a "hazardous substance" or "hazardous waste" under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, *et seq*., or any so-called "superfund" or "superlien" law; (e) defined as a "pollutant" or "contaminant" under 42 U.S.C. § 9601(33); (f) defined as "hazardous waste" under 40 C.F.R. Part 260; (g) defined as a "hazardous chemical" under 29 C.F.R. Part 1910; (h) any matter within the definition of "hazardous substance" set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act ("TSCA") [15 U.S.C. Sections 2601, *et seq*.]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, *et seq*.; (k) those substances listed in the United States Department of Transportation (DOT) Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor agency, as a hazardous substance [40 C.F.R. Part 302]; (m) any matter, waste or substances defined as "hazardous waste" in Section 25117 of the California Health and Safety Code; (n) any substance defined as a "hazardous substance" in Section 25316 of the California Health and Safety Code; (o) any matter, waste, or substance that is subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) other substances, materials, and wastes that are, or become, regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to said Law, including manure, asbestos, polychlorinated biphenyl, flammable explosives and radioactive material.

1.1.34 **Hazardous Substance Discharge**. Any deposit, discharge, generation, release, or spill of a Hazardous Substance that occurs at, on, under, into or from the Property, or during the transportation of any Hazardous Substance to or from the Property, or that arises at any time from the Construction, installation use or operation of the Project or any activities conducted at, on, under or from the Property, whether or not caused by a Party.

1.1.35 **HUD**. The Secretary of the United States Department of Housing and Urban Development.

1.1.36 **Income Certification Form**. A certification in substantially the form of Exhibit "B" attached to this CCR Agreement or in such other form subsequently reasonably required by Authority.

1.1.37 **Indemnify**. Where this CCR Agreement states that any Indemnitor shall "indemnify" any Indemnitee from, against, or for a particular Claim, that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against such Claim (alleged or otherwise). "**Indemnified**" shall have the correlative meaning.

1.1.38 **Indemnitee**. Any Person entitled to be Indemnified under the terms of this CCR Agreement.

1.1.39 **Indemnitor**. A Party that agrees to Indemnify any other Person under the terms of this CCR Agreement.

1.1.40 **Institutional Lender**. Any of the following: (a) a bank (State, Federal or foreign), trust company (in its individual or trust capacity), insurance company, credit union, savings bank (State or Federal), pension, welfare or retirement fund or system, real estate investment trust (or an umbrella partnership or other entity of which a real estate investment trust is the majority owner), Federal or State agency regularly making or guaranteeing mortgage loans, investment bank, Fannie Mae, Freddie Mac or a subsidiary of a Fortune 500 company (such as AT&T Capital Corporation or General Electric Capital Corporation); or (b) any Person that is an Affiliate of or is a combination of any one or more of the Persons described in "(a)" of this Section 1.1.38.

1.1.41 **Law**. Every law, ordinance, requirement, order, proclamation, directive, rule, and regulation of any Government applicable to the Property or the Project, in any way, including any development, use, maintenance, taxation, operation, or occupancy of, or environmental conditions affecting the Property or the Project, or relating to any taxes, or otherwise relating to this CCR Agreement or any Party's rights, obligations or remedies under this CCR Agreement, or any Transfer of any of the foregoing, whether in force on the date of this CCR Agreement or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

1.1.42 **Legal Costs**. In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs and expenses, and consultant and expert witness fees and expenses.

1.1.43 **Lender**. The holder of any Security Instrument and its successors and assigns.

1.1.44 **Liability Insurance**. Commercial general liability insurance against claims for bodily injury, personal injury, death or property damage occurring upon, in, or about the Property, the Project or adjoining streets or passageways, at least as broad a Insurance Services Office Occurrence Form CG001, with a minimum liability limit of Two Million Dollars ($2,000,000) for any one occurrence and which may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Project or the general aggregate limit shall be twice the required minimum liability limit for any one occurrence.

1.1.45 **Maintenance Deficiency**. Defined in Section 3.10.2.

1.1.46 **Maintenance Standard**. Defined in Section 3.10.1

1.1.47 **Notice**. Any consent, demand, designation, election, notice, or request relating to this CCR Agreement, including any Notice of Default. All Notices must be in writing.

1.1.48 **Notice of Default**. Any Notice claiming or giving Notice of a Default or alleged Default.

1.1.49 **Notify**. To give a Notice.

1.1.50 **Owner Parties**. Collectively, the Owner, members, directors, officers, employees, agents, partners, managers and holders of Equity Interests in the Owner.

1.1.51 **Owner Party**. Individually, the Owner, each of its members, directors, officers, employees, agents, partners, managers, and each holder of Equity Interests in the Owner.

1.1.52 **Parties**. Collectively, the Authority and the Owner.

1.1.53 **Party**. Individually, either the Authority or the Owner, as applicable.

1.1.54 **Permitted Encumbrance**. Any Permitted Security Instrument, the Deed of Trust, utility easements directly related to the Project, other easements that are recorded against the Property, provided that Owner has provided documentation satisfactory to the Authority that such easements have been approved in writing by HUD, a bona fide Permanent Loan, a bona fide Refinancing and any other document required or expressly allowed to be recorded against the Property by the express terms of this CCR Agreement.

1.1.55 **Permitted Lender**. The holder of any Permitted Security Instrument.

1.1.56 **Permitted Security Instrument**. Any Security Interest: (a) that encumbers only the Property or any interest in the Property; (b) a copy of which (recorded or unrecorded) is promptly after execution delivered to Authority, with a certification by the Lender that the copy is accurate and stating the Lender's name and notice address; (c) that is held by a Lender that is an Institutional Lender, subject to the jurisdiction of the courts of the State, not immune from suit and cannot elect to be immune from suit; and (d) only secures: (i) the Senior Loan; or (ii) a bona fide Refinancing.

1.1.57 **Permitted Transfer**. (1) Any Transfer to an Institutional Lender that is not a Prohibited Transferee: (a) pursuant to a Permitted Security Instrument as collateral for bona fide Construction Financing to pay all or any part of the Total Project Costs; or (b) pursuant to a Permitted Security Instrument as collateral for a bona fide Permanent Loan; (2) transfers of the Owner's limited partnership interests to any entity of which an affiliate of Highridge Costa Housing Partners, LLC (or its successor in interest) is the general partner, or managing member, or controlling shareholder, (3) Transfers of the ownership interests of any entity which, directly or indirectly, owns or holds a partnership, membership, manager, shareholder, or other ownership interest in Owner's limited partner or the partners, members, managers, shareholders or owners of Owner's limited partner, (4) Transfers of Owner's Administrative General Partner's partnership interest in Owner to any entity which is an affiliate of Highridge Costa Housing Partners, LLC (or its successor in interest), or (5) removal and replacement of the Managing General Partner of Owner as permitted under the limited partnership agreement of Owner.

1.1.58 **Person**. Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization or other entity of any kind.

1.1.59 **Prohibited Encumbrance**. Any mortgage, lien, deed of trust, security instrument, mechanic's lien, easement or other encumbrance recorded or asserted against the Property or the Project that is not a Permitted Encumbrance.

1.1.60 **Prohibited Transferee**. Any Person with whom Authority is in litigation, any Person that Authority reasonably determines has any connection with any terrorist organization, any Person entitled to claim diplomatic immunity, any domestic or foreign governmental entity, except as reasonably approved by Authority, any Person that is immune or may elect to be immune from suit under State or Federal law, or any other Person that Authority reasonably disapproves.

1.1.61 **Project**. The improvements that have been constructed on the Property, which include a one hundred ninety-four (194) unit multifamily residential housing development and associated amenities.

1.1.62 **Project Records**. All books, records, statements, contracts and other records of the Owner or any Affiliate relating in any way to the use, occupancy or operation of the Property or the Project, including Income Certification Forms completed by applicants or tenants of the Project, Annual Reports, accounting of Project revenues, and accounting of Project expenses. All Project Records shall be prepared in accordance with industry standards and generally accepted accounting principles.

1.1.63 **Property**. That certain real property located within the City of Vallejo, County of Solano, State of California, specifically described in the legal description attached as Exhibit "A" to this CCR Agreement, which is incorporated into this CCR Agreement by this reference.

1.1.64 **Property Insurance**. Insurance providing coverage for the Property and all improvements on or to the Property against loss, damage, or destruction by fire and other hazards encompassed under the broadest form of property insurance coverage then customarily used for like properties in the County, in an amount equal to one hundred percent (100%) of the replacement value (without deduction for depreciation) of all improvements comprising the Project (excluding excavations and foundations), and in any event sufficient to avoid co-insurance and with no co-insurance penalty provision, with "ordinance or law" coverage. To the extent customary for like properties in the County at the time, such insurance shall include coverage for explosion of steam and pressure boilers and similar apparatus located on the Property; an "increased cost of construction" endorsement; and an endorsement covering demolition and cost of debris removal, all subject to policy sublimits. Property Insurance shall also include rental or business interruption insurance in an amount, at least, equal to the average annual Gross Income of the Project for the preceding three (3) calendar years and providing for a 12-month extended period of indemnity.

1.1.65 **Qualifying Household**. A household that: (1) intends to reside in an Affordable Unit; and (2) upon initial income certificate, and each year thereafter (subject to the terms of this CCR Agreement) qualifies as both a Senior Household and a Very-Low Income Household of a household size appropriate for the Affordable Unit.

1.1.66 **Record, recorded, recording or recordation**. Recordation of the referenced document in the official records of the County.

1.1.67 **Refinancing**. Any loan secured by a Permitted Security Instrument that the Owner obtains from an Institutional Lender subsequent to recordation of the Senior Loan for any of the following purposes: (1) to pay off all or a portion of an existing loan secured by a Permitted Security Instrument where the Lender providing the new loan will disburse loan proceeds to or on behalf of Owner exceeding the amount of principal and interest under the existing loan being paid plus the amount of any reasonable and customary fees and costs associated with obtaining such new loan that are actually paid by Owner and not rebated or refunded to Owner, the aggregate amount of such fees and costs not to exceed three percent (3%) of the original principal amount of the new loan; (2) disbursing funds to or on behalf of Owner without paying off any existing loan secured by a Permitted Security Instrument; or (3) any loan extension, modification or equivalent regarding an existing loan to Owner secured by a Permitted Security Instrument that results in the Lender of the existing loan disbursing additional loan proceeds to or on behalf of Owner in excess of the original principal amount of the loan.

1.1.68 **Restoration**. After a loss, the alteration, clearing, rebuilding, reconstruction, repair, replacement, restoration, and safeguarding of the damaged or remaining improvements, substantially consistent with their condition before the loss, subject to any changes in Law that would limit the foregoing.

1.1.69 **Restore**. Accomplish a Restoration.

1.1.70 **Security Instrument**. Any security instrument, deed of trust, security deed, contract for deed, deed to secure debt, or other voluntary real property (including leasehold) security instrument(s) or agreement(s) intended to grant real property (including leasehold) security for any obligation (including a purchase-money or other promissory note) encumbering the Property, as entered into, renewed, modified, consolidated, increased, decreased, amended, extended, restated, assigned (wholly or partially), collaterally assigned, or supplemented from time to time, unless and until paid, satisfied, and discharged of record. If two or more such security instruments are consolidated or restated as a single lien or held by the same Lender (as applicable), then all such security instruments so consolidated or restated shall constitute a single Security Instrument. A participation interest in a security instrument (or partial assignment of the secured loan) does not itself constitute a Security Instrument.

1.1.71 **Senior Household**. Senior Household shall mean (i) A household of two or more persons the head of which is 55 years of age or older; or (ii) the surviving member or members of any household described in clause (i) above living in an Affordable Unit with the deceased member of the household at the time of his or her death; or (iii) a single person who is 55 years of age or older; or (iv) two persons, each 55 years of age or older, living together, or one or more such persons living with another person who is determined by Owner, based upon a licensed physician's certification provided by the prospective household, to be essential to their care or well-being.

1.1.72 **Senior Loan**. Collectively, (i) that senior bond loan to Owner made by Golden State Finance Authority in the original principal amount of Twenty-Seven Million and Five Hundred Thousand Dollars ($27,500,000.00) and funded by the proceeds of the Golden State Finance Authority Senior Housing Revenue Bonds (Bayview Vista Apartments Project), 2019 Series A, and (ii) that subordinate bond loan to Owner made by Golden State Finance Authority in the original principal amount of Twenty-Seven Million and Five Hundred Thousand Dollars ($27,500,000.00) and funded by the proceeds of the Golden State Finance Authority Subordinate Housing Revenue Bonds (Bayview Vista Apartments Project), 2019 Series A.

1.1.73 **State**. The State of California.

1.1.74 **Term**. The period of time beginning on the date of recordation of this CCR Agreement and ending on the fifty-fifth (55th) anniversary of the date of recordation.

1.1.75 **Third Person**. Any Person that is not a Party, an Affiliate of a Party, or an elected official, officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.1.76 **Transfer**. Regarding any property, right or obligation means any of the following, whether by operation of law or otherwise, whether voluntary or involuntary, and whether direct or indirect: (a) any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, or other transfer, whether direct or indirect, of all or any part of such property, right or obligation, or of any legal, beneficial, or equitable interest or estate in such property, right or obligation or any part of it (including the grant of any easement, lien, or other encumbrance); (b) any conversion, exchange, issuance, modification, reallocation, sale, or other transfer of any direct or indirect Equity Interest(s) in the owner of such property, right or obligation by the holders of such Equity Interest(s); (c) any transaction described in "b" affecting any Equity Interest(s) or any other interest in such property, right or obligation or in any such owner (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the foregoing. A transaction affecting Equity Interests, as referred to in clauses "b" through "d," shall be deemed a Transfer by the Owner even though the Owner is not technically the transferor. A "Transfer" shall not, however, include any of the following (provided that the other Party has received Notice of such occurrence) relating to the Property and/or any Equity Interest: (i) a mere change in form of ownership with no material change in beneficial ownership and constitutes a tax-free transaction under federal income tax law and the State real estate transfer tax; (ii) a conveyance only to member(s) of the immediate family(ies) of the transferor(s) or trusts for their benefit; (iii) a conveyance only to any Person that, as of the date this CCR Agreement is recorded, holds an Equity Interest in the entity whose Equity Interest is being transferred; (iv) the original sale of Equity Interests in Owner; or (v) a conveyance only to an Affiliate of Owner.

1.1.77 **Unavoidable Delay**. A delay in either Party performing any obligation under this CCR Agreement, except payment or deposit of money, arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strikes, labor troubles or other union activities, casualty, war, acts of terrorism, riots, litigation, governmental action or inaction, regional natural disasters or inability to obtain required materials. Unavoidable Delay shall not include delay caused by a Party's financial condition, illiquidity, or insolvency.

1.1.78 **Units**. The one hundred ninety-four dwelling units located in the Project.

1.1.79 **Usury Limit**. The highest rate of interest, if any, that Law allows under the circumstances.

1.1.80 **Waiver of Subrogation**. A provision in, or endorsement to, any insurance policy, by which the carrier agrees to waive rights of recovery by way of subrogation against either Party to this CCR Agreement for any loss such policy covers.

1.1.81 **Workers Compensation Insurance**. Workers compensation insurance complying with the provisions of State law and an employer's liability insurance policy or endorsement to a liability insurance policy, with a minimum liability limit of One Million Dollars ($1,000,000) per accident for bodily injury or disease, covering all employees of the Owner and the Management Agent.

2. AFFORDABLE RENTAL HOUSING COVENANTS AND RESTRICTIONS

2.1 Amendment and Restatement of Original Covenant. This CCR Agreement amends and restates the Original Covenant. Commencing on the first date of the Term of this CCR Agreement, this CCR Agreement replaces and supersedes the Original Covenant in its entirety.

2.2 Reservation of Property for Project. The Owner covenants and agrees to reserve and restrict the Property for operation of the Project and, thereafter, use and make Available the Affordable Units within the Project for residential occupancy by individuals and families who, at the time of initial occupancy of an Affordable Unit and continuously thereafter (subject to the other provisions of this CCR Agreement), until the end of the Term, are members of a Qualifying Household.

2.3 Restrictive Covenant for Affordable Units on the Property. The Owner covenants to and for the benefit of the Authority that the Owner shall develop, own, manage and operate, or cause the management and operation of, the Project to include the Affordable Units, which shall be occupied by or made Available for occupancy by individuals and families who, at the time of initial occupancy of the Affordable Units and continuously thereafter (subject to the other provisions of this CCR Agreement) are Qualifying Households at an Affordable Rent and for no other purposes. The Owner will not knowingly permit any Affordable Unit to be used on a transient basis and will not lease or rent any Affordable Unit for an initial rental term of less than twelve (12) months.

2.4 Continuous Operation Covenant. The Owner covenants to and for the benefit of the Authority to cause the Project to be continuously operated, in accordance with the other provisions of this Section 2, throughout the Term.

2.5 Abandonment. The Owner shall not abandon or surrender the operation of all or any part of the Project during the Term, except due to material casualty or condemnation.

2.6 Rental Only to Qualifying Households. The Owner covenants that each Affordable Unit shall be occupied or Available for occupancy by a Qualifying Household (subject to the other provisions of this CCR Agreement) at an Affordable Rent on a continuous basis throughout the Term.

2.7 Affordable Rent. The monthly rent charged to a Qualifying Household for the occupancy of an Affordable Unit may never exceed an Affordable Rent for such Affordable Unit.

2.7.1 **Rent Increases**. Rent for Affordable Units may be increased only once per calendar year, based on changes in Area Median Income; provided that the rent for each Affordable Unit must never exceed an Affordable Rent for the Affordable Unit.

2.7.2 **Determination of Household Income**. Determination of Qualifying Household income shall be made by the Owner at the time of initial application by an individual or family for occupancy of an Affordable Unit. At the time of initial application, the Owner shall require an applicant to complete the Income Certification Form and certify the accuracy of the information provided on such form. Annually thereafter, the Owner shall require each Qualifying Household occupying an Affordable Unit to recertify the Qualifying Household's income on the Income Certification Form. The Owner shall make a good faith effort to verify the accuracy of income information provided in any Income Certification Form by an applicant for occupancy of an Affordable Unit or by a Qualifying Household occupying an Affordable Unit, by taking one or more of the following steps, as reasonably required or indicated: (1) obtain an income tax return and copy of each W2 Wage and Earnings Statement for the most recently concluded income tax year; (2) conduct a credit reporting agency or similar search; (3) obtain an income verification form from the applicant's or the Qualifying Household's current employer(s); (4) obtain an income verification form from the United States Social Security Administration and/or the California Department of Social Services, if the applicant or the Qualifying Household receives assistance from either of such agencies; or (5) if the applicant or an adult member of a Qualifying Household is unemployed and has no such income tax return, obtain another form of independent verification. For purposes of this Section 2.7.2, the Owner may conclusively rely upon the evidence of the age of the occupant(s) of an Affordable Unit as presented in a valid California Driver's License, other form of identification issued by the State of California or the United States Government, which includes a date of birth. All such verification information shall only be obtained by the Owner after obtaining the applicant's or the Qualifying Household's written consent for the release of such information to the Owner. Failure to consent in writing to the release of such income verification information to the Owner may disqualify an applicant for occupancy of an Affordable Unit or be grounds for termination of Qualifying Household's occupancy of an Affordable Unit.

2.7.3 If, upon any recertification, the income of a Owner determines that the income of a Qualifying Household has increased above the qualifying limit for a Very-Low Income Household, the tenant may continue to occupy the Unit. Upon the expiration of such tenant's lease, Owner shall rent the next available Unit to a Qualifying Household at an Affordable Rent, or designate another comparable Unit that is occupied by a Qualifying Household, as an Affordable Unit, to meet the requirements of this Agreement. Owner shall notify the Authority upon such redesignation of an Affordable Unit.

2.7.4 The Owner shall maintain on file all Income Certification Forms completed by applicants for occupancy of Affordable Units and by Qualifying Households that occupied or are occupying Affordable Units in accordance with Section 2.10.1 and shall provide copies of the rent roll and Income Certification Forms to the Authority for its review and approval within fifteen (15) days following Notice to the Owner.

2.7.5 The Owner shall, and the Owner shall make best efforts to cause each Qualifying Household occupying an Affordable Unit to, permit the Authority to conduct inspections of the Property, the Project and each Affordable Unit, from time-to-time, for purposes of verifying compliance with this CCR Agreement, upon fifteen (15) days prior written notice to the Owner.

2.7.6 On each April 30 during the Term and within sixty (60) days following the expiration of the Term, the Owner shall submit an Annual Report to the Authority. The Authority shall maintain the confidentiality of the information contained in any Annual Report specifically relating to any particular Qualifying Household occupying an Affordable Unit, to the extent reasonably allowed by Law, as determined by the Authority's general or special counsel.

2.8 Owner Covenant Regarding Lease of Affordable Units. The Owner, for itself, its successors and assigns, covenants and agrees that, if any Affordable Unit is rented or leased during the Term, the rental or lease of the Affordable Unit shall be accomplished through a written lease agreement and all of the following restrictions shall apply:

2.8.1 A Qualifying Household shall be the record tenant and only occupant of the Affordable Unit.

2.8.2 The Owner shall provide a legible copy of this CCR Agreement to each prospective tenant of any Affordable Unit, upon request by such tenant.

2.8.3 The lease for each Affordable Unit shall expressly state that it is subject and subordinate to this CCR Agreement and shall incorporate each and every provision of this CCR Agreement, either expressly or by reference.

2.8.4 The lease for each Affordable Unit shall be for a period of not less than twelve (12) months.

2.8.5 The lease for each Affordable Unit shall not contain any of the following provisions:

(a) An agreement by the Qualifying Household to be sued, to admit guilt or to the entry of a judgment in favor of the Owner in a lawsuit brought in connection with the lease;

(b) An agreement by the Qualifying Household that the Owner may take, hold or sell personal property of any member(s) of the Qualifying Household, without notice to the Qualifying Household and a court decision on the respective rights of the Owner and the member(s) of the Qualifying Household, other than an agreement by the Qualifying

Household concerning disposition of personal property remaining in the Affordable Unit after the Qualifying Household has moved out of the Affordable Unit;

(c) An agreement by the Qualifying Household not to hold the Owner or its agents legally responsible for any willful misconduct or negligence attributable to the Owner or its agents;

(d) An agreement by the Qualifying Household that the Owner may institute a lawsuit, involving or affecting the Qualifying Household or any of its members, without notice to the Qualifying Household;

(e) An agreement by the Qualifying Household that the Owner may evict the Qualifying Household without instituting a civil court proceeding in which the Qualifying Household has an opportunity to present a defense or before a court decision on the respective rights of the Owner and the Qualifying Household;

(f) An agreement by the Qualifying Household to waive any right to a trial by jury;

(g) An agreement by the Qualifying Household to waive the Qualifying Household's right to appeal or to otherwise challenge a court decision in connection with the lease;

(h) An agreement by the Qualifying Household to pay attorney's fees or other legal costs, even if the Qualifying Household wins in a court proceeding by the Owner against the Qualifying Household; provided, however, the Qualifying Household may be obligated to pay costs if the Qualifying Household loses such a legal action;

(i) An agreement by the Qualifying Household to pay one (1) or more security deposits (or the equivalent) totaling in excess of the amount of one month's rent for such Affordable Unit. Failure to pay any security deposit installment may constitute a breach of the lease.

2.8.6 Each lease for an Affordable Unit shall contain all of the following provisions:

(a) An agreement authorizing the Owner to immediately terminate the tenancy of a Qualifying Household occupying an Affordable Unit, where one or more members of that Qualifying Household misrepresented any fact material to the qualification of such household as a Qualifying Household;

(b) An agreement providing that each Qualifying Household occupying an Affordable Unit shall be subject to annual certification or recertification of income as a condition to continued occupancy of the Affordable Unit;

(c) An agreement providing that each Qualifying Household occupying an Affordable Unit may be subject to rental increases in accordance with this CCR Agreement;

(d) Providing that the Owner will not discriminate on the basis of race, creed, color, gender, sexual orientation, national origin, ancestry, religion, marital status, age, disability or receipt of public assistance or housing assistance in connection with rental of an Affordable Unit, or in connection with the employment or application for employment of persons for operation and management of the Project, and all contracts, applications and leases entered into for such purposes shall contain similar non-discrimination clauses to such effect; and

(e) Providing that the Qualifying Household shall occupy the Affordable Unit as its principal residence and shall not sublease all or part of the Affordable Unit for any purpose.

2.8.7 The Owner shall not terminate the tenancy or refuse to renew the lease or rental agreement of a Qualifying Household except for: (i) serious or repeated violations of the terms and conditions of the lease; (ii) because the previously Qualifying Household is no longer a Qualifying Household; (iii) for violation of applicable Federal, State, or local law; or (iv) for other good cause. The Owner shall, in connection with termination of the tenancy of a Qualifying Household or a refusal to renew the lease or rental agreement of a Qualifying Household, serve written notice upon the Qualifying Household specifying the grounds for the action in accordance with all applicable Laws and at least thirty (30) days before the effective date of the termination of the tenancy, unless the termination is pursuant to a legal action in unlawful detainer.

2.9 Tenant Selection Policies and Criteria. The Owner shall adopt written tenant selection policies and criteria that:

2.9.1 are consistent with the purpose of providing affordable rental housing for Qualifying Households at an Affordable Rent;

2.9.2 are reasonably related to tenant eligibility and ability to perform the obligations of the lease for an Affordable Unit;

2.9.3 subject to applicable fair housing laws, give reasonable preference and consideration to the housing needs of individuals that are involuntarily displaced by activities of the Authority;

2.9.4 provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;

2.9.5 give prompt written notice to any rejected applicant of the grounds for rejection;

2.9.6 provide for all of the Affordable Units to be Available for occupancy on a continuous basis to Qualifying Households at an Affordable Rent;

2.9.7 do not give preference to any particular class or group of Persons in leasing or renting the Affordable Units, except as provided in 2.9.3 and to the extent that a tenant must be a Qualifying Household;

2.9.8 provide that there shall be no discrimination against or segregation of any Person or group of Persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Property, nor shall Owner or any Person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the Property. Notwithstanding the immediately preceding sentence, with respect to familial status, this Section 2.9.8 shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in this Section 2.9.8 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code. All deeds, leases or contracts made or entered into by the Owner as to Affordable Units, the Project or the Property shall contain covenants prohibiting discrimination, as set forth in Health and Safety Code Section 33436(b).

2.10 Project Records Retention; Audit and Examination Rights.

2.10.1 **Retention of Project Records**. The Owner shall prepare and maintain and shall cause its Affiliates to prepare and maintain complete and accurate Project Records for all periods during the Term. The Owner shall, at all times during the Term and for a period of six (6) years following the end of the Term, maintain and cause to be maintained by its Affiliates, safe and intact, all of the Project Records. From time to time, upon request from the Authority, the Owner shall make all Project Records, whether in the custody or control of the Owner or its Affiliates, available to the Authority, the Authority's auditor, representative or agent for examination and copying at any reasonable time, on fifteen (15) calendar days advance Notice. The Owner shall also provide the Authority any additional information concerning the Affordable Units, the Project or the Property reasonably requested by the Authority.

2.10.2 **Audit Procedures**.

(a) The Authority may cause an audit of any and all Project Records by an independent auditor of the Authority's selection. The Authority shall preserve the confidentiality of information contained in the Project Records, to the extent permitted by Law, as determined by the Authority's general counsel.

(b) If the Owner fails to provide any Annual Report to the Authority, as and when required under Section 2.7.6, and such failure is not cured within the time periods described in Section 1.1.26(e) of this CCR Agreement, the Owner shall be in Default under this CCR Agreement. Notwithstanding any other provision of this CCR Agreement, if the Owner fails to deliver any Annual Report to the Authority, within thirty (30) calendar days after Notice specifying such Default, the Authority shall have the right, in addition to any other rights or remedies the Authority may have under this CCR Agreement regarding such Default, to conduct an audit of any and all applicable Project Records to attempt to identify the information that should have been provided by the Owner in such Annual Report. The Owner shall reimburse the Authority for the reasonable cost of any audit conducted pursuant to this Section 2.10.2(b), on Notice of such cost from the Authority. The Owner shall pay Default Interest to the Authority on the amount of any audit cost becoming due to the Authority from the Owner pursuant to this Section 2.10.2(b), that is not paid within fifteen (15) calendar days following Notice requesting such payment, from the date of such Notice until paid in full.

2.11 Compliance. The Owner shall, during the Term and at the Owner's sole cost and expense, in all material respects: (a) comply with all Laws; and (b) procure and comply with all Approvals required by Law.

3. PROJECT MANAGEMENT

3.1 Management. The Owner shall operate the Project in a manner that will provide decent, safe and sanitary residential facilities to the occupants of the Project, will comply with all the provisions of this CCR Agreement, any other applicable contract or agreement between the Authority and the Owner, and all applicable Law. The Owner shall be responsible for management of the Project, including, without limitation, the selection of Qualifying Households for Affordable Units, certification and recertification of household size and income for Qualifying Households occupying all Affordable Units, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Authority shall have no responsibility for the management or operation of the Project or the Property. For the purposes of this CCR Agreement, the Owner may directly perform the management functions associated with the Project through its employees or by means of a service contract with an Affiliate, without seeking approval from the Authority. If the Owner desires to retain a Person other than the Owner or an Affiliate, to manage the Project on the Owner's behalf, the Owner shall submit for Authority's approval the identity of any proposed management agent, together with additional information relevant to the background and experience of any proposed management agent, as reasonably requested by the Authority. The Authority may approve the proposed management agent by Notice to the Owner within thirty (30) days following the Authority's receipt of all requested information regarding such agent, as provided for in the immediately preceding sentence. Unless the proposed management agent is reasonably disapproved by the Authority within such thirty (30) day period, the management agent shall be deemed approved by the Authority. The Authority hereby acknowledges that WINN Residential Management is an approved management agent for the Project.

3.1.1 **Performance Review**. Upon Notice from the Authority, the Owner shall, with the participation of the Authority, periodically review the management practices and financial status of the Project and the Owner or management agent. The Authority shall not request such periodic review more frequently than twice each calendar year. The purpose of each periodic review will be to enable the Authority to determine whether or not the Project is being operated, maintained, and managed in accordance with the requirements and standards of this CCR Agreement and all applicable Law relevant to the CCR Agreement.

3.1.2 **Replacement of Management Agent**. Any contract for the operation or management of the Project entered into by the Owner with a Person shall provide that the contract shall have a term of no more than one (1) calendar year and that the contract is subject to the provisions of this CCR Agreement. If the Affordable Units are not being operated and managed materially in accordance with the requirements and standards of this CCR Agreement and all applicable Law, the Authority shall provide written notice to the Owner of such deficiency and shall within 30 days following the receipt of such notice the Owner shall remove the management agent and replace the management agent with a different Person approved by the Authority, pursuant to Section 3.1. The Owner's failure to remove and replace the Management Agent in any such circumstance shall constitute a Default by the Owner under this CCR Agreement.

3.2 Insurance.

3.2.1 **Owner to Insure**. To protect the Authority Parties against all insurable Claims resulting from the actions of Owner or the Management Agent in connection with this CCR Agreement, the Property or the Project, Owner shall maintain, at the sole cost and expense of Owner, the following insurance (or its then reasonably available equivalent): (a) Liability Insurance; (b) Property Insurance; (c) Automobile Liability Insurance; and (d) Workers Compensation Insurance.

3.2.2 **Nature of Insurance Program**. All Liability Insurance, Property Insurance, Builder's Risk Insurance and Automobile Liability Insurance policies this CCR Agreement requires shall be issued by carriers that: (a) are listed in the then current "Best's Key Rating Guide—Property/Casualty—United States & Canada" publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of "A-" and a minimum financial size category of "VII" (exception may be made for the State Compensation Insurance Fund when not specifically rated); and (b) are authorized to do business in the State. The Owner may provide any insurance under a "blanket" or "umbrella" insurance policy, provided that: (1) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to Property and the Project, which amount(s) shall equal or exceed the amount(s) required by this CCR Agreement; and (2) such policy otherwise complies with the requirements of this CCR Agreement.

3.2.3 **Policy Requirements and Endorsements**. All insurance policies required by this CCR Agreement shall contain (by endorsement or otherwise) the following provisions:

(a) *Insured*. Liability Insurance and Automobile Liability Insurance policies shall name the Authority Parties as "additional insured." Property Insurance and Builders Risk Insurance policies shall name the Authority as a "loss payee." The coverage afforded to the Authority Parties shall be at least as broad as that afforded to Owner regarding the Property and the Project and may not contain any terms, conditions, exclusions or limitations applicable to the Authority Parties that do not apply to Owner.

(b) *Primary Coverage*. Any insurance or self-insurance maintained by the Authority Parties shall be excess of all insurance required under this CCR Agreement and shall not contribute with any insurance required by this CCR Agreement.

(c) *Contractual Liability*. Liability Insurance policies shall contain contractual liability coverage for the Owner's indemnity obligations under this CCR Agreement and the Authority and Owner acknowledge and agree that any proceeds received by Owner as a result of such coverage shall constitute Surplus Cash that may be used for the purpose of indemnifying the Authority in accordance with the requirements of this CCR Agreement. The Owner's obtaining or failure to obtain such contractual liability coverage shall not relieve the Owner from nor satisfy any indemnity obligation of the Owner under this CCR Agreement.

(d) *Notice to Authority.* Each insurance carrier shall give the Authority no less than thirty (30) calendar days' advance written notice of any cancellation or non-renewal of any insurance policy required by this CCR Agreement. Also, phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of any certificates of insurance or any coverage for the Authority Parties. The Owner shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits are exhausted or upon insolvency of the insurer that issued the policy.

(e) *Deliveries to Authority.* Evidence of Owner's maintenance of all insurance policies required by this CCR Agreement shall be delivered to the Authority on the date of this CCR Agreement. No later than three (3) days before any insurance required by this Agreement expires, is cancelled or its liability limits are reduced or exhausted, Owner shall deliver to the Authority evidence of Owner's maintenance of all insurance this CCR Agreement requires. Each insurance policy required by this CCR Agreement shall be endorsed to state that coverage shall not be cancelled, suspended, voided, reduced in coverage or in limits, except after thirty (30) calendar days' advance written notice of such action has been given to Authority by certified mail, return receipt requested; provided; however, that only ten (10) days' advance written notice shall be required for any such action arising from non-payment of the premium for the insurance. Phrases such as "endeavor to" and "but failure to mail such Notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of any certificates or policies of insurance applicable to the Authority Parties pursuant to this CCR Agreement.

(f) *Waiver of Certain Claims*. Owner shall cause each insurance carrier providing any Liability Insurance, Worker's Compensation Insurance, Automobile Liability Insurance or Property Insurance coverage under this CCR Agreement to endorse their applicable policy(ies) with a Waiver of Subrogation with respect to the Authority Parties, if not already in the policy. To the extent that the Owner obtains insurance with a Waiver of Subrogation, the Owner and the Authority release each other, and their respective authorized representatives, from any Claims for damage to any Person or property to the extent such Claims are paid by such insurance policies obtained pursuant to or in satisfaction of the provisions of this CCR Agreement.

(g) *No Representation*. No Party makes any representation that the limits, scope, or forms of insurance coverage this CCR Agreement requires are adequate or sufficient.

(h) *No Claims Made Coverage*. None of the insurance coverage required under this CCR Agreement may be written on a claims-made basis.

(i) *Fully Paid and Non-Assessable*. All insurance obtained and maintained by Owner in satisfaction of the requirements of this CCR Agreement shall be fully paid for and non-assessable. However, Owner's policies may be subject to insurer audits.

(j) *Authority Option to Obtain Coverage*. During the continuance of an Event of Default arising from the failure of Owner to carry any insurance required by this CCR Agreement, the Authority may, at its sole option, purchase any such required insurance coverage and the Authority shall be entitled to immediate payment from the Owner of any premiums and associated reasonable costs paid by the Authority for such insurance coverage. Any amount becoming due and payable to the Authority under this Section 3.2.3(j) that is not paid within fifteen (15) calendar days after written demand from the Authority for payment of such amount, with an explanation of the amounts demanded, will bear interest from the date of the demand at the rate of eight percent (8%) per annum or the Usury Limit, whichever is less. Any election by the Authority to purchase or not to purchase insurance otherwise required by the terms of this CCR Agreement to be carried by Owner shall not relieve the Owner of its obligation to obtain and maintain any insurance coverage required by this CCR Agreement.

(k) *Separation of Insured*. All Liability Insurance and Automobile Liability Insurance shall provide for separation of insured for Owner and the Authority Parties. Insurance policies obtained in satisfaction of or in accordance with the requirements of this Agreement may provide a cross-suits exclusion for suits between named insured Persons, but shall not exclude suits between named insured Persons and additional insured Persons.

3.2.4 **Insurance Independent of Indemnification**. The insurance requirements of this CCR Agreement are independent of the Owner's indemnification and other obligations under this CCR Agreement and shall not be construed or interpreted in any way to satisfy, restrict, limit, or modify the Owner's indemnification or other obligations under this CCR Agreement or to limit the Owner's liability under this CCR Agreement, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage. Further, the Owner's provision of the insurance required by this CCR Agreement shall not preclude the Authority from taking such other actions as are available to the Authority under any other provision of this CCR Agreement or otherwise at law or in equity.

3.2.5 **Deductibles and Self-Insured Retentions**. All deductibles and self-insured retentions under the Owner's insurance policies are subject to the Authority's prior written approval, which shall not be unreasonably withheld. The Owner shall pay or get the insurance company to waive any and all deductibles and self-insured retentions under all insurance policies issued in satisfaction of the terms of this CCR Agreement regarding any Claims relating to the Authority Parties, except to the extent that any such Claims arise from the negligence or willful misconduct of an Authority Party.

3.2.6 **No Separate Insurance**. The Owner shall not carry separate or additional insurance relating to the Project that is concurrent in form or contributing in the event of loss with the insurance required under this CCR Agreement, unless such insurance is endorsed in favor of the Authority Parties as required by this CCR Agreement.

3.2.7 **No Representation**. Neither Party makes any representation that the limits, scope, or forms of insurance coverage this CCR Agreement require are adequate or sufficient.

3.3 Hazardous Substances.

3.3.1 **Restrictions**. The Owner shall not cause or permit to occur on, under or at the Project or the Property during the Term: (a) any violation of any Environmental Law; or (b) the use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance, or transportation to or from the Project or the Property of any Hazardous Substance, unless both: (i) reasonably necessary and customary to construct, operate or maintain the Project for uses this CCR Agreement permits; and (ii) in compliance with all Environmental Laws.

3.3.2 **Compliance; Clean-Up**. The Owner shall, at the Owner's sole cost and expense: (a) comply with all Environmental Laws applicable to the Project and the Property and, to the extent Environmental Law requires, clean up any Hazardous Substance Discharge; (b) make all submissions to, deliver all information required by, and otherwise fully comply with all requirements of any Government under any Environmental Law; (c) if any Government requires any clean-up plan or clean-up because of a Hazardous Substances Discharge, prepare and submit the required plans and all related bonds and other financial assurances; (d) promptly and diligently carry out all such clean-up plans; and (e) Indemnify the Authority Parties against any Hazardous Substances Discharge or violation of Environmental Law, in accordance with Section 3.7. The Owner's obligations under this Section 3.3 shall not limit the Owner's rights against Third Persons (exclusive of the Authority Parties).

3.4 Restrictions on Change in Management or Control of Owner, Assignment and Transfer.

3.4.1 **Restrictions**. Owner acknowledges and agrees that the qualifications and identity of Owner are of particular importance and concern to Authority. Owner further acknowledges and agrees that Authority has relied and is relying on the specific qualifications and identity of Owner in entering into this CCR Agreement with Owner and that Authority would not have entered into this CCR Agreement but for the specific qualifications and identity of Owner. As a consequence, Transfers are permitted only as expressly provided in this CCR Agreement. Owner represents to Authority that it has not made and agrees that it will not create or permit to be made or created, any Transfer, other than a Permitted Transfer, either voluntarily, involuntarily or by operation of Law, without the prior written approval of Authority, which shall not be unreasonably withheld, conditioned or delayed. Any Transfer made in contravention of this Section 3.4 shall be voidable at the election of Authority. Owner hereby acknowledges and agrees that the restrictions on Transfers set forth in this Section 3.4 are reasonable.

3.4.2 **Delivery of Transfer Documents**. All instruments and other legal documents proposed to effect any proposed Transfer requiring the advance consent of the Authority shall be submitted to Authority for review, at least twenty (20) calendar days prior to the proposed date of the Transfer, and the written approval, disapproval or conditions of Authority regarding the proposed Transfer shall be provided to Owner, within fifteen (15) calendar days following Authority's receipt of all proposed Transfer documents. Owner agrees to reimburse Authority for all reasonable costs and expenses incurred by Authority in connection with its review of each proposed Transfer, including all documented Legal Costs and other Third Person consultant fees and expenses, all costs and expenses in reviewing each individual Transfer request.

3.5 Casualty. If any casualty occurs to the Project during the Term, Owner shall, except as otherwise provided in this Section 3.5, Restore the Project with reasonable promptness. If the cost of Restoration of the Project following a casualty exceeds the insurance proceeds available to Owner for such Restoration (if Owner maintains all insurance required by this CCR Agreement and inclusive of any deductible or self-insured retention amounts), then Owner shall not be required to Restore the Project, but this CCR Agreement shall not be affected.

3.6 Condemnation. If any portion of the Project is taken by exercise of the power of eminent domain by a Government during the Term, then Owner shall Restore the remaining portions of the Project with reasonable promptness, to the extent practicable.

3.7 Indemnity.

3.7.1 **Owner Indemnity Obligations**. Owner shall Indemnify the Authority Parties against any Claim to the extent such Claim arises from any wrongful intentional act or negligence of the Owner Parties. Owner shall also Indemnify the Authority Parties against any and all of the following: (a) any agreements that Owner (or anyone claiming by or through Owner) makes with a Third Person regarding the Property or the Project; (c) any workers' compensation claim or determination relating to any employee of the Owner Parties or their contractors; and (d) any Environmental Claim attributable to any action or failure to act by the Owner Parties.

3.7.2 **No Authority Liability**. During the Term: (a) the Owner is and shall be responsible for operation of the Property and the Project; and (b) the Authority shall not be liable for any injury or damage to any property (of the Owner or any other Person) or to any Person occurring on or about the Property or the Project, except to the extent caused by the Authority's wrongful intentional act or negligence.

3.7.3 **Independent of Insurance Obligations**. The Owner's indemnification obligations under this CCR Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying the Owner's insurance or other obligations under this CCR Agreement. Owner's obligation to Indemnify the Authority Parties under this CCR Agreement is independent of the Owner's insurance and other obligations under this CCR Agreement. Owner's compliance with its insurance obligations and other obligations under this CCR Agreement shall not in any way restrict, limit or modify Owner's indemnification obligations under this CCR Agreement and are independent of Owner's other obligations under this CCR Agreement.

3.7.4 **Survival of Indemnification and Defense Obligations**. The indemnity and defense obligations of the Owner under this CCR Agreement shall survive the expiration or earlier termination of this CCR Agreement, until any and all actual or prospective

Claims regarding any matter subject to an indemnity obligation under this CCR Agreement are fully, finally, absolutely and completely barred by the applicable statutes of limitations.

3.7.5 **Immediate Duty to Defend**. The duty to defend under this CCR Agreement includes Claims for which an Indemnitee may be liable without fault or strictly liable and applies regardless of whether the issues of negligence, liability, fault, default, or other obligation on the part of the Indemnitor or the Indemnitee have been determined. The duty to defend applies immediately, regardless of whether the Indemnitee has paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any Claims. It is the express intention of the Parties that an Indemnitee be entitled to obtain summary adjudication or summary judgment regarding an Indemnitor's duty to defend the Indemnitee at any stage of any claim or suit within the scope of the Indemnitor's indemnity obligations under this CCR Agreement.

3.8 Indemnification Procedures. Wherever this CCR Agreement requires any Indemnitor to Indemnify any Indemnitee:

3.8.1 **Prompt Notice**. The Indemnitee shall promptly Notify the Indemnitor of any Claim.

3.8.2 **Selection of Counsel**. The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for a Claim shall be deemed reasonably satisfactory, except in the event of a potential or actual conflict of interest for such counsel regarding such representation or such counsel proves to be incompetent regarding such representation. Even though the Indemnitor shall defend the Claim, Indemnitee may, at its option and its own expense, engage separate counsel to advise it regarding the Claim and its defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel. The Indemnitor and its counsel shall, however, control the defense, except to the extent that the Indemnitee waives its rights to indemnity and defense for such Claim.

3.8.3 **Cooperation**. The Indemnitee shall reasonably cooperate with the Indemnitor's defense of the Indemnitee.

3.8.4 **Settlement**. The Indemnitor may only settle a Claim without the consent of the Indemnitee, if the Claim is within the policy limits of applicable insurance policies provided in satisfaction of the requirements of this CCR Agreement and such settlement procures a release of Indemnitee from the subject Claims, does not require Indemnitee to make any payment to the claimant and neither Indemnitee nor Indemnitor on behalf of Indemnitee admits any liability. Notwithstanding the immediately preceding sentence or any other provision of this CCR Agreement, the Indemnitee's consent shall be required to settle any and all Claims under Builders Risk Insurance.

3.8.5 **Insurance Proceeds**. The Indemnitor's obligations shall be reduced by net insurance proceeds the Indemnitee actually receives for the matter giving rise to indemnification obligation.

3.9 No Limitation. The Owner hereby acknowledges and agrees that the Owner's duties, obligations and liabilities under this CCR Agreement, including without limitation, under Sections 3.3 and Section 3.7, are in no way limited or otherwise affected by any information any of the Authority Parties may have concerning the Project or the Property and/or the presence within the Project or the Property of any Hazardous Substance, whether the Authority Parties obtained such information from the Owner, from their own investigations or from a Third Person.

3.10 Maintenance. The Owner, for itself, its successors and assigns, covenants and agrees that:

3.10.1 **Maintenance Standard**. The entirety of the Property and the Project shall be maintained by the Owner in good condition and repair, normal wear and tear excepted, and a neat, clean and orderly condition, including, without limitation, maintenance, repair, reconstruction and replacement of any and all asphalt, concrete, landscaping, utility systems, irrigation systems, drainage facilities or systems, grading, subsidence, retaining walls or similar support structures, foundations, signage, ornamentation, and all other improvements on or to the Property, now existing or made in the future by or with the consent of the Owner, as necessary to maintain the appearance and character of the Property, as improved with the Project. The Owner's obligation to maintain the Property and the Project described in the immediately preceding sentence shall include, without limitation, all of the following, at the Owner's sole cost and expense: (i) maintaining the surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability; (ii) removing all papers, mud, sand, debris, filth and refuse and thoroughly sweeping areas to the extent reasonably necessary to keep areas in a clean and orderly condition; (iii) removing or covering graffiti with the type of surface covering originally used on the affected area, (iv) placing, keeping in repair and replacing any necessary and appropriate directional signs, markers and lines; (v) installing, operating, keeping in repair and replacing where necessary, such artificial lighting facilities as shall be reasonably required; (vi) providing security services as reasonably indicated; (vii) maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of plants and other landscaping material as necessary to maintain the appearance and character of the landscaping; (viii) properly maintaining the windows, structural elements, and painted exterior surface areas of the Project in a clean and presentable manner; (ix) keeping the common areas of the Project and the Property free of accumulated debris, appliances, inoperable motor vehicles or motor vehicle parts, or free of storage of lumber, building materials or equipment not regularly in use on the Property; (x) parking of any commercial motor vehicle in excess of 7,000 pounds gross weight anywhere on the Property on other than on a temporary basis; and (xi) the use of garage areas on the Property for purposes other than the parking of motor vehicles and the storage of personal possessions and mechanical equipment of the Owner or persons residing at the Property. The Owner's obligation to maintain the Project and the Property described in the two immediately preceding sentences is, collectively, referred to in this CCR Agreement as the "**Maintenance Standard**." The Owner may contract with a maintenance contractor to provide for performance of all or part of the duties and obligations of the Owner with respect to the maintenance of the Property or the Project; provided, however, that the Owner shall remain responsible and liable for the maintenance of the Property and the Project, at all times.

3.10.2 **Maintenance Deficiency**. If, at any time during the Term, there is an occurrence of a material adverse condition on any area of the Property or the Project in contravention of the Maintenance Standard (each such occurrence being a "**Maintenance Deficiency**"), then the Authority may notify the Owner in writing of the Maintenance Deficiency. If the Owner fails to cure or commence and diligently pursue to cure the Maintenance Deficiency within thirty (30) calendar days following its receipt of notice of the Maintenance Deficiency, the Authority shall have the right to enter the Property and/or the Project and perform all acts necessary to cure the Maintenance Deficiency, or to take any other action at law or in equity that may then be available to the Authority to accomplish the abatement of the Maintenance Deficiency. Any sum expended by the Authority for the abatement of a Maintenance Deficiency pursuant to this Section 3.10.2 shall be reimbursed to the Authority by the Owner within thirty (30) calendar days after written demand to the Owner for payment. If any amount becoming due to the Authority under this Section 3.10.2 is not paid within thirty (30) calendar days after written demand to the Owner for payment, the Owner shall also pay Default Interest on such amount until paid in full.

3.10.3 **Graffiti**. Graffiti, as defined in Government Code Section 38772, that has been applied to any exterior surface of a structure or improvement on the Property that is visible from any public right-of-way adjacent or contiguous to the Property, shall be removed by the Owner by either painting over the evidence of such vandalism with a paint that has been color-matched to the surface on which the paint is applied, or graffiti may be removed with solvents, detergents or water, as appropriate. If any such graffiti is not removed within seventy-two (72) hours following the time of the discovery of the graffiti, or if Owner fails to commence and diligently pursue to remove such graffiti within seventy-two (72) hours following the time of the discovery of the graffiti, the Authority shall have the right to enter the Property and/or the Project and remove the graffiti, without notice to the Owner. Any sum expended by the Authority for the removal of graffiti pursuant to this Section 3.10.3, shall be limited to an amount not to exceed Five Hundred Dollars ($500) per entry by the Authority and shall be reimbursed to the Authority by the Owner within thirty (30) calendar days after written demand to the Owner for payment. If any amount becoming due to the Authority for graffiti removal under this Section 3.10.3 is not paid within thirty (30) calendar days after written demand to the Owner for payment, the Owner shall also pay Default Interest in such amount, until paid in full.

3.11 <u>No Authority Responsibility for Project</u>. The Authority shall have no responsibility for the Construction, installation, management, operation or maintenance of the Project or the Property.

3.12 <u>Only Permitted Encumbrances</u>. Owner shall not record and shall not allow to be recorded against the Property any Security Instrument, lien or other encumbrance that is not a Permitted Encumbrance. Owner shall remove or cause to be removed (or providing title insurance in form and substance reasonably acceptable to Authority and issued by a title insurance company reasonably acceptable to Authority, insuring the priority of this CCR Agreement and the Deed of Trust securing the Agency Loan as superior to such lien, with such title insurance being in the minimum amount of the outstanding principal and interest under the Agency Loan plus 125% of the amount of the lien claim or providing a statutory bond resulting in removal of such lien) any Prohibited Encumbrance made or recorded against the Property or shall assure the complete satisfaction of any such Prohibited Encumbrance to the satisfaction of the Authority, in the Authority's sole and absolute discretion. The covenants of Owner set forth in this Section 3.12 regarding the placement of encumbrances on the Property shall run with the land of the Property and bind successive owners of the Property, until recordation (or deemed issuance) of the Certificate of Completion for the Project.

3.13 Authority Right to Discharge Prohibited Encumbrances. After sixty (60) calendar days Notice to Owner of a Prohibited Encumbrance and provided that Owner has not caused such Encumbrance to be removed (including by providing title insurance in form and substance reasonably acceptable to Authority and issued by a title insurance company reasonably acceptable to Authority, insuring the priority of this CCR Agreement and the Deed of Trust securing the Agency Loan as superior to such lien, with such title insurance being in the minimum amount of the outstanding principal and interest under the Agency Loan plus 125% of the amount of the lien claim or providing a statutory bond resulting in removal of such lien) during such period, or if Owner fails to commence and diligently pursue such cure within such period. the Authority shall have the right, but not the obligation, to satisfy or remove any Prohibited Encumbrance against the Property or the Project and receive reimbursement from Owner for any amounts paid or incurred in satisfying or removing any such Prohibited Encumbrance, upon demand. Any amount expended by the Authority to discharge a Prohibited Encumbrance that is not reimbursed to the Authority by Owner within thirty (30) calendar days following written demand for payment from the Authority shall accrue Default Interest, until paid in full. Nothing in this Section 3.13, shall require Owner to pay or make provisions for the payment of any tax, assessment, lien or charge that Owner is in the process of contesting the validity or amount thereof, in good faith, and so long as such contest shall not subject all or any portion of the Property to forfeiture or sale.

3.14 Rights of Permitted Lender and Authority Regarding Permitted Security Instruments.

3.14.1 **Notice of Liens**. The Owner shall promptly Notify the Authority of any Security Instrument or lien asserted against or attached to all or any portion of the Project or the Property, whether by voluntary act of Owner or otherwise; provided, however, that no Notice of filing of preliminary notices or mechanic's liens need be given by Owner to the Authority, prior to suit being filed to foreclose any such mechanic's lien.

3.14.2 **Notice of Default to Permitted Lenders**. Whenever the Authority delivers any Notice of Default to Owner under this CCR Agreement, the Authority shall send a copy of such Notice of Default to each Permitted Lender holding a Permitted Security Instrument of which the Authority has received Notice and a contact address for transmittal of such Notices. Each Permitted Lender receiving a copy of any such Notice of Default shall have the right, at its option, to commence the cure or remedy of any Default of Owner set forth in such Notice and to diligently and continuously proceed with such cure or remedy of such Default, within the cure period allowed to Owner under this CCR Agreement. The Authority shall accept such performance by a Permitted Lender with the same force and effect as if furnished by Owner. If such Default can only be remedied or cured by the Permitted Lender upon obtaining possession of the Property, the Authority shall allow the Permitted Lender an opportunity to obtain possession with diligence and continuity through exercise of remedies under such Permitted Lender's Permitted Security Instrument and to remedy or cure such Default within ninety (90) days after obtaining possession of the Property. If the Default reasonably requires more than ninety (90) days to cure, however, then the time available to a Permitted Lender to cure pursuant to this Section 3.14.2 shall be the reasonable time required to complete such cure, as long as the Permitted Lender has commenced the cure of the Default within such ninety (90) day period and diligently pursues the cure to completion. During such extension of time, the Authority shall not terminate this CCR Agreement or exercise other remedies under this CCR Agreement by reason of such Default. Nothing contained in this CCR Agreement shall be deemed to permit, authorize or require any Permitted Lender to undertake or continue the Construction or installation of any portion of the Project (beyond the extent necessary to conserve or protect improvements or Construction already made).

3.14.3 **No Termination of Permitted Security Instruments by Default**. An Event of Default by Owner under this CCR Agreement shall not defeat or render invalid the lien of any Permitted Security Instrument made in good faith and for value as to all or any part of the Property, whether or not the Permitted Lender is subordinated to this CCR Agreement; but unless otherwise provided in this CCR Agreement, this CCR Agreement shall be binding and effective against any owner of the Property, whose title thereto is acquired pursuant to a Permitted Security Instrument or from a Person holding or benefiting from a Permitted Security Instrument.

3.14.4 **Permitted Lender Rights Regarding Termination or Modification**. No termination or modification of this CCR Agreement that materially affects the rights of a Permitted Lender under its Permitted Security Instrument shall be binding upon the Permitted Lender without its prior written consent.

3.14.5 **Authority Right to Purchase Obligation**. In any case where, after delivery of Notice of default of Owner under a Permitted Security Instrument, the Authority shall have the option, in the Authority's sole and absolute discretion, to purchase the rights of such Permitted Lender against or in the reference to Owner, the Property or Project secured by such Permitted Security Instrument held by such Permitted Lender by payment to the Permitted Lender of the amount of the unpaid obligations secured by such Permitted Security Instrument and, if the ownership of the Property has vested in such Permitted Lender, the Authority, at its option, but not its obligation, shall be entitled to a conveyance from such Permitted Lender of any title or interest in the Property vested in such Permitted Lender to the Authority or the Authority's designee. If the Authority has not exercised its right to purchase the obligation secured by a Permitted Security Instrument pursuant to this Section 3.14.5 within forty-five (45) days following receipt of the notice of default under the Permitted Security Instrument, the affected Permitted Lender may demand by Notice that the Authority act to exercise or forego the right granted in this Section 3.14.5 by Notice to the Permitted Lender. If the Authority fails to exercise the right granted in this Section 3.14.5 by Notice to the Permitted Lender within forty-five (45) calendar days following the date of the Authority's receipt of such written demand from the Permitted Lender, the Authority shall be conclusively deemed to have waived its rights under this Section 3.14.5. If the Authority timely exercises its rights under this Section 3.14.5, the purchase transaction shall close within sixty (60) days after the date of such Permitted Lender's receipt of the Authority's Notice exercising such rights.

3.14.6 **Authority Right to Cure Obligations**. In the event of a default by Owner under any Permitted Security Instrument, and after applicable cure periods, the Authority may cure the default of Owner under the applicable Permitted Security Instrument, but is under no obligation to do so, prior to completion of any sale or foreclosure of all or any portion of the Property under the applicable Permitted Security Instrument. The Authority shall be entitled to reimbursement from Owner of all reasonable and documented costs and expenses incurred by the Authority in curing any default of Owner under any Permitted Security Instrument, under demand. Any amount expended by the Authority to cure a default of Owner under any Permitted Security Instrument that is not reimbursed to the Authority by Owner within thirty (30) calendar days after Notice of such amount to Owner, shall accrue Default Interest, until paid in full.

3.14.7 **Foreclosure of Permitted Security Instrument**. Foreclosure of any Permitted Security Instrument, whether by judicial proceedings or by power of sale, or any conveyance by deed in lieu of foreclosure ("**Foreclosure Event**"), shall not require the consent of the Authority or constitute a Default under this CCR Agreement. Following any Foreclosure Event, the Authority shall recognize as "Owner" under this CCR Agreement any purchaser or other transferee of the entire Property that assumes each and all the obligations of Owner under this CCR Agreement pursuant to an assumption agreement reasonably satisfactory to the Authority. If any Permitted Lender or its nominee or assignee acquires Owner's title to the entire Property as a result of a Foreclosure Event, such Permitted Lender shall thereafter have the right to assign or transfer Owner's interest under this CCR Agreement to an assignee upon obtaining the Authority's consent with respect to such assignee, which consent shall not be unreasonably withheld or delayed. Upon such acquisition of title by a Permitted Lender, or the assignee or nominee of a Permitted Lender, or the purchaser from a Permitted Lender or such assignee or nominee, the Authority shall execute and deliver an amendment to this CCR Agreement with such Person, upon the written request of such Person given not later than one hundred twenty (120) days after such Person's acquisition of title to the entire Property. Such amended CCR Agreement shall be substantially the same in form and content as the provisions of this CCR Agreement, except as to the parties thereto, and the acknowledgment or elimination of any requirements that have been fulfilled prior to the date of such amendment and shall have priority equal to the priority of this CCR Agreement. Nothing in this CCR Agreement shall be deemed to permit or authorize any Permitted Lender to devote all or any portion of the Property to any uses, or to construct any improvements thereon, other than those uses of the Project provided for or authorized by this CCR Agreement.

4. COVENANTS RUN WITH THE LAND

4.1 Covenants to Run With the Land. The Owner and the Authority hereby declare their mutual specific intent that the covenants, conditions, restrictions, reservations and agreements set forth in this CCR Agreement are part of a plan for the promotion and preservation of affordable rental housing within the territorial jurisdiction of the Authority and that each shall be deemed covenants running with the land of the Property, binding upon and each successor-in-interest of the Owner in the Project or the Property for the duration of the Term. Regardless of classification or characterization, each of the covenants, conditions, restrictions and agreements contained in this CCR Agreement touch and concern the land of the Property and each of them is expressly declared to be for the benefit and in favor of the Authority for the duration of the Term, regardless of whether the Authority is or remains an owner of any land or interest in land to which such covenants, conditions, restrictions or agreements relate. The Authority, in the event of any breach of this CCR Agreement, has the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach, as provided in this CCR Agreement, at law or in equity. The Owner hereby expressly assumes the duty and obligation to perform each of the agreements and covenants and to honor each of the reservations and restrictions set forth in this CCR Agreement. Each and every contract, deed or other instrument hereafter executed covering or conveying all or any portion of the Property or the Project or any interest in the Property or the Project or any Affordable Unit shall incorporate all of the provisions of this CCR Agreement, either expressly or by reference, and any contract, deed or other instrument transferring any estate or interest in the Property or the Project shall conclusively be deemed to have been executed, delivered and accepted subject to the agreements, covenants, conditions, reservations, and restrictions of this CCR Agreement, regardless of whether such agreements, covenants, conditions, reservations and restrictions are set forth in or referenced such contract, deed or other instrument.

5. REMEDIES

5.1 Remedies. If an Event of Default occurs, then the Authority shall, at the Authority's option, have any or all of the following described remedies, all cumulative (so exercise of one remedy shall not preclude exercise of another remedy), in addition to such other remedies as may be available at law or in equity or under any other terms of this CCR Agreement. The Authority's remedies shall include:

5.1.1 **Suits Before End of Term**. The Authority may sue the Owner for damages or other relief, from time to time, at the Authority's election, without terminating this CCR Agreement, including by mandamus or other suit, action or proceeding at law or in equity, to require the Owner to perform the covenants or agreements or observe the conditions or restrictions of this CCR Agreement, or enjoin any acts or things that may be unlawful or in violation of the rights of the Authority under this CCR Agreement; or by other action at law or in equity, as necessary or convenient to enforce the covenants, agreements, conditions or restrictions of this CCR Agreement.

5.1.2 **Receipt of Moneys**. No receipt of money by the Authority from the Owner after any Notice of Default shall affect any Notice previously given to the Owner, or waive the Authority's right to enforce payment or deposit of any amount payable or later falling due, or the Authority's right to enter the Project, it being agreed that after service of Notice of Default or the commencement of suit or proceedings, or after final order or judgment, the Authority may demand, receive, and collect any moneys due or thereafter falling due, without in any manner affecting such Notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the Owner's liability to the Authority.

5.1.3 **No Waiver**. No failure by the Authority to insist upon strict performance of any condition, covenant, agreement, restriction or reservation of this CCR Agreement or to exercise any right or remedy upon a Default, and no acceptance of full or partial payment of any amount due or becoming due to the Authority during the continuance of any such Default, shall waive any such Default or such condition, covenant, agreement, restriction or reservation. No obligation of the Owner under this CCR Agreement, and no Default, shall be modified, except by a written instrument executed by the Authority. No waiver of any Default shall modify this CCR Agreement. Each and every covenant, agreement, condition, restriction and reservation of this CCR Agreement shall continue in full force and effect with respect to any other then-existing or subsequent Default of such condition, covenant, agreement, restriction or reservation of this CCR Agreement.

5.1.4 **Damages**. The Authority may recover from the Owner all damages the Authority incurs by reason of the Owner's Default and reimbursement of the Authority's reasonable out of pocket costs, including Legal Costs and bank fees for dishonored checks. The Authority may recover such damages at any time after the Owner's Default, including after the expiration of the Term. Notwithstanding any Law to the contrary, the Authority need not commence separate actions to enforce the Owner's obligations for each amount or payment not paid, or each month's accrual of damages and costs for the Owner's Default, but may bring and prosecute a single combined action for all such damages and costs.

5.1.5 **Injunction of Breaches**. Whether or not an Event of Default has occurred, the Authority may obtain a court order enjoining the Owner from continuing any Default or from committing any threatened Default. The Owner specifically and expressly acknowledges that damages would not constitute an adequate remedy to the Authority for any Non-Monetary Default.

5.2 <u>Specific Enforcement</u>. The Owner agrees that specific enforcement of the Owner's non-monetary obligations under this CCR Agreement is one of the reasons that the Authority agreed to restructure the Agency Loan and that, if the Owner breaches any such obligation, potential monetary damages to the Authority, as well as to prospective Qualifying Households, would be difficult, if not impossible, to evaluate and quantify. Therefore, in addition to any other relief to which the Authority may be entitled as a consequence of the Owner's default under this CCR Agreement, the Owner agrees to the imposition of the remedy of specific performance against the Owner under this CCR Agreement.

5.3 <u>Enforcement</u>. The Authority shall have the power to enforce this CCR Agreement and no other Person shall have any right or power to enforce any provision of this CCR Agreement on behalf of the Authority or to compel the Authority to enforce any provision of this CCR Agreement against the Owner, the Project, the Property or any Affordable Unit. Further, pursuant to Health and Safety Code Section 33334.3(f)(7), this CCR Agreement shall be enforceable by the Authority, any resident of an Affordable Unit, any resident association with members who reside in Affordable Units, former residents of Affordable Units who last resided in any such Affordable Unit, applicants for occupancy of Affordable Units and persons on an affordable housing waiting list, subject to the specific requirements of such law.

5.4 Termination by Agreement. Any provision of this CCR Agreement may be terminated upon written agreement between the Authority and the Owner, if the Authority in its sole and absolute discretion determines that such a termination will not adversely affect the affordable rental housing goals or requirements of the Authority.

6. GENERAL PROVISIONS

6.1 Relationship of Parties. Nothing contained in this CCR Agreement shall be interpreted or understood by any of the Parties, or by any Third Person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the Authority and the Owner or the Owner's agents, employees or contractors. The Owner shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform any services required of them by the terms of this CCR Agreement regarding the Project or the Property. Except as otherwise expressly provided in this CCR Agreement, the Owner has the right to exercise full control of employment, direction, compensation and discharge of all Persons assisting the Owner in the development, operation or maintenance of the Project or the Property. The Owner shall be solely responsible for all matters relating to payment of its employees, including compliance with tax withholding and all other Laws governing such employees. The Owner shall be solely responsible for its own acts and those of its agents and employees.

6.2 Subordination. The Authority has found that no economically feasible alternative method of refinancing Owner's existing debt on the Project to ensure the continuing financial feasibility of the Project on substantially comparable terms and conditions is reasonably available without subordination of this CCR Agreement to the Permitted Security Instrument securing the obligations of the Owner under the Senior Loan for the Project and the Authority has obtained written commitments from the lender providing the Senior Loan for the Project reasonably designed to protect the Authority's investment in the Project in the event of a Default by the Owner. Authority agrees that this CCR Agreement may be subordinated to the Permitted Security Instrument securing the obligations of Owner under the Senior Loan for the Project, including any Refinancing of such loans. The Authority Manager is hereby authorized to make and enter into, on behalf of the Authority, such reasonable subordination agreements as may be requested by the lender providing the Senior Loan for the Project or any Refinancing of such loans, while maintaining written commitments reasonably designed to protect the Authority's investment in the Project in the event of a Default by the Owner. Except as expressly provided in this Section 6.2, the Authority shall be under no obligation, under any circumstance or for any reason, to subordinate all or any part of this CCR Agreement to any lien, encumbrance, interest, estate or other obligation of the Owner to any Person claiming a security or other interest in all or any part of the Project or the Property.

6.3 No Claims. Nothing contained in this CCR Agreement shall create or justify any claim against the Authority by any Person that the Owner may have employed or with whom the

Owner may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the operation or maintenance of the Project or the Property.

6.4 Approvals.

6.4.1 Any approvals required from the Authority under this CCR Agreement shall not be unreasonably withheld, conditioned or delayed, except where otherwise specifically provided in this CCR Agreement. Wherever this CCR Agreement states that a Party's approval shall be "reasonable" or not unreasonably withheld: (a) such approval shall not be unreasonably withheld, delayed or conditioned; (b) no withholding of approval shall be deemed reasonable, unless withheld by Notice specifying reasonable grounds, in reasonable detail, for such withholding, and indicating specific reasonable changes in the proposal under consideration that would make it acceptable; and (c) if a Party grants its consent to any matter, this shall not waive its rights to require such consent for any further or similar matter.

6.4.2 Except as otherwise specifically provided in this CCR Agreement, whenever this CCR Agreement calls for approval by a Party of a proposed document to be submitted by the other Party, the receiving Party shall notify the other Party of its approval or disapproval of such document within thirty (30) calendar days after receipt of the proposed document. Unless otherwise provided in this CCR Agreement, a Party's failure to respond within such thirty (30) calendar day period shall be deemed the Party's approval. A Party shall provide specific reasons for any disapproval.

6.5 Warranty Against Payment of Consideration for CCR Agreement. Owner represents and warrants to the Authority that: (a) it has not employed or retained any Person to solicit or secure this CCR Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Owner and Third Persons to whom fees are paid for professional services related to planning, design or Construction of the Project or documentation of this CCR Agreement; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Owner or any of its agents, employees or representatives to any elected or appointed official or employee of either the Authority or the Authority in an attempt to secure this CCR Agreement or favorable terms or conditions for this CCR Agreement. Breach of the representations or warranties of this Section 6.5 shall entitle the Authority to terminate this CCR Agreement upon seven (7) days Notice to the other Parties and Escrow Agent. Upon any such termination of this CCR Agreement, Owner shall immediately refund any payments made to or on behalf of Owner by the Authority or the Authority pursuant to this CCR Agreement or otherwise related to the Property, any Approval, or the Project, prior to the date of any such termination.

6.6 Non-liability of Authority Officials or Employees. No Authority Party shall be personally liable to the Owner, or any successor in interest to the Owner, in the event of any Default by the Authority under this CCR Agreement, except to the extent of the negligence or willful misconduct of an Authority Party..

6.7 Governing Law. This CCR Agreement shall be governed by the laws of the State of California. without application of conflicts of laws principles. Any legal action brought in connection with this Agreement shall be instituted in the Superior Court of Solano County, State of California, or in the Federal District Court for the Northern District of California.

6.8 Amendment. This CCR Agreement may be amended only by a written instrument executed by both the Owner and the Authority.

6.9 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this CCR Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this CCR Agreement, with advice from counsel and other advisers of their own selection. A term defined in the singular in this CCR Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which govern all language in this CCR Agreement. The words "include" and "including" in this CCR Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this CCR Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this CCR Agreement, refers to such document as modified from time to time (except, at the Authority's option, any modification that violates this CCR Agreement), and includes all exhibits, schedules, and riders to such document. The word "or" in this CCR Agreement includes the word "and."

6.10 Attorneys' Fees. In the event that a Party brings an action to enforce in this CCR Agreement or otherwise arising out of this CCR Agreement, the prevailing Party in such action shall be entitled to recover from the other Party Legal Costs to be fixed by the court in which a judgment is entered, as well as the costs of such suit. For the purposes of this CCR Agreement, the words "reasonable attorneys' fees" in the case of the Authority, include both the costs of outside legal counsel retained by the Authority and the salaries, costs and overhead of the lawyers employed in the Office of the City Attorney of the City who are legal counsel to the Authority in such an action, as allocated on an hourly basis.

6.11 Severability. If any term or provision of this CCR Agreement or its application to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this CCR Agreement, or the application of such term or provision to Persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected by such invalidity. All remaining provisions of this CCR Agreement shall be valid and be enforced to the fullest extent Law allows.

6.12 Time is of the Essence. Time is of the essence with respect to the performance of each term, provision, covenant, condition, restriction, reservation or agreement contained in this CCR Agreement.

6.13 Unavoidable Delay; Extension of Time of Performance.

6.13.1 **Notice**. Subject to any specific provisions of this CCR Agreement stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay, performance by either Party under this CCR Agreement shall not be deemed or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party:

(a) within ten (10) days after such Party knows of any such Unavoidable Delay; and (b) within five (5) days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise its commercially reasonable best efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

6.13.2 **Assumption of Economic Risks**. EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS CCR AGREEMENT SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF EACH AND EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS CCR AGREEMENT. ANYTHING IN THIS CCR AGREEMENT TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR MARKET DEMAND/CONDITIONS AND WAIVE, TO THE GREATEST EXTENT ALLOWED BY LAW, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES. THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS CCR AGREEMENT. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE EFFECTIVE DATE.

____________________	____________________
Initials of Authorized Representative(s) of Authority	Initials of Authorized Representative(s) of Owner

6.14 Titles and Headings for Reference Only. The titles and headings of the articles, paragraphs and sections of this CCR Agreement are for convenience and reference only and are not to be considered a part of this CCR Agreement and shall not in any way interpret, modify or restrict the meaning of any term, provision, covenant, condition, restriction, reservation or agreement contained in this CCR Agreement.

6.15 Notices.

6.15.1 Any and all Notices sent by either Party to the other Party pursuant to or as required by this CCR Agreement shall be proper, if in writing and transmitted to the principal office of the Authority or the Owner, as applicable, as designated in Section 6.15.2, by one or more of the following methods: (i) messenger for immediate personal delivery, (ii) a nationally recognized overnight delivery service (i.e., Federal Express, United Parcel Service, etc.) or (iii) registered or certified United States mail, postage prepaid, return receipt requested. Such Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice, in accordance with this Section 6.15. Any such Notice shall be deemed to be received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is delivered by personal delivery, on the date of delivery by a nationally recognized overnight courier service or three (3) calendar days after it is placed in the United States mail, as provided in this Section 6.15. Rejection, other refusal to accept or the inability to deliver a Notice because of a changed address of which no notice was given, shall be deemed receipt of the Notice.

6.15.2 The following are the authorized addresses for the submission of Notices to the Parties:

If to the Authority:	Housing Authority of the City of Vallejo 200 Georgia Street Vallejo, CA 94950 Attn: _______________
With a courtesy copy to:	City of Vallejo 555 Santa Clara Street, 3rd Floor Vallejo, CA 94590 Attn: City Attorney
If to the Owner:	Bayview Vallejo AR, L.P. c/o Las Palmas Foundation 531 Encinitas Blvd., Suite 206 Encinitas CA 92024 With a copy to: HCHP Affordable Multi-Family, LLC 330 West Victoria Street Gardena, CA 90248-3527 Attn: Michael A. Costa Facsimile: (424) 258-2801 With a copy to: Sheldon B. Chernove, Esq. Chernove & Associates, Inc. 16027 Ventura Blvd., Suite 660 Encino, CA 91436 Facsimile: (818) 377-9132

6.16 Entire Agreement.

6.16.1 This CCR Agreement may be executed in counterpart originals, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument. This CCR Agreement includes _________ (__) pages and _______ (__) exhibits.

6.16.2 None of the terms, conditions, covenants, restrictions, reservations, terms, provisions or agreements set forth in this CCR Agreement shall be deemed to be merged with any deed conveying title to any estate or interest in the Property or the Project.

6.16.3 This CCR Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

6.16.4 Signatures delivered by facsimile shall be binding as originals upon the Parties so signing and delivering; provided, however, that original signature(s) shall be required for documents to be recorded.

SIGNATURE PAGE
TO
AMENDED AND RESTATED CCR AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Bayview Vista Senior Apartments)

IN WITNESS WHEREOF, the Owner and the Authority have caused this CCR Agreement to be signed, acknowledged and attested on their behalf by their duly authorized representatives, as set forth below:

AUTHORITY:

Housing Authority of the City of Vallejo

By:___________________________________
Executive Direrctor

ATTEST:

By:___________________________________
Secretary

APPROVED AS TO FORM:

By:___________________________________
City Attorney

OWNER:

BAYVIEW VALLEJO AR, L.P.,
a California limited partnership

By: Las Palmas Foundation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: ______________________________
Name: ____________________________
Title: ____________________________

By: HCHP Affordable Multi-Family, LLC,
a California limited liability company
Its Administrative General Partner

By: ______________________________
Name: ____________________________
Title: ____________________________

[SIGNATURES OF PRINCIPALS MUST BE NOTARY ACKNOWLEDGED FOR RECORDING]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGEMENTS

State of California
County of ________________

On ______________________ before me, ________________________________, notary public, personally appeared ____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing Section is true and correct.

WITNESS my hand and official seal.

Signature ____________________________ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGEMENTS

State of California
County of ________________

On ______________________ before me, ________________________________, notary public, personally appeared ____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing Section is true and correct.

WITNESS my hand and official seal.

Signature ____________________________ (Seal)

EXHIBIT "A"
TO
DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Bayview Vista Senior Apartments)

Property Legal Description

EXHIBIT "B"
TO
DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Bayview Vista Senior Apartments)

Income Certification Form

[Attached behind this cover page]

Income Certification Form

NOTE TO APARTMENT OWNER: This form is designed to assist you in computing "Adjusted Income" in accordance with the method set forth in the United States Department of Housing and Urban Development ("HUD") Regulations at United States Code of Federal Regulations, Title 24, Part 5, Section 5.611. You should make certain that this form is at all times up-to-date with the HUD Regulations.

Re: **[Address of Affordable Unit]**

1. Members of Household. I/We, the undersigned state that I/we have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit being applied for in the above apartment project. Listed below are the names of all persons who intend to reside in the unit:

Names of Members of Household	**Relationship to Head of Household**	**Age**	**Social Security Number**	**Place of Employment**
______________	______________	______________	______________	______________
______________	______________	______________	______________	______________
______________	______________	______________	______________	______________
______________	______________	______________	______________	______________
______________	______________	______________	______________	______________

2. Adjusted Income Computation. The total anticipated annual income, calculated in accordance with the provisions of this Section 2, of all persons over the age of 18 years listed in Section 1 for the 12-month period beginning the date that (i) I/we plan to move into a unit or (ii) the date of this Certification, whichever is later, is $ ____________________.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this Section 2.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this Section 2);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, workers compensation and severance pay (except as provided in paragraph (c)(3) of this Section 2);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 C.F.R. 260.31; and

(B) Are not otherwise excluded under paragraph (c) of this Section 2.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this Section 2).

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this Section 2);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in 24 C.F.R. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the City or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the City's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(14) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the Affordable Unit;

(15) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(16) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R. 5.609(c) apply.

3. Capital Asset and Savings Information. Do the persons whose income or contributions are included in Section 2 above:

(a) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interests in Indian trust land)? ___ Yes ____ No; or

(b) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value? ___Yes ___No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than $5,000? ___Yes ___No

(d) If the answer to (c) is yes, state:

(1) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent: $______; and

(2) the amount of such income, if any, that was included in Section 2 above: $______

4. Full-Time Student Information.

(a) Are all of the individuals who propose to reside in the unit full-time students*? ____Yes ____No

*A full-time student is an individual enrolled as a full-time student during each of five calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance and is not an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

(b) If the answer to 8(a) is yes, is at least one of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return? ____Yes ____No

5. No Relationship With Owner. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter the "Owner"), has any family relationship to the Owner or owns, directly or indirectly, any interest in the ownership. For purposes of this section, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member, and ownership, direct or indirect, by a partner of the individual.

6. Certification of Accuracy of Information. This certificate is made with the knowledge that it will be relied upon by the Owner to determine maximum income for eligibility to occupy the unit; and I/we declare that all information set forth herein is true, correct and complete and, based upon information I/we deem reliable and that the statement of total anticipated income contained in this Section 2 is reasonable and based upon such investigation as the undersigned deemed necessary. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Owner to lease the unit and will entitle the Owner to prevent or terminate

my/our occupancy of the unit by institution of an action for eviction or other appropriate action or proceedings. I/we will assist the Owner in obtaining any information or documents required to verify the statements made herein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

7. Housing Issuer Statistical Information (Optional--will be used for reporting purposes only):

Marital Status: ______________________________

Race (Head of Household)

White ________ Asian ________ Hispanic ________
African-American ________ Native American ________ Other ________

Physical Disability: Yes ________ No ________

I/we declare under penalty of perjury under the laws of the United States of America and the laws of the State of California that the foregoing is true and correct.

Executed this ________ day of__________, ____ in the County of Solano, California.

____
Applicant

____
Applicant

[Signature of all persons over the age of 18 years listed in Section 2 above required]

FOR COMPLETION BY OWNER ONLY:

8. Calculation of eligible income:

(a) Enter amount entered for entire household in Section 2: $______________

(b) (1) If answer to Section 3(c) is "yes," enter the total amount entered in paragraph 3(d)(1), subtract from that figure the amount entered in 3(d)(2) and enter the remaining balance ($_______________);

(2) Multiply the amount entered in Section 8(b)(1) times the current passbook savings rate to determine what the total annual earnings on the amount in Section 8(b)(1) would be if invested in passbook savings ($________), subtract from that figure the amount entered in Section 8(b)(1) and enter the remaining balance

(3) Enter at right the greater of the amount calculated under (1) or (2) above: $_____________;

(c) TOTAL ELIGIBLE INCOME
(Line 8(a) plus line 8(b)(3)): $________________

9. The amount entered in Line 8(c):

_____ Qualifies the applicant(s) as a Lower Income Household.

_____ Does not qualify the applicant(s) as a Lower Income Household.

10. Number of unit assigned: ________

Bedroom Size: ______ Rent: $________ monthly/annually

11. Method used to verify applicant(s) income:

_____ Employer income verification.

_____ Copies of tax returns.

_____ Other (_____________________)

____
Management Agent

The undersigned employee has applied for a rental unit located in a project financed in part by the City of Vallejo for persons of low and moderate income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages ________ Overtime ________ Bonuses ________
Commissions ________

Total current income ____________

I hereby certify under penalty of perjury under the laws of the United States of America and the laws of the State of California that the statements above are true and complete to the best of my knowledge.

_______________________________ ________________ ________________________________
Signature Date Title

I hereby grant you permission to disclose my income to ______________________________ in order that they may determine my income eligibility for rental of an apartment at **[______________________]**.

_______________________________ ________________
Signature Date

Please send to: ____
____
____

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding calendar year and certify under penalty of perjury under the laws of the United States of America and the laws of the State of California that the information shown in such income tax returns is true and complete to the best of my knowledge.

_______________________________ ________________
Signature Date

EXHIBIT "C"
TO
DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING
(Bayview Vista Senior Apartments)

Annual Report

[Attached behind this cover page]

Approved as to form:

By: ____________________
Claudia Quintana
City Attorney

FIRST AMENDMENT TO PARTICIPATION AGREEMENT

THIS FIRST AMENDMENT TO PARTICIPATION AGREEMENT ("**Amendment** ") is made and entered into as of the _______ day of _________________201___ (the "**Effective Date**"), by and between the HOUSING AUTHORITY OF THE CITY OF VALLEJO AS SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO (the "**Successor Agency**"), and BAYVIEW VALLEJO AR, L.P. a California limited partnership ("**Participant**").

RECITALS

A. Solano Vista II Housing Investors, L.P., a California limited partnership ("**Original Owner**") and the former Redevelopment Agency of the City of Vallejo (the "**Former Agency**") entered into that certain Participation Agreement dated as of January 11, 2005 ("**Participation Agreement**"), pursuant to which Original Owner developed on certain real property in the City of Vallejo, County of Solano, State of California a 194-unit senior housing project commonly known as Bayview Vista Senior Apartments (the "**Project**").

B. To assist Original Owner with the costs of developing the Project, the Former Agency provided a loan to Original Owner in the original principal amount of One Million Seven Hundred Thousand Dollars ($1,700,000) (the "**Agency Loan**"). To evidence the Agency Loan, Original Owner executed that certain Promissory Note dated as of January 11, 2005 (the "**Original Note**"), which sets forth Original Owner's obligation to repay the Agency Loan.

C. Pursuant to Assembly Bill 26 ("**ABx1 26**"), which signed into law on June 28, 2011, certain key dates of which were revised by the California Supreme Court in *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4^{th} 231, the Former Agency was dissolved as of February 1, 2012. Pursuant to Health and Safety Code Section 34173, added by ABx1 26, the City Council of the City of Vallejo elected and determined that the Successor Agency shall be the "**housing successor**" to the Former Agency.

D. In connection with the development of the Project, Original Owner obtained an allocation of nine percent (9%) low income housing tax credits. The fifteen (15) year tax credit compliance period has expired. Original Owner and Participant have requested that the Successor Agency approve a resyndication and restructuring package that includes (i) Original Owner's sale and transfer of the Project to Participant, (ii) Participant's obtainment of a reservation of 4% low income housing tax credits, and an allocation of tax-exempt senior revenue bonds in the approximate amount of $23,575,000 (the "**Bonds**"), (iii) Participant's construction of certain rehabilitation improvements to the Project, and (iv) an extension and modification of the terms of the Agency Loan. Successor Agency is willing to approve such resyndication/restructuring package in accordance with the terms and conditions of this Amendment.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend the Participation Agreement as follows:

1. Sale and Transfer of the Project to Participant. Successor Agency hereby approves the sale of the Project by Original Owner to Participant. Concurrently herewith, Participant and Original Owner have executed, and shall cause to be recorded in the Office of the Recorder of Solano County, California (the "**Official Records**"), that certain Assignment and Assumption Agreement, consented to by the Successor Agency, pursuant to which Participant is assuming all of Original Owner's rights and obligations under (a) the Participation Agreement, (b) the Original Note, (c) that certain Deed of Trust with Assignment of Rents dated as of March 1, 2005 and recorded in the recorded in the Official Records on March 1, 2005 as Instrument Number 2005-28455 ("**Deed of Trust**"), (d) that certain Affordable Housing Covenant dated as of January 11, 2005 and recorded in the Official Records on March 1, 2005 as Instrument Number 2005-28454the "**Affordable Housing Covenant**").

2. Amended and Restated Note. Concurrently herewith, Participant has executed and delivered to the Successor Agency an amended and restated promissory note substantially in the form attached hereto and incorporated herein as Exhibit "A" (the "**Amended and Restated Note**") which shall supersede and replace, in its entirety, the Original Note. Participant and the Successor Agency acknowledge and agree that the Agency Loan shall be repaid pursuant to the terms of the Amended and Restated Note and that the repayment terms set forth in the original Participation Agreement shall no longer be applicable.

3. Modification of Deed of Trust. Concurrently herewith, Participant and the Successor Agency have executed, and shall cause to be recorded in the Official Records, that certain Modification to Deed of Trust pursuant to which the Deed of Trust is being amended to secure the repayment of the Amended and Restated Note in lieu of the Original Note.

4. Subordination Agreement. Concurrently herewith, Successor Agency and Wilmington Trust, National Association, a national banking association organized and existing under and by virtue of the laws of the United States of America ("**Bond Trustee**"), as trustee for the holders of the Bonds have executed, and shall cause to be recorded in the Official Records, that certain Subordination Agreement in a form reasonably approved by the Successor Agency and Bond Trustee, which subordinates the Deed of Trust, as modified by the Modification of Deed of Trust, to the Bonds.

5. Notices. All correspondence and notices given or required to be given under the Participation Agreement for "Participant" shall, on and after the Effective Date (as defined below), be addressed to the Participant as follows:

Bayview Vallejo AR, L.P.
c/o Las Palmas Foundation
531 Encinitas Blvd., Suite 206
Encinitas CA 92024

With a copy to: HCHP Affordable Multi-Family, LLC
330 West Victoria Street
Gardena, CA 90248-3527
Attn: Michael A. Costa
Facsimile: (424) 258-2801

With a copy to: Sheldon B. Chernove, Esq.
Chernove & Associates, Inc.
16027 Ventura Blvd., Suite 660
Encino, CA 91436
Facsimile: (818) 377-9132

6. Limited Partner Cure Rights. Participant's limited partner shall have the right, but not the obligation, to cure any default of Participant under the Participation Agreement and related documents, and any such cure shall be accepted as if tendered by the Participant.

7. Ratification**.** Except as modified herein, the terms and provisions of the Participation Agreement shall remain in full force and effect.

8. Authority. The person or persons signing this Amendment hereby represent and warrant that they are duly and unconditionally authorized and empowered to execute this Amendment without any further act being required.

9. Counterparts. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and year first above written.

SUCCESSOR AGENCY:

HOUSING AUTHORITY OF THE CITY OF VALLEJO AS SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO,

By: ___________________________________
Name: ___________________________________
Title: ___________________________________

Date:__________________________, 20___

[signatures continued on following page]

PARTICIPANT:

BAYVIEW VALLEJO AR, L.P.,
a California limited partnership

By: Las Palmas Foundation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: ________________________________
Name: ________________________________
Title: ________________________________

By: HCHP Affordable Multi-Family, LLC,
a California limited liability company
Its Administrative General Partner

By: ________________________________
Name: Robert W. Tetrault
Title: Senior Vice President

[End of Signature pages]

<u>EXHIBIT A</u>

<u>Form of Amended and Restated Note</u>

Approved as to form:
By: Claudia Quintana
City Attorney

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Housing Successor Agency of the City of Vallejo
555 Santa Clara Street
Vallejo, California 94590
Attention: City Manager

(Space Above For Recorder's Use)

.

MODIFICATION OF DEED OF TRUST

This MODIFICATION OF DEED OF TRUST ("Modification") is dated as of _____________, 20__, and made by and between the HOUSING AUTHORITY OF THE CITY OF VALLEJO AS SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO ("Beneficiary"), and BAYVIEW VALLEJO AR, L.P., a California limited partnership ("Trustor").

R E C I T A L S

A. The former Redevelopment Agency of the City of Vallejo (the "Former Agency") made a loan to Solano Vista II Housing Investors , L.P., a California limited partnership ("Original Trustor") in the original principal amount of $1,700,000 (the "Loan"), which is evidenced by that certain Promissory Note dated January 11, 2005 executed by Original Trustor and payable to the Former Agency in the original principal amount of $1,700,000 (the "Original Note").

B. The Original Note is secured by that certain Deed of Trust With Assignment of Rents dated March 1, 2005 executed by Original Trustor for the benefit of the Former Agency, recorded in the Office of the Recorder of Solano County, California (the "Official Records") on March 1, 2005 as Instrument No. 2005-28455 ("Deed of Trust"), encumbering certain real property more particularly described in Exhibit "A" to the Deed of Trust ("Property").

B. Beneficiary is the housing successor entity to the Former Agency.

C. Trustor has acquired the Property from Original Trustor and has assumed all of Original Trustor's right, title, and interest in and to the Deed of Trust pursuant to that certain Assignment and Assumption Agreement dated as of the date hereof and recorded concurrently herewith in the Official Records.

D. Trustor and Beneficiary now desire to amend the Deed of Trust as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Modification to Deed of Trust. The Deed of Trust is hereby modified to replace clause (1) on page 1 with respect to the documents and performance secured by the Deed of Trust, in its entirety, with the following:

> (1) payment of the sum of $1,400,000 with interest thereon according to the terms of that certain Amended and Restated Promissory Note dated on or about ____________, 20___ made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof

2. First Amendment. Reference is made to (i) that certain First Amendment to Participation Agreement executed on or about the same date hereof by Trustor and Beneficiary (the "First Amendment to Participation Agreement"), which sets forth the understanding of Trustor and Beneficiary with regard to the modifications set forth in this Modification, and (ii) that certain Amended and Restated Promissory Note executed on or about the same date hereof by Trustor (the "Amended and Restated Note"). Payment and performance of all obligations of Trustor under the First Amendment to Participation Agreement, Amended and Restated Note, and this Modification are hereby secured by the Deed of Trust.

3. No Other Modification. Except as expressly modified by this Modification, the Deed of Trust shall remain unmodified and in full force and effect.

4. Counterparts. This Modification may be executed in counterparts, each of which, when this Modification has been signed by all the parties hereto, shall be deemed an original, and such counterparts shall constitute one and the same instrument.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Modification as of the date set forth above.

"Beneficiary"

HOUSING AUTHORITY OF THE CITY OF VALLEJO AS SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO

Date:_________________________, 20___

By:___________________________________
Name:_________________________________
Title:__________________________________

[SIGNATURES CONTINUED ON NEXT PAGE]

"Trustor"

BAYVIEW VALLEJO AR, L.P.,
a California limited partnership

By: Las Palmas Foundation,
a California nonprofit public benefit corporation
Its Managing General Partner

By: ____________________
Name ___________________
Title: ___________________

By: HCHP Affordable Multi-Family, LLC,
a California limited liability company
Its Administrative General Partner

By: ___________________________________
Name: Robert W. Tetrault
Title: Senior Vice President

[END OF SIGNATURES]

EXHIBIT A

LEGAL DESCRIPTION

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

STATE OF CALIFORNIA

COUNTY OF ________________

On ________________ ____, 20____ before me,___________________________________, Notary Public, personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ______________________

(affix seal in above space)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

STATE OF CALIFORNIA

COUNTY OF ________________

On ________________ ____, 20____ before me,___________________________________, Notary Public, personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ______________________

(affix seal in above space)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

STATE OF CALIFORNIA

COUNTY OF ________________

On ________________ ____, 20____ before me,___________________________________, Notary Public, personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ______________________

(affix seal in above space)

Approved as to form:
By: ____________
Claudia Quintana
City Attorney

AMENDED AND RESTATED PROMISSORY NOTE
SECURED BY DEED OF TRUST

$1,400,000.00 as of ___________, 20__

FOR VALUE RECEIVED, the undersigned, BAYVIEW VALLEJO AR, L.P., a California limited partnership ("**Maker**") promises to pay to the order of HOUSING AUTHORITY OF THE CITY OF VALLEJO AS SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO ("**Payee**"; Payee and any subsequent holder(s) hereof, being hereinafter referred to collectively as "**Holder**") at 555 Santa Clara Street, Vallejo, California 94590, or at such other place as the Holder of this Amended and Restated Promissory Note Secured by Deed of Trust ("**Note**") may designate to Maker in writing from time to time, the principal sum of ONE MILLION FOUR HUNDRED THOUSAND AND NO/100 DOLLARS ($1,400,000.00) or as much as may be advanced pursuant to the terms hereof, with interest thereon at the annual rate specified herein, in lawful money of the United States of America, such principal and any interest thereon to be paid as provided herein.

1. **Termination of Original Note.** In connection with the development of the Project, the former Redevelopment Agency of the City of Vallejo (the "**Former Agency**") provided a loan to Solano Vista II Housing Investors, L.P., a California limited partnership ("**Original Owner**") in the original principal amount of One Million Seven Hundred Thousand Dollars ($1,700,000.00) evidenced by that certain Promissory Note dated as of March 1, 2005 executed by Assignor and payable to the Former Agency (the "**Original Note**"). The Original Note is secured by that certain Deed of Trust with Assignment of Rents dated as of March 1, 2005 recorded in the Office of the Recorder of Solano County, California (the "**Official Records**") on March 1, 2005 as Instrument Number 2005-28455 (the "**Original Deed of Trust**") recorded against certain property in the City of Vallejo, County of Solano, State of California, as more particularly described in the Original Deed of Trust (the "**Property**"). Holder is the successor housing agency to the Former Agency. On or about the date hereof, Original Owner sold the Property and the improvements thereon to Maker. Upon Maker's execution and delivery to Holder of this Note, the Original Note shall be deemed cancelled and shall be superseded, in its entirety, by this Note.

2. **Deed of Trust:** This Note is secured by the Original Deed of Trust, as assigned by Original Owner to Maker pursuant to that certain Assignment and Assumption Agreement dated of even date herewith by and between Original Owner, as assignor, and Maker, as assignee, and consented to by Holder, and as modified by that certain Modification of Deed of Trust dated of even date herewith, which shall be recorded in the Official Records substantially concurrently herewith (collectively, the "**Deed of Trust**").

3. **Definitions:** The following terms as used in this Note shall have the meanings given herein unless expressly provided to the contrary. In addition, terms used herein and not otherwise defined herein shall have the meanings specified in the Partnership Agreement.

"**Agency Loan**" means the loan made by Holder to Maker evidenced by this Note.

"**Agency Loan Documents**" means this Note, the Deed of Trust and all other documents and instruments evidencing, securing or relating to the indebtedness evidenced by this Note and the obligations of Maker.

"**Bond Loan**" means a loan to the Maker made by Issuer and funded by the proceeds of the [Golden State Finance Authority Senior Housing Revenue Bonds (Bay View Vista Apartments Project), 20__ Series ___], and the proceeds of which are to be used by the Maker to finance a portion of the cost of acquiring, rehabilitating and equipping the Project

"**Cash Expenditures**" means, with respect to any period, all expenditures of cash by Maker of every kind and nature in connection with Maker's management, business affairs and operations during such period including, without limitation, payment of operating expenses, payment of principal and interest on the Permanent Loan, amounts deposited into Reserves (but not amounts expended from such Reserves as described below), payments of real estate taxes, payment in lieu of taxes, assessments and bonds, cost of repair and restoration of the Project excluding the cost of rehabilitation of the Project funded in part with the proceeds of the Permanent Loan (other than from insurance proceeds or Reserves), and the Property Management Fee. Cash Expenditures shall not include distributions to the Partners of Maker, expenditures made in respect of a Sale or Refinancing Transaction out of the gross proceeds of such Sale or Refinancing Transaction, any distributions or payments to Partners, Affiliates of Partners or to third parties from Sale or Refinancing Proceeds under Section 11.2.B of the Partnership Agreement, expenditures to the extent covered by insurance proceeds, and expenditures made from Reserves as deemed necessary by the General Partners of Maker with the Approval of the Limited Partner of Maker.

"**Cash Flow**" means the excess of (i) Cash Receipts over (ii) Cash Expenditures.

"**Cash Receipts**" means, with respect to any period, all cash receipts of Maker from whatever source derived during such period other than cash receipts from (i) the proceeds of the Loans, (ii) a Sale or Refinancing Transaction, (iii) security deposits from tenants at the Project and interest thereon (except to the extent retained by Maker as a result of a default by a tenant under its lease), (iv) Capital Contributions, Operating Loans or Voluntary Loans, (v) the net reduction in any year in the amount of any escrow account or reserve maintained by or for Maker, and (vi) insurance and condemnation proceeds (except as received for loss of rents). Notwithstanding the foregoing, at the election of the Administrative General Partner, with the Consent of the Limited Partner, Cash Receipts received near the end of a fiscal year and intended for use in meeting Maker's obligations (including the cost of acquiring assets or paying debts or expenses) in the subsequent fiscal year shall not be deemed received until such following year.

"**Code**" shall mean the Internal Revenue Code of 1986, as amended.

"**Debt Service**" means the mandatory debt service on the Permanent Loan, and any other secured financing with noncontingent fixed payments of principal and interest obtained by the Maker or to refinance any such loan. Debt Service does not include the payments made on any loan which are based upon Cash Flow.

"**Developer Fee**" means the fee payable to the Developer of the Project pursuant to a developer agreement entered into by and between Maker and the Developer with respect to the Project.

"**Developer Note**" means the promissory note to be delivered by Maker to the Developer of the Project for the deferred Developer Fee pursuant to a developer agreement entered into by and between Maker and the Developer with respect to the Project.

"**Issuer**" means Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California, and its successors and assigns.

"**Loan**" or "**Loans**" means the Seller Loan, the Bond Loan, the Subordinate Bond Loan, the Agency Loan, and any other Governmental Loan, as well as any credit enhancement provided in connection with the Bonds or the Subordinate Bonds, or other mortgage loan to be made to Maker which has been Approved by the Limited Partner.

"**Net Cash Flow**" means Cash Flow minus all the following: (i) payments made on any Limited Partner Voluntary Loans, (ii) payments of Asset Administration Fees, (iii) payments of Partnership Fees, (iv) payments made on any Voluntary Loans made by Maker's Managing General Partner and/or Administrative General Partner, and (v) payments made on the Developer Note.

"**Partnership Agreement**" means that certain Amended and Restated Agreement of Limited Partnership of Bayview Vallejo AR, L.P., dated as of __________________.

"**Permanent Loan**" means the Bond Loan after Conversion.

"**Project**" means the Property and the senior apartment project of at least 194 units to be rehabilitated on the Property.

"**Sale or Refinancing Transaction**" means any of the following items or transactions not in the ordinary course of business: a sale, transfer, exchange or other disposition of all or substantially all of the assets of Maker, a condemnation of, or a casualty at, the Project or any part thereof, a claim against a title insurance company, the refinancing of any mortgage note or other indebtedness of Maker and any similar item or transaction outside of the ordinary course of the Maker's business.

"**Seller Loan**" means the loan to Maker made by Builders Alliance for Solano Vista II Housing Investors, L.P. in the principal amount of $_____________, which shall bear interest at the rate of ___%.

"**Subordinate Bond Loan**" means a loan to the Maker made by Issuer and funded by the proceeds of the [Golden State Finance Authority Subordinate Senior Housing Revenue Bonds (Bayview Vista Apartments Project), 20__ Series ___], and the proceeds of which are to be used by the Maker to finance a portion of the cost of acquiring, rehabilitating and equipping the Project.

"**Debt Service**", "**Cash Flow**", "**Operating Expenses**", and "**Operating Receipts**" all shall be determined on a cash basis.

4. **Interest Rate:** Commencing on the date hereof and continuing until the Maturity Date (defined below), the outstanding principal balance hereunder shall accrue interest at the annual rate of five percent (5%). After a default hereunder, interest shall accrue on the outstanding balance at the rate per annum of the "**Prime Rate**" (as such term is herein defined) plus five percent (5%) (the "**Default Rate**"). For purposes of this Note, the term "**Prime Rate**" shall mean and refer to the rate of interest announced by the San Francisco office of Union Bank of California to its commercial customers.

5. **Payments:** If not sooner paid, and commencing in the first year in which there is Net Cash Flow from and after Conversion, and continuing annually thereafter for the remaining term of this Note, there shall be due and payable an amount equal to fifty percent (50%) of the Net Cash Flow of the Project. All payments made under this Note shall be made within ninety (90) days after the end of each fiscal year of Maker and shall first be applied to accrued interest and the remainder to principal.

6. **Maturity Date:** The entire outstanding principal balance plus all accrued but unpaid interest shall be due and payable in full on the fortieth (40^{th}) anniversary of the date of this Note (the "**Maturity Date**").

7. **Use of Loan Proceeds:** The Maker covenants and agrees that the entire proceeds of the Agency Loan evidenced by this Note are being used by the Maker in connection with the acquisition, rehabilitation and development of a certain senior apartment project commonly known as "Bayview Vista Senior Apartments," located at 445 Redwood Street in the City of Vallejo, and the County of Solano, in the State of California. Any failure to apply such funds for such purpose or to provide evidence thereof as required herein shall be deemed to be a default on the part of Maker hereunder, and Holder shall have the right to enforce any and all rights and remedies on account of such default, including without limitation acceleration of the entire principal amount of this Note and interest thereon.

8. **Repayment:** The entire principal balance outstanding on the Note, together with all interest accrued and unpaid thereon calculated in the manner hereinafter set forth and all other sums due under this Note, shall be due and payable on the Maturity Date.

9. **Prepayment:** The indebtedness evidenced by this Note may be prepaid in whole or in part, at any time and from time to time without penalty or premium.

10. **Acceleration of Indebtedness:** In the event of the failure of the Maker to pay, within ten (10) days after such amount is due, any amount due under this Note, the entire indebtedness evidenced hereby, including principal balance, and all other sums paid or advanced by Holder to or on behalf of Maker pursuant to the terms of this Note, together with all unpaid interest thereon, shall at the option of Payee become immediately due and payable without further notice or demand and Holder may forthwith exercise the remedies available to Holder at law and in equity as well as those remedies set forth in this Note and one or more executions may forthwith issue on any judgment or judgments obtained by virtue thereof. Upon exercise of this option by Holder, the entire principal balance and any other amounts owed to Holder hereunder shall bear interest until paid at the Default Rate.

11. **Non-recourse:** Neither Maker nor any partner of Maker shall have any personal liability under this Note or any Agency Loan Document and Holder's recovery against Maker and any partner of Maker under this Note and the Agency Loan Documents shall be limited solely to the collateral given to Holder as security for Maker's performance under this Note and the Agency Loan Documents and to the general assets of Maker itself and no deficiency judgment shall be entered against Maker or any partner of Maker. Such recovery shall not be a lien, or the basis of a claim of lien or levy of execution, against the general assets of any general or limited partner of Maker.

12. **Waivers:** Presentment for payment, protest and notice of demand, protest and non-payment are hereby waived by Maker. No indulgences granted from time to time shall be construed as a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of the right of Holder thereafter to insist upon strict compliance with the terms of this Note. This Note may be not changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

13. **Usury Savings:** If from any circumstances whatsoever, fulfillment of any provision of this Note or of any other instrument evidencing or securing the indebtedness evidenced hereby, at that time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by an applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Note or under any other instrument evidencing or securing the indebtedness evidence hereby, that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity.

14. **Governing Law:** This Note is intended as a contract under and shall be construed and enforceable in accordance with the laws of the State of California. Borrower consents to the jurisdiction of any State Court within the County of Los Angeles, State of California having proper venue.

15. **Only Agreement**: This Note embodies and constitutes the entire understanding and agreement between the parties with respect to the matters set forth herein, and all prior

agreements, letters of intent, understandings, representations and statements, oral or written, are merged into this Note.

16. **Amendment**: This Note may not be modified, amended, revised or varied in any way whatsoever except by the express terms of a writing duly executed by Maker and Payee.

SIGNATURE PAGE IS THE NEXT PAGE

IN WITNESS WHEREOF, Maker has caused its duly authorized representatives to execute this Note and to deliver this Note to Payee as of the date first above written.

MAKER:

BAYVIEW VALLEJO AR, L.P.,
a California limited partnership

By: Las Palmas Foundation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: ________________________________
Name: ________________________________
Title: ________________________________

By: HCHP Affordable Multi-Family, LLC,
a California limited liability company
Its Administrative General Partner

By: ________________________________
Name: Robert W. Tetrault
Title: Senior Vice President

Approved as to form:
By:
Claudia Quintana
City Attorney

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Bayview Vallejo AR, L.P.
330 West Victoria Street
Gardena, California 90248

(Space above for Recorder's Use)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Assignment Agreement**") is entered into as of the ___ day of ____________, 20__, by and between SOLANO VISTA II HOUSING INVESTORS, L.P., a California limited partnership ("**Assignor**"), BAYVIEW VALLEJO AR, L.P., a California limited partnership ("**Assignee**"), and is acknowledged and consented to by the HOUSING AUTHORITY OF THE CITY OF VALLEJO AS THE SUCCESSOR AGENCY OF REDEVELOPMENT AGENCY OF THE CITY OF VALLEJO (the "**Successor Agency**").

RECITALS

A. Assignor is the owner of that certain real property in the City of Vallejo, County of Solano, State of California, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Property**").

B. Assignor and the former Redevelopment Agency of the City of Vallejo (the "**Former Agency**") entered into that certain Participation Agreement dated as of January 11, 2005 (the "**Participation Agreement**"), pursuant to which Assignor developed a 194-unit senior housing project on the Property commonly known as Bayview Vista Senior Apartments.

C. To assist Assignor with the costs of developing the Project, the Former Agency provided a loan to Assignor in the original principal amount of One Million Seven Hundred Thousand Dollars ($1,700,000) (the "**Agency Loan**") evidenced by that certain Promissory Note dated as of March 1, 2005 executed by Assignor and payable to the Former Agency (the "**Original Note**"). The Original Note is secured by that certain Deed of Trust with Assignment of Rents dated as of March 1, 2005 recorded in the Office of the Recorder of Solano County, California (the "**Official Records**") on March 1, 2005 as Instrument Number 2005-28455 (the "**Deed of Trust**").

D. Assignor and the Former Agency entered into that certain Affordable Housing Covenant dated as of January 11, 2005 and recorded in the Official Records on March 1, 2005 as

Instrument Number 2005-28454the "**Affordable Housing Covenant**") which contains certain affordability covenants.

E. Pursuant to Assembly Bill 26 ("**ABx1 26**"), which signed into law on June 28, 2011, certain key dates of which were revised by the California Supreme Court in *California Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231, the Former Agency was dissolved as of February 1, 2012. Pursuant to Health and Safety Code Section 34173, added by ABx1 26, the City Council of the City of Vallejo elected and determined that the Successor Agency shall be the "**housing successor**" to the Former Agency.

F. Assignor desires to assign to Assignee, and Assignee desires by this Assignment Agreement to assume, all right, title, interest and obligations of Assignor arising under each of (i) the Participation Agreement, (ii) the Original Note, (iii) the Deed of Trust, and (iv) the Affordable Housing Covenant (collectively, the "**Assigned Documents**") from and after the Effective Date (as defined below).

G. Concurrently herewith, Assignee and the Successor Agency have executed that certain First Amendment to Participation Agreement dated as of the date hereof ("**First Amendment to Participation Agreement**") pursuant to which, among other things, (i) the Successor Agency is approving the transfer of the Property by Assignor to Assignee, and (ii) the Agency Loan is being restructured and extended.

H. Concurrently herewith, and pursuant to the First Amendment to Participation Agreement, Assignee have executed that certain Amended and Restated Promissory Note in the principal amount of $1,400,000 dated on or about the date hereof (the "**Amended and Restated Note**"), pursuant to which the Original Note shall be canceled and superseded and replaced by the Amended and Restated Note.

I. Concurrently herewith, Assignee and the Successor Agency have executed that certain Modification of Deed of Trust dated as of the date hereof (the "**Modification of Deed of Trust**") which shall be recorded concurrently herewith in the Official Records, pursuant to which the Deed of Trust is being amended to secure the repayment of the Amended and Restated Note in lieu of the Original Note.

J. Concurrently herewith, Assignee, the Successor Agency and Wilmington Trust, National Association, a national banking association organized and existing under and by virtue of the laws of the United States of America ("**Bond Trustee**"), as trustee for the holders of the Bonds (as defined in that certain Trust Indenture dated as of _________________, between the Bond Trustee and Golden State Finance Authority, a joint exercise of powers agency duly organized and validly existing under the laws of the State of California, in its capacity as issuer of the Bonds) have executed that certain Subordination Agreement subordinating the Deed of Trust, as modified by the Modification of Deed of Trust, which shall be recorded concurrently herewith in the Official Records.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the covenants, agreements and promises set forth below, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto do agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee all of the rights, duties, liabilities and obligations of Assignor arising under the Assigned Documents from and after the Effective Date, and Assignee unconditionally accepts and assumes all such rights, duties, liabilities and obligations and agrees to perform all such duties, liabilities and obligations first arising from and after the Effective Date in accordance with the terms of the Assigned Documents.

2. Indemnity. Assignee hereby agrees to indemnify, defend protect and hold Assignor harmless from and against any and all claims, losses, liabilities, demands and expenses of whatever nature, including reasonable attorneys' fees, suffered or incurred by Assignor by reason of any breach by Assignee of any of its obligations under the Assigned Documents following the Effective Date. Assignor hereby agrees to indemnify, defend protect and hold Assignee harmless from and against any and all claims, losses, liabilities, demands and expenses of whatever nature, including reasonable attorneys' fees, suffered or incurred by Assignee by reason of any breach by Assignor of any of its obligations under the Assigned Documents prior to the Effective Date.

3. Representations and Warranties.

a. By Assignor. Assignor represents and warrants to Assignee that

i. To Assignor's actual knowledge, no default by Assignor under the Assigned Documents has occurred and is continuing and no event has occurred and is continuing which, with the giving of notice or passage of time or both, would constitute a default under the Assigned Documents with respect to any of Assignor's obligations;

ii. Assignor has the full power and authority to assign its interests in the Assigned Documents; and

iii. Assignor is in good standing under the laws of the state of its organization.

b. By Assignee. Assignee represents and warrants to Assignor that

i. Assignee has the full power and authority to assume Assignor's rights, duties, liabilities and obligations under the Assigned Documents; and

ii. Assignee is in good standing under the laws of the state of its organization.

4. Successors and Assigns. This Assignment Agreement shall be binding upon and inure to the benefit of the Assignor, the Assignee, and their respective successors and assigns.

5. Governing Law. This Assignment Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of California.

6. Counterparts. This Assignment Agreement may be executed in counterparts, and when together, such executed original counterparts shall constitute but one original hereof.

7. Notices. All correspondence and notices given or required to be given under the Assigned Documents for "Participant" or "Owner", as the case may be, shall, on and after the Effective Date (as defined below), be addressed to the Assignee as follows:

Bayview Vallejo AR, L.P.
c/o Las Palmas Foundation
531 Encinitas Blvd., Suite 206
Encinitas CA 92024

With a copy to: HCHP Affordable Multi-Family, LLC
330 West Victoria Street
Gardena, CA 90248-3527
Attn: Michael A. Costa
Facsimile: (424) 258-2801

With a copy to: Sheldon B. Chernove, Esq.
Chernove & Associates, Inc.
16027 Ventura Blvd., Suite 660
Encino, CA 91436
Facsimile: (818) 377-9132

8. Effective Date. This Assignment Agreement shall be effective on the date of recordation in the Official Records of this Assignment Agreement (the "**Effective Date**"):

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement as of the Effective Date.

"ASSIGNOR"	SOLANO VISTA II HOUSING INVESTORS, L.P., a California limited partnership By: Las Palmas Foundation, a California nonprofit public benefit corporation Its General Partner By: ___________________________________ Name: ___________________________________ Title: ___________________________________

"ASSIGNEE"

BAYVIEW VALLEJO AR, L.P.,
a California limited partnership

By: Las Palmas Foundation,
a California nonprofit public benefit corporation,
its Managing General Partner

By: ____________________________________
Name: ____________________________________
Title: ____________________________________

By: HCHP Affordable Multi-Family, LLC,
a California limited liability company
Its Administrative General Partner

By: ____________________________________
Name: Robert W. Tetrault
Title: Senior Vice President

CONSENTED TO AND
ACKNOWLEDGED BY THE SUCCESSOR AGENCY:

HOUSING AUTHORITY OF THE CITY OF VALLEJO
AS SUCCESSOR AGENCY OF REDEVELOPMENT
AGENCY OF THE CITY OF VALLEJO

By:____
Name:_______________________________________
Title:____

Exhibit "A"

LEGAL DESCRIPTION

CALIFORNIA ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

State of California

County of ___________________________)

On ________________________ before me, ____
(insert name and title of the officer)

personally appeared____,
____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ___________________________________ **(Seal)**

CALIFORNIA ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

State of California
County of ___________________________)

On ________________________ before me, ____
(insert name and title of the officer)

personally appeared____,
____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ___________________________________ **(Seal)**

CALIFORNIA ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

State of California

County of ___________________________)

On ________________________ before me, ____
(insert name and title of the officer)

personally appeared____,
____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ___________________________________ **(Seal)**

CALIFORNIA ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

State of California

County of ___________________________)

On ________________________ before me, ____
(insert name and title of the officer)

personally appeared____,
____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ___________________________________ **(Seal)**

Approved as to form:

By: ____________________

Claudia Quintana

City Attorney

RESOLUTION NO. 19-_____ N.C.

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEJO HOUSING COMMISSION AUTHORIZING APPROVAL OF A DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RESTRICTING USE OF PROPERTY FOR AFFORDABLE HOUSING FOR THE BAY VIEW VISTA SENIOR APARTMENTS

WHEREAS, the Housing Authority of the City of Vallejo (the "Authority") was formed to provide decent, safe and sanitary housing in the City of Vallejo, and is designated as the housing successor to the dissolved Redevelopment Agency of the City of Vallejo (the "Former RDA") pursuant to California Health and Safety Code Section 34176; and

WHEREAS, in 2003 the Former RDA provided $1,700,000 (the "RDA Loan") in financing to develop a 194-unit affordable senior housing development located at 425 Redwood Street in Vallejo, California (the "Bay View Vista Development"); and

WHEREAS, in connection with the RDA Loan, the City of Vallejo recorded an Affordable Housing Covenant that imposed the Community Redevelopment Law affordability restrictions required under Health and Safety Code Section 33334.2 et. seq., on March 1, 2005, in the Official Records of the County of Solano as Document No. 2005-28454 (the "Regulatory Agreement"); and

WHEREAS, the Bay View Vista Development needs rehabilitation and its current owner, Solano Vista II Housing Investors, L.P., intends to sell the Bay View Vista Development to Bayview Vallejo AR, LP and rollover the loan that will help to fund rehabilitation work; and

WHEREAS, in consideration of the loan rollover, the Authority desires to amend and restate or otherwise modify the Affordable Housing Covenant in the form of a Declaration of Restrictive Covenants, Conditions and Restrictions Restricting Use of Property for Affordable Housing (the "CCR Agreement"); and

WHEREAS, the CCR Agreement will provide that all units at the Bay View Vista Development are occupied by very-low and low-income households at affordable rents; and

WHEREAS, the approval of the CCR Agreement pursuant to this Resolution is exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) and Section 15301 or 15378 (?) (as an action resulting in continuation of an existing facility).

NOW, THEREFORE, BE IT RESOLVED, the Housing Authority Board of Directors does hereby approve the CCR Agreement;

BE IT FURTHER RESOLVED, that the Authority approves the execution and negotiation of the CCR Agreement by the Authority's Executive Director or Executive Director's designee, in a manner and form that is consistent with the Staff Report and this Resolution and approved by the Authority Executive Director and the City Attorney.

BE IT FURTHER RESOLVED, that the Authority hereby authorizes the Authority's Executive Director or the Executive Director's designee to take such other actions as may be reasonably necessary to facilitate the execution of the CCR Agreement and rehabilitation of the Bay View Vista Development.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon its adoption.

Adopted by the Board of Directors of the Vallejo Housing Authority at a regular meeting held on September 24, 2019 with the following vote:

AYES:

NOES:

ABSENT

ABSTAIN:

BOB SAMPAYAN, CHAIR

ATTEST:

DAWN G. ABRAHAMSON, SECRETARY

City of VALLEJO California

ACTION ITEM 4.A.

DATE: September 24, 2019

TO: Chair and Members of the Vallejo Housing Authority Board

FROM: Judy Shepard-Hall, Housing & Community Development Manager

SUBJECT: **RECOMMEND APPROVAL OF REVISIONS TO THE VALLEJO HOUSING AUTHORITY'S ADMINISTRATIVE PLAN**

RECOMMENDATION

Recommend the Housing Authority Board Members approve revisions to the Vallejo Housing Authority's (VHA) Administrative Plan (Admin Plan).

REASONS FOR RECOMMENDATION

Although the current Admin Plan complies with U.S. Department of Housing and Urban Development (HUD) regulations, there's still some undefined language in the Plan related to the method for selecting applicant families from the waiting list, and some limitation in the system of admission preferences [24 CFR 982.202(d)].

The VHA Staff is proposing to add language to the Admin Plan that would provide clearer guidance for selecting applicant families from the waiting list that would: a) allow participants who qualify for the local resident preference to use their Housing Choice Voucher (HCV) on the existing property where they currently reside contingent upon the the property owner/landlord agreeing to participate in the HCV Program; b) amend the HOME Tenant-Based Rental Assistance (HOME-TBRA) criteria to allow for a one-time extension of the HOME-TBRA coupon; and c) allow for the HOME-TBRA participant to enroll in either a live classroom certified first time home buyer training or an on-line certified first time home buyer training.

In addition, a number of formatting edits are also being proposed to (1) Page 4-4, Section 4-II.B. ORGANIZATION OF THE WAITING LIST , (2) Page 4-5 Reopening the Waiting List and Section 4-II.D. FAMILY OUTREACH , and (3) Page 4-12 ,4-III.D. NOTIFICATION OF SELECTION.

By adding these changes, the hope is that it will help improve access to housing in Vallejo. All of these changes can be found in Attachment 1.

BACKGROUND AND DISCUSSION

HUD provides guidance for housing authorities for the federally-funded Housing Choice Voucher Program in the form of federal regulations. Some regulations allow housing authorities to establish their own policies in order to adapt to local market conditions. Where housing authorities have this flexibility, HUD requires the authority to add language that describes how these policies will be addressed. The City is able to amend the Admin Plan providing that the policies are consistent with HUD regulations. The Housing and Community Development Commission shall review and make recommendations to changes presented by Staff before the Vallejo Housing Authority Board takes action (Section 2.46.060 Vallejo Municipal Code). Any revision to the Admin Plan must be formally adopted by the Vallejo Housing Authority Board (24 CFR Section 982.54).

FISCAL IMPACT

The HCV Program has no direct impact on the General Fund as it is federally-funded. The Admin Plan establishes the framework by which the VHA will manage the HCV Program and thereby guide the expenditures of approximately $21 million in federal housing funds.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

ATTACHMENTS

1.	Draft 2019 VHA Administrative Plan Revisions (1)

CONTACT

Judy Shepard-Hall, Housing and Community Development Manager (707) 648-4408
judy.shepard-hall@cityofvallejo.net

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the VHA with the information needed to determine the family's eligibility. HUD requires the VHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the VHA must select families from the waiting list in accordance with HUD requirements and VHA policies as stated in the Administrative Plan and the Annual Plan.

The VHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the VHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the VHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the VHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and VHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

> Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the VHA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the VHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the VHA will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide the VHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the VHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the VHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the VHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the VHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the VHA. The VHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the VHA's application.

The VHA may use a one- or two-step application process. A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the VHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

When the VHA provides public notice that it is accepting applications for housing assistance, a public notice will state how applications will be available, how and when applications will be accepted, and how the elderly, disabled, and LEP may obtain assistance in completing and submitting an application.

The VHA will not provide written confirmation of receipt of application, or provide a number on the waiting list or estimated wait time. Applicants can check their application status online.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]

The VHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard VHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The VHA will provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process will be fully accessible, or the VHA will provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the VHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

Housing Authorities are required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the VHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The VHA must review each complete application received and make a preliminary assessment of the family's eligibility. The VHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the VHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

Ineligible for Placement on the Waiting List

If the VHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the VHA will send written notification of the ineligibility determination in a timely manner. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list based on the date and time their complete application is received by the VHA, and according to any local preferences the VHA has adopted.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The VHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how a VHA may structure its waiting list and how families must be treated if they apply for assistance from a VHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

The VHA's HCV waiting list must be organized in such a manner as to allow the VHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Social Security number of the applicant;
- Current mailing address;
- Family unit size and number of family members;
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the VHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. The VHA will maintain a single waiting list for the HCV program and a separate waitlist for the Project Based Voucher Program. The Veterans Administration Supportive Housing (VASH) Voucher Assistance Program waitlist will be maintained by the Veterans Administration.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

The VHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the VHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

The VHA will close the waiting list when it has enough applicants to use the housing assistance resources it has been allocated. Where the VHA has particular preferences or funding criteria that require a specific category of family, the VHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until the VHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

The VHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The VHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- City of Vallejo Website and Vallejo Housing Authority Website
- Solano County Continuum of Care Providers
- Through public notices and advertisements in the Local or Public Notice Sections of newspapers that serve its jurisdiction;
- In appropriate foreign language publications, for Limited English Populations (LEP);
- On a recorded voice mailbox;
- In VHA's office;
- Vallejo Community Based Organizations

The VHA will attempt to coordinate with a representative selection of social service agencies that serve disabled, elderly and LEP populations in order to ensure equal access for these populations. Through these agencies, applicants may be able to access translation services, assistance with completion of their application, and other specialized services.

4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The VHA must conduct outreach as necessary to ensure that the VHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the VHA to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the VHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

VHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

VHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income populations
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

The VHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the VHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being under/overserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must immediately inform the VHA of changes in contact information, including current residence, mailing address, and phone number. An e-mail address will not be considered a valid mailing address. The changes must be submitted in writing. Changes will not be accepted over the phone.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

An out-of-date waiting list can hamper a Housing Authority's efforts to process applicants efficiently when funding is available. To keep the waiting list current, the VHA is permitted to contact families on the waiting list periodically to reconfirm their interest, and to "purge" the list of families that are no longer interested, no longer eligible, or no longer reachable. HUD requires VHA to establish policies to use when removing applicant names from the waiting list

An applicant's name will be removed from the waiting list for not responding to any of VHA's requests by the given due date.

Purging the Waiting List

The waiting list will be updated as often as necessary, generally every other year, to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the VHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the VHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be submitted through a VHA-designated online application system (if available), or by mail or hand delivered if online submission is not available. Responses must be postmarked or received by the VHA on or before the due date indicated in the update request. Update requests postmarked or hand delivered after the due date will not be accepted.

If the family fails to respond by the due date and is not eligible for a reasonable accommodation, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family must respond within 10 business days from the date the letter was re-sent, or by the due date, whichever is later.

If a family is removed from the waiting list for failure to respond, the Housing and Community Development Manager, or his/her designee, may reinstate the family if it is determined that the lack of response was due to VHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

If at any time an applicant family is on the waiting list, the VHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the VHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the VHA's decision (see Chapter 16) [24 CFR 982.201(f)].

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a VHA request for information or updates, and the VHA determines that the family did not respond because of the family member's disability, the VHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

The VHA will remove an applicant from the waiting list if he/she has requested the removal in writing. In such cases no informal review is required.

If an applicant family is selected from the waiting list, the family does not have the ability to be bypassed, meaning that the family cannot request that the VHA leave them on the waiting list and select them again at a later date. If an applicant family reaches the top of the waiting list according to HUD regulations and the policies described in this Plan, the VHA must invite the family to participate in the eligibility process. If the family fails to attend the scheduled appointment to determine eligibility and does not reschedule for good cause, the family's application will be removed from the waiting list. No informal review is required.

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by the VHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

The VHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the VHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the VHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The VHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a VHA funding for a specified category of families on the waiting list. The VHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the VHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

The VHA administers the following types of targeted funding:

> Veterans Affairs Supportive Housing (VASH)
>
> The VHA does not maintain a waiting list or apply preferences/priority for this program in accordance with Federal Register Vol.73, No. 88, May 6, 2008 (Docket No. FR-5213-N-01), as participants are referred for assistance directly from the Veterans Administration.

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

The VHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the VHA will use [24 CFR 982.202(d)].

Local Preferences [24 CFR 982.207; HCV p. 4-16]

The VHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the VHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the VHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

VHA Preferences

Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list. Local Preference with the same points will be ranked by the raking point system and the date and time of application.

Displaced Due to Natural Disaster

In the event of a catastrophic natural disaster, the VHA will provide HCV assistance to otherwise eligible families and/or individuals who reside in dwelling units within the city limits of the City of Vallejo that have been rendered uninhabitable by natural or fire-related disasters. HCV assistance will be made available to the extent that vouchers and funding subsidies are available. Families and individuals meeting the criteria may apply whether the VHA waiting list is open or closed, and may not be assigned a number as they would be assisted immediately, depending upon the availability of vouchers. (10 points)

For the purposes of determining if an applicant qualifies to apply for HCV assistance with this preference, the following disaster definition will apply: disaster being of a significant magnitude as to invoke emergency assistance; any multi-family building, or a minimum of four single-family homes, in which four or more households have been impacted by a single disaster and made uninhabitable. If fire-related, the fire may not have been caused by an applicant family.

Families or individuals requesting HCV assistance with this preference must 1) apply for assistance within 45 days of the disaster; 2) verify that at the time of the disaster they were the authorized “head of household” of the residence impacted by said disaster; 3) verify the uninhabitable condition of their immediate residence through official documentation, such as a report from one of the following local City or County departments: Vallejo Fire Department, Vallejo Building Department, Solano County Health Department, or other local, state or federal branch of government; 4) provide documented evidence that applicant has applied for and qualified for assistance through the Federal Emergency Management Agency (FEMA) and/or the American Red Cross; 5) meet all eligibility guidelines required by the VHA, including income eligibility, and the successful clearance of a Criminal and

Lifetime Registered Sex Offender background check.

Participant of the Temporary Tenant-Based Rental Assistance Program
Applicant families who participated in the Temporary Tenant-Based Rental Assistance (TBRA) Program for persons experiencing homelessness that was administered by the City of Vallejo and substantially completed the required self-sufficiency component will be eligible for a preference on the waiting list. Families and individuals meeting the criteria may apply whether the VHA waiting list is open or closed.

In order to apply for the waiting list during a period when it is closed to the general population, the TBRA participant must submit an application to the VHA, and the VHA must receive it, within 45 days of the last day the applicant was assisted under TBRA. (10 points)

Local Resident

Applicant families who live within the city limits of Vallejo, or whose head, spouse or co-head of household works (verifiable, paid employment) or have been notified that they are hired to work within the city limits of Vallejo will be given preference on the waiting list. (15 points)

Adequate documentation to support this preference may include, but is not limited to, a current lease in the applicant's name, a utility bill, or mail of an official nature (personal letters, etc. will not be accepted). If the applicant is meeting the Local Resident preference through employment, the employment must be reported to all applicable sources (i.e. the IRS, CalWorks, etc.) to be eligible for this preference. If an applicant is on temporary disability from the job that is qualification for this preference, the applicant must still be employed by the company and eligible to return to work upon medical reinstatement. A Post Office Box address is not considered proof of Vallejo Residency.

A family who claims to be homeless in Vallejo must provide verification of services received in Vallejo or any other business documentation that ties that person to Vallejo. Handwritten letters from friends, relatives or other private individuals will not be acceptable as proof of residence.

As permitted by HUD (see Section 4-II.C. of this Chapter), the VHA may choose to open its waiting list for categories of families that meet particular preferences. The VHA retains the right to open its waiting list for any length of time only to applicants who meet the Local Resident preference.

Lease-in place

Families who qualify for the local resident preference and will be living in a unit where the landlord/ property owner will be willing to accept the HCV program.

The unit must be within the Vallejo City limits. The unit may not be owned by the applicant family nor any of their relatives as defined as: parents, siblings, grandparents of any member of the applicant family members as stated in 24 CFR 982.306(d). This must not be a sub-lease. (15 points)

Families qualifying for this preference MUST provide the following verification:

> *-Lease agreement between the applicant family and the landlord or owner*
>
> *-Minimum of 3 months of utility bills in the name of the applicant family*
>
> *-Certification from the landlord or property owner that they are willing to participant in the Housing Choice Voucher program with the current applicant family*

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the VHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, a VHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program who are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

The VHA will monitor progress in meeting the income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

Order of Selection

The VHA system of preferences may select families based on local preferences according to the date and time of application [24 CFR 982.207(c)]. If the VHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

When funding is available, families will be selected from the waiting list based on the selection preference(s) claimed or targeted funding, and in accordance with the VHA's hierarchy of preferences. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the VHA, subject to income targeting requirements.

All preferences claimed on the initial application or while the family is on the waiting list will be verified after the family is selected from the waiting list to determine eligibility.

Claim of a preference determines the family's placement on the waiting list. The qualification for the preference must exist on the date the applicant is originally selected from the wait list in order for the family to be considered eligible for the preference claimed. Applicants are not informed of this date prior to the eligibility intake appointment to prevent fraud. In the event an applicant requests to reschedule their appointment to determine eligibility, the qualification of the preference must exist as of the date of initial notification to the applicant by the VHA. Failure by an applicant to verify eligibility for a preference claimed will result in the family being returned to the waiting list without the preference and the application being reprioritized.

Documentation will be maintained by the VHA as to whether families on the waiting list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the VHA does not have to ask higher placed families each time targeted selections are made.

4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the VHA must notify the family [24 CFR 982.554(a)].

The VHA will notify the family by first class mail when it is selected from the waiting list. The VHA may also notify the family through the AssistanceConnect online system if the family is a participant of the system. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation and to verify eligibility for any preferences claimed
- Other documents and information that should be included with the application that should be brought to the interview

If a notification letter is returned to the VHA with no forwarding address, the family will be removed from the waiting list.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that the VHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a VHA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program. Failure to attend the interview will result in the family's application being removed from the waiting list.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the VHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for fifteen (15) days [Notice PIH 2012-10].

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability. A designee will be allowed to participate in the intake process, but only with permission of the person with a disability. All requests for reasonable accommodation must be made to VHA in writing.

Families selected from the waiting list are required to participate in an eligibility interview. The VHA utilizes the eligibility interview to discuss the application and verification process, to discuss the family's circumstances in greater detail, to clarify information that has been provided by the family, and to ensure that the information is complete. The eligibility interview is also used as a vehicle to meet the informational needs of the family by providing information about other VHA services or programs which may be available.

All adult family members must be present at the interview. If any adult members are not present at the interview, the appointment will be rescheduled. Verification of information pertaining to adult members will not begin until signed release forms are returned to the VHA.

All adult family members must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the adult members do not provide the required documentation at the time of the interview, they will be required to provide it within 10 business days.

All adult members must also consent to a criminal background screening as detailed in Chapter 3 of this Plan.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, VHA will proceed with the interview. If VHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to their updated preference ranking and date and time of application.

Reasonable accommodation will be made for persons with a disability, if requested. An advocate, interpreter, or other assistant may assist the family with the eligibility interview. Eligibility interviews will be conducted in English. For limited English proficient (LEP) applicants, the VHA will provide translation services in accordance with the VHA's LEP policy; see Chapter 2 Fair Housing and Equal Opportunity.

It is the family's responsibility to reschedule the interview appointment for good cause prior to the appointment date. Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. Families will be allowed to reschedule the appointment only for good cause.

If the family does not attend the appointment, either the initial or any rescheduled appointment, and does not contact the VHA before the appointment date to reschedule (if applicable), the VHA will reject the application and drop the family from the waiting list without further written notification. If the family contacts the VHA within 5 business days of the scheduled appointment and can provide acceptable documentation to the VHA that an emergency situation prevented them from rescheduling or attending the appointment, the VHA may allow the family to reschedule the appointment. Requests to reschedule received on the same day of the appointment will be considered contact within 5 business days of the scheduled appointment and the family will be required to provide acceptable documentation to the VHA that an emergency situation prevented them from rescheduling prior to the appointment or from attending the appointment.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the VHA will provide the family with a written list of items that must be submitted within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). The family will be asked to sign their acknowledgement of receipt of the list. If any of the items are not submitted to the VHA by the date on the form and the family does not request an extension, the family's application will be considered incomplete and removed from the waiting list without further written notification.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficient (LEP) applicants, the VHA will provide translation services in accordance with the VHA's LEP plan.

4-III.F. COMPLETING THE APPLICATION PROCESS

The VHA must verify all information provided by the family (see Chapter 7). Based on verified information, the VHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

If the VHA determines that the family is ineligible, the VHA will send written notification of the ineligibility determination in a timely manner. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. local preference, targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The VHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the VHA determines that the family is eligible to receive assistance, the VHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.