Approval of Loan Agreement for 13th/C Street Housing Project
[Published for 10-Day Review 03/28/2024]

File ID: 2024-00525

Location: 1300-1310 C Street, District 4, Represented by Councilmember Valenzuela

Recommendation: Adopt a Resolution authorizing the City Manager or the City Manager’s designee to: 1) establish the 13th/C Street Housing Multi-Year Operating Project (I02189060); 2) transfer $1.4 million from the Sacramento Entrepreneurial Development Academy Phase 1 Project (I02183000) in the Innovation and Growth Fund (Fund 2031) to I02189060; 3) transfer $600,000 from the Housing Trust Fund commitment of Measure U (Fund 2401) to I02189060; 4) transfer $1 million from the Housing Trust Fund commitment of General Fund (Fund 1001) to I02189060; 5) execute the attached $3 million loan agreement and related documents with SKK Development for the development of 127, including 64 affordable housing units at 1300-1310 C Street (Attachment 2, Exhibit) 6) execute a regulatory agreement for affordable housing for the Project, subject to City Attorney review and approval as to form, and 7) take any necessary budgetary and administrative actions needed to implement and administer the loan agreement and related documents; and continue to April 9, 2024 for approval.

Contact: Leslie Fritzsche, Community Investment Manager, (916) 808-5450, lfritzsche@cityofsacramento.org; Ya-yin Isle, City Housing Manager, (916) 808-1869, yisle@cityofsacramento.org; Axel Magallanes, Housing Analyst, (916) 808-1844, amagallanes@cityofsacramento.org, City Manager’s Office of Innovation and Economic Development

Presenter: None

Attachments:
1-Description/Analysis
2-Resolution
3-Exhibit A: Loan Agreement for 13th/C Housing Project

Description/Analysis
Issue Detail: The site at 1300-1310 C Street is a .58-acre property at the corner of 13th and C streets that currently contains a vacant warehouse building and a vacant parcel. The property owner,
Comani/Phoenix Fund II, LLC., an affiliate of SKK Developments, proposes to develop 127 studio units on the site. In order to provide 65 of the units at an affordable rent for a period of 30 years, the developer has requested a City loan of $3 million. The loan is proposed as a 30-year 4.1% percent interest loan with repayment from project cash flow. A copy of the proposed loan agreement including a regulatory agreement is attached.

The project has been submitted for entitlements and is currently under review. It is anticipated that the project, if funded, would be under construction by the end of 2024 with a projected opening in 2026.

**Policy Considerations:** With Sacramento seeing some of the highest increases in rent in recent years, home prices continuing to rise, and the supply continues to not meet demand, housing continues to be a priority of the City. The provision of the proposed loan will aid in the development of additional housing in the Central City which is supported by the City’s General Plan.

The Sacramento City Code Section 4.04.020 and Council Rules of Procedure (Chapter 7, Section E.2.d) mandate that unless waived by a 2/3 vote of the City Council, all labor agreements, and all agreements greater than $1,000,000 shall be made available to the public at least ten (10) days prior to council action. This item was published for 10-day review on March 28, 2024, in compliance with the City Code.

**Economic Impacts:** The City investment in this project is estimated to infuse the economy with a minimum of 112 jobs, 42 direct and 70 indirect, with the construction of these housing units. The greater economic impact will be providing homes to an estimated 127 residents, allowing them the opportunity to live near the job center of Sacramento’s downtown.

**Environmental Considerations:** It has been determined that the proposed activity is not a project pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15378(b). The activity described in this report is the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. As a result the proposed activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3). Appropriate environmental review consistent with the requirements of CEQA will be completed prior to action on the Planning entitlements required of the project. Projects such as this located within the Central City Specific Plan area may be exempt from CEQA review pursuant to Public Resources Code (PRC) Section 21155.4 if they meet the requirements of that section. PRC 21155.4 and CEQA Guidelines Section 15182, applies to residential, mixed-use, or employment centers that: 1) are in a transit priority area; 2) implements and is consistent with a specific plan for which an EIR has been prepared; and 3) is consistent with the general use designation, density, building intensity, and applicable policies of Sacramento Area Council of Governments’ (SACOG) Sustainable Communities Strategy (SCS) (MTP/SCS).
Sustainability: The 13th/C Street Housing Project is an infill site located in the Central City and its development will aid in reducing the carbon footprint by adding more housing near employment opportunities in the City. The recommendations in this report will result in increased affordable housing opportunities within the city that promote the increased connection of housing, workforce centers, and other amenities and services. Further linkage of these community components will result in reduced impact on the environment.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: The proposed housing project would add 127 units to the core of downtown and would further the transition of this quadrant of the city from industrial uses to residential and mixed-use. The project is designed to be smaller studio units and its inclusion of half of the units at an 80% affordable rent level, will provide an opportunity for additional lower income residents to live in the core and in close proximity to the range of core’s employment and entertainment options.

The project will be developed by SKK Development, a company that has led the City in the development of housing units, particularly in the Central City. With over 30 years of experience, SKK has constructed over 4,000 plus multi-family units with a more recent focus on the transformation of the 16th street corridor.

Financial Considerations: On February 2, 2021, City Council set aside a commitment of $31.5 million in the City’s General/Measure U (GF/MU) available fund balance to the City Housing Trust Fund. To fully fund the $3 million loan agreement with SKK Development, staff recommends establishing the 13th/C Street Housing Multi-Year Operating Project (I02189060), transferring $1.4 million from the Sacramento Entrepreneurial Development Academy Phase 1 Project (I02183000) in the Innovation and Growth Fund (Fund 2031) to I02189060 and transferring $1.6 million from the Housing Trust Fund Commitment of Measure U (Fund 2401, $600,000) and General Fund (Fund 1001, $1 million) to I02189060.

Local Business Enterprise (LBE): The developer of the project, SKK Development, is a locally owned firm.
RESOLUTION NO. 2024-

Adopted by the Sacramento City Council

April 9, 2024

Approval of the 13th/C Street Housing Project Loan Agreement

BACKGROUND

A. The City’s General Plan and the City’s Housing Element encourages the development of housing for all income levels with a particular focus on the development of underutilized infill sites.

B. The site at 13th and C Streets in the central area of the city of Sacramento is currently a blighted and vacant site containing an empty warehouse and vacant land.

C. Development of this site will put this blighted parcel back into productive use and provide housing for an estimated 127 households, 65 of which will be affordable to 80% Area Median Income (AMI) for 30 years.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Manager or City Manager’s designee is authorized to establish the 13th/C Street Housing Multi-Year Operating Project (I02189060).

Section 2. The City Manager or City Manager’s designee is authorized to transfer $1.4 million from the Sacramento Entrepreneurial Development Academy Phase 1 Project (I02183000) in the Innovation and Growth Fund (Fund 2031) to the 13th/C Street Housing Project (I02189060).

Section 3. The City Manager or City Manager’s designee is authorized to transfer $600,000 from the Housing Trust Fund commitment of Measure U (Fund 2401) to the 13th/C Street Housing Project (I02189060).

Section 4. The City Manager or City Manager’s designee is authorized to transfer $1 million from the Housing Trust Fund commitment of General Fund (Fund 1001) to the 13th/C Street Housing Project (I02189060).
Section 5. The City Manager or the City Manager’s designee is authorized to execute the City Loan Agreement for 13th/C Street Affordable Housing Project Loan Agreement and related documents.

Section 6. The City Manager or City Manager’s designee is authorized to execute a regulatory agreement ensuring affordable housing for the 13th/C Street Housing Project subject to approval as to form by the City Attorney or the City Attorney’s designee.

Section 7. The City Manager or the City Manager’s designee is authorized to take any necessary budgetary and administrative actions needed to implement and administer the loan agreement and related documents.

Section 8. The City Manager or City Manager’s designee is authorized to execute any amendment to the loan agreement subject to approval as to form by the City Attorney or the City Attorney’s designee, if the amendment does not change the total loan amount, interest rate, or extend the term of the loan.

Section 8. Exhibit A is part of this resolution.

Table of Contents:
Exhibit A – City Loan Agreement for 13th/C Street Affordable Housing Project
CITY LOAN AGREEMENT
13th AND C AFFORDABLE HOUSING PROJECT

IN CONSIDERATION of their mutual promises, the parties agree as follows:

1. **LOAN.** Lender is making the Loan pursuant to the terms and conditions of this Loan Agreement (the “Loan Agreement”). Lender and Borrower have entered this Loan Agreement as of the Effective Date.

2. **DEFINITIONS TABLES.** The capitalized terms in this Loan Agreement shall have the meanings assigned in the following Definitions Tables and in Section 3 Definitions. Terms being defined are indicated by quotation marks. If an item in the Definitions Table is marked “None”, “Not Applicable”, “N/A” or equivalent or is left blank, that defined term is not applicable to this Loan or the referenced item is not required or is not included in this Loan as the context may indicate.

<table>
<thead>
<tr>
<th><strong>A. “LOAN INFORMATION”</strong> The general loan provisions of the Loan:</th>
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<tbody>
<tr>
<td><strong>“Effective Date”</strong></td>
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<tr>
<td><strong>“Lender”</strong></td>
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<td>Name</td>
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<tr>
<td>Legal Status</td>
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<td>Principal Address</td>
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<tr>
<td><strong>“Borrower”</strong></td>
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<tr>
<td>Name</td>
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<tr>
<td>Legal Status</td>
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<tr>
<td>Principal Address</td>
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<td><strong>“Loan”</strong></td>
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<td><strong>“Loan Commitment”</strong></td>
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<td><strong>“Loan Program”</strong></td>
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<td><strong>“Loan Amount”</strong></td>
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<td><strong>“Interest Rate”</strong></td>
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<td><strong>“Loan Purpose”</strong></td>
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<td><strong>“Accrual Date”</strong></td>
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<td><strong>“Loan Term”</strong></td>
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<td><strong>“Payment Start Date”</strong></td>
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<td><strong>“Payment Amount”</strong></td>
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<td><strong>“Maturity Date”</strong></td>
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<td><strong>“Project”</strong></td>
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<tr>
<td><strong>“Residual Receipts”</strong></td>
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<td><strong>“Gross Revenue”</strong></td>
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<td><strong>“Operating Expenses”</strong></td>
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<tr>
<td><strong>“Construction Senior Loan”</strong></td>
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<tr>
<td><strong>“Permanent Senior Loan”</strong></td>
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</tbody>
</table>
B. “COLLATERAL” The Collateral securing repayment of the Loan, which Collateral consists of the following:

<table>
<thead>
<tr>
<th>“PROPERTY”</th>
<th>The following described real property, which is security for the Loan and the site of the Project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address, Assessor’s Parcel Number (APN) and size</td>
<td>1300-1310 C Street, Sacramento CA APN: 00200840010000 and 00200840020000 Approximately .594 acres</td>
</tr>
<tr>
<td>“Legal Description”</td>
<td>The Property is situated in the State of California, County of Sacramento, and is more particularly described in [Exhibit 1: Legal Description] attached and incorporated by reference.</td>
</tr>
<tr>
<td>Borrower’s Title Interest</td>
<td>As of the Effective Date, Borrower will have a fee interest in the Property.</td>
</tr>
</tbody>
</table>

C. “ESCROW INFORMATION”:

| “Title Company” and “Escrow Agent” | Which is the title company that will issue the Title Policy and that will act as Escrow Agent for the Escrow as set forth in the Purchase and Sale Agreement. |
| “Escrow”                          | The escrow with Escrow Agent |
| “Construction Closing Date”       | Which is the date for close of the Escrow on financing for development of the Project. |
| “Close of Escrow”                 | TBD |

D. “LIST OF EXHIBITS” (The following documents are either attached or incorporated by reference in this Loan Agreement):

<table>
<thead>
<tr>
<th>EXHIBIT</th>
<th>DEFINED TERM</th>
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</thead>
<tbody>
<tr>
<td>Exhibit 1: Legal Description</td>
<td>“Legal Description”</td>
</tr>
<tr>
<td>Exhibit 2: Project Scope and Construction Standards</td>
<td>“Scope of Development”</td>
</tr>
<tr>
<td>Exhibit 3: Note Form</td>
<td>“Note”</td>
</tr>
<tr>
<td>Exhibit 4: Trust Deed Form</td>
<td>“Trust Deed” to be recorded by the Title Company</td>
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<tr>
<td>Exhibit 5: Completion Guaranty</td>
<td>“Completion Guaranty”</td>
</tr>
<tr>
<td>Exhibit 6: “Regulatory Agreement”</td>
<td>The Regulatory Agreement as attached to the Loan Agreement</td>
</tr>
<tr>
<td>“Plans and Specifications”</td>
<td>The improvement plans as approved by Lender in its capacity as a regulatory agency that issues the building permit(s) for construction of the Project</td>
</tr>
<tr>
<td>“Escrow Instructions”</td>
<td>The Escrow Instructions as attached to the Loan Agreement (if any)</td>
</tr>
</tbody>
</table>

E. “APPROVAL DOCUMENTS” Borrower shall submit the following documents for Lender’s approval prior to Closing Date:

- Borrower’s organizational documents, such as partnership agreement or corporate articles and by-laws.
- “Budget” for the Project, including the Sources and Uses table submitted by Borrower.
F. "SPECIAL PROVISIONS" The following special provisions shall be in addition to the provisions of this Loan Agreement:

1. This Loan is for the development of the Property with the Project. Ninety percent of the loan funds will be disbursed to an account as directed by Borrower at initiation of construction with the balance held as a retention until provision of a Certificate of Occupancy, release of all liens and completion of a cost certification.

2. Borrower shall ensure that a Trust Deed be recorded against the Property.

3. DEFINITIONS. Terms not defined in this Loan Agreement shall have the definitions assigned in the Trust Deed. As used in this Loan Agreement, the following terms shall have the following meanings:

3.1. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Trust Deed, the Note, the Regulatory Agreement, and any other instrument which is incorporated in this Loan Agreement or which otherwise secures the repayment of the Loan.

3.2. "Financial Statements" means the certified financial statements of Borrower (and any other persons on whose financial capacity Lender has relied in making this Loan) as may be required by Lender from time to time, including operating statements, balance sheets, and any other financial reports and information that Lender may require.

3.3. "Governmental Authority" means the United States of America, the State of California, the County of Sacramento, the City of Sacramento or any other political subdivision, agency, department, commission, board, bureau, or instrumentality of any of them.

3.4. "Governmental Requirement" means any law, ordinance, order, rule, regulation, plan, ruling, determination or requirement of a Governmental Authority.

3.5. "Loan Documents" means this Loan Agreement, the Note, the Regulatory Agreement and the Trust Deed.

3.6. "Person" means any natural person, corporation, firm, partnership, association, trust, government, governmental agency, or any other entity, whether acting in an individual, fiduciary, or other capacity.

3.7. "Potential Default" means an event that would constitute an Event of Default but for any requirement of notice to be given or period of grace or time to elapse.

3.8. "Security Documents" means the Trust Deed, together with all other documents entered into between Borrower and Lender or by Borrower in favor of, or for the benefit of, Lender that recite that they are to secure the Loan.
3.9. “Unavoidable Delay” is a delay in the performance by a party of any obligation which delay is unforeseeable and beyond the control of such party and without its fault or negligence. Unavoidable Delay shall include without limitation, acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of the parties shall be extended for the period of the enforced delay, as determined by Lender, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after it has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

4. **BORROWER’S REPRESENTATIONS AND WARRANTIES.** As a material inducement to Lender to enter into this Loan Agreement and to make the Loan to Borrower, Borrower unconditionally, and each signatory who signs on its behalf, to the extent of their actual knowledge, represents and warrants to Lender, as of the Close of Escrow, as follows:

4.1. **LEGAL ORGANIZATION.** Borrower is duly formed and validly exists in the form stated in Section 2 hereof, is qualified to do business in California, and has full power to consummate the transactions contemplated.

4.2. **BORROWER’S POWERS.** Borrower has full authority to execute this Loan Agreement, the Note, the Trust Deed, and all of the other Loan Documents, to undertake and consummate the contemplated transactions, and to pay, perform, and observe all of the conditions, covenants, agreements, and obligations.

4.3. **BINDING OBLIGATION.** This Loan Agreement, the Note, the Trust Deed, and each of the other Loan Documents constitute a legal and binding obligation of, and are valid and enforceable against, each party other than Lender, in accordance with the terms of each.

4.4. **LITIGATION.** There are no actions, suits, or proceedings pending or, to the actual knowledge of Borrower, threatened against or affecting Borrower, or involving the validity or enforceability of the Trust Deed, the priority of the lien, or the validity or enforceability of any of the other Loan Documents, at law or in equity.

4.5. **NO VIOLATION.** The consummation of the transactions covered by this Loan Agreement and the payment and performance of all of the obligations in the Loan Documents will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, loan or credit agreement, corporate charter, bylaws, partnership agreement, trust
agreement, or other instrument to which Borrower or any of its general partners is a party or by which it or they or the Property may be bound or affected.

4.6. **NO DEFAULT.** There is no Event of Default or Potential Default on the part of Borrower.

4.7. **TITLE TO PROPERTY.** As of the Close of Escrow, Borrower holds a ground leasehold interest in the Property pursuant to the Ground Lease, which leasehold interest is free of all claims, liens, and encumbrances other than those shown in the Title Policy or as otherwise approved by Lender.

4.8. **ACCURACY.** All applications, Financial Statements, reports, documents, instruments, information, and forms of evidence delivered to Lender concerning the Loan or required by this Loan Agreement or any of the other Loan Documents are accurate, correct, and sufficiently complete to give Lender true and accurate knowledge of their subject matter, and to Borrower’s actual knowledge do not contain any untrue statement of a material fact or omit any material fact necessary to make them not misleading.

5. **NONLIABILITY FOR NEGLIGENCE, LOSS, OR DAMAGE.** Borrower acknowledges, understands, and agrees as follows:

5.1 The relationship between Borrower and Lender is, and will at all times remain, solely that of borrower and lender, and Lender neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on, or inform Borrower of the quality, adequacy, or suitability of the Project work, except as to matters which are within the intent and purpose for which Lender has made the Loan.

5.2 Lender owes no duty of care to protect Borrower against negligent, faulty, inadequate, or defective building or construction.

5.3 Lender will not be responsible or liable to Borrower for any loss or damage of any kind to person or property whether suffered by Borrower or any other Person or group of Persons or for negligent, faulty, inadequate, or defective building or construction, and Borrower will hold Lender harmless from any liability, loss, or damage for these things.

6. **CLOSING IN ADVANCE OF SENIOR LOAN.** Lender will subordinate this Loan to such senior trust deeds subject to Lender’s approval (not to be unreasonably withheld, conditioned or delayed) of a commercially-reasonable subordination and/or intercreditor agreement.

7. **NOTE AND SECURITY DOCUMENTS.** The Loan is evidenced by the Note executed by Borrower in favor of Lender and delivered to Lender upon Close of Escrow. Repayment of the Note is secured by the Trust Deed covering the Property upon the Refinance Closing. Borrower as
Trustor shall execute the Trust Deed in favor of the Title Company as Trustee in trust for the benefit of Lender and deliver it to Escrow for recordation upon the Refinance Closing.

8. **REPAYMENT OF THE LOAN.**

8.1 **REPAYMENT.** Beginning on the Payment Start Date each year the Borrower will make payments of principal and interest of the Loan to the Lender from Residual Receipts, defined above. Such annual payments will be due and payable in arrears within 90 calendar days after the end of the calendar year in which the first payment is due, and annually thereafter, and will be accompanied by the Borrower's report of Residual Receipts (including an independent auditor's report). The Borrower will provide the Lender with any documentation reasonably requested by the Lender to substantiate the Borrower's determination of Residual Receipts. Repayments will be credited first to interest, then to principal. Interest that has accrued but for which Residual Receipts are not available in a given year will be deferred to the following year.

8.2 **PAYMENT IN FULL.** Regardless of the availability of Residual Receipts, all principal and interest on the Loan will be due upon the earliest of: (1) a Transfer of the Project other than a Transfer permitted or approved by the Lender as provided herein, which such approval shall not be unreasonably withheld, conditioned or delayed; (2) the occurrence of an Event of Default for which the Lender exercises its right to cause the Loan indebtedness to become immediately due and payable, or for which the Loan indebtedness is automatically specified to become immediately due and payable pursuant to applicable subsections herein; or (3) the thirtieth (30th) anniversary date of the issuance of the Certificate of Occupancy for the Project.

9. **REPORTS AND ACCOUNTING OF RESIDUAL RECEIPTS.**

9.1 **AUDITED FINANCIAL STATEMENT.** In connection with the annual payments as set forth in Section 8, above, within one hundred eighty (180) days of the end of the Borrower's fiscal year, the Borrower will furnish to the Lender an audited statement duly certified by an independent firm of certified public accountants, setting forth in reasonable detail the computation and amount of Residual Receipts during the preceding calendar year.

9.2 **BOOKS AND RECORDS.** In addition to the Borrower's obligations, the Borrower will keep and maintain on the Site, or at its principal place of business, complete and appropriate books, records and accounts relating to the Project, including all such books, records and accounts necessary to substantiate the Borrower's calculation of Residual Receipts. Copies of all books, records and accounts that the Borrower may be required to furnish any governmental agency will at all reasonable times be open for inspection by the Lender at the place that the books, records and accounts of the Borrower are kept upon prior reasonable notice to the Borrower. The Borrower will preserve records on which any statement of Residual Receipts is based for a period of not less than five (5) years after such statement is rendered, and for any
period during which there is an audit undertaken pursuant to subsection (9.3) below then pending.

9.3 **AUDITS.** The receipt by the Lender of any statement pursuant to subsection (9.1) above or any payment by the Borrower or acceptance by the Lender of any loan repayment for any period will not bind the Lender as to the correctness of such statement or such payment. Within two (2) years after the receipt of any such statement, the Lender or any designated agent or employee of the Lender, will be entitled to audit the Residual Receipts and the books, records, and accounts pertaining to the Residual Receipts. Such audit will be conducted during normal business hours at the principal place of business of the Borrower and other places where records are kept. Immediately after the completion of an audit, the Lender will deliver a copy of the results of such audit to the Borrower. If it will be determined as a result of such audit that there has been a deficiency in a Loan repayment to the Lender, then such deficiency will become immediately due and payable. If the Borrower’s auditor’s statement for any Project fiscal year will be found to have understated Residual Receipts by more than ten percent (10%), and the Lender is entitled to any additional Loan repayment as a result of said understatement, then the Borrower will pay such amount, interest from the date such payment was due at a rate equal to the Default Rate under this Agreement, and, following the Lender’s written request, all of the Lender’s reasonable costs and expenses connected with the audit or review of the Borrower’s accounts and records.

10. **REGULATORY AGREEMENT.** The Regulatory Agreement imposing covenants, conditions and restrictions running with the land is a mutual consideration for the making of this Loan. Borrower shall execute the Regulatory Agreement prior to Close of Escrow and deliver it to Escrow for recordation. Violation of the Regulatory Agreement is an Event of Default of this Loan.

11. **ACCELERATION.**

11.1 **TRANSFER OR REFINANCING OF THE PROPERTY; ASSUMPTION.** Except as otherwise provided in the Loan Agreement, if all or any part of the Property or an interest in the Property is sold, transferred or conveyed to any person, or refinanced by Borrower or Ultimate Owner such that additional debt is added to the Property without Lender’s prior written consent, which such consent shall not be unreasonably withheld, conditioned or delayed, Lender may, at Lender’s option, declare all the sums secured by the Trust Deed to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the Person to whom the Property is to be sold or transferred reach agreement in writing that the Loan may be assumed. If Lender has waived the option to accelerate provided in this Section and if Borrower’s or Ultimate Owner’s successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower and Ultimate Owner from all obligations under the Trust Deed and the Note. Lender may not accelerate sums secured by the Trust Deed as provided in this Section if Borrower or Ultimate Owner refines the Senior Loan

13th and C Project Loan Agreement
on no less favorable terms than commercially-reasonable terms, whether with the lender of the Senior Loan or otherwise. Lender agrees that this Loan will be subordinated to any successor Senior Loan, subject to Section 6.

11.2 **FAILURE TO MEET SPECIAL CONDITIONS.** Subject to Unavoidable Delay, if Borrower fails to comply with the Special Provisions set forth above, Lender may, at Lender’s option, declare all the sums secured by the Trust Deed to be immediately due and payable.

12. **TITLE INSURANCE.** Upon recordation of the Trust Deed, Borrower must procure and deliver to Lender an ALTA Lender’s Policy of Title Insurance, together with such endorsements as Lender may require, including but not limited to ALTA endorsement nos. 9.6 and 9.7 (CLTA endorsement nos. 100 and 116) and ALTA endorsement no. 25 (CLTA endorsement no. 116) insuring Lender in an amount equal to the principal amount of the Loan, and that Lender’s Trust Deed constitutes a lien or charge upon the Property subject only to such items as shall have been approved by Lender. Title insurance for the Loan must be issued by a title insurer approved by Lender.

13. **PERFORMANCE CONDITIONS.** The following are conditions regarding performance of Lender and Borrower under this Loan Agreement:

13.1 **CONDITION OF TITLE.** Lender shall cause Escrow Agent to issue to Borrower (with a copy to Lender) a preliminary report, together with copies of all documents relating to title exceptions referred to in the preliminary report. At Refinance Closing, Lender’s Trust Deed shall be a valid lien against the Property securing the Loan and subject to no exceptions to title (of record or off record) other than the exceptions listed in the “Conditions of Title” in the Escrow Instructions.

13.2 **CONDITIONS TO LENDER’S PERFORMANCE.** Lender’s obligation to perform under this Loan Agreement is subject to all of the following conditions: (a) Borrower has performed all of its obligations then to be performed pursuant to this Loan Agreement; (b) the closing conditions as defined in the Escrow Instructions (if any) have been fulfilled as of Close of Escrow; (c) Borrower’s representations and warranties in this Loan Agreement are true and correct as of the date of this Loan Agreement and as of Close of Escrow; and (d) this Loan Agreement continues to be in full force and effect, no default on the part of Borrower has occurred under this Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under this Loan Agreement.

13.3 **CONDITIONS TO BORROWER’S PERFORMANCE.** Borrower’s obligation to perform under this Loan Agreement is subject to satisfaction of all of the following conditions: (a) the closing conditions as defined in the Escrow Instructions have been fulfilled as of Close of Escrow; (b) Lender’s representations and warranties in this Loan Agreement are true and correct as of the date of this Loan Agreement and as of the Close of Escrow; and (c) this Loan Agreement
continues to be in full force and effect, and no default on the part of Lender has occurred under this Loan Agreement.

13.4 PROTECTION AGAINST LIEN CLAIMS. Borrower shall promptly and fully discharge all claims for labor, materials and services in connection with construction of the Project. Borrower shall promptly file a valid Notice of Completion on completion of the Project. Borrower shall promptly file a Notice of Cessation in the event of a cessation of labor on the Project for a continuous Period of (30) days or more. Borrower shall take all other reasonable steps to protect against the assertion of lien claims against the Property. Within ten (10) days after the filing of any claim of lien against the Property, Borrower shall record a surety bond in the office of the Recorder of the County where the Property is located in an amount sufficient to release the claim of lien or deliver to Lender any other assurance as may be acceptable to Lender as evidenced by Lender’s written acceptance of such assurance. In any event, Borrower is not required to pay, prior to adjudication, any claims for labor, materials, or services that Borrower, in good faith, reasonably disputes, and that Borrower, at its own expense, is currently and diligently contesting in the proper forum, provided that Borrower has filed the surety bond or given Lender such other assurance as Lender accepts in writing.

13.4.1 NO PRIOR LIENS. Borrower shall not allow the Project construction to begin or materials to be delivered to the Project until after Close of Escrow.

13.5 PREVAILING WAGES. In accordance with Labor Code Section 1720(c)(5)(E)), so long as the public subsidy for the Project consists of below market rate loans, and the Project restricts occupancy on at least 40% of the units for at least 20 years to individuals or families earning no more than 80% of the area median income, the Project is not subject to prevailing wages. Borrower represents to the Lender that Borrower has obtained no public subsidy for the Project that does not meet such criteria. If Borrower obtains other non-qualifying public subsidy, Borrower shall pay prevailing wages for the Project. Therefore, Borrower indemnifies, holds harmless and defends the Lender from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from the improper application of California prevailing wage laws to the Project by Borrower or General Contractor or both of them.

14. DEFAULT.

14.1 EVENTS OF DEFAULT. At the option of Lender, each of the following events will constitute an Event of Default, subject to applicable cure rights, if any:

14.1.1 Borrower’s non-performance of any obligation or breach of this Agreement, unless within thirty (30) days after written notice of such failure by Lender or the respective governmental entity
or after any action has been commenced to enforce such requirement, Borrower has cured such failure;

14.1.2 The occurrence of a breach or default under any of the Loan Documents;

14.1.3 Subject to Borrower’s legal rights to contest a Governmental Requirement, Borrower's failure to comply with any Governmental Requirement, unless within ten (10) days after written notice of such failure by Lender or the respective governmental entity or after any action has been commenced to enforce such requirement, Borrower has cured such failure;

14.1.4 Borrower's failure to keep in full force any permit, license, consent, or approval with respect to the construction, occupancy, or use of the Project. unless within thirty (30) days after written notice by the issuing entity or Lender of such failure, Borrower has promptly cured such failure;

14.1.5 The filing of any lien against the Property or Project if the claim of lien continues for thirty (30) days without discharge, satisfaction, or the making of provision for payment (including bonding) to the satisfaction of Lender; and

14.1.6 The attachment, levy, execution, or other judicial seizure of any portion of the Property or Project, or any substantial portion of the other assets of Borrower, that is not released, expunged, bonded, discharged, or dismissed within sixty (60) days after the attachment, levy, execution, or seizure.

14.2 REMEDIES.

14.2.1 OPTION TO ACT. On the occurrence of any Event of Default after the relevant notice and cure period, in addition to its other rights in this Loan Agreement or in any of the other Loan Documents, at law, or in equity, Lender may, without prior demand, exercise any one or more of the following rights and remedies:

14.2.1.1 Declare the Note and all other sums owing to Lender with respect to the other Loan Documents immediately due;

14.2.1.2 Proceed as authorized at law or in equity with respect to the Event of Default, and in connection with that, remain entitled to exercise all other rights and remedies described in this Loan Agreement or the Trust Deed during such continuing Event of Default; and

14.2.1.3 Recover its funds expended in exercising or enforcing any of its rights or remedies under any of the Loan Documents, together with interest at the maximum amount allowed.
by law from the date the funds were spent until repaid which amounts will be deemed secured by the Trust Deed.

14.2.2 RIGHTS CUMULATIVE, NO WAIVER. All of Lender's rights and remedies provided in this Loan Agreement or in any of the other Loan Documents are cumulative and may be exercised by Lender at any time. Lender's exercise of any right or remedy will not constitute a cure of any Event of Default unless all sums then due to Lender under the Loan Documents are repaid and Borrower has cured all other Events of Default. No waiver will be implied from Lender's failure to take, or delay in taking, any action concerning any Event of Default or from any previous waiver of any similar or unrelated Event of Default. Any waiver under any of the Loan Documents must be in writing and will be limited to its specific terms.

14.2.3 DISCLAIMER. Whether Lender elects to employ any of the remedies available to it in connection with an Event of Default, Lender will not be liable to construct, complete, or protect the Project; to pay any expense in connection with the exercise of any remedy; or to perform any other obligation of Borrower.

14.2.4 GRANT OF POWER. Subject to the prior rights of lenders whose loans are secured by the Property and senior to the rights of Lender, Borrower irrevocably appoints Lender as its attorney-in-fact, with full power and authority, including the power of substitution, exercisable on the occurrence of an Event of Default, and solely during the continuation of such Event of Default, to act for Borrower in its name, place, and stead as provided in this Loan Agreement, to take possession of the Property and Project, remove all employees, contractors, and agents of Borrower, to complete or attempt to complete the work of construction, and to market, sell, or lease the Property and Project; to make any additions, changes, and corrections in the Plans as may be necessary or desirable, in Lender's sole discretion, or as it deems proper to complete the Project; to employ any contractors, subcontractors, suppliers, architects, inspectors, consultants, property managers, and other agents that Lender, in its sole discretion, deems proper for the completion of the Project, for the protection or clearance of title to the Property, or for the protection of Lender's interests, to employ security guards to protect the Property and Project from injury or damage; to pay, settle, or compromise all bills and claims then existing or later arising against Borrower that Lender, in its sole discretion, deems proper for the completion of the Project, for the protection or clearance of title to the Property, or for the protection of Lender's interests; to prosecute and defend all actions and proceedings in connection with the Property or Project; and to execute, acknowledge, and deliver all other instruments and documents in the name of Borrower that are necessary or desirable, to exercise Borrower's rights under all contracts concerning the Property or Project, and to do all other acts with respect to the Property or Project that Borrower might do on its own behalf, in each case as Lender in its reasonable discretion deems proper.
15. **MISCELLANEOUS.**

15.1 **NONRECESSION.** Notwithstanding any provision of this Loan Agreement or any document evidencing or securing this Loan, Borrower, and Borrower’s principals, partners, members, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

15.2 **CURE BY PARTY OTHER THAN BORROWER.** Any lender whose loan is secured by the Property, any principal of Borrower, and any service partner may cure a default of the Loan, provided that such cure rights shall be the same as Borrower’s cure rights. Such other curing party must cure by the date on which Borrower was obligated to cure, except if Lender is obligated by this Loan Agreement or a subordination agreement to give separate notice to such other curing party, in which instance, the cure period shall begin when Lender makes such notice to such other curing party.

15.3 **CONDEMNATION.** While Loan is outstanding, the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of all or any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to Senior Lender’s rights to receive. In the event of a taking of all of the Property, the proceeds shall be applied to the sums provided by this Loan, subject to any claims of the senior lender pursuant to the terms of the subordination agreement, with the excess, if any, paid to junior lienholders and Borrower, as they may determine. In the event of the partial taking of the Property, unless Borrower and Lender otherwise agree in writing, and subject to any claims of the senior lender under a subordination agreement, there shall be applied to the sums secured by the Trust Deed in such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by the Trust Deed immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to junior lienholders and Borrower, as they may determine.

If the condemnor offers to make an award or settle a claim for damages to the Property and: (1) the Property is abandoned by Borrower; or (2) after notice by Lender to Borrower of the condemnor’s offer, Borrower fails to respond to Lender within 30 days after the date such notice is mailed; Lender is authorized to collect and apply the proceeds, at Lender’s option, either to restoration or repair of the Property or to the sums secured by the Trust Deed, subject to the terms of Subordination Agreement. Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of any payment or change the amount of such payment.

15.4 **NATURE OF REPRESENTATIONS AND WARRANTIES.** Borrower certifies to Lender that all representations and warranties made in this Loan Agreement and all of the Loan
Documents are true and correct in all material respects and do not contain any untrue statement of a material fact or omit any material fact necessary to make the representations and warranties not misleading. All representations and warranties will remain true and correct in all material respects and will survive as long as any of the Borrower’s obligations have not been satisfied or the Loan or any part of it remain outstanding and for any applicable statute of limitations period. Each representation and warranty made in this Loan Agreement, in any other Loan Documents, and in any other document delivered to Lender by Borrower will be deemed to have been relied on by Lender, regardless of any investigation, inspection, or inquiry made by Lender or any related disbursement made by Lender. The representations and warranties that are made on the Effective Date are the actual knowledge of Borrower, with no duty of inquiry.

15.5 NO WAIVER. No failure or delay on the part of Lender in exercising any right or remedy under the Loan Documents will operate as a waiver nor will Lender be stopped from exercising any right or remedy at any future time because of any such failure or delay. No express waiver will affect any matter other than the matter expressly waived and that waiver will be operative only for the time and to the extent stated. Waivers of any covenant, term, or condition in this Loan Agreement will not be construed to waive any subsequent breach of the same covenant, term, or condition.

15.6 NO THIRD PARTIES BENEFITED. This Loan Agreement is made and entered into for the sole protection and benefit of the parties and their permitted successors and assigns, and no other Person will have any right of action or any rights to funds at any time on deposit in any construction account or impound account, if established.

15.7 NO JOINT VENTURE, PARTNERSHIP, OR OTHER RELATIONSHIP. Nothing contained in this Loan Agreement or in any other document executed in connection with this Loan Agreement shall be construed as creating a joint venture or partnership between Lender and Borrower. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between Lender and Borrower other than that of a lender and a borrower.

15.8 NOTICES. Borrower irrevocably appoints Lender as its agent (the agency being coupled with an interest) to file for record any notices of completion, cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interests under this Loan Agreement or under the Loan Documents. All notices to be given under this Loan Agreement shall be in writing and sent to the addresses stated above for the respective recipient by one or more of the following methods.

15.8.1 Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;
15.8.2 A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

15.8.3 Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

15.8.4 Telecopy, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party at the “Fax Number” given in the Escrow Agreement or to such other address as Borrower or Lender may respectively designate by written notice to the other.

15.9 ACTIONS. Lender will have the right to commence, appear in, or during an Event of Default defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses. This Section does not apply to actions or proceedings between the parties.

15.10 SIGNS. Borrower agrees that on the request of Lender, Borrower will erect and place on or in the immediate vicinity of the Property a sign indicating that Lender has provided financing for the Project, which sign shall remain for the duration of construction. If Borrower places a sign on the Property during construction stating the names of the Project participants, it shall also name “City of Sacramento” as a participant in the Project. Lender’s name on the sign shall be in letters not less than size of letters used to name any of the other participants.

15.11 ASSIGNMENT. The terms of this Loan Agreement will be binding on and inure to the benefit of successors and assigns of the parties. Lender understands, acknowledges, and consents to Buyer conveying the real property to Developer, and thereafter the property may be conveyed to Ultimate Owner pursuant to the terms of the Ground Lease. Such conveyances are permitted under the Loan Documents. Borrower shall not assign this Loan Agreement or any interest it may have, convey or encumber the Property, except as otherwise provided in this Loan Agreement, without the prior written consent of Lender to a party other than a CEO or Board of Borrower or a single asset entity wholly owned and controlled by Borrower. Lender may at any time assign the Loan Documents to any affiliate of Lender and the assignee will assume the obligations of Lender, and Lender will have no further obligation of any nature. In that case, the provisions of this Loan Agreement will continue to apply to the Loan, and the assignee will be substituted in the place and stead of Lender, with all rights,

13th and C Project
Loan Agreement
obligations, and remedies of Lender, including, without limitation, the right to further assign the Loan Documents.

15.12 PREPAYMENT. Borrower may prepay the Loan only on and subject to the terms and conditions in the Note. Borrower shall have no rights to receive, and under no circumstances will Borrower receive repayment of any fees previously paid to Lender, subject to Subordination Agreement.

15.13 CONTROLLING LAW; VENUE. The Loan Documents will be governed by and construed in accordance with California law. The venue for any legal action or proceeding will be in the County of Sacramento, state of California.

15.14 CONSENTS AND APPROVALS. All consents and approvals by Lender required or permitted by any provision of this Loan Agreement will be in writing. Lender’s consent to or approval of any act by Borrower requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

15.15 SURVIVAL OF WARRANTIES AND COVENANTS. The warranties, representations, conditions, covenants and agreements in this Loan Agreement and in the other Loan documents will survive the making of this Loan and the execution and delivery of the Note and will continue in full force until the Loan has been paid in full. Nothing in this Section is intended to limit any other provision of the Loan Documents that by their stated terms survive the repayment of the Loan or the termination of the Loan Documents.

15.16 NO REPRESENTATIONS BY LENDER. By accepting or approving anything required to be observed, performed, or fulfilled, or to be given to Lender pursuant to this Loan Agreement or pursuant to the Loan Documents, including, but not limited to, any officer’s certificate, balance sheet, statement of income and expense, or other Financial Statement, survey, appraisal, or insurance policy, Lender will not be deemed to have warranted or represented the sufficiency, legality, effectiveness, or legal effect of it or of any particular term, provision, or condition of it, and any acceptance or approval will not be or constitute any warranty or representation by Lender. Notwithstanding the above, Lender represents and warrants to Buyer the person signing has the authority to sign and this Agreement is binding and enforceable against it.

15.17 AMENDMENT. The Loan Documents and the terms of each of them may not be modified, waived, discharged, or terminated except by a written instrument signed by the party against whom enforcement of the modification, waiver, discharge, or termination is asserted.

15.18 TERMINATION. Except as otherwise provided in the Loan Documents, all rights and
obligations under this Loan Agreement will terminate except as to any accrued contingent obligations effective on the payment of all Loan owing by Borrower to Lender.

15.19 COUNTERPARTS/DIGITAL SIGNATURES. The Loan Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when executed and delivered will be deemed an original and all of which counterparts taken together will constitute one and the same instrument. An electronic or pdf signature shall be deemed an original signature.

15.20 SEVERABILITY. If any term, provision, covenant, or condition or any application is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions and all applications not held invalid, void, or unenforceable will continue in full force and will in no way be affected, impaired, or invalidated.

15.21 CAPTIONS. All Article and Section headings in the Loan Documents are inserted for convenience of reference only and do not constitute a part of the Loan Documents for any other purpose.

15.22 INDEMNITY. Borrower agrees to defend, indemnify, and hold Lender harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorney fees (collectively, “Losses”) that Lender may reasonably incur as a direct or indirect consequence of the making of the Loan. Borrower shall not be liable for any of Lender’s Losses that result from the gross negligence or willful misconduct of Lender, its agents or representatives. Borrower’s failure to perform any obligations as and when required by this Loan Agreement or any of the other Loan Documents, the failure at any time of any of Borrower’s representations or warranties to be true and correct as provided in this Agreement, or any act or omission by Borrower with respect to the property or project, any contractor, subcontractor, engineer, architect, or other Person with respect to the Property, the Project, or any portion of them except to the extent caused by the gross negligence or willful misconduct of Lender. Borrower will pay immediately on Lender’s demand any amounts owing under this indemnity. Borrower’s duty to indemnify Lender will survive the release and cancellation of the Note and the reconveyance or partial reconveyance of the Trust Deed.

15.23 FURTHER ASSURANCES. At Lender’s request and at Borrower’s expense, Borrower will execute, acknowledge, and deliver all other instruments and perform all other acts necessary, desirable, or proper to carry out the purposes of the Loan Documents or to perfect and preserve any liens created by the Loan Documents.

15.24 DISCLOSURE OF INFORMATION. If Lender elects to sell the Loan, Lender may forward to the buyer of the Loan all documents and information related to the Loan in Lender’s
possession, including without limitation all Financial Statements, whether furnished by Borrower or otherwise.

15.25 LENDER’S AGENTS. Lender may designate agents or independent contractors to exercise any of Lender’s rights under the Loan Documents. Any reference to Lender in any of the Loan Documents will include Lender’s employees, agents, and independent contractors.

15.26 INTEGRATION AND INTERPRETATION. The Loan Documents contain or expressly incorporate by reference the entire agreement between Lender and Borrower with respect to the covered matters and supersede all prior negotiations. Any reference to the Property or Project in any of the Loan Documents will include all or any portion of them. Any reference to the Loan Documents themselves in any of the Loan Documents will include all amendments, renewals, or extensions approved by Lender.

15.27 NUMBER, IDENTITY AND GENDER. When the context and construction so require, all words used in the singular will be deemed to have been used in the plural and vice versa. When the context and construction so require, all words which indicate a gender will be deemed to have been used to indicate the gender as indicated by the context.

15.28 ENTIRE AGREEMENT. The parties have each carefully reviewed this Loan Agreement and have agreed to each term in this agreement. No ambiguity shall be presumed to be construed against either party. This Loan Agreement contains all of the terms and conditions as agreed upon by the parties, and supersedes any and all oral or written communications by and between the parties.

15.29 AUTHORITY. Each of the signatories to this Loan Agreement represents that he/she is authorized to sign the agreement on behalf of such party and that all approvals, resolutions and consents which must be obtained to bind such party have been obtained that no further approvals, acts or consents are required to bind such party to this Loan Agreement.

[signature page follows]
THE PARTIES HAVE EXECUTED THIS LOAN AGREEMENT in Sacramento, California as of the Effective Date.

LENDER:
City of Sacramento

BY: __________________________
    Michael A. Jasso, Assistant City Manager
    For: Howard Chan, City Manager

Approved as to Form:

BY: __________________________
    Senior Deputy City Attorney

Attest:

BY: __________________________
    Assistant City Clerk

BORROWER:

BY: __________________________
    SKK Development
EXHIBIT 1
PROPERTY LEGAL DESCRIPTION
EXHIBIT 2
PROJECT SCOPE AND CONSTRUCTION STANDARDS
To be inserted prior to full execution
EXHIBIT 3
PROMISSORY NOTE
13th AND C PROJECT
CITY LOAN

BORROWER HAS MADE THIS PROMISSORY NOTE (“NOTE”) AS OF THE EFFECTIVE DATE.

The Lender is making the Loan pursuant to the terms and conditions of the Loan Agreement and this Note. This Note includes all attachments and Exhibits listed below, which are attached to and incorporated in this Note by this reference. The capitalized terms in this Note shall have the meanings assigned in the following table of definitions and as defined in the body of the Note. (Terms being defined are indicated by quotation marks. If an item in the table is marked “None, Not Applicable, N/A” or equivalent or is left blank, that defined term is not applicable to this Note or the referenced item is not required or is not included in this Note as the context may indicate.) The Lender is making the Loan to Borrower in consideration of Borrower making this Note and delivering it to Lender.

For purposes of this Note, the following terms shall have the following meanings:

<table>
<thead>
<tr>
<th>DEFINED TERM:</th>
<th>DEFINITION:</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Effective Date”</td>
<td>The first day of the month following the closing on the Property to transfer title to Borrower, which is:</td>
</tr>
<tr>
<td>“Lender”</td>
<td>City of Sacramento, a municipal corporation</td>
</tr>
<tr>
<td>“Lender Address”</td>
<td>915 I Street, Sacramento CA 95814</td>
</tr>
<tr>
<td>“Borrower”</td>
<td>SKK Development or assignee</td>
</tr>
<tr>
<td>“Borrower Legal Status”</td>
<td>For profit organization</td>
</tr>
<tr>
<td>“Borrower Address”</td>
<td>2409 L Street Sacramento CA 95811</td>
</tr>
<tr>
<td>“Loan Agreement”</td>
<td>The Loan Agreement between the Borrower and Lender for making of the loan (“Loan”) evidenced by this Note.</td>
</tr>
<tr>
<td>“Principal Amount”</td>
<td>Three Million Dollars and No Cents ($3,000,000.00)</td>
</tr>
<tr>
<td>“Loan Purpose”</td>
<td>To finance Borrower’s acquisition of certain interests in the Property and development thereof</td>
</tr>
<tr>
<td>“Property”</td>
<td>As defined in the Loan Agreement</td>
</tr>
<tr>
<td>“Interest Rate”</td>
<td>The interest rate for the Loan is the long-term applicable federal rate, which as of February 22, 2024, is 4.1% per year, simple interest.</td>
</tr>
<tr>
<td>“Accrual Date”</td>
<td>Interest shall accrue starting on the following date: The date the Loan is fully disbursed.</td>
</tr>
</tbody>
</table>
“Special Terms”
1. The Project will include 127 units of which 64 will be for low income levels as set forth in the Regulatory Agreement.
2. The Borrower will accept Housing Choice (Section 8) voucher holders.
3. FPI Management is approved by the Lender as “Property Manager” for the Property and Project. Borrower may substitute the role of Property Manager to another upon approval by Lender.
4. Borrower agrees to use commercially reasonable efforts to obtain financing in order to commence construction of the Project within 12 months from the receipt of non-appealable entitlement approvals and expiration of all appeal periods for the Project.
5. The Loan is for the development of the Property with the Project. Ninety percent of the Loan funds will be disbursed to an account as directed by Borrower at initiation of construction with the balance held as a retention until receipt of a Certificate of Occupancy, release of all liens and completion of a cost certification.

Additional Definitions
“Construction Senior Loan” shall mean that certain loan for financing the development of the Project.
“Permanent Senior Loan” shall mean that certain loan for the post-construction financing of the Project.

“Senior Loans” shall mean the Construction Senior Loan and the Permanent Senior Loan.

“Residual Receipts” means for each calendar year, the amount by which the Gross Revenue exceeds Annual Operating Expenses after deducting payments for the Senior Loans, reserve deposits called for in the Senior Loans with said loan terms provided to Lender, and the return of Developer’s equity as evidenced by a cost certification completed at the end of the construction of the project, including a 12% Internal Rate of Return on the outstanding equity annually.

“Gross Revenue” means all revenue from the leasing of the Project, including but not limited to all rents, fees, and charges paid by tenants as well as rental subsidy payments regardless of the source of these subsidies, forfeited tenant deposits, rent increases, proceeds from vending machines and laundry room machines. Revenue shall not include tenants’ security deposits (unless forfeited), interest on those deposits, loan proceeds, capital contributions or similar advances, or amounts released from reserves or interest on reserves.

“Operating Expenses” means actual costs, fees and expenses as evidenced by an annual audit performed by a public accountant using generally accepted accounting principals upon review of invoices attributable to the operation, recordkeeping, maintenance, taxes and management of the Project once completed, including property and asset management fees not to exceed four and one quarter percent (4.25%) of the Projects gross income; taxes and assessments; payroll, benefits and payroll taxes of for property employees; insurance; security; painting, cleaning, repairs, and alterations; landscaping; sewer charges; utility charges; advertising, promotion and publicity; cable television, satellite and other similar services; office, janitorial, cleaning and building supplies; recreational amenities and supplies; purchase, repair, servicing and installation of appliances; costs and expenses associated with the provision of social and/or community services to the residents of the Project; equipment, fixtures and furnishing; fire alarm monitoring; fees and expenses of accountants, attorneys, consultants and other professionals. The definition will include reasonable deposits not to exceed five percent of the Project’s gross income into operating and/or replacement reserves maintained by the Borrower.

PAYMENT SCHEDULE
Repayment of this Note shall be made as follows:

“Payment Start Date” The Payment Start Date is the first calendar year-end after the 12th calendar month following the Accrual Date. Said payment is due within ninety (90) days after the end of the calendar year in which the first payment is due.

“Payment Amount” Principal and interest payments during the Loan term shall be based on Residual Receipts from
FOR VALUE RECEIVED, THE UNDERSIGNED, JOINTLY AND SEVERALLY, PROMISES TO PAY to Lender, or its successors or assigns, the Principal Amount or such lesser amount as may be endorsed on this Note on behalf of Lender. The Loan shall bear interest on the outstanding principal balance, computed from the Accrual Date at the Interest Rate.

1. This Note evidences the obligation of Borrower to Lender for repayment of the Loan. The terms and covenants of the Loan Agreement are incorporated in this Note by reference. The Loan Agreement provides for and incorporates the Regulatory Agreement (as defined in the Loan Agreement), the making of which is further consideration for this Note.

2. Unless prepaid pursuant to the terms provided herein, Borrower shall make payments annually within ninety (90) days after the end of each calendar year, beginning on the Payment Start Date and continuing through the Maturity Date. On the day of the last payment, the unpaid balance of said principal sum, if any, together with all unpaid interest, fees and charges due, if any, shall become due and payable.

3. All payments on this Note shall be applied first to fees and charges due under the Loan Agreement, if any, then to interest and then to the principal due on this Note. Borrower shall make the payments to the Lender at 915 I Street, Sacramento, CA 95814, or to such other person or organization as may be designated by Lender to Borrower and noticed as provided in the Loan Agreement.

4. If any installment under this Note is not received by Lender within fifteen (15) calendar days after the installment is due, Borrower shall pay to Lender a late charge of five percent (5%) of such installment. Such late charge shall be immediately due and payable without demand by Lender.

5. Upon the Refinance Closing, this Note will be secured by a Deed of Trust and Assignment of Rents (“Trust Deed”) against the real property described in the Trust Deed recorded in the office of the County Recorder of Sacramento County. The Trust Deed securing this Note provides that Lender may, at its option, declare all funds secured by the Trust Deed immediately due and payable if any interest in the Property is refinanced, sold, hypothecated, transferred or conveyed to any person, whether voluntarily or involuntarily except if such sale or transfer is provided for in the Loan Agreement.

6. Lender and Borrower shall comply with and fulfill the Special Terms, if any.

7. Upon occurrence of any one or more of the Events of Default as provided in Section 12 of the Loan Agreement, Lender may, at its sole discretion, declare all unpaid principal immediately due and payable, together with all unpaid interest at the stated rate from the Effective Date, subject to applicable notice and cure periods.
8. No waiver of any default or breach by Borrower under this Note shall be implied from any omission by Lender to take action on account of such default, and no express waiver shall affect any default, other than the defaults specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.

9. Borrower may prepay this Note in full or in part at any time, without any prepayment penalty being charged by Lender.

10. During the existence of default or delinquency under the terms of this Note or the Trust Deed, the Lender is expressly authorized to apply all payments made on this Note to the payment of all or part of the delinquency, as it may elect.

11. This Loan is a nonrecourse loan, and notwithstanding any provision of this Note or any document evidencing or securing this Loan, Borrower, and Borrower’s board, principals, members, partners, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

12. Borrower shall pay to Lender all costs of enforcement of all or any portion of this Note, and the Trust Deed, including attorney's fees, witness fees, investigator fees and court costs, incurred by Lender, whether or not litigation is commenced.

IN WITNESS WHEREOF, Borrower has executed this Note as of the Effective Date.

Borrower:

By: __________________________
   Name: __________________________
   Title: __________________________

WITNESS:

By: __________________________
   Name: __________________________
EXHIBIT 4
TRUST DEED

NO FEE DOCUMENT:
Entitled to free recording:
Government Code §§ 6103 and 27383.

When recorded, return to:

City of Sacramento
Attn: Office of Innovation and Economic Development
915 I Street, 3rd Floor
Sacramento CA 95814

<table>
<thead>
<tr>
<th>TERM</th>
<th>DEFINITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective Date</td>
<td></td>
</tr>
<tr>
<td>Trustor” and “Borrower”</td>
<td>SKK Developments or assignee</td>
</tr>
<tr>
<td>Borrower Address”</td>
<td>2409 L Street, Sacramento CA 95811</td>
</tr>
<tr>
<td>Trustee”</td>
<td></td>
</tr>
<tr>
<td>Beneficiary” and “Lender”</td>
<td>City of Sacramento, a municipal corporation</td>
</tr>
<tr>
<td>Lender Address”</td>
<td>915 I Street, Sacramento, California 95814</td>
</tr>
<tr>
<td>Property”</td>
<td>Which is real property located in the County of Sacramento and the State of California as more particularly described in the attached Legal Description.</td>
</tr>
<tr>
<td>Address and Assessor’s Parcel Number (APN)</td>
<td>1300-1310 C Street, 00200840010000 and 0020084020000</td>
</tr>
<tr>
<td>Legal Description”</td>
<td>The Legal Description of the Property which is more particularly described in the attached Exhibit 1 Legal Description, which is incorporated in and an integral part of this Deed of Trust.</td>
</tr>
<tr>
<td>Loan”</td>
<td>Which is Lender’s loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.</td>
</tr>
<tr>
<td>Loan Agreement”</td>
<td>Which is the agreement between Lender and Borrower stating the terms and conditions of the Loan.</td>
</tr>
<tr>
<td></td>
<td>Which is dated:</td>
</tr>
<tr>
<td>&quot;Note&quot;</td>
<td>Which is Borrower’s promissory note made in accordance with the Loan Agreement evidencing the following principal sum or such lesser amount as shall equal the aggregate amount disbursed to Borrower by Lender, with interest.</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Which has a principal sum of Three Million Dollars and No Cents ($3,000,000.00)</td>
</tr>
</tbody>
</table>

THIS DEED OF TRUST is made as of the Effective Date between the Trustor also referenced as the Borrower, the Trustee, and the Beneficiary also referenced as Lender.

Borrower, in consideration of the indebtedness described below and the trust created by this Deed of Trust, irrevocably grants and conveys the Property to Trustee, in trust with power of sale.

Together with Borrower’s right, title, and interest in all the improvements now or subsequently erected on the property, and all easements, rights, appurtenances, rents (subject, however, to the rights and authorities given to Lender to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures, including but not limited to all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, steam and hot water boilers, stoves, ranges, elevators and motors, bathtubs, sinks, waterclosets, basins, pipes, faucets and other plumbing and heating equipment, cabinets, mantels, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, furniture, shades, awnings, screens, venetian blinds and other furnishings, now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are referred to as the "Property";

To secure to Lender: (a) the repayment of the Loan; and (b) the performance of the covenants and agreements of Borrower contained in this Deed of Trust, the Note, and the Loan Agreement.

Borrower covenants that Borrower is lawfully seized of the estate conveyed by this Deed of Trust and has the right to grant and convey the Property, and that Borrower will warrant and defend generally the title of the Property against all claims and demands, subject to any declarations, easements or restrictions listed in aschedule of exceptions to coverage in any title insurance policy insuring Lender’s interest in the Property.

Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest on the indebtedness evidenced by the Note. All payments received by Lender
under the Note shall be applied by Lender first to interest payable on the Note and thereafter to the unpaid principal of the Note.

2. **Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property by Borrower making payment, when due, directly to the appropriate payee. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event that Borrower makes payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall pay when due any encumbrance, charge and lien, with interest in accordance with its terms, on the Property or any portion which is inferior or superior to this Deed of Trust.

3. **Liability and Hazard Insurance.** Borrower shall keep comprehensive general liability and hazard insurance for the Property in a form and coverage consistent with the requirements of the senior lender providing the construction and permanent financing for improvement of the Property. If the Property is acquired by Lender pursuant to this Deed of Trust, all right, title and interest of Borrower in and to any insurance policies and proceeds of such policies resulting from damage to the Property shall pass to Lender to the extent of the sums secured by this Deed of Trust.

4. **Preservation and Maintenance of Property.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment, demolition, or deterioration of the Property.

5. **Protection of Lender's Security.** Borrower shall appear and defend any action or proceeding purporting to affect the security under this Deed of Trust or the rights of the Lender. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, foreclosure, involuntary sale, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender may, upon notice to Borrower, make such appearances, disburse such sums and take such actions as are necessary to protect Lender's interest, including, but not limited to, disbursement of judgments, costs or reasonable attorney's fees and entry upon the Property to make repairs.

    Any amounts disbursed by Lender pursuant to this Section 5, with interest, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. In any event, this Section 5 shall be construed as a right and an option of Lender and shall not be construed to require Lender to incur any expense or take any action.

6. **Inspection.** Lender, at its cost and expense, by its designated representative, may make reasonable entries upon and inspections of the Property, provided that Lender shall give
Borrower and any occupant of the Property reasonable prior notice of any such inspection.

7. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of all or any part of the Property, or for conveyance in lieu of condemnation, shall be applied as provided in the Loan Agreement. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust. Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of any payment or change the amount of such payment.

8. **Borrower Not Released.** Extension of the time for payment of the sums secured by this Deed of Trust granted by Lender to Borrower or any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time payment by reason of any demand made by the original Borrower or Borrower's successors in interest.

9. **Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy under this Deed of Trust, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

10. **Remedies Cumulative.** All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust, the Note, the Loan Agreement or afforded by law or equity, and may be exercised concurrently, independently or successively.

11. **Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements contained in this Deed of Trust shall bind, and the rights under this Deed of Trust shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Section 14. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or to define its provisions.

12. **Notice.** Except for any notice required under applicable law to be given in another manner, any notice to be given under this Deed of Trust shall be given as provided for in the Loan Agreement. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated.
13. **Governing Law; Severability.** This Deed of Trust shall be governed by the law of the State of California. If any term or provision of this Deed of Trust shall, to any extent, be held invalid or unenforceable, the remainder of this Deed of Trust shall remain in full force and effect and the invalid or unenforceable provisions shall be valid and enforceable as to any other person or circumstance.

14. **Acceleration on Transfer or Refinancing of the Property; Assumption.** Except as otherwise provided in the Loan Agreement and the Note, if all or any part of the Property or an interest in the Property is sold, transferred or conveyed to any person, or refinanced by Borrower or Ultimate Owner such that additional debt is added to the Property without Lender’s prior written consent, Lender may, at Lender’s option, declare all the sums secured by the Trust Deed to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the Person to whom the Property is to be sold or transferred reach agreement in writing that the Loan may be assumed. If Lender has waived the option to accelerate provided in this Section and if Borrower’s or Ultimate Owner’s successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower and Ultimate Owner from all obligations under the Trust Deed and the Note. Lender may not accelerate sums secured by the Trust Deed as provided in this Section 14 if Borrower or Ultimate Owner refinances the Senior Loan on no less favorable terms than commercially reasonable terms, whether with the lender of the Senior Loan or otherwise. Lender agrees that this Loan will be subordinated to any successor Senior Loan, pursuant to the Loan and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower, or any of its principals or anyone with a substantial legal interest in Borrower, may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by this Deed of Trust.

15. **Acceleration on Breach; Remedies.** Except as provided in Section 14, upon Borrower’s breach of any covenant or agreement of Borrower in this Deed of Trust, the Note, (including the covenants to pay when due any sums secured by this Deed of Trust and restricting transfer of the Property), or Loan Agreement, Lender shall mail notice to Borrower specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, no less than 30 days from the date the notice is mailed to Borrower, by which breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. If the breach is not cured on or before the date specified in the notice, Lender at Lender’s option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect from the Borrower, or sale proceeds, if any, all reasonable costs and expenses incurred in pursuing
the remedies provided in this Section, including, but not limited to reasonable attorney’s fees. Contracted service partners shall have the right but not the obligation to cure a default hereunder on behalf of Borrower on the same terms as cure by Borrower.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender’s election to cause the Property to be sold and shall cause such notice to be recorded in each county in which any portion of the Property is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale, in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender’s designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser a Trustee’s deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee’s deed shall be prima facie evidence of the truth of the statements it contains. Trustee shall apply the proceeds of the sale in the following order:

(a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee’s and attorney’s fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto as determined by Lender. In the event of a dispute regarding the excess funds, either Lender or Trustee may file an action in interpleader to determine who shall receive the funds and may then deposit the excess funds with the court.

16. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security, Borrower assigns to Lender the rents of the Property, provided that Borrower shall, prior to an acceleration for breach as provided above or abandonment of the Property, have the right to collect such rents as they become due.

Subject to any subordination agreements, upon acceleration for breach or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender, its agent, or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver’s fees, premiums on receiver’s bonds and reasonable attorney’s fees, and then to the sums secured by this Deed of Trust. Lender, its agent and the receiver shall be liable to account only for those rents actually received. In no event shall Borrower be liable to Lender for consequential, indirect,
special, exemplary, or punitive damages.

17. **Senior Lienholder.** The provisions of this Deed of Trust shall operate subject to the claims of senior lienholders to the extent of such claims.

18. **Nonrecourse.** Notwithstanding any provision of this Deed of Trust or any document evidencing or securing the Loan, Borrower, and Borrower’s board, principals, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan, and in the event of a default Lender shall look solely to the Property subject to this Deed of Trust and to the rents, issues and profits thereof in satisfaction of the indebtedness evidenced by the Note.

19. **Reconveyance.** Upon repayment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to such reconveyance. Such person or persons shall pay all costs of recordation, if any. The recitals in the reconveyance of any matters or facts shall be conclusive proof of their truthfulness.

20. **Substitute Trustee.** Lender, at Lender’s option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed under this Deed of Trust. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee by this Deed of Trust and applicable law.

21. **Request for Notice.** Borrower and each party listed to receive notices under a subordination agreement executed by Lender may request that copies of the notice of default and notice of sale be sent to their respective addresses.

22. **Reserved.**

23. **Use of Property.** Borrower shall not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.
IN WITNESS WHEREOF, Borrower has executed this Deed of Trust as of the Effective Date.

BORROWER (Trustor):

By: ______________________
    Name: ____________________
    Title: ____________________

[attach notary acknowledgment]
EXHIBIT 1

LEGAL DESCRIPTION
EXHIBIT 5
Completion Guaranty
To be inserted prior to final execution
REGULATORY AGREEMENT IMPOSING AFFORDABLE HOUSING OBLIGATION AND DECLARATION OF RESTRICTIVE COVENANTS AFFECTING REAL PROPERTY

<table>
<thead>
<tr>
<th>Property Name Reference:</th>
<th>13th and C Housing Development Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Location:</td>
<td>1300-1310 C Street</td>
</tr>
</tbody>
</table>


1. GENERAL. This Regulatory Agreement includes the Exhibits listed below which are attached to and incorporated in this Regulatory Agreement by this reference.

2. Definitions. The capitalized terms in this Regulatory Agreement shall have the meanings assigned in the following table and in the body of this Regulatory Agreement as the context indicates. Words or phrases being defined are indicated by quotation marks.

<table>
<thead>
<tr>
<th>Defined Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Effective Date”</td>
<td>This Effective Date of the Funding Agreement.</td>
</tr>
<tr>
<td>“City”</td>
<td>City of Sacramento, a California municipal corporation</td>
</tr>
<tr>
<td>“City Address”</td>
<td>915 L Street, Sacramento, California 95814</td>
</tr>
<tr>
<td>“Owner” and “Developer”</td>
<td>SKK Development</td>
</tr>
<tr>
<td>“Owner’s Address”</td>
<td>Owner’s business address is as follows: 2409 L Street, Sacramento, CA 95811</td>
</tr>
<tr>
<td>“Jurisdiction”</td>
<td>The geographic boundaries of the city of Sacramento in the state of California</td>
</tr>
<tr>
<td><strong>“Property”</strong></td>
<td>The Property is that certain real property as described in the legal description which is attached as <strong>Exhibit A – Legal Description</strong> and incorporated in this Agreement by this reference.</td>
</tr>
<tr>
<td><strong>“Project”</strong></td>
<td>Construction on the Property of 127 housing units, of which 64 units will be Affordable Housing Units.</td>
</tr>
<tr>
<td><strong>“Affordable Housing Units”</strong></td>
<td>Housing units of the Project that the occupancy is restricted to household incomes that do not exceed the Affordability Level.</td>
</tr>
<tr>
<td><strong>“Funding Agreement”</strong></td>
<td>Construction and Permanent Loan Agreement between the City and the Owner for the Project.</td>
</tr>
<tr>
<td><strong>“Lower Income Households”</strong></td>
<td>Has the meaning given in California Health &amp; Safety Code (&quot;HSC&quot;) section 50079.5.</td>
</tr>
<tr>
<td><strong>“Affordability Level”</strong></td>
<td>Household income for Lower Income Households.</td>
</tr>
<tr>
<td><strong>“Affordable Rent”</strong></td>
<td>Has the meaning given in HSC section 50053.</td>
</tr>
<tr>
<td><strong>“Affordability Requirements”</strong></td>
<td>All of the legal restrictions and obligations of Owner as set out in this Agreement which restricts the rental rate and use and occupancy of the Affordable Housing Units within the Project located on the Property including, without limitation, Section 5, which are in consideration of the Funding Agreement.</td>
</tr>
<tr>
<td><strong>“Affordable Housing Cost”</strong></td>
<td>Has the meaning given in HSC section 50025.5.</td>
</tr>
<tr>
<td><strong>“Monitoring Fee”</strong></td>
<td>A fee in the amount of $119,040 that the Owner pays to the City or its designated contractor as compensation for the City’s monitoring of Owner’s compliance with regulatory restrictions of the Agreement. This fee will be paid from the loan.</td>
</tr>
<tr>
<td><strong>“Initial Rent”</strong></td>
<td>Is the rent that can be charged for the affordable units in the initial year of occupancy based on rents allowed in the definitions in HSC section 50053 at that time.</td>
</tr>
<tr>
<td><strong>“Area Median Income”</strong></td>
<td>Has the meaning given in HSC section 50093.</td>
</tr>
<tr>
<td><strong>“Section”</strong></td>
<td>A section of this Agreement.</td>
</tr>
</tbody>
</table>

3. **Representations.** Owner enters into this Agreement for itself and its successors and assigns and agrees to comply with all of the provisions set out in this Agreement for the Term. Owner has been provided with the opportunity to make itself independently familiar with the covenants, conditions, and restrictions set out in this Agreement and to confer with legal counsel, and Owner accepts and agrees to fully comply with all of the provisions contained in this Agreement. Owner understands and agrees that City is not obligated to issue to Owner an entitlement or a building permit to proceed with development of the Property for the Project until this Agreement is recorded against the Property. Owner consents to the recordation of this Agreement against the Property by City.
4. **Development of Project.** Owner further understands and agrees that no entitlement or a building permit, as is necessary for development of the Project, is being approved under this Agreement. This Agreement shall not be construed as a “development agreement” within the meaning of California Government Code section 65864 et seq. Owner’s only recourse is to sell the Property to a third party, but the obligations under this Agreement to develop the Affordable Housing Units shall remain in effect.

5. **Affordability Requirements.** The Property shall have 127 housing units. Owner shall ensure that 64 of the 127 housing units are Affordable Housing Units. For the first year of a lease for an Affordable Housing Unit, Owner shall rent all of the Affordable Housing Units for the amounts set out in the table below, subject to an adjustment as provided in Section 6, below. The unit disbursement of the Affordable Housing Units within the Project and the unit mix set forth below are subject to change as approved by the parties pending the final design of the Project. Owner shall accept “tenant based vouchers”.

<table>
<thead>
<tr>
<th>Affordability Level (% of Area Median Income):</th>
<th>Funding Source of Units</th>
<th>Total Number of Affordable Housing Units:</th>
<th>Number of Affordable Housing Units, which correlates to Family Size:</th>
<th>Affordable Rent per Affordable Housing Unit per Month (2024)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower Income Households (not to exceed 80% of the Area Median Income)</td>
<td>City’s Housing Fund Innovation and Growth Fund</td>
<td>64</td>
<td>Studio</td>
<td>$1501.25</td>
</tr>
</tbody>
</table>

6. **Affordable Housing Cost.** The Initial Rent as set forth in Section 5 shall be adjusted by Unit Size, as defined above, and Family Size and Affordable Housing Cost, as of the date when each Affordable Housing Unit is ready for occupancy, which is the date of issuance of the final inspection or occupancy permit. The Affordability Level shall be included as a restriction on income in the individual lease with the renter. The rent shall be adjusted annually based on changes to the Area Median Income levels. If the household income increases after a lease agreement is signed, the Owner shall verify that all Affordable Units are occupied by households whose income levels are at or below the Affordability Level. Furthermore:

a. Owner shall only rent an Affordable Housing Unit to income eligible households (based on the gross income of the household), adjusted based on Family Size which correlates to the number of bedrooms in the unit, for an amount that does not exceed the maximum Affordable Rent, subject to an adjustment as set forth in this Section 6.

b. The Area Median Income is published annually by the California Department of Housing and Community Development (HCD) for the Sacramento Metropolitan Statistical Area (per HSC section 50053).

c. “Family Size” means a minimum of the following number of persons: studio unit - 1
person; 1 bedroom unit – 2 persons; 2 bedroom unit - 3 persons; and 3 bedroom unit – 4 persons (per HSC section 50052.5).

d. The Affordable Rent is based on the total monthly housing expense which includes a reasonable allowance for utilities and costs related to occupancy as published by HCD. The Affordable Rent for the household cannot exceed 30% of the Affordability Level (the percentage of the Median income), after adjustment for Family Size, divided by 12.

e. The Affordable Rent must also be adjusted by the Affordable Housing Cost for the actual household occupying the unit, which means that the monthly rent payment shall not exceed 30% of the gross income of the household (per HSC section 50053).

f. Owner shall be allowed to pass through utility charges paid by Owner, including water, sewer, and garbage collection charges, through to the tenants as an add-on to their contracted rent subject to adjustments permitted by applicable utility allowances.

g. Owner shall not make payment of rental insurance premiums a condition of occupancy. If Owner requires renters’ insurance, the policy premium must be deducted from the tenant’s rent. Owner shall not add the insurance premium to the tenant’s rent in either the initial or subsequent years.

7. Development Standards. In developing the Affordable Housing Units, Owner shall ensure that the Affordable Housing Units are constructed in accordance with all applicable federal and state laws, CA Building Code, City Code requirements, the Project entitlements and building permits issued by City, and the Scope of Development requirements under the Permanent Construction Loan Agreement between Owner and City. In the event of any conflict or discrepancy between the development standards imposed by City and the other referenced agencies, the most restrictive standards shall apply.

8. Term. The term of this Agreement is 30 years which is measured as 32 years from the date of execution of this Agreement to allow for a construction period or 30 years from date of receipt of final occupancy period whichever is later. The covenants contained herein shall regulate the Affordable Housing Units and burden that portion of the Property where the Affordable Housing Units are actually located during the Term. Owner agrees the rent of “in-place” tenants at the conclusion of the Term will continue to be governed by the applicable Affordability Requirements, so long as those tenants continue to live in the unit. If the Affordable Housing Unit is vacant after the Term, the Affordable Housing Unit may be rented out at market rate.

9. Rent Verification. Owner shall annually verify the income of all members of the household in each Affordable Housing Unit to determine if they still qualify at the specified Affordability Level and shall maintain books and records of their respective rents and incomes. **No later than January 31 of each year of the term of these restrictions, Owner shall submit an Annual Compliance Report** (attached as Exhibit B and incorporated in this Agreement by this reference) to the City or its contractor stating the address, unit number, and bedroom size of
each unit, together with the rent amount for each respective unit and the household size and income of each household member residing in the unit. This Annual Compliance Report should be signed as to certify the information’s authenticity.

10. Disgorgement of Excess Rents. If City determines that Owner has collected rent in excess of the applicable Affordable Rent, or as adjusted as described in Section 6, City shall notify Owner of such overpayment. Within 30 days after the date of the notice, Owner shall either pay the individual tenants named in each affected lease or deliver to City the total amount of the overpayment charged improperly for the applicable period of time. The parties intend that such proceeds shall be returned to the individual tenants named in each affected lease by paying them the amount of overpayment that was paid by such tenant above the applicable Affordable Rent. Owner shall be responsible to provide City with the current address of each renter entitled to such repayment, notwithstanding that the renter may have moved to a new address. If Owner and City are unable to find each renter that is owed a rebate, City may retain such proceeds for investment in or to benefit other affordable housing projects located within the City boundaries. Notwithstanding the forgoing, if the Owner disputes the City’s determination regarding the collection of excess in good faith, the Owner shall not be required to make any payments pursuant to this Section 9 until said dispute has been resolved in favor of the City.

11. Additional Covenants. Owner agrees to comply with the following additional covenants:

a. Owner shall assure full compliance with the Affordability Requirements.

b. Owner shall not transfer or encumber any portion of the Property or permit the conveyance, transfer, or encumbrance any portion of the Property prior to the development of the Affordable Housing Units unless such assignee, transferee or encumbrancer has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this Agreement.

c. Owner shall maintain the Affordable Housing Units and the building improvements, grounds, and equipment on the property where the units are located in good repair and condition and in compliance with all applicable provisions of the Sacramento City Code, the Project entitlements which imposed conditions for approval of the Project, and applicable housing quality standards imposed by the agencies listed above, and building code requirements.

d. Owner shall keep the Affordable Housing Units reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Affordable Housing Units in a timely manner, provided that such restoration or replacement is then economically feasible.

e. Owner shall comply with all applicable provisions of the Sacramento City Code, in particular Chapter 8.08, the Social Nuisance Code, with regard to management of the Affordable Housing Units to prevent tenants from engaging in illegal activities or causing any loud,
unnecessary or unusual noise which disturbs the peace and quiet, or which causes discomfort and annoyance, to persons residing in the surrounding neighborhood, and Chapter 8.120, the Rental Housing Inspections Code.

f. Owner shall employ a qualified and experienced property manager who resides on the property to conduct tenant background checks, enforce the lease restrictions, evict tenants that engage in unlawful or unpermitted activities, and other related matters with regard to the use and occupancy of the Affordable Housing Units as set out in this Agreement to the fullest extent allowed by law and/or the applicable requirements of the City.

g. Owner shall not cause, and shall not permit though his or her agents, discrimination of a Owner or renter on the basis of his or her race, color, ancestry, national origin, religion, sex, marital status, sexual orientation, gender identity, age, disability, medical condition, citizenship, primary language, or immigration status in the rental of the Affordable Housing Units in accordance with CA Civil Code section 51, and as it may be amended.

h. Owner shall not evict, refuse to rent to, or otherwise treat someone differently because of that person’s status as a victim of domestic violence, dating violence, sexual assault, or stalking, in compliance with the Violence Against Women Act. This protection is available regardless of the tenant’s sex, gender identity, or sexual orientation.

i. To the fullest extent allowed by law and/or the applicable requirements of the City, Owner shall make all of the Affordable Housing Units, the indoor common areas, and other portions of the building(s) smoke free.

12. Nature of Covenants. The provisions contained in this Agreement are covenants that subject and burden the Property, as covenants running with the land. It is intended and agreed that the covenants, conditions and restrictions contained in this Agreement shall be covenants running with the land and equitable servitudes on the land, and that they shall, without regard to technical classifications or designation, be binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, City and any other governmental entity acting within its authority against Owner, its successors and assigns and every successor in interest to all or any part of the Property where the Affordable Housing Units are located.

13. Revival of Covenants After Foreclosure. The Affordability Requirements shall be revived after foreclosure by a lender with a secured interest in the Property, or after transfer of a deed in lieu of foreclosure to said lender, according to the terms set out herein if, during the original term of this Agreement, Owner or a related party or affiliate of Owner regains an ownership interest in the Property. For purposes of this provision, a “related party” is anyone with whom Owner has or had family or business ties, provided that such interest would not be considered a “remote interest” in the usual and customary use of the term, and an “affiliate” is a person or entity that controls, or is controlled by, Owner or who holds at least a 10% interest in ownership in the legal entity comprising Owner.
14. Recordkeeping and Reporting. Upon request of City, Owner shall promptly provide any additional information or documentation requested in writing by the City to verify Owner’s compliance with the provisions of this Agreement. At the written request of the City, Owner shall, within a reasonable period of time following receipt of such request, furnish reports and give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operations, and condition of the Property, the Project, and the Affordable Housing Units. In no event shall Owner delay submittal of such information or documentation by more than thirty (30) days from the date of City’s written request.

15. Audit and Inspection. The Property, the Project, and all related plans, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition for inspection, examination and audit by City or its agents. The books and accounts of the ownership and operation of the Property shall be kept in accordance with generally accepted accounting principles and practices. Owner shall provide City with access to the Property and the Affordable Housing Units during reasonable business hours upon reasonable prior notice for the purpose of reviewing Owner’s compliance with this Agreement.

16. Indemnity for Owner’s Failure to Meet Legal Requirements. Owner shall defend, indemnify and hold City, its officers, directors, employees, and agents harmless from any and all liability arising from Owner’s failure to comply with: (a) the covenants, conditions and restrictions contained in this Agreement, and (b) all other laws, rules, regulations and restrictions related to the Affordable Housing Units. Without limitation, such indemnity shall include repayment to the appropriate parties of rents in excess of amounts authorized to be charged under this Agreement, and repayment to the City of the costs of funds and the value of lost opportunities resulting from any repayment required of City by any federal or state agency due to Owner’s failure to comply with the terms of this Agreement.

17. Changes Without Consent of Lenders, Tenants, Lessees or Others. City (and its successors and assigns) and Owner (and its successors and assigns) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, conditions or restrictions contained in this Agreement without the consent of any easement holder, licensee, lessee, Owner, tenant, lender, other mortgagee, trustee, beneficiary under a deed of trust, or any other person or entity having any interest less than a fee interest in the Property, provided, however, no such change shall increase the income or affordability restrictions set forth herein.

18. Default. Upon a breach of any of the provisions of this Agreement by Owner, City may give written notice of such breach to Owner by registered or certified mail. If such violation is not corrected to the satisfaction of City within sixty (60) days after the date of such notice or within such further time as the City may reasonably determine is necessary to correct the breach, and without further notice to Owner, City may declare a default under this Agreement. Effective on the date of such declaration of default, City may thereafter apply to any court for specific performance of this Agreement, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, for money damages, or for such other relief as may be appropriate, since the
injury to the City arising from a default under any of the terms in this Agreement would be irreparable, and the amount of damage would be difficult to ascertain.

19. Binding on Successors in Interest and Assigns. Subject to Section 25 below, this Agreement shall bind, and the benefits conveyed under this Agreement shall inure to, Owner and its successors in interest and assigns that hold an ownership interest in the Property for the Term. Subject to Section 25 below, this Agreement is to be recorded against the Property to provide constructive notice of the obligations and restrictions that apply to the use and occupancy of the Property and City’s right to enforce said provisions to all successors and assigns of Owner. Owner shall not be required to obtain the advanced written consent of City before any interest in the Property may be sold, transferred, encumbered or assigned as long as the successor in interest or assignee acknowledges that the obligations and restrictions set out in this Agreement shall remain enforceable by the City against the Property or that portion of the Property containing the Affordable Housing Units after they have been developed for the Term. For further clarification, the Agreement’s requirements are be enforceable against any owner of the Property who violates a covenant or restriction set forth in this Regulatory Agreement by any of the entities described in subdivisions (a) to (f), inclusive, of section 54222.5 of the California Government Code.

20. Contradictory Agreements. Owner warrants that it has not, and will not, execute any other agreement with provisions contradictory of, or in opposition to, the provisions of this Agreement, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth herein and supersede any other requirements of Owner that may be in conflict with the terms of this Agreement, with the exception of any agreement with the City, Agency, Authority, HCD, or HUD which has more restrictive covenants as set out in Section 11(a).

21. Attorneys’ Fees. If the services of any attorney are required by a party to secure the performance of this Agreement, including, without limitation, enforcement upon the breach or default of the other party, or if any judicial remedy, arbitration or mediation is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to recovery of reasonable attorneys’ fees (including the fees of the office of the City Attorney or its agent’s attorneys), costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor.

22. Severability. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions of this Agreement.

23. Election of Remedies.
   a. To the extent applicable, in the event of any breach or default of the covenants, conditions and restrictions contained in this Agreement, City shall reasonably endeavor
to remedy such breach by conference and conciliation. If, in the opinion of City, City and Owner are unable mutually to agree upon a suitable remedy or the circumstances so warrant, such breach may be enjoined or abated by appropriate proceedings brought by the City.

b. City may institute or prosecute in its own name, any suit City may consider advisable in order to compel performance of any obligation of Owner or any successor or assign to develop, maintain and operate the Property in conformity with the terms of this Agreement and to remedy any default of Owner under of this Agreement. City may also seek a decree requiring removal of any non-residential and ancillary improvements constructed on the Property which improvements are designed for uses not permitted under this Agreement.

c. The remedies of City under this Agreement are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by City of any one or more of its other remedies.

24. No Waiver or Modification. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach or default. No waiver of any provision in this Agreement will be effective unless it is in writing and executed by the authorized City official. This Agreement does not modify or supersede the terms and conditions in the Purchase and Sale Agreement between the parties for the Property.

25. Notices. Written notices and other written communications by and between the parties shall be addressed to the Owner at the Owner’s Address and to the City at the City Address or such other address as each respective party has designated by written notice to the other party.

26. Joint and Several Obligations. If more than one individual or entity comprises Owner, the obligations imposed on each individual or entity that comprises Owner under this Agreement shall be joint and several.

27. Enforcement of Agreement. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

28. Entire Agreement. This Agreement, which includes all attachments and all documents that are incorporated by reference, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by Owner and by City.
29. Authority. The person signing this Agreement for Owner represents and warrants that he or she is fully authorized to sign this Agreement on behalf of Owner and to bind Owner to the performance of its obligations hereunder.
The parties have executed this Agreement in Sacramento, California as of the Effective Date.

Owner:                        City:
By: ___________________________  By: ___________________________
Name:  Assistant City Manager
Title:  

Approved as to form:

By: ___________________________
   Senior Deputy City Attorney

Attest:

By: ___________________________
   City Clerk

[Notary Acknowledgment Required]
Exhibit A
Property Legal Description

The land described herein is situated in the State of California, County of Sacramento, City of Sacramento, described as follows:
Exhibit B – Annual Compliance Report

Annual Compliance Report
(due to City or its contractor on January 31st of each year of the term of these restrictions)

Date: ____________________

Project Name and Address (add more rows if needed):

<table>
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<tr>
<th>Unit No.</th>
<th>Head of Household Last Name</th>
<th>Unit Size</th>
<th>Gross Annual Household Income</th>
<th>Number in Household</th>
<th>Tenant Rent</th>
<th>Utility Allowance</th>
<th>Gross Rent</th>
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The tenant records listed below shall be submitted with the Annual Compliance Report for each occupied unit. Items 1 through 3 apply ONLY to new residents or current residents with changes to household composition from the previous year. Item 4 applies to ALL residents. Vacant units: indicate “Vacant” in the Head of Household Last Name column for the respective vacant unit.

1. Household Composition Summary Certification form
2. Household source income certification and verification documents; examples include and are not limited to:
   - Verification of Employment form
   - Paystubs
   - Self-Employment Certification
   - Tax Returns
   - Verification of Asset/Investments form and Bank Statements
   - Student Status
3. Income Calculation form
4. Lease Agreement and Current Rent Notices

The Owner, in accordance with the Regulatory Agreement dated ____________, does hereby certify to the City of Sacramento that during the preceding year, the units identified on the above Annual Compliance Report were occupied in accordance with the Regulatory Agreement and does hereby further certify that the representations set forth herein are true and correct to the best of the undersigned's knowledge.

Signed: ________________________________________ Date: ____________________

Print Name: ____________________________________ Title and Company: ____________________

Email: _______________________________________ Phone: ________________________