

Exhibit 3B: CDBG Note

**PROMISSORY NOTE**  
**FOR CAPITOL PARK HOTEL**  
**ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

**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:

DEFINED TERM:	DEFINITION:
"Effective Date"	[ , 2020]
"Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Borrower"	Mercy Housing California 90, L.P.
"Borrower Legal Status"	a California limited partnership
"Loan Agreement"	The Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan ("Loan") evidenced by this Note.
"Principal Amount"	One Million Seven Hundred Thousand Dollars and No Cents (\$1,700,000.00)
"Interest Rate"	The interest rate is 0% per year.
<b>PAYMENT SCHEDULE.</b> Repayment of this Note shall be made as follows:	
"Maturity Date"	The first day of the 664th calendar month following the Effective Date: [DATE].
"Payment Amount(s)"	<p>Annual Loan payments will be made on a Residual Receipts basis (as defined below) beginning on August 1st following conversion to permanent financing and the initial annual audited financial statement, as defined below, until the Maturity Date. Annual Loan payments shall be applied first to outstanding interest accrued and unpaid and then to Principal Amount.</p> <p>"Residual Receipts" means Net Operating Income (or "NOI") (as defined below) less each of the following payments made in the order of priority set forth below during each installment period, as confirmed by Financial Statements (as defined in Section 3.10 herein) from the preceding year. In no event shall any item be paid during any installment period unless all items prioritized above it have received its full payment during such installment period. Payment priority shall be as follows, with the highest priority starting with item one (1) and descending downward to item four (4):</p> <ol style="list-style-type: none"><li>1) Partnership management fee up to \$20,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li><li>2) Asset management fees up to \$5,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li><li>3) After Sections one (1) and two (2) of Residual Receipts are paid, available cash flow from NOI will go into a transition reserve account until such account has a balance of</li></ol>

the higher of \$1,245,000 or the final amount required by the California Department of Housing Community Development (HCD) No Place Like Home (NPLH) program regulatory agreement, then available cash flow will go into a separate services and operating reserves account to cover supportive and/or resident services or operating deficits of the Project. Any remaining available cash flow from NOI will be paid under Section four (4) of Residual Receipts.

- 4) After Sections one (1) through three (3) of Residual Receipts are paid, 100% of the available cash flow from NOI proportionately divided in the following manner:

a) 50% to Borrower;

b) 21.08% to HCD to repay the NPLH loan until it has been fully repaid (with interest);

c) 21.96% to the Sacramento Housing and Redevelopment Agency (SHRA) to repay the HOME loan until it has been fully repaid (with interest); and then to repay the CDBG loan until it has been fully repaid (with interest); and then to repay the HOPWA loan until it has been fully repaid (with interest); and then to repay the HTF loan until it has been fully repaid (with interest); and then to repay the MIHF loan until it has been fully repaid (with interest); and

d) 6.96% to the Housing Authority of the City of Sacramento (HACS) to repay the HASAF loan until it has been fully repaid (with interest).

The Net Operating Income is defined as periodic "Revenue" less "Operating Expenses." "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" shall mean actual costs, fees and expenses as evidenced by invoices attributable to the operation, recordkeeping, maintenance, taxes and management of the Project, including property management fees; taxes and assessments; payroll, benefits and payroll taxes for Project employees; insurance; security; painting, cleaning, repairs, and alterations; landscaping; sewer charges; utility charges; advertising, promotion and publicity; cable television, satellite, cable; elevator 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 and elevator monitoring; fees and expenses of accountants, attorneys, consultants and other professionals; and monitoring fees to: a) HCD with respect to the NPLH loan, b) SHRA with the respect to the HOME, CDBG, HOPWA, HTF and MIHF loans, and c) HACS with the respect to the HASAF loan. The definition will include deposits into operating and/or replacement reserves maintained by the Borrower.

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. 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 801 12<sup>th</sup> 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.

3. 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.

4. This Note is secured by a Deed of Trust and Assignment of Rents against the real property described in the Loan Agreement ("Property"), recorded in the office of the County Recorder of Sacramento County ("Trust Deed"). 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 as permitted under Section 6.9 of the Loan Agreement. The Trust Deed further provides that if Borrower does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Lender's written notice to Borrower of such failure, Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable.

5. Lender and Borrower shall comply with and fulfill the Special Terms.

6. Upon occurrence of any one or more of the following, 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 date of the advancement of the Loan's proceeds, subject to applicable cure periods, if:

a. Borrower defaults in the payment of any principal or interest when due.

b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, either (i) failed to disclose, or (ii) misrepresented any fact that would have prevented Borrower from being eligible for the Loan.

c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making or continuation of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.

d. Borrower defaults or breaches any of the terms of Loan Agreement, the Trust Deed, the Regulatory Agreement or this Note.

e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.

f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance or other means, without prior written consent of Lender.

g. Any of the following occur:

1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, Borrower's inability to pay debts as they mature or making a general assignment of or entering into any restructure payment arrangement with creditors.

2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.

3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.

7. 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 default specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.

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

9. 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.

10. 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 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.

11. 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:**

**Mercy Housing California 90, L.P.**

**By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner**

**By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager**

**By: \_\_\_\_\_  
Stephan Daues, Vice President**

Exhibit 3C: HOPWA Note

**PROMISSORY NOTE**  
**FOR CAPITOL PARK HOTEL**  
**ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

**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:

DEFINED TERM:	DEFINITION:
"Effective Date"	2020
"Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Borrower"	Mercy Housing California 90, L.P.
"Borrower Legal Status"	a California limited partnership
"Loan Agreement"	The Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan ("Loan") evidenced by this Note.
"Principal Amount"	One Million One Hundred Thousand Dollars and No Cents (\$1,100,000.00)
"Interest Rate"	The interest rate is 0% per year.
<b>PAYMENT SCHEDULE. Repayment of this Note shall be made as follows:</b>	
"Maturity Date"	The first day of the 684th calendar month following the Effective Date: [DATE].
"Payment Amount(s)"	<p>Annual Loan payments will be made on a Residual Receipts basis (as defined below) beginning on August 1st following conversion to permanent financing and the initial annual audited financial statement, as defined below, until the Maturity Date. Annual Loan payments shall be applied first to outstanding interest accrued and unpaid and then to Principal Amount.</p> <p>"Residual Receipts" means Net Operating Income (or "NOI") (as defined below) less each of the following payments made in the order of priority set forth below during each installment period, as confirmed by Financial Statements (as defined in Section 3.10 herein) from the preceding year. In no event shall any item be paid during any installment period unless all items prioritized above it have received its full payment during such installment period. Payment priority shall be as follows, with the highest priority starting with item one (1) and descending downward to item four (4):</p> <ol style="list-style-type: none"><li>1) Partnership management fee up to \$20,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li><li>2) Asset management fees up to \$5,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li></ol>

- 3) After Sections one (1) and two (2) of Residual Receipts are paid, available cash flow from NOI will go into a transition reserve account until such account has a balance of the higher of \$1,245,000 or the final amount required by the California Department of Housing Community Development (HCD) No Place Like Home (NPLH) program regulatory agreement, then available cash flow will go into a separate services and operating reserves account to cover supportive and/or resident services or operating deficits of the Project. Any remaining available cash flow from NOI will be paid under Section four (4) of Residual Receipts.
- 4) After Sections one (1) through three (3) of Residual Receipts are paid, 100% of the available cash flow from NOI proportionately divided in the following manner:
  - a) 50% to Borrower;
  - b) 21.08% to HCD to repay the NPLH loan until it has been fully repaid (with interest);
  - c) 21.96% to the Sacramento Housing and Redevelopment Agency (SHRA) to repay the HOME loan until it has been fully repaid (with interest); and then to repay the CDBG loan until it has been fully repaid (with interest); and then to repay the HOPWA loan until it has been fully repaid (with interest); and then to repay the HTF loan until it has been fully repaid (with interest); and then to repay the MIHF loan until it has been fully repaid (with interest); and
  - d) 6.96% to the Housing Authority of the City of Sacramento (HACS) to repay the HASAF loan until it has been fully repaid (with interest).

The Net Operating Income is defined as periodic "Revenue" less "Operating Expenses." "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" shall mean actual costs, fees and expenses as evidenced by invoices attributable to the operation, recordkeeping, maintenance, taxes and management of the Project, including property management fees; taxes and assessments; payroll, benefits and payroll taxes for Project employees; insurance; security; painting, cleaning, repairs, and alterations; landscaping; sewer charges; utility charges; advertising, promotion and publicity; cable television, satellite, cable; elevator 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 and elevator monitoring; fees and expenses of accountants, attorneys, consultants and other professionals; and monitoring fees to: a) HCD with respect to the NPLH loan, b) SHRA with respect to the HOME, CDBG, HOPWA, HTF and MIHF loans, and c) HACS with the respect to the HASAF loan. The definition will include deposits into operating and/or replacement reserves maintained by the Borrower.

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. 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 801 12<sup>th</sup> 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.
3. 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.
4. This Note is secured by a Deed of Trust and Assignment of Rents against the real property described in the Loan Agreement ("Property"), recorded in the office of the County Recorder of Sacramento County ("Trust Deed"). 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 as permitted under Section 6.9 of the Loan Agreement. The Trust Deed further provides that if Borrower does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Lender's written notice to Borrower of such failure, Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable.
5. Lender and Borrower shall comply with and fulfill the Special Terms.
6. Upon occurrence of any one or more of the following, 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 date of the advancement of the Loan's proceeds, subject to applicable cure periods, if:
  - a. Borrower defaults in the payment of any principal or interest when due.
  - b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, either (i) failed to disclose, or (ii) misrepresented any fact that would have prevented Borrower from being eligible for the Loan.
  - c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making or continuation of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.
  - d. Borrower defaults or breaches any of the terms of Loan Agreement, the Trust Deed, the Regulatory Agreement or this Note.
  - e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.
  - f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance or other means, without prior written consent of Lender.
  - g. Any of the following occur:



- 1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, Borrower's inability to pay debts as they mature or making a general assignment of or entering into any restructure payment arrangement with creditors.
- 2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.
- 3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.
7. 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 default specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.
8. Borrower may prepay this Note in full or in part at any time, without any prepayment penalty being charged by Lender.
9. 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.
10. 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 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.
11. 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:**

Mercy Housing California 90, L.P.

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Stephan Daues, Vice President

Exhibit 3D: HTF Note

**PROMISSORY NOTE**  
**FOR CAPITOL PARK HOTEL**  
**ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

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

DEFINED TERM:	DEFINITION:
"Effective Date"	[REDACTED], 2020]
"Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Borrower"	Mercy Housing California 90, L.P.
"Borrower Legal Status"	a California limited partnership
"Loan Agreement"	The Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan ("Loan") evidenced by this Note.
"Principal Amount"	One Million Eight Hundred Thousand Dollars and No Cents (\$1,800,000.00)
"Interest Rate"	The interest rate is 0% per year.
<b>PAYMENT SCHEDULE.</b> Repayment of this Note shall be made as follows:	
"Maturity Date"	The first day of the 684th calendar month following the Effective Date: [DATE].
"Payment Amount(s)"	<p>Annual Loan payments will be made on a Residual Receipts basis (as defined below) beginning on August 1st following conversion to permanent financing and the initial annual audited financial statement, as defined below, until the Maturity Date. Annual Loan payments shall be applied first to outstanding interest accrued and unpaid and then to Principal Amount.</p> <p>"Residual Receipts" means Net Operating Income (or "NOI") (as defined below) less each of the following payments made in the order of priority set forth below during each installment period, as confirmed by Financial Statements (as defined in Section 3.10 herein) from the preceding year. In no event shall any item be paid during any installment period unless all items prioritized above it have received its full payment during such installment period. Payment priority shall be as follows, with the highest priority starting with item one (1) and descending downward to item four (4):</p> <ol style="list-style-type: none"><li>1) Partnership management fee up to \$20,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li><li>2) Asset management fees up to \$5,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li></ol>

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  - b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, either (i) failed to disclose, or (ii) misrepresented any fact that would have prevented Borrower from being eligible for the Loan.
  - c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making or continuation of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.
  - d. Borrower defaults or breaches any of the terms of Loan Agreement, the Trust Deed, the Regulatory Agreement or this Note.
  - e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.
  - f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance or other means, without prior written consent of Lender.
  - g. Any of the following occur:
    - 1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, Borrower's inability to pay debts as they mature or making a general assignment of or entering into any restructure payment arrangement with creditors.

- 2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.
- 3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.
7. 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 default specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.
8. Borrower may prepay this Note in full or in part at any time, without any prepayment penalty being charged by Lender.
9. 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.
10. 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 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.
11. 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:**

**Mercy Housing California 90, L.P.**

**By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner**

**By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager**

**By: Stephan Daues, Vice President**

Exhibit 3E: MIHF Note

**PROMISSORY NOTE**  
**FOR CAPITOL PARK HOTEL**  
**ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

**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:

DEFINED TERM:	DEFINITION:
"Effective Date"	[ , 2020]
"Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Borrower"	Mercy Housing California 90, L.P.
"Borrower Legal Status"	a California limited partnership
"Loan Agreement"	The Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan ("Loan") evidenced by this Note.
"Principal Amount"	Two Million Three Hundred Thousand Dollars and No Cents (\$2,300,000.00)
"Interest Rate"	The interest rate is 0% per year.
<b>PAYMENT SCHEDULE.</b> Repayment of this Note shall be made as follows:	
"Maturity Date"	The first day of the 684th calendar month following the Effective Date: [DATE].
"Payment Amount(s)"	<p>Annual Loan payments will be made on a Residual Receipts basis (as defined below) beginning on August 1st following conversion to permanent financing and the initial annual audited financial statement, as defined below, until the Maturity Date. Annual Loan payments shall be applied first to outstanding interest accrued and unpaid and then to Principal Amount.</p> <p>"Residual Receipts" means Net Operating Income (or "NOI") (as defined below) less each of the following payments made in the order of priority set forth below during each installment period, as confirmed by Financial Statements (as defined in Section 3.10 herein) from the preceding year. In no event shall any item be paid during any installment period unless all items prioritized above it have received its full payment during such installment period. Payment priority shall be as follows, with the highest priority starting with item one (1) and descending downward to item four (4):</p> <ol style="list-style-type: none"><li>1) Partnership management fee up to \$20,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li><li>2) Asset management fees up to \$5,000 annually as of the Loan's Effective Date escalating at 3% annually, which payment shall accrue to the extent unpaid in any given year.</li><li>3) After Sections one (1) and two (2) of Residual Receipts are paid, available cash flow from NOI will go into a transition reserve account until such account has a balance of</li></ol>



the higher of \$1,245,000 or the final amount required by the California Department of Housing Community Development (HCD) No Place Like Home (NPLH) program regulatory agreement, then available cash flow will go into a separate services and operating reserves account to cover supportive and/or resident services or operating deficits of the Project. Any remaining available cash flow from NOI will be paid under Section four (4) of Residual Receipts.

4) After Sections one (1) through three (3) of Residual Receipts are paid, 100% of the available cash flow from NOI proportionately divided in the following manner:

a) 50% to Borrower;

b) 21.08% to HCD to repay the NPLH loan until it has been fully repaid (with interest);

c) 21.96% to the Sacramento Housing and Redevelopment Agency (SHRA) to repay the HOME loan until it has been fully repaid (with interest); and then to repay the CDBG loan until it has been fully repaid (with interest); and then to repay the HOPWA loan until it has been fully repaid (with interest); and then to repay the HTF loan until it has been fully repaid (with interest); and then to repay the MIHF loan until it has been fully repaid (with interest); and

d) 6.96% to the Housing Authority of the City of Sacramento (HACS) to repay the HASAF loan until it has been fully repaid (with interest).

The Net Operating Income is defined as periodic "Revenue" less "Operating Expenses." "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" shall mean actual costs, fees and expenses as evidenced by invoices attributable to the operation, recordkeeping, maintenance, taxes and management of the Project, including property management fees; taxes and assessments; payroll, benefits and alterations; landscaping; sewer charges; utility charges; advertising, promotion and publicity; cable television, satellite, cable; elevator 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 and elevator monitoring; fees and expenses of accountants, attorneys, consultants and other professionals; and monitoring fees to: a) HCD with respect to the NPLH loan, b) SHRA with respect to the HOME, CDBG, HOPWA, HTF and MIHF loans, and c) HACS with the respect to the HASAF loan. The definition will include deposits into operating and/or replacement reserves maintained by the Borrower.

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. 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 801 12<sup>th</sup> 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.

3. 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.

4. This Note is secured by a Deed of Trust and Assignment of Rents against the real property described in the Loan Agreement ("Property"), recorded in the office of the County Recorder of Sacramento County ("Trust Deed"). 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 as permitted under Section 6.9 of the Loan Agreement. The Trust Deed further provides that if Borrower does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Lender's written notice to Borrower of such failure, Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable.

5. Lender and Borrower shall comply with and fulfill the Special Terms.

6. Upon occurrence of any one or more of the following, 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 date of the advancement of the Loan's proceeds, subject to applicable cure periods, if:

a. Borrower defaults in the payment of any principal or interest when due.

b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, either (i) failed to disclose, or (ii) misrepresented any fact that would have prevented Borrower from being eligible for the Loan.

c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making or continuation of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.

d. Borrower defaults or breaches any of the terms of Loan Agreement, the Trust Deed, the Regulatory Agreement or this Note.

e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.

f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance or other means, without prior written consent of Lender.

g. Any of the following occur:

1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, Borrower's inability to pay debts as they mature or making a general assignment of or entering into any restructure payment arrangement with creditors.

- 2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.
- 3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.
7. 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 default specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.
8. Borrower may prepay this Note in full or in part at any time, without any prepayment penalty being charged by Lender.
9. 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.
10. 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 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.
11. 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:**

Mercy Housing California 90, L.P.

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Stephan Daues, Vice President

**Exhibit 4A: HOME Deed**

**NO FEE DOCUMENT:**

Entitled to free recording  
per Government Code §§6103 and 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street - 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**DEED OF TRUST AND ASSIGNMENT OF RENTS**  
**Capitol Park Hotel**

For purposes of this Deed of Trust the following capitalized terms shall have the meanings ascribed in the space adjacent to them:

TERM	DEFINITION
"Effective Date"	2020
"Trustor" and "Borrower"	Mercy Housing California 90, L.P., a California limited partnership
"Borrower Address"	2512 River Plaza Drive, Suite 200, Sacramento, CA 95833
"Trustee"	Fidelity National Title Company
"Beneficiary" and "Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Lender Address"	801 12th Street, Sacramento, California 95814
"Property"	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.
	Address 1121 9th Street, Sacramento, California
	Assessor's Parcel Number 006-0102-016-0000, 006-0102-018-0000
"Legal Description"	The Legal Description of the Property which is more particularly described in the attached <b>Exhibit 1 Legal Description</b> , which is incorporated in and an integral part of this Deed of Trust
"Loan"	Which is Lender's loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.
"Loan Agreement"	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.
	Which is dated as of even date herewith
"Additional Notices"	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:

	Wincopin Circle LLLP c/o Enterprise Community Asset Management, Inc. 70 Corporate Center 11000 Broken Land Parkway, Suite 700 Columbia, MD 21044 Attention: General Counsel Telephone: (410) 964-0552 Facsimile: (410) 772-2630 (the "Tax Credit Limited Partner")	
	With a copy to: Gallagher Evelius & Jones LLP 218 N. Charles Street, Suite 400 Baltimore, Maryland 21201 Attention: Kenneth S. Gross, Esq. Telephone: (410) 727-7702 Facsimile: (410) 468 2786	
"Note"	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 <del>aggregate</del> amount disbursed to Borrower by Lender, with interest.	
	Which has a principal sum of	Three Million Two Hundred Thousand Dollars and No Cents (\$3,200,000.00)

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 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, water closets, 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, or 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 a schedule 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, if any, 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 and leasehold payments or ground rents, if any 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. Hazard Insurance. Borrower shall keep the improvements now existing or later erected on the Property insured against loss of fire or hazards under a policy approved by Lender consistent with the insurance requirements of the Loan Agreement. In addition, Borrower shall insure against loss of all furniture, equipment and other personal property owned by Borrower related to Borrower's operation of the Property. Lender shall have the right to hold the policies and policy renewals, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, as and to the extent provided in the Loan Agreement.

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. 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 prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.

5. 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.

6. 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 6, 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 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.

7. Inspection. Lender, 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 15. 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.

13. 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.

14. 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 provision shall be valid and enforceable as to any other person or circumstance.

15. Acceleration on 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 or transferred or refinanced by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the refinancing, 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 successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust 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.

**16. Acceleration on Breach: Remedies.** Except as provided in Section 15, 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) the Regulatory Agreement, 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. The Borrower's limited partner shall have the right, but not the obligation, to cure any such default during the applicable cure period. Lender agrees that a cure of any default by such limited partner shall be deemed a cure by Borrower, and shall be accepted or rejected on the same basis as if made or tendered by Borrower. 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.

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.

**17. 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.

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.

18. Prior Lienholder. The provisions of this Deed of Trust shall operate subject to the claims of prior lienholders to the extent of such claims.

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing the Loan, Borrower, and Borrower's 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; provided, that nothing in this condition and no action so taken shall operate to impair any obligation of Borrower under the Regulatory Agreement.

20. Reconveyance. Upon payment 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.

21. 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.

22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.

23. Statement of Obligation. Lender may collect a reasonable fee for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California, as it may be amended from time to time.

24. 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.

25. Extended Use Agreement. In order to receive an allocation of federal low income housing tax credits, Borrower will be required to record in the real property records of the County in which the property is located, an "extended low-income housing commitment" (as defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended ("Code")) ("Extended Use Agreement"). Lender acknowledges and agrees that, in the event of a foreclosure of its interest under this Deed of Trust or delivery by Borrower of a deed in lieu thereof (collectively, a "Foreclosure"), Lender expressly agrees to undertake, with respect to low-income housing tenants, the requirements of Section 42(h)(6)(E)(ii) of the Code, as amended from time to time.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

**BORROWER (Trustor):**

**MERCY HOUSING CALIFORNIA 90, L.P.**

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Stephan Daues, Vice President

**Exhibit 4B: CDBG Deed**

**NO FEE DOCUMENT:**

Entitled to free recording

per Government Code §§6103 and 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street - 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**DEED OF TRUST AND ASSIGNMENT OF RENTS**  
**Capitol Park Hotel**

For purposes of this Deed of Trust the following capitalized terms shall have the meanings ascribed in the space adjacent to them:

TERM	DEFINITION
"Effective Date"	_____, 2020
"Trustor" and "Borrower"	Mercy Housing California 90, L.P., a California limited partnership
"Borrower Address"	2512 River Plaza Drive, Suite 200, Sacramento, CA 95833
"Trustee"	Fidelity National Title Company
"Beneficiary" and "Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Lender Address"	801 12th Street, Sacramento, California 95814
"Property"	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.
	Address 1121 9th Street, Sacramento, California
	Assessor's Parcel Number 006-0102-016-0000, 006-0102-018-0000
"Legal Description"	The Legal Description of the Property which is more particularly described in the attached <u>Exhibit 1 Legal Description</u> , which is incorporated in and an integral part of this Deed of Trust
"Loan"	Which is Lender's loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.
"Loan Agreement"	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.
	Which is dated as of even date herewith
"Additional Notices"	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:

	Wincopin Circle LLLP c/o Enterprise Community Asset Management, Inc. 70 Corporate Center 11000 Broken Land Parkway, Suite 700 Columbia, MD 21044 Attention: General Counsel Telephone: (410) 964-0552 Facsimile: (410) 772-2630 (the "Tax Credit Limited Partner")
	With a copy to: Gallagher Evelius & Jones LLP 218 N. Charles Street, Suite 400 Baltimore, Maryland 21201 Attention: Kenneth S. Gross, Esq. Telephone: (410) 727-7702 Facsimile: (410) 468 2786
"Note"	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. Which has a principal sum of
	One Million Seven Hundred Thousand Dollars and No Cents (\$1,700,000.00)

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 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, water closets, 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, or 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 a schedule 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, if any, 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 and leasehold payments or ground rents, if any 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. Hazard Insurance. Borrower shall keep the improvements now existing or later erected on the Property insured against loss of fire or hazards under a policy approved by Lender consistent with the insurance requirements of the Loan Agreement. In addition, Borrower shall insure against loss of all furniture, equipment and other personal property owned by Borrower related to Borrower's operation of the Property. Lender shall have the right to hold the policies and policy renewals, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, as and to the extent provided in the Loan Agreement.

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. 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 prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.

5. 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.

6. 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 6, 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 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.

7. Inspection. Lender, 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 15. 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.

13. 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.

14. 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 provision shall be valid and enforceable as to any other person or circumstance.

15. Acceleration on 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 or transferred or refinanced by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the refinancing, 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 successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust 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.

16. Acceleration on Breach; Remedies. Except as provided in Section 15, 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) the Regulatory Agreement, 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. The Borrower's limited partner shall have the right, but not the obligation, to cure any such default during the applicable cure period. Lender agrees that a cure of any default by such limited partner shall be deemed a cure by Borrower, and shall be accepted or rejected on the same basis as if made or tendered by Borrower. 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.

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.

17. 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.

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.

18. Prior Lienholder. The provisions of this Deed of Trust shall operate subject to the claims of prior lienholders to the extent of such claims.

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing the Loan, Borrower, and Borrower's 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; provided, that nothing in this condition and no action so taken shall operate to impair any obligation of Borrower under the Regulatory Agreement.

20. Reconveyance. Upon payment 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.

21. 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.

22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.

23. Statement of Obligation. Lender may collect a reasonable fee for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California, as it may be amended from time to time.

24. 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.

25. Extended Use Agreement. In order to receive an allocation of federal low income housing tax credits, Borrower will be required to record in the real property records of the County in which the property is located, an "extended low-income housing commitment" (as defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended ("Code")) ("Extended Use Agreement"). Lender acknowledges and agrees that, in the event of a foreclosure of its interest under this Deed of Trust or delivery by Borrower of a deed in lieu thereof (collectively, a "Foreclosure"), Lender expressly agrees to undertake, with respect to low-income housing tenants, the requirements of Section 42(h)(6)(E)(ii) of the Code, as amended from time to time.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

**BORROWER (Trustor):**

**MERCY HOUSING CALIFORNIA 90, L.P.**

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Stephan Daues, Vice President

Exhibit 4C: HOPWA Deed

**NO FEE DOCUMENT:**

Entitled to free recording  
per Government Code §§6103 and 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street - 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**DEED OF TRUST AND ASSIGNMENT OF RENTS**  
**Capitol Park Hotel**

For purposes of this Deed of Trust the following capitalized terms shall have the meanings ascribed in the space adjacent to them:

TERM	DEFINITION
"Effective Date"	[ ], 2020]
"Trustor" and "Borrower"	Mercy Housing California 90, L.P., a California limited partnership
"Borrower Address"	2512 River Plaza Drive, Suite 200, Sacramento, CA 95833
"Trustee"	Fidelity National Title Company
"Beneficiary" and "Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Lender Address"	801 12th Street, Sacramento, California 95814
"Property"	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.
	Address 1121 9th Street, Sacramento, California
	Assessor's Parcel Number 006-0102-016-0000, 006-0102-018-0000
"Legal Description"	The Legal Description of the Property which is more particularly described in the attached <u>Exhibit 1 Legal Description</u> , which is incorporated in and an integral part of this Deed of Trust
"Loan"	Which is Lender's loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.
"Loan Agreement"	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.
	Which is dated as of even date herewith
"Additional Notices"	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:

	Wincopin Circle LLLP c/o Enterprise Community Asset Management, Inc. 70 Corporate Center 11000 Broken Land Parkway, Suite 700 Columbia, MD 21044 Attention: General Counsel Telephone: (410) 964-0552 Facsimile: (410) 772-2630 (the "Tax Credit Limited Partner")	
	With a copy to: Gallagher Evelius & Jones LLP 218 N. Charles Street, Suite 400 Baltimore, Maryland 21201 Attention: Kenneth S. Gross, Esq. Telephone: (410) 727-7702 Facsimile: (410) 468 2786	
"Note"	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.	
	Which has a principal sum of	One Million One Hundred Thousand Dollars and No Cents (\$1,100,000.00)

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 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, water closets, 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, or 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 a schedule 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, if any, 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 and leasehold payments or ground rents, if any 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. Hazard Insurance. Borrower shall keep the improvements now existing or later erected on the Property insured against loss of fire or hazards under a policy approved by Lender consistent with the insurance requirements of the Loan Agreement. In addition, Borrower shall insure against loss of all furniture, equipment and other personal property owned by Borrower related to Borrower's operation of the Property. Lender shall have the right to hold the policies and policy renewals, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, as and to the extent provided in the Loan Agreement.

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. 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 prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.

5. 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.

6. 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 6, 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 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.

7. Inspection. Lender, 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 15. 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.

13. 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.

14. 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 provision shall be valid and enforceable as to any other person or circumstance.

15. Acceleration on 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 or transferred or refinanced by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the refinancing, 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 successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust 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.

**16. Acceleration on Breach; Remedies.** Except as provided in Section 15, 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) the Regulatory Agreement, 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. The Borrower's limited partner shall have the right, but not the obligation, to cure any such default during the applicable cure period. Lender agrees that a cure of any default by such limited partner shall be deemed a cure by Borrower, and shall be accepted or rejected on the same basis as if made or tendered by Borrower. 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.

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.

**17. 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.

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.

18. Prior Lienholder. The provisions of this Deed of Trust shall operate subject to the claims of prior lienholders to the extent of such claims.

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing the Loan, Borrower, and Borrower's 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; provided, that nothing in this condition and no action so taken shall operate to impair any obligation of Borrower under the Regulatory Agreement.

20. Reconveyance. Upon payment 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.

21. 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.

22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.

23. Statement of Obligation. Lender may collect a reasonable fee for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California, as it may be amended from time to time.

24. 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.

25. Extended Use Agreement. In order to receive an allocation of federal low income housing tax credits, Borrower will be required to record in the real property records of the County in which the property is located, an "extended low-income housing commitment" (as defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended ("Code")) ("Extended Use Agreement"). Lender acknowledges and agrees that, in the event of a foreclosure of its interest under this Deed of Trust or delivery by Borrower of a deed in lieu thereof (collectively, a "Foreclosure"), Lender expressly agrees to undertake, with respect to low-income housing tenants, the requirements of Section 42(h)(6)(B)(ii) of the Code, as amended from time to time.



IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

BORROWER (Trustor):

**MERCY HOUSING CALIFORNIA 90, L.P.**

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Stephan Daues, Vice President

**Exhibit 4D: HTF Deed**

**NO FEE DOCUMENT:**

Entitled to free recording

per Government Code §§6103 and 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street - 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**DEED OF TRUST AND ASSIGNMENT OF RENTS**  
**Capitol Park Hotel**

For purposes of this Deed of Trust the following capitalized terms shall have the meanings ascribed in the space adjacent to them:

TERM	DEFINITION
"Effective Date"	[ , 2020]
"Trustor" and "Borrower"	Mercy Housing California 90, L.P., a California limited partnership
"Borrower Address"	2512 River Plaza Drive, Suite 200, Sacramento, CA 95833
"Trustee"	Fidelity National Title Company
"Beneficiary" and "Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Lender Address"	801 12th Street, Sacramento, California 95814
"Property"	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.
	Address 1121 9th Street, Sacramento, California
	Assessor's Parcel Number 006-0102-016-0000, 006-0102-018-0000
"Legal Description"	The Legal Description of the Property which is more particularly described in the attached <u>Exhibit 1 Legal Description</u> , which is incorporated in and an integral part of this Deed of Trust
"Loan"	Which is Lender's loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.
"Loan Agreement"	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.
	Which is dated as of even date herewith
"Additional Notices"	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:

	Wincopin Circle LLLP c/o Enterprise Community Asset Management, Inc. 70 Corporate Center 11000 Broken Land Parkway, Suite 700 Columbia, MD 21044 Attention: General Counsel Telephone: (410) 964-0552 Facsimile: (410) 772-2630 (the "Tax Credit Limited Partner")	
	With a copy to: Gallagher Evelius & Jones LLP 218 N. Charles Street, Suite 400 Baltimore, Maryland 21201 Attention: Kenneth S. Gross, Esq. Telephone: (410) 727-7702 Facsimile: (410) 468 2786	
"Note"	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.	
	Which has a principal sum of	One Million Eight Hundred Thousand Dollars and No Cents (\$1,800,000.00)

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 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, water closets, 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, or 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 a schedule 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, if any, 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.

Capitol Park Hotel Acquisition, Construction and Permanent Loan  
Deed of Trust and Assignment of Rents - HTF

2. **Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property and leasehold payments or ground rents, if any 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. **Hazard Insurance.** Borrower shall keep the improvements now existing or later erected on the Property insured against loss of fire or hazards under a policy approved by Lender consistent with the insurance requirements of the Loan Agreement. In addition, Borrower shall insure against loss of all furniture, equipment and other personal property owned by Borrower related to Borrower's operation of the Property. Lender shall have the right to hold the policies and policy renewals, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, as and to the extent provided in the Loan Agreement.

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. 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 prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. **Liability Insurance.** In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.

5. **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.

6. **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 6, 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 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.

7. **Inspection.** Lender, 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 15. 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.

13. 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.

14. 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 provision shall be valid and enforceable as to any other person or circumstance.

15. Acceleration on 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 or transferred or refinanced by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the refinancing, 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 successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust 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.

16. Acceleration on Breach: Remedies. Except as provided in Section 15, 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) the Regulatory Agreement, 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. The Borrower's limited partner shall have the right, but not the obligation, to cure any such default during the applicable cure period. Lender agrees that a cure of any default by such limited partner shall be deemed a cure by Borrower, and shall be accepted or rejected on the same basis as if made or tendered by Borrower. 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.

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.

17. 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.

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.

18. Prior Lienholder. The provisions of this Deed of Trust shall operate subject to the claims of prior lienholders to the extent of such claims.

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing the Loan, Borrower, and Borrower's 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; provided, that nothing in this condition and no action so taken shall operate to impair any obligation of Borrower under the Regulatory Agreement.

20. Reconveyance. Upon payment 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.

21. 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.

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23. Statement of Obligation. Lender may collect a reasonable fee for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California, as it may be amended from time to time.

24. 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.

25. Extended Use Agreement. In order to receive an allocation of federal low income housing tax credits, Borrower will be required to record in the real property records of the County in which the property is located, an "extended low-income housing commitment" (as defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended ("Code")) ("Extended Use Agreement"). Lender acknowledges and agrees that, in the event of a foreclosure of its interest under this Deed of Trust or delivery by Borrower of a deed in lieu thereof (collectively, a "Foreclosure"), Lender expressly agrees to undertake, with respect to low-income housing tenants, the requirements of Section 42(h)(6)(E)(ii) of the Code, as amended from time to time.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

**BORROWER (Trustor):**

**MERCY HOUSING CALIFORNIA 90, L.P.**

**By:** 1121 9th Street LLC,  
a California limited liability company,  
its general partner

**By:** Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

**By:** \_\_\_\_\_  
Stephan Daues, Vice President



**Exhibit 4E: MIHF Deed**

**NO FEE DOCUMENT:**

Entitled to free recording  
per Government Code §§6103 and 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street - 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**DEED OF TRUST AND ASSIGNMENT OF RENTS**  
**Capitol Park Hotel**

For purposes of this Deed of Trust the following capitalized terms shall have the meanings ascribed in the space adjacent to them:

TERM	DEFINITION
"Effective Date"	[_____, 2020]
"Trustor" and "Borrower"	Mercy Housing California 90, L.P., a California limited partnership
"Borrower Address"	2512 River Plaza Drive, Suite 200, Sacramento, CA 95833
"Trustee"	Fidelity National Title Company
"Beneficiary" and "Lender"	Sacramento Housing and Redevelopment Agency, a joint powers authority
"Lender Address"	801 12th Street, Sacramento, California 95814
"Property"	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.
	Address 1121 9th Street, Sacramento, California
	Assessor's Parcel Number 006-0102-016-0000, 006-0102-018-0000
"Legal Description"	The Legal Description of the Property which is more particularly described in the attached <u>Exhibit 1 Legal Description</u> , which is incorporated in and an integral part of this Deed of Trust
"Loan"	Which is Lender's loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.
"Loan Agreement"	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.
	Which is dated as of even date herewith
"Additional Notices"	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:

	Wincopin Circle LLLP c/o Enterprise Community Asset Management, Inc. 70 Corporate Center 11000 Broken Land Parkway, Suite 700 Columbia, MD 21044 Attention: General Counsel Telephone: (410) 964-0552 Facsimile: (410) 772-2630 (the "Tax Credit Limited Partner")	
	With a copy to: Gallagher Evelius & Jones LLP 218 N. Charles Street, Suite 400 Baltimore, Maryland 21201 Attention: Kenneth S. Gross, Esq. Telephone: (410) 727-7702 Facsimile: (410) 468 2786	
"Note"	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.	
	Which has a principal sum of	Two Million Three Hundred Thousand Dollars and No Cents (\$2,300,000.00)

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 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, water closets, 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, or 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 a schedule 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, if any, 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 and leasehold payments or ground rents, if any 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. Hazard Insurance. Borrower shall keep the improvements now existing or later erected on the Property insured against loss of fire or hazards under a policy approved by Lender consistent with the insurance requirements of the Loan Agreement. In addition, Borrower shall insure against loss of all furniture, equipment and other personal property owned by Borrower related to Borrower's operation of the Property. Lender shall have the right to hold the policies and policy renewals, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, as and to the extent provided in the Loan Agreement.

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. 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 prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.
5. 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.
6. 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 6, 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 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.

7. Inspection. Lender, 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 15. 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.

13. 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.

14. 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 provision shall be valid and enforceable as to any other person or circumstance.

15. Acceleration on 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 or transferred or refinanced by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the refinancing, 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 successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust 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.

**16. Acceleration on Breach; Remedies.** Except as provided in Section 15, 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) the Regulatory Agreement, 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. The Borrower's limited partner shall have the right, but not the obligation, to cure any such default during the applicable cure period. Lender agrees that a cure of any default by such limited partner shall be deemed a cure by Borrower, and shall be accepted or rejected on the same basis as if made or tendered by Borrower. 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.

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.

**17. 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.

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.
18. Prior Lienholder. The provisions of this Deed of Trust shall operate subject to the claims of prior lienholders to the extent of such claims.
19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing the Loan, Borrower, and Borrower's 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; provided, that nothing in this condition and no action so taken shall operate to impair any obligation of Borrower under the Regulatory Agreement.
20. Reconveyance. Upon payment 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.
21. 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.
22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.
23. Statement of Obligation. Lender may collect a reasonable fee for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California, as it may be amended from time to time.
24. 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.
25. Extended Use Agreement. In order to receive an allocation of federal low income housing tax credits, Borrower will be required to record in the real property records of the County in which the property is located, an "extended low-income housing commitment" (as defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended ("Code")) ("Extended Use Agreement"). Lender acknowledges and agrees that, in the event of a foreclosure of its interest under this Deed of Trust or delivery by Borrower of a deed in lieu thereof (collectively, a "Foreclosure"), Lender expressly agrees to undertake, with respect to low-income housing tenants, the requirements of Section 42(h)(6)(E)(ii) of the Code, as amended from time to time.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

BORROWER (Trustor):

MERCY HOUSING CALIFORNIA 90, L.P.

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Stephan Daues, Vice President

Exhibit 5A: 15-Year Federal Funding Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording  
per Government Code §§6103 & 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street - 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**REGULATORY AGREEMENT FOR RESIDENTIAL RENTAL PROPERTY  
AND DECLARATION OF RESTRICTIVE COVENANTS AFFECTING REAL PROPERTY**

PROJECT NAME:	Capitol Park Hotel
PROJECT ADDRESS:	1121 9th Street, Sacramento, CA
APN:	006-0102-016-0000, 006-0102-018-0000

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS AFFECTING REAL PROPERTY (REGULATORY AGREEMENT) AS OF THE EFFECTIVE DATE.

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. Terms being defined are indicated by quotation marks.

TERM	DEFINITION
"Effective Date"	This Regulatory Agreement shall be effective as of the following [ ], 2020
"Agency"	Sacramento Housing and Redevelopment Agency A joint powers agency
"Agency Address"	801 12th Street, Sacramento, California 95814
"Owner"	Mercy Housing California 90, L.P., a California limited partnership
"Owner Address"	Owner's business address is as follows: 2512 River Plaza Drive, Suite 200, Sacramento, CA 95833
"Jurisdiction"	City of Sacramento
"Property"	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 - Legal Description of the Property and incorporated in this Regulatory Agreement by this reference
"Funding Agreement"	The Funding Agreement between Agency and Owner as follows: Titled: Acquisition, Construction and Permanent Loan Agreement Dated: [ ], 2020
"Agency Funding"	Agency Funding made by Agency to Owner under the Funding Agreement for development of the Property
"Agency Funding Amount"	The amount of Agency Funding, as follows: \$10,100,000.00



"Funding Requirements"	The legal restrictions on the use of the funds that Agency has used to make Agency Funding, as applicable to and restricting the Property. The Funding Requirements are set out in <b>Exhibit 2 – Funding Requirements</b> .
"Approved Uses"	The Approved Uses of the Property are as follows: Owner shall assure that the residential space on the Property is used as a residential property available for rent. Owner shall assure that the approximate 3,300 square feet of commercial space open to the public on the Property will enhance the living environment of the residents of the Project, and is subject to approval by Agency; and contains no less than the following number of total units: 134 studio units.
"Disapproved Use"	Owner shall assure that the Property is not used, in whole or in part, for any Disapproved Use. A Disapproved Use of the Property is any use other than the Approved Uses, and includes, but is not limited to a liquor store/bar, adult store/film, veterinarian office/kennel, funeral, video arcade/pool hall, bowling alley, music, dancing, manufacturing, repair facility, vehicle related, service stations, hazardous materials, storage or warehousing facilities, tattoo and/or piercing establishment, pawn shop, check cashing or paycheck advance business, passive activity (e.g., switching station), nuisances, and/or medical marijuana.

**3. RESTRICTED PARCELS; APPROVAL OF LEASES.** In order to assure that the proper number and types of units have been rented in accordance with this Regulatory Agreement, Owner is prohibited from leasing any Unit within the Project until either the parties have recorded against the Property a list of the Restricted Units or Agency has approved the individual lease or lease form for the Restricted Units. The following numbers of units are restricted for each respective funding source. The initial rents for the Restricted Units shall be the following; provided, however, that upon the request of Owner, Owner and Agency may agree to a schedule for the Restricted Units that complies with the following affordability requirements as of the date when the Project is available for occupancy. In any event the rents for the Restricted Units may be adjusted not more often than annually. The rents shall include allowance for utilities and costs reasonably related to the rental of the Restrictive Units, as may be required in determining the rents for the applicable funding sources. Only Restrictive Units indicated under Agency Funding Source are assisted by Agency. Nevertheless, Owner shall assure the affordability of all of the following Restrictive Units at the named affordability levels. Additionally, higher rents may be charged for Restrictive Units subject to U.S. Department of Housing and Urban Development Housing Assistance Payment Vouchers, provided that the actual rents paid by the tenants do not exceed the affordability levels for the respective Restrictive Units. Restrictive Units with HOME as its funding source are fixed units if referenced by Apartment Number or equivalent; otherwise such units are "floating units" in which the number of units of an affordability level and bedroom type remains the same, but the actual designated unit may change from time to time. Notwithstanding any conflicting provision in the Funding Requirements, the Initial Rent per Unit per Month listed in this Regulatory Agreement shall be paramount and controlling.

Agency Funding Source:	Other Funding Source:	Affordability Level:	Number of Units:	Restricted Units:	Initial Rent per Unit per Month:
HOME Investment Partnerships Program	Low Income Housing Tax Credits (LIHTC)	Low HOME Rent Very Low Income 50% AMI	21	Studio	\$756
Community Development Block Grant (CDBG)	LIHTC	Low-Moderate Income 80% AMI	12	Studio	\$1,208
Housing Opportunities for Persons With AIDS (HOPWA)	LIHTC	Low-Moderate Income 80% AMI	8	Studio	\$1,208
<b>Total Units</b>			<b>41</b>		

**4. MANAGEMENT AGREEMENT.** Owner agrees that at all times the Project shall be managed by a property manager (i) approved by Agency in its reasonable discretion and (ii) who has successfully managed at least five projects over forty units in size and subject to a recorded regulatory agreement for at least three years' prior to the application, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects (the "Manager"). Owner shall submit to Agency from time to time such information about the background, experience and financial condition of any existing or proposed Manager as Agency may reasonably require to determine whether such Manager meets the requirements for a Manager set forth herein. Agency reserves the right to conduct periodic reviews of the management practices and of the Manager to determine if the Project is being operated and managed in accordance with the requirements and standards of this Loan. Owner agrees to cooperate with Agency in such reviews.

If Agency determines in its reasonable judgment that the Project is not being operated and managed in accordance with one or more of the requirements or standards of the Funding Agreement, Agency may deliver notice to Owner requesting replacement of the Manager, which notice shall state clearly the reasons for such request. Owner agrees that, upon receipt of such notice, Owner shall within 60 days submit to Agency, a proposal to engage a new Manager meeting the requirements of this provision. Agency shall respond within 30 days to such proposal or such approval shall be deemed given. Upon receipt of such consent or deemed consent, Owner shall promptly terminate the existing Manager's engagement and engage the new Manager.

Owner shall not enter into any management agreement or arrangement with any party with respect to the management of the Project without Agency's prior written consent, such consent not to be unreasonably withheld or delayed. Owner shall not materially modify, amend or terminate any approved management agreement (other than as required to comply with the terms of the Funding Agreement and/or applicable law) without Agency's prior written consent, which consent will not be unreasonably withheld or delayed; provided, however, that such consent shall not be required to extend the term of an existing management agreement.

**Approved Management Company**  
**Mercy Housing Management Group**

**5. SPECIAL PROVISIONS.** Owner shall also comply with the following special provisions.

Provision	Term
<b>ANNUAL ADMINISTRATIVE FEE.</b> Borrower agrees to pay an annual administrative fee ("Fee") to Lender as compensation for monitoring compliance with regulatory restrictions and the administration of the Loan. Borrower shall pay annually a Fee equal to 12.5 basis points (0.125%) of the Loan Amount and One Hundred and No/100 Dollars (\$100.00) for each unit assisted by the Loan Program, not to exceed an annual amount of Fifteen Thousand Dollars and No Cents (\$15,000.00) per	See Term in Section 9 of this Regulatory Agreement.

project. Fee payments shall commence on the Closing Date for the prorated semiannual period from the Closing Date to and including November 2020, and in equal semiannual installments in advance on each May 1 and November 1 of each year thereafter throughout the term of the Regulatory Agreement.

**6. REPRESENTATIONS.** Agency has provided Agency Funding to Owner to develop the Property, subject to the terms of the Funding Agreement. This Regulatory Agreement is a substantial part of the consideration to Agency for making Agency Funding. The funds used by Agency under the Funding Agreement are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. Further, Agency has made Agency Funding conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement, including without limitation, the Funding Agreement. Owner represents that it has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

**7. COVENANTS.** Owner makes the following covenants. Unless Owner has received the prior written consent or Agency approval otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

- a. Owner shall use and permit others to use the Property only for the Approved Use.
- b. Owner shall ensure full compliance with the Funding Requirements.
- c. Owner shall not convey, transfer, hypothecate, or otherwise encumber any of the Property or permit the conveyance, transfer, hypothecation, or encumbrance of the Property unless such assignee, transferee, beneficiary, or encumbrancer has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this Regulatory Agreement.
- d. Owner shall not cause and shall not permit expansion, reconstruction, or demolition of any part of improvements on the Property, except as provided by the Funding Agreement.
- e. Owner shall maintain the Property and all building improvements, grounds, furniture and equipment of the Property in good repair and condition and in compliance with all applicable housing quality standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, waste materials, and hazardous substances. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.
- f. Owner shall not cause and shall not permit discrimination based on race, color, national origin, religion, sexual orientation, gender, familial status, age or disability in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for him/her/itself, his/her/its heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.
- g. 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 sex, gender identity, or sexual orientation.
- h. Owner shall ensure compliance with the obligations imposed by the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) as amended by

California Welfare and Institutions Code Section 17851, which restrict Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in such act.

i. Owner shall provide Agency with a detailed resident services plan including but not limited to the following information: (1) identification of all entities responsible for providing resident services to Project tenants and each entity's role in the provision of those services; (2) a description of the services to be provided; (3) a resident services budget; and (4) Prior to execution, Borrower must submit to Lender any agreement providing for the resident services by a third party which agreement is subject to Lender approval. The agreement must include a minimum of twenty (20) hours per week of on-site resident services, including an on-site service coordinator for six (6) hours, and the remaining fourteen (14) hours for educational, workforce development, enrichment, case management, and transportation assistance programs.

j. Owner shall not pass utility charges paid by Owner, including water, sewer, and garbage collection charges, through to residents as an add-on to their contracted rent subject to adjustments permitted by applicable utility allowances.

k. Owner shall not make payment of rental insurance premiums a condition of occupancy. If Owner require 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.

l. Owner shall make fifty percent (50%) of the residential units and all indoor common areas smoke free.

**8. NATURE OF COVENANTS.** The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in this Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and 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, Agency, Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against Owner, its successors and assigns and every successor in interest to all or any part of the Property.

**9. TERM.** The term of this Regulatory Agreement shall commence on the Effective Date and continue until the terms of all of the covenants, including without limitation, the terms stated in the Funding Requirements, have expired or otherwise been terminated. Notwithstanding the term in the Funding Requirements, the term of this Regulatory Agreement shall be fifteen (15) years from the date of the completion of the rehabilitation of the Property, as evidenced by a Certificate of Occupancy or building permit sign offs by the Building Department of the City of Sacramento.

**10. EXPIRATION OF AFFORDABILITY PERIOD.** Owner agrees the rent of "in-place" tenants at the conclusion of the Term will continue to be governed by the applicable affordability restrictions, so long as those tenants continue to live in the development.

**11. REVIVAL OF COVENANTS AFTER FORECLOSURE.** The affordability restrictions shall be revived after foreclosure, or deed in lieu of foreclosure, according to the original terms if, during the original term of this Regulatory Agreement, Owner who was owner of record before the termination event, or a party related to Owner obtains an ownership interest in the Property or Restricted Unit, as the case may be. 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.

**12. MULTIPLE FUNDING REQUIREMENTS.** If more than one form of Funding Requirements is attached, each Restricted Unit shall be subject to the Funding Requirements for every Funding Source applied to the respective Restricted Unit. If the terms of the Funding Requirements shall conflict as to any Restricted Unit, the Funding Requirements shall be construed so as to meet all applicable requirements for the respective Restricted Unit, including without limitation the use of the most restrictive requirements and the use of the "Recapture" formula that results in the greatest repayment to Agency.

13. **RECORDKEEPING AND REPORTING.** Upon request of Agency, Owner shall promptly provide any additional information or documentation requested in writing by Agency to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall 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 and the status of any deeds of trust encumbering the Property.
14. **AUDIT AND INSPECTION.** The Property and all related furniture, equipment, buildings, plans, offices, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition for audit and shall be subject to examination by Agency or its agents. The books and accounts of the operations of the Property shall be kept in accordance with generally accepted accounting principles. Owner shall provide Agency access to the Property and its tenants during reasonable hours for the purpose of reviewing Owner's compliance with this Regulatory Agreement.
15. **INDEMNITY FOR OWNER'S FAILURE TO MEET LEGAL REQUIREMENTS.** Owner shall indemnify and hold Agency, its officers, directors, and employees harmless from any and all liability arising from Owner's failure to comply with the covenants, conditions and restrictions contained in this Regulatory Agreement or to comply with all other laws, rules, regulations and restrictions related to the use of Agency Funding. Without limitation, such indemnity shall include repayment to the appropriate parties of rents or sales proceeds in excess of amounts authorized to be charged and repayment to Agency of the costs of funds and the value of lost opportunities resulting from the required repayment by Agency to the funding source of funds improperly used.
16. **CHANGES WITHOUT CONSENT OTHERS.** Only Agency and its successors and assigns, and Owner (subject to the reasonable approval of Owner's lender) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Regulatory Agreement without the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Property.
17. **DEFAULT.** Upon a breach of any of the provisions of this Regulatory Agreement by Owner, Agency may give written notice of such breach to Owner by registered or certified mail. If such violation is not corrected to the satisfaction of Agency within sixty (60) days after the date such notice is mailed or within such further time as Agency may determine in its sole and absolute discretion is necessary to correct the breach, and without further notice to Owner, Agency may declare a default under this Agreement, effective on the date of such declaration of default, and upon such default Agency may: (a) take any action then available under the Funding Agreement for a default under the Funding Agreement; (b) apply to any court for specific performance of this Regulatory Agreement, (c) apply to any court for an injunction against any violation of this Agreement; (d) apply to any court for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, (e) apply to any court for money damages; or (f) apply to any court or other tribunal for such other relief as may be appropriate. The parties agree the injury to Agency arising from a default under any of the terms in this Regulatory Agreement would be irreparable, and the amount of damage would be difficult to ascertain.
18. **REGULATORY AGREEMENT VIOLATIONS.** Owner shall pay the program compliance fees and expenses to Agency set forth in Compliance Violations and Actions (Exhibit 3 - Compliance Violations and Actions) in reimbursement of the amounts and time expended by Agency to insure Owner's compliance with State statutes and federal regulations and Owner's obligations under this Regulatory Agreement as a result of Owner not meeting its obligations and reporting requirements. No compliance fee will be assessed for one incident of each type of compliance violation per annual inspection provided the violation is corrected within the specified corrective time period. The second and subsequent violations will be assessed compliance fees as detailed in the Compliance Violations and Actions tables.
19. **BINDING SUCCESSORS IN INTEREST.** This Regulatory Agreement shall bind and the benefits shall inure to Owner, its successors in interest and assigns, and to Agency and its successors for the term of this Regulatory Agreement.
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 Regulatory Agreement, and that, in any

event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict with this Regulatory Agreement.

**21. COMPLIANCE AMENDMENTS.** If revisions to the provisions of this Regulatory Agreement are necessitated to comply with the laws or regulations governing Agency Funding, Owner agrees to execute modifications to this Regulatory Agreement that are needed to comply with such laws or regulations.

**22. ATTORNEYS' FEES.** If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach of default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs 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 Regulatory 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, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the other party.

**23. SEVERABILITY.** The invalidity or unenforceability of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions.

**24. ELECTION OF REMEDIES.** To the extent applicable, in the event of any breach of any covenant, condition or restriction contained in this Regulatory Agreement, Agency shall reasonably endeavor to remedy such breach by conference and conciliation. If, in the opinion of Agency, Agency 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 Agency.

Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are unsuitable only for uses not permitted under this Regulatory Agreement.

The remedies of Agency under this Regulatory Agreement are cumulative, and the exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreement shall not be deemed an election of remedies and shall not preclude the exercise by Agency of any one or more of its other remedies.

**25. NO WAIVER.** No waiver by Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

**26. NOTICES.** Written notices and other written communications by and between the parties shall be addressed to Owner at Owner's Address and to Agency at Agency Address or such other address as each respective party has designated by written notice to the other party.

**THE PARTIES HAVE EXECUTED THIS REGULATORY AGREEMENT in Sacramento, California as of the Effective Date**

**OWNER : MERCY HOUSING CALIFORNIA 90, L.P.,  
A CALIFORNIA LIMITED PARTNERSHIP**

**AGENCY: SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY, A JOINT POWERS  
AUTHORITY**

**By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner**

**By: \_\_\_\_\_  
La Shelle Dozier, Executive Director**

**By: Mercy Housing Calwest  
a California nonprofit public benefit  
corporation, its sole member/manager**

**Approved as to form:**

**By: \_\_\_\_\_  
Stephan Daucs, Vice President**

**\_\_\_\_\_  
Agency Counsel**

## EXHIBIT 1

### LEGAL DESCRIPTION

For APN/Parcel ID(s): 006-0102-016 and 006-0102-018

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

#### PARCEL ONE

All that portion of Lots 7 and 8, in the Block Bounded by 9th and 10th, "K" and "L" Streets, of the City of Sacramento, according to the official Plat thereof, described as follows:

Beginning at a point marking the Northwest corner of said Lot 8; thence from said point of beginning South 71°11'56" East 80.37 feet to the Northeast corner of said Lot 8; thence South 71°11'56" East 5.00 feet; thence South 18°48'25" West 100.00 feet; thence North 71°11'56" West 5.00 feet to a point on the Easterly Line of said Lot 8; thence North 72°02'56" West 35.00 feet; thence South 18°48'25" West 60.00 feet to a point on the Southerly line of said Lot 8; thence North 71°12'09" West 45.47 feet to the Southwest corner of said Lot 8; thence Northeasterly along the Westerly line of said Lot 8 to the point of beginning.

#### PARCEL TWO

An easement for light, air and building separation and access for maintenance and repair over, across, and upon the following described portion of Lots 7 and 8 in the Block Bounded by 9th and 10th, "K" and "L" Streets of the City of Sacramento, according to the official plat thereof.

Beginning at a point on the South line of said Lot 8 located South 71°12'09" East 45.47 feet from the Southwest corner of said Lot 8; thence from said point of beginning North 18°48'25" East 60.00 feet; thence South 72°02'56" East 40.00 feet; thence North 18°48'25" East 100.00 feet to a point on the North line of said Lot 7 located South 71°11'56" East 85.37 feet from the Northwest corner of said Lot 8; thence along the North line of said Lot 7 South 71°11'56" East 5.00 feet; thence South 18°48'25" West 105.00 feet; thence North 72°02'56" West 40.00 feet; thence South 18°48'25" West 55.00 feet on the South line of said Lot 8; thence along said South line North 71°12'09" West 5.00 feet to the point of beginning.

APN: 006-0102-016-0000, 006-0102-018-0000



## **EXHIBIT 2**

### **FUNDING REQUIREMENTS**

#### **HOME FUNDING AND OTHER FEDERAL REQUIREMENTS RENTAL PROJECT**

These "HOME Funding and Other Federal Requirements" are attached to the Loan Documents (Loan Agreement and Regulatory Agreement), and are incorporated in the Loan Documents. The capitalized terms used in these HOME and Other Federal Funding Requirements shall have the meanings below in the body of these HOME Funding and other Federal Requirements. Terms being defined are indicated by quotation marks. Capitalized terms in these HOME Funding and Other Federal Requirements that are not defined below are defined in the Loan Documents. References to the CFR are to the Code of Federal Regulations. Project specific restrictions are set forth in Section 3 of this Regulatory Agreement.

1. **Definitions.** For the purposes of the Loan Documents and in addition to the definitions made elsewhere in the Loan Documents, the following capitalized words and phrases contained in this Contract shall have the following meanings:

"HOME" is the federal HOME Investment Partnership program (Catalogue of Federal Domestic Assistance FDA 14.239) administered by the U.S. Department of Housing and Urban Development.

a. The "HOME Requirements" are the laws, rules and regulations which are specifically applicable to this contract. A substantial portion of the Federal Requirements included in this Attachment 2.

b. "Exhibits" to this Attachment 2 contain a substantial portion of the Federal Requirements, and are incorporated into this Agreement in the form of a Compact Disc (CD) or cloud content management and file sharing service (e.g., Box).

**Borrower acknowledges receipt of the Exhibits by initialing here: \_\_\_\_.**

The Exhibits included the following:

- i. Exhibit 1 – HOME Regulations: 24 Code of Federal Regulations (CFR) Part 92.
- ii. Exhibit 2 – Requirements for nonprofit subgrantees; 2 CFR §200.70; Appendix VIII to 2 CFR Part 200
- iii. Exhibit 3 – Restrictions on Lobbying; 24 CFR Part 87; see also 2 CFR §200.450
- iv. Exhibit 4– Federal Labor Standards Provisions: 29 CFR Part 5

2. **Recitals.** The Agency Funding includes proceeds of the federal HOME Investment Partnerships Act ("HOME") and its implementing regulations (commencing at 24 CFR Part 92) ("HOME Funds"). The Agency has approved the Agency Funding on condition that the property described in the Loan Documents ("Property") is rehabilitated or developed as residential rental property ("Project") with certain units regulated in accordance with laws, rules and regulations regarding the use of HOME funds for the benefit of low-income persons ("HOME Restricted Units") by recordation of these HOME Funding and Other Federal Restrictions as covenants running with the land. HOME Restricted Units are made affordable by such regulation to persons and households that qualify as low-income or very low-income as indicated in the table in Section 3 of the Regulatory Agreement.

3. **Use of HOME Funds.** Owner shall assure that the HOME Funds are used only for qualified uses. HOME Funds may only be used to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating

expenses of community housing development organizations, all as further defined in 24 CFR §§ 92.205-92.209. The HOME Funds shall not be used for project reserve accounts except as expressly authorized or to provide operating subsidies.

Owner shall not utilize the Project for explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, and to the extent that Owner engages in such explicitly religious activities, it shall perform such activities and offer such services outside of the program pursuant to which Owner is developing the Project pursuant to this Agreement. The Owner further represents that the Project units are available to all persons regardless of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice; and that there are no religious or membership criteria for tenants of the Property.

4. Property Standards. Upon completion, the Project will comply with the applicable property standards of 24 CFR § 92.251. For the term of these Funding Requirements, Owner shall provide Agency access at all reasonable times for inspection to assure compliance with such standards. Such provisions are generally as follows:

a. If the Project is new construction, it must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

b. All other HOME-assisted housing (such as acquisition) must meet all applicable State and local housing quality standards and code requirements.

c. The housing must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 United States Code (USC) Section 794) and covered multifamily dwellings, as defined at 24 CFR §100.201, must also meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 USC §§ 3601et. seq.).

d. Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280. These standards pre-empt State and local codes covering the same aspects of performance for such housing. Also, installation of manufactured housing units must comply with applicable State and local laws or codes, or in the absence of such laws or codes, the participating jurisdiction must comply with the manufacturer's written instructions for installation of manufactured housing units. Manufactured housing that is rehabilitated using HOME funds must meet the requirements set out in Section 4.a.

e. Owner must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401.

5. Lead-Based Paint. Owner shall comply with the Lead-Based Paint Poisoning Prevention Act (42 USC §4821et. seq.), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §4851et. seq.), and implementing regulations.

6. Affordability Requirements. Owner shall assure that the of HOME Restricted Units shall be rented at or below the following rates:

a. Low-Income Units shall be rented for amounts that do not exceed thirty percent (30%) of sixty-five percent (65%) of the Sacramento Metropolitan Statistical Area median income ("Median Income"), as determined annually by the federal Department of Housing and Urban Development ("HUD"), as adjusted for family size appropriate to the size and number of bedrooms in the respective HOME Restricted Unit, provided however that if the tenant is paying for utilities and services for the HOME Restricted Unit, the rent shall not exceed the maximum amount calculated as set forth in this subdivision minus a monthly allowance for utilities and services as set forth in the maximum monthly allowances for utilities and services established and updated annually by the Agency pursuant to 24 CFR §92.252(d).

b. Very Low-Income Units shall be rented for amounts that do not exceed thirty percent of fifty-percent (50%) of the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective HOME Restricted Unit, provided however that if the tenant is paying for utilities and services for the HOME Restricted Unit, the rent shall not exceed the maximum amount calculated as set forth in this subdivision minus a monthly allowance for utilities and services as set forth in the maximum monthly allowances for utilities and services established and updated annually by the Agency pursuant to 24 CFR §92.252(d).

c. Notwithstanding any other provision, the maximum rent on any HOME-Restricted Unit shall not exceed the "Fair Market Rent" as established by HUD under 24 CFR §888.111.

d. Unless Owner has obtained prior written Agency authorization, Owner shall maintain the allocation of HOME-Restricted Units by the bedroom sizes stated in the Regulatory Agreement.

e. Such maximum rent limits shall be recalculated periodically after HUD determination of the Fair Market Rent or the Median Income; provided, however, that the rents are not required to be lower than the initial rent for the HOME-Restricted Units. Owner shall give tenants not less than thirty (30) days' notice of a change in rents.

f. The Agency shall review and approve rents proposed by Owner for the HOME Restricted Units, subject to the maximum rent limitations as set forth in section 6(a), (b) and (c) of this Agreement. The Agency will provide Owner with information on updated HOME rent limits. Owner must annually provide the Agency with information on rents and occupancy of HOME Restricted Units to demonstrate compliance with this Section 6. The Agency must review rents for compliance and approve or disapprove them every year.

g. The foregoing affordability requirements may, with the consent of the Agency, terminate on foreclosure or deed in lieu of foreclosure; provided, however, that the affordability requirements will revive according to the original terms if the Owner at the time of foreclosure, or any entity that includes such Owner or anyone with whom such Owner has or had family or business ties, obtains an ownership interest in the Project or Property.

7. Occupancy Requirements. Owner shall assure that all HOME Restricted Rental Units shall be initially occupied by households earning less than sixty-five percent (65%) of the Median Income, as verified by the Agency. Notwithstanding any other provision, if five or more units in the Project are HOME-Restricted Units, not less than twenty percent of the HOME-Restricted Units shall be Very Low-Income Units and shall be occupied by families whose annual income does not exceed fifty-percent (50%) of the Median Income. If a tenant of a HOME-Restricted Unit no longer qualifies as for the HOME-Restricted Unit as a result of an increase in family income, the HOME-Restricted Unit continues to qualify under these Funding Requirements so long as actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with these Funding Requirements until the noncompliance is corrected. Such tenants shall pay as rent the lesser of the amount payable by the tenant under State or local law or thirty percent (30%) of the family's adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 USC Section 42) must pay rent governed by such section. In addition, for projects where HOME units are designated as floating pursuant to 24 CFR §92.252(j), tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood. If the HOME-Restricted Units are not occupied by eligible tenants within six months following the date of Project completion, Owner shall, in accordance with the requirements of 24 CFR §92.252, submit marketing information to Agency and to HUD and, if appropriate, submit a marketing plan. If any HOME-Restricted Unit has not been rented to eligible tenants 18 months after the date of project completion, Owner shall repay the HOME funds invested in such HOME-Restricted Unit to HUD.

8. Income Verification. Owner shall fully cooperate with Agency by requiring every prospective tenant of a HOME Restricted Unit to provide to Owner, prior to initial occupancy of a HOME-Restricted Unit and annually, all information required to verify income-eligibility of the prospective tenant to assure income eligibility in accordance with 24 CFR § 92.203. For the initial eligibility determination, Owner shall cause the tenant to provide the Agency with at least two months of source documents evidencing annual income (by way of example, wage statement, interest statement, unemployment compensation statement) for the family. Thereafter, Owner shall cause the tenant

to provide the Owner with such source documents; a written statement of the amount of the family's annual income and family size, with a certification that the information is complete and accurate and assurance that the family will provide source documents upon request; or a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the family, stating the tenant's family size and the amount of the family's annual income or alternatively, stating the current dollar limit for very low or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed such limit.

9. Tenant Protections: Lease Provisions. Owner shall comply with the following provisions for protection of tenants in HOME-Restricted Units.

- a. Owner shall enter into an initial lease with a tenant of a HOME-Restricted Unit for not less than one year, unless by mutual agreement between the tenant and the Owner and not required by Owner as a condition of entering into the lease. Such lease shall not contain any of the following provisions, in addition to any other applicable requirements of law:
  - i. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Owner in a lawsuit brought in connection with the lease;
  - ii. Agreement by the tenant that the Owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties; excepting an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit that is in accordance with State law;
  - iii. Agreement by the tenant not to hold the Owner or the Owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
  - iv. Agreement of the tenant that the Owner may institute a lawsuit without notice to the tenant;
  - v. Agreement by the tenant that the Owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
  - vi. Agreement by the tenant to waive any right to a trial by jury;
  - vii. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
  - viii. Agreement by the tenant to pay attorney's fees or other legal costs, even if the tenant wins in a court proceeding by the Owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
  - ix. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
- b. An Owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, the Owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.
- c. Owner must adopt and follow written tenant selection policies and criteria that:

- i. Limit the housing to very low-income and low-income families;
- ii. Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants);
- iii. Limit eligibility or give a preference to a particular segment of the population if required in the Loan Documents (and only if the limitation or preference is described in the Agency's consolidated plan).
  1. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR §92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR Part 574, the Shelter Plus Care program under 24 CFR Part 582, the Supportive Housing program under 24 CFR Part 583, supportive housing for the elderly or persons with disabilities under 24 CFR Part 891), and the limit or preference is tailored to serve that segment of the population.
  2. If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the project may have a limitation or preference for persons with disabilities who need services offered at a project only if:
    - a. The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
    - b. Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
    - c. Such services cannot be provided in a non-segregated setting. The families must not be required to accept the services offered at the Project. In advertising the Project, Owner may advertise the Project as offering services for a particular type of disability; however, the Project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the Project.
  - iv. Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
  - v. Give prompt written notification to any rejected applicant of the grounds for any rejection.
- d. Owner shall not refuse to lease a HOME-Restricted unit to a certificate or voucher holder under 24 CFR Part 982 – Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the tenant as a holder of such certificate, voucher or comparable certification.
10. Unit Quality & Determination of Cost Allocation. OWNER shall assure that HOME Restricted Units assisted with HOME Funds must be comparable in size and amenities to other units in the Project. If the assisted and non-assisted units are comparable in terms of size, features and number of bedrooms, the actual cost of the HOME Restricted units can be determined by pro-rating the total HOME eligible development costs of the Project so that the proportion of the total development costs charged to the HOME program does not exceed the proportion of the HOME Restricted units in the Project. If the assisted and non-assisted units are not comparable, the actual costs may be determined based on a method of cost allocation.
11. Compliance With Loan Documents. Owner shall comply with any and all applicable provisions of the Loan Agreement for so long as they continue to be in effect.

12. Repayment On Default Or Early Termination. If the Agency determines the Project does not comply with HOME requirements for affordability as specified in 24 CFR §§ 92.252 or 92.254; or if the Project is terminated before completion, either voluntarily or otherwise; or if Owner does not comply with these funding restrictions; or if the Project is determined to be an ineligible activity under HOME, Owner must repay to Agency any HOME Funds invested in the Project upon demand.
13. Program Income. If Project income is considered to be HOME program income, it shall nevertheless be paid to or retained by Owner in accordance with the agreement between Agency and Owner.
14. Administrative Requirements. Owners that are governmental or non-profit organizations shall comply with the provisions of 24 CFR §92.505 regarding uniform administrative requirements. Owner shall cooperate fully with the Agency and provide all documents and records required by Agency in preparing for HOME related audits. Owner shall comply with all applicable requirements under HOME, including without limitation, recordkeeping and reporting.
15. Governmental Entities, Non-Profits, CHDOS. Special HOME regulations apply to an Owner that is governmental or non-profit entities or a community housing development organization. Such Owner is responsible for knowledge of and shall fully comply with such regulations.
16. Term. These covenants shall burden and regulate the HOME Restricted Units assisted with HOME Funds for the following term as applicable, unless a longer term is specified in the body of the document to which this attached:
- a. For rehabilitation or acquisition of existing housing, five (5) years if the subsidy for each of HOME-Restricted Unit is less than \$15,000;
  - b. For ten (10) years if such subsidy is \$15,000 or more but not more than \$40,000;
  - c. For fifteen (15) years if such subsidy is more than \$40,000 or if the project involves refinancing of an existing loan; and
  - d. For new construction or acquisition of newly constructed housing, twenty (20) years.
17. No Termination On Recapture. Notwithstanding any other provisions of the Regulatory Agreement, the provisions of this HOME Funding and Other Federal Restrictions shall continue for the duration of the applicable preceding term.

## **CDBG AND OTHER FEDERAL REQUIREMENTS**

The following provisions shall be applicable to this Contract and binding on Subrecipient and Agency only if all or part of the funds to be paid for work performed under this Contract are provided under the Community Development Block Grant Program administered by the United States Department of Housing and Urban Development. In the event of a dispute as to the applicability of any of the following provisions to Subrecipient's work under this Contract, Agency's determination shall be final.

1. **DEFINITIONS.** For purposes of this Contract and in addition to definitions made elsewhere in this Contract, the following quoted words and phrases contained in this Contract shall have the following meanings:
  - a. The "Act" is the federal Housing and Community Development Act of 1974, as amended.
  - b. "Allocable Costs" are particular to a Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. See 2 CFR §200.405.
  - c. "CDBG" is the federal Community Development Block Grant program administered by HUD. "CFR" is the Code of Federal Regulations.
  - d. "CDBG Requirements" are the laws, rules and regulations (other than the Act) which are specifically applicable to this Contract. A substantial portion of the Federal Requirements are included in this Attachment 3.
  - e. "Contract Provisions" refers to "Attachment 1: Contract Provisions". This Attachment 3 contains the provisions common to all Agency administered CDBG agreements.
  - f. "Cost Objective" generally means a service, program, project or activity in which costs can be assigned to and measured from. See 2 CFR §200.28.
  - g. "Direct costs" are those costs that can be identified specifically with a particular final cost objective or other internally or externally funded activity, or that can be directly assigned to such activities relatively easy with a high degree of accuracy. See 2 CFR §200.413.
  - h. "Indirect costs" means those costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objectives specifically benefitted without effort disproportionate to the results achieved. See 2 CFR §§ 200.56, 200.413, and 200.414.
  - i. "HUD" is the United States Department of Housing and Urban Development.
  - j. "OMB" is the federal Office of Management and Budget.
  - k. "Reasonable Costs" include costs that are generally recognized as ordinary and necessary for the operation or efficient performance of the contract or award and do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. See 2 CFR §200.404.
  - l. "Program Income" is defined in 24 CFR §570.500(a); see also 2 CFR §200.80. Generally, Program Income is income to Subrecipient that is generated from the use of CDBG funds under this Contract. Program Income may include, without limitation, proceeds from the sale, rent or lease of real or personal property acquired with such CDBG funds, principal and interest payments on loans of such CDBG funds, and interest earned on other Program Income.
  - m. "Project Funds" are the funds to be paid to the Subrecipient under this Contract. All Project Funds are funds disbursed to the Recipient and Agency under the CDBG Program.

n. "Quarterly Reports" are the reports required to be submitted by Subrecipient under Attachment 3 Exhibit 14 - Quarterly Reports

o. "Subrecipient" is the Contractor as defined elsewhere in this Contract.

2. **EXHIBITS.** Exhibits to this Attachment are located online at [www.shra.org](http://www.shra.org) and contain a substantial portion of the Federal Requirements and are incorporated into this Contract.

**Subrecipient acknowledges that they have reviewed and accept these Exhibits by initialing here: \_\_\_\_\_:**

a. Exhibit 1 – CDBG Regulations: 24 CFR 570 et seq.

b. Exhibit 2 – Requirements for Nonprofit Subrecipients. 2 CFR Section 200.70 and Appendix VIII to 2 CFR Part 200.

c. Exhibit 3 – Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations *[applies only to Subrecipients who are not a state or local government or a public agency]*. See 2 CFR §§ 200.52, 200.55, and Appendix VIII to 2 CFR Part 200.

d. Exhibit 4 – Cost Principles for Nonprofit Organizations *[applies only to Subrecipients who are not a state or local government, a public agency or an educational institution]*. See 2 CFR §200.70, and Appendix VIII to 2 CFR Part 200.

e. Exhibit 5 – Audits of Institutions of Higher Education and Other Nonprofit Organizations *[applies only to Subrecipients who are not a state or local government or a public agency]*. See 2 CFR §§ 200.55, 200.418, 200.419, and Appendix III to CFR Part 200.

f. Exhibit 6 – Cost Principles for Educational Institutions *[applies only to Subrecipients who are an educational institution]*. See CFR §§200.418, 200.419.

g. Exhibit 7 – Principles for determining Costs Applicable to Grants and Contracts with State, Local and Federally-Recognized Tribal Indian Governments *[applies only to Subrecipients who are a state or local government, a public agency]*. See 2 CFR §§ 200.416 and 200.417.

h. Exhibit 8 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 2 CFR Part 200; see also 2 CFR §§ 200.416, 200.417, 24 CFR §570.502 and Appendix VII to 2 CFR Part 200.

i. Exhibit 9 – New Restrictions on Lobbying. 24 CFR Part 87; see also 2 CFR §200.450.

j. Exhibit 10 – Federal Labor Standards Provisions; 29 CFR §5.5

k. Exhibit 11 – Executive Order 12432 – M/WBE; see also 2 CFR §200.321.

l. Exhibit 12 – Executive Order 12138 – M/WBE; see also 2 CFR §200.321.

m. Exhibit 13 – Executive Order 11625 – M/WBE and Agency-assembled M/WBE material; see also 2 CFR §200.321.

n. Exhibit 14 – Executive Order 11246, as amended – Equal Opportunity.

o. Exhibit 15 – Executive Order 13166 – Limited English Proficiency Access.

p. Exhibit 16 – Equal Access to Housing and HUD Programs Regardless of Sexual Orientation or Gender Identity: 24 CFR Parts 5, 200, 400, 570, 574, 882, 891 and 982.



- q. Exhibit 17 – Violence Against Women Reauthorization Act of 2013
- r. Exhibit 18– CPD Notice 15-02 – Appropriate Placement for Transgender Persons in Single Sex Emergency Shelters and Other Facilities.
- s. Exhibit 19 – Generally Applicable HUD Program Requirements; Waivers. 24 CFR Part 5.

3. **FINDINGS AND REPRESENTATIONS.** This Contract has been made for the following purposes and based upon the following representations of the parties:

a. In accordance with the provisions of California Government Code Section 53703, Agency possesses full powers for the purpose of administering the expenditure of funds received under the federal Housing and Community Development Act of 1974, as amended, Community Development Block Grant program, administered by the United States Department of Housing and Urban Development.

b. Agency has determined that the fulfillment of Subrecipient's obligations under this Contract serves the purposes of community improvement and welfare.

c. Pursuant to the provisions of California Government Code Section 53703 and after public hearing, Subrecipient has been allocated CDBG funds for the uses and activities of this Contract.

d. Agency and Subrecipient are subject to all laws, rules and regulations regarding the use of CDBG funds for the purposes and activities stated in this Contract.

4. **COSTS.** All costs must be must be necessary and reasonable for the performance of the federal award and be allocable thereto under these principles per 2 CFR §§ 200.403 and 200.404. Classifying a particular cost as direct or indirect depends on whether it can be identified directly with a cost objective (such as a project or activity) without disproportionate effort. All costs must comply with 2 CFR Part 200, Subpart E-Cost Principles (2 CFR §§ 200.420-200.475).

The contractor may, but is not required to, elect to charge for indirect costs. If the contractor chooses to charge for indirect costs, the maximum indirect cost rate is 10% (*de minimis*), unless an indirect cost rate has been previously negotiated with and approved by the federal agency responsible for reviewing, negotiating and approving cost allocation plans or indirect cost rate proposals. The negotiated rate must be accepted by all federal awarding agencies.

5. **ADDITIONAL RESTRICTIONS ON FUNDS.** Subrecipient acknowledges that the funds for this Contract are CDBG funds, the amount of which has been established after public hearing and that Agency has no authority to change the Project Funds except after public hearing and Recipient approval. Therefore, and notwithstanding any other provision of this Contract, the parties agree that the total compensation and reimbursement for all services and expenses required during the term of this Contract shall not exceed the Project Funds. Subrecipient shall provide, from whatever source, all additional funds necessary to fulfill Subrecipient's obligations under this Contract, including without limitation with respect to any of the foregoing:

a. If Subrecipient incurs additional expenses or does additional work related to this Contract, Subrecipient shall bear all such costs and expenses unless the Agency has executed a written amendment to this Contract prior to Subrecipient's having incurred such costs and expenses.

b. Subrecipient shall use proceeds of this Contract only for the purposes stated in this Contract, as described in the Scope of Work, and strictly in compliance with all applicable laws, rules and regulations.

c. If Subrecipient is not a state or local government, educational institution or public agency, Subrecipient shall fully comply with the regulations, policies, guidelines and requirements set forth in 2 CFR Part 200 and 24 CFR Part 570.

d. Subrecipient shall deposit any advance under this Contract in an interest-bearing account and, unless specified otherwise in this Contract, shall remit any interest earned over \$100 to the Agency.

e. Project Funds shall not be used for any explicitly religious purposes, which prohibition is further described in 24 CFR §§ 5.109(d) & (e).

f. In the event of suspension or termination of this Contract, Subrecipient shall return unused funds to the Agency in accordance with 24 CFR §570.503(b)(7). If the Subrecipient improperly retains funds, the Agency may retain funds from future disbursements to the Subrecipient in accordance with the procedures described in 24 CFR §570.504(b)(2). In accordance with 2 CFR §§ 200.338 and 200.339, suspension or termination may occur if Subrecipient materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 2 CFR §§ 200.338 and 200.339.

6. **RESEARCH AND DEVELOPMENT (R & D).** Funds may not be used for R & D. R & D means all research and development related activities, both basic and applied, that are performed by non-Federal entities. See 2 CFR §200.87 for additional information on R & D.

7. **RETURN OF PROGRAM INCOME.** Subrecipient shall report receipt of all Program Income and return all Program Income to the Agency.

8. **ANTI-KICKBACK RULES.** Monthly, or more often, Subrecipient must, without condition, pay the salaries of architects, draftsmen, technical engineers and technicians performing work under this Contract. Such payments shall be made without deduction or rebate, excepting only such payroll deductions as are mandatory by law or permitted by applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1937 (18 U.S.C., Section 874). Subrecipient shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance by subcontractors with such regulations. Subrecipient shall be responsible for the submission of affidavits required of subcontractors under this Contract, except for such variations or exemptions as the Secretary of Labor may specifically allow.

9. **WORK HOURS.** Subrecipient must comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3201-3708) and must cooperate with Agency in implementing and enforcing the provisions of such Act. Among other requirements of the act, Subrecipient must pay not less than one and one-half times the basic rate of pay for the work of Subrecipient's employee in excess of eight hours in one day or forty hours in one week in the performance of this Contract. Subrecipient must insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance with such Act. Subrecipient must meet and cooperate with Agency's Labor Compliance officer to assure compliance with such Act.

10. **WITHHOLDING OF SALARIES.** If, in the performance of this Contract, there is any underpayment of salaries by Subrecipient or by any subcontractor, Agency must withhold from Subrecipient out of payments due to him any amount sufficient to pay employees underpaid the difference between the salaries required under this Contract to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by Agency for and on account of Subrecipient or subcontractor to the respective employees to whom they are due.

11. **CLAIMS AND DISPUTES PERTAINING TO SALARY RATES.** Claims and disputes pertaining to salary rates or to classification of architects, draftsmen, technical engineers and technicians performing work under this Contract must be promptly reported in writing by Subrecipient to Agency for the latter's decision which shall be final with respect thereto.

12. **EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS.**

a. Subrecipient will send to each labor union or representative of workers with whom he has a collective bargaining agreement or other contract or understanding, a notice to be provided by Agency, advising the labor union or workers representative of Subrecipient's commitments under Section 202 of Executive Order No.

11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

b. Subrecipient will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

c. Subrecipient will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

13. **CONFLICT OF INTEREST.** No member, officer or any employee of Subrecipient, or its designees or agents, who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter, shall have an interest, direct or indirect, in any contract or its proceeds, for work to be performed in connection with the program assisted under this Contract. Subrecipient must incorporate, or cause to be incorporated, in all subcontracts a provision prohibiting such interest pursuant to the purposes of this Section. In the procurement of supplies, furniture, equipment, construction, and services by Subrecipient, the conflict of interest provisions in 2 CFR§ 200.318 and 2 CFR§ 200.319 respectively, shall apply.

14. **DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS.** No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because he has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable to his employer under this Contract.

15. **RECORDS, REPORTING AND MONITORING.** Agency may monitor the adequacy of Contractor's performance in any manner which Agency deems most effective. Contractor must cooperate with Agency in such monitoring. Subrecipient must keep all necessary books and records, including loan documentation and financial records, in connection with the operation and services performed under this Contract, and must document all transactions so Agency may properly audit all expenditures made pursuant to this Contract. Subrecipient must maintain and preserve all records related to this Contract in its possession for a period of three (3) years from the completion date of this Contract, unless otherwise directed by Agency. All books, records and accounts kept by Subrecipient in connection with the performance of this Contract shall be made available for inspection by representatives of the federal government and/or Agency staff as required to monitor or audit the program.

In addition to the reports specified in this Contract, Subrecipient shall retain the records required by the applicable provisions of 2 CFR § 200.333 and provide the Agency with the reports required pursuant to 2 CFR §§ 200.328 and 200.343, and such other records and reports as the Agency may reasonable require in the administration of this Contract. Subrecipient shall keep all other necessary books and records, including property, personnel, loan documentation and financial records, in connection with the operation and services performed under this Contract, in accordance with 2 CFR §200.333. Subrecipient shall conduct audits in accordance with 2 CFR, Part 200, Subpart F. Subrecipient shall document all transactions sufficiently for Agency to properly monitor and audit all expenditures made pursuant to this Contract.

16. **DRUG FREE WORKPLACE.** Subrecipient must comply with the Drug-Free Workplace Act of 1988 (final rule published on May 25, 1990) and Agency's policies and rules promulgated under the Act. Subrecipient must obtain such policies and rules from the Agency.

17. **RESTRICTIONS ON LOBBYING; FILING CERTIFICATION AND DISCLOSURE FORMS.** Subrecipient shall not use any funds paid under this Contract, directly or indirectly, for any political activity, whatsoever, or to influence any public official or employee. In any event, Subrecipient shall comply with the restrictions on lobbying stated in 24 CFR Part 87 and 2 CFR §200.450. Subrecipient shall sign and return to the Agency the certification described in 24 CFR Part 87, Appendix A and the disclosure form described in 24 CFR Part 87, Appendix B. Subrecipient shall require any person receiving proceeds of this Contract from Subrecipient to comply with 24 CFR Part 87, including the submission to Agency of completed certifications under Appendix A and disclosure forms under Appendix B.

18. **ELIGIBILITY AND NON-DISCRIMINATION (SECTION 109).** Subrecipient shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, color, religion, sex, national origin, ancestry, or physical or mental handicap, or age as more specifically set forth in 24 CFR §570.602 which requires compliance with Section 109 of the Act (42 USC §5301) and Section 504 of the Rehabilitation Act of 1973.

19. **CIVIL RIGHTS COVENANT.** As provided in 24 CFR §§ 5.105 and 570.602 and depending upon the type and nature of the grant of CDBG funds, this Contract may be subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and HUD regulations. Subrecipient certifies that its activities under this Contract shall be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and that it will comply with the other provisions of Title 24 of the CFR and with other applicable laws, to the full extent of their application. Further pursuant to Executive Order 11063 (as amended pursuant to Executive Order 12259) set out in 24 CFR Part 107, in the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under the Contract, Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex, or national origin, in the sale, lease or rental, or in the use or occupancy of such land or any improvements erected or to be erected thereon, and providing that the Agency and the United States are beneficiaries of and entitled to enforce such covenant. Subrecipient, in undertaking its obligation in carrying out the program assisted hereunder, shall take such measures as are necessary to enforce such covenant and shall not itself so discriminate.

20. **MINORITY/WOMEN'S BUSINESS ENTERPRISES REQUIREMENTS.** This Contract is subject to minority and women's business enterprises requirements set forth in Executive Order 12432, Executive Order 11625, and Executive Order 12138. Subrecipient shall take all reasonable steps necessary to encourage the participation of minority and female owned businesses in work under this Contract.

a. With regard to any work of construction funded with Project Funds, such steps may include, without limitation, the following:

i. Obtaining the minority and Women's Business Enterprises Registry from the Agency MBE/WBE Coordinator to ensure such contractors receive an invitation to bid.

ii. Advertising the invitation to bid or to submit proposals in the El Hispano and the Sacramento Observer as well as in a newspaper of general circulation in the Sacramento metropolitan area.

iii. Reviewing the telephone directory or professional organization membership lists, or making direct contact with minority- or female-owned businesses for specialized trades and services, and inviting such firms to bid.

b. Subrecipient shall include the Minority and Women's Business Enterprises requirements, in the form prescribed by the Agency, in all contracts for use of funds under this Contract, and Subrecipient shall coordinate purchases of goods and services over \$10,000 with the Agency's MBE/WBE Coordinator.

c. Subrecipient shall maintain documentation of outreach efforts to minority and/or female owned businesses. Additionally, Subrecipient shall maintain documentation of contract awards for the Quarterly Reports.

21. **FLOOD DISASTER PROTECTION.** Pursuant to the requirements of the Flood Disaster Protection Act of 1973 (42 USC §4001), Subrecipient shall not use or permit the use of any portion of the assistance provided under this Contract for acquisition or construction purposes as defined by the Director of the Federal Emergency Management Agency (42 USC §4003(a) (4)), for use in an area identified by the Director of the Federal Emergency Management Agency as having special flood hazards unless the community in which such area is located is then participating in the national flood insurance program (described at 42 USC §4011) and the use of any such assistance shall be subject to the mandatory purchase of flood insurance requirements of 42 USC §4012a.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with

assistance provided under this Contract shall contain, if such land is located in an area identified by the Director as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, 42 USC §7401 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under the Flood Disaster Protection Act of 1973 (42 USC §4012a). Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Contract.

22. **COMPLIANCE WITH AIR AND WATER ACTS.** This Contract is subject to the applicable requirements of the Clean Air Act (42 USC §7401 et seq.), the Federal Water Pollution Control Act, (33 USC Chapter 26), and the corresponding regulations of the Environmental Protection Agency (40 CFR, Chapter 1, Subchapter A). In compliance with said regulations, Subrecipient shall cause or require to be inserted in all contracts and subcontracts funded with Project Funds, and with respect to any transaction which is not otherwise exempt from such laws and regulations, all of the following requirements:

a. A stipulation by the contractor or subcontractor that any facility to be utilized in the performance of the contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA).

b. Compliance with all the requirements of Section 114 of the Clean Air Act, (42 USC §7401 et seq.) and Section 308 of the Federal Water Pollution Control Act, (33 USC Chapter 26) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

c. A stipulation that, as a condition for the award of the contract, prompt notice shall be given to Agency by Subrecipient or the prospective contractor or subcontractor of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

d. Contract by the contractor that he shall include or cause to be included the criteria and requirements in this Section 19a. through 19c. of this Section in every non-exempt subcontract and requiring that the contractor shall take such action as the government may direct as a means of enforcing such provisions.

e. In no event shall any amount of the assistance provided under this Contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) (42 USC §7413) of the Clean Air Act or Section 309(c) (33 USC §1319) of the Federal Water Pollution Control Act.

23. **RELOCATION.** This Contract is subject to the requirements of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601 et seq.) and HUD implementing regulations at 24 CFR Part 42 and 24 CFR §570.606. Subrecipient shall not undertake any of the work contemplated under this Contract if relocation is involved without first obtaining written approval from Agency. Subrecipient shall inform affected persons of the relocation assistance policies and procedures set forth in the regulations at 24 CFR Part 42 and 24 CFR §570.606.

24. **PROPERTY OWNERSHIP AND PROCUREMENT.** The Subrecipient, shall, in the acquisition or improvement of real and personal property with funds provided under this Contract, be subject to all applicable provisions of the Federal Requirements.

a. Any real property under Subrecipient's control which was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 must be either used to meet one of the national objectives in 24 CFR §570.208 for five years after the expiration or termination of this Contract, or disposed of in a manner that results in the Agency being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.

b. General property and procurement guidelines are contained in 24 CFR Part 570 and 2 CFR Part 200.. In all cases in which personal property is sold, the proceeds shall be transferred to Agency for the CDBG program or shall be Program Income, and, personal property not needed by the Subrecipient shall be transferred to Agency for the CDBG program or shall be retained by Subrecipient after compensating the Agency.

c. Real property shall be acquired in accordance with Title III, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (at 24 CFR Part 42).

25. **USE FF DEBARRED, SUSPENDED OR PROHIBITED PARTIES.** Subrecipient shall not use any Project Funds, directly or indirectly, to award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of 24 CFR Part 570. Subrecipient will verify that the Federal Debarred List Registry does not include any contractor or subrecipient prior to awarding contracts and that they will record the date that the Registry was consulted. Subrecipient acknowledges this requirement by initialing here:

\_\_\_\_\_ Subrecipient initials

26. **DAVIS-BACON ACT AND STATE PREVAILING WAGES.** If this Contract is for construction, alteration, or repair (including painting and decorating) of public buildings or public works, Subrecipient must comply with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a - 276a-5) and all rules, regulations and orders promulgated under said act, unless a determination of exemption from requirements of the Davis-Bacon Act is made and unless the exemption is expressly stated elsewhere in this Contract. Among other provisions, said act establishes minimum wages and fringe benefits; prohibits deductions or rebates from payments; provides for the withholding of funds to assure compliance with wage provisions; and provides for the termination of the Contract and debarment of the Subrecipient for failure so to comply. Additionally, California State Prevailing wages may apply (California Labor Code §1720 et seq.), in which case prevailing wages shall be the higher of either the Davis Bacon wages or the State prevailing wage, as determined by trade.

Prior to starting Project construction, Subrecipient must obtain the Department of Labor General Wage Decision for Sacramento County. The Bid opening shall serve as the Subrecipient's federally-required ten (10) day call, and serves to lock-in applicable prevailing wages throughout the construction phase.

27. **CONSTRUCTION PROVISIONS.** Subrecipient shall comply with the provisions of this Section 24 for all activities pertaining to the construction, prosecution, completion or repair of any building or work financed in whole or in part by CDBG funds provided pursuant to this Contract.

28. **FEDERAL LABOR STANDARDS.** Pursuant to 24 CFR §570.603, for construction, rehabilitation, alteration, or repair of real property (other than residential property containing less than eight units) funded with Project Funds, Subrecipient shall comply, and shall cause all subcontractors on such work to comply, with the applicable provisions of the Davis-Bacon Act, as amended, (40 USC §§ 276a, 276a-5), the Contract Work Hours and Safety Standards Act, as amended, (40 USC §327 et seq.) and all rules, regulations and orders promulgated under said Acts. Among other provisions, said Acts establish minimum wages and fringe benefits; prohibit deductions or rebates from payments; provide for the withholding of funds to assure compliance with wage provisions; and provide for the termination of the contract and debarment of the contractor for failure so to comply. Subrecipient shall also comply, and shall cause all subcontractors on such work to comply, with all other applicable HUD labor requirements, including, without limitation, the requirements of 29 CFR Parts 3 and 5 which govern the payment of wages and the ratio of apprentices and trainees to journeymen. If wage rates higher than those required under such regulations are imposed by state or local law, nothing in this Contract is intended to relieve Subrecipient of its obligations, if any, to require payment of the higher rates. Subrecipient shall cause or require to be inserted, in all such contracts, provisions which subject the parties to the Federal Labor Standards Provision and all other applicable regulations and requirements of HUD. Subrecipient shall not award any contract subject to the provisions of this Section 24.a. of the Contract to any contractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

29. **ECONOMIC OPPORTUNITY EMPLOYMENT REQUIREMENTS.** The following is applicable to all contracts related to the project which is the subject of this Contract.

a. The work to be performed under this Contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract.

c. The contract requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area.

d. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

e. Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Employment Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

f. Contractor will include this Employment Clause in every subcontract for work in connection with the project.

g. Each Contractor or subcontractor undertaking work in connection with a Section 3 covered project must fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

i. Identifying the number of positions in the various occupational categories including skilled, semi-skilled, and unskilled labor, needed to perform each phase of the Section 3 covered project;

ii. Identifying the positions described in Paragraph (1) of this Section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

iii. Identifying the positions described in Paragraph (1) of this Section, the number of positions in the various occupational categories which are not currently occupied by regular permanent employees;

iv. Establishing the positions described in Paragraph (3) of this Section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the Section 3 covered project area;

v. Making a good faith effort to fill all of the positions identified in Paragraph (4) of this Section with lower income project area residents, first and foremost, through the First Source Program; and

vi. Making a good faith effort to fill of the positions identified in Paragraph (4) of this Section with lower income project area residents.

30. **ARCHITECTURAL BARRIERS ACT.** Subrecipient shall comply with the Architectural Barriers Act of 1968 (42 USC §4151), as applicable, which Act requires that the design of any facility, except a private residence, that is constructed, renovated, remodeled or rehabilitated with funds received pursuant to this Contract shall comply with the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically

Handicapped", as described in 41 U.S.C.F.R. 10119.6, and Subrecipient shall cooperate with the Agency in its inspections pursuant to such provisions.

31. **LEAD-BASED PAINT.** The use of lead-based paint is prohibited in any residential structure constructed or rehabilitated with Project Funds, which prohibitions are further described in 24 CFR Part 35, Subpart F. For those properties constructed prior to 1978, Subrecipient shall assure that rehabilitation applicants, purchasers or tenants, as the case may be, shall be notified (i) that the property may contain lead-based paint, (ii) of the hazards of lead-based paint, (iii) of the symptoms and treatment of lead-based poisoning (iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards), (v) of the advisability and availability of blood level screening for children under the age of seven years of age, and (vi) that in the event lead-based paint is found on the property, appropriate abatement procedures may be undertaken. Subrecipient shall follow the procedures for the elimination of lead-based paint hazards, to the extent required under 24 CFR 570.608 (c).

32. **FOOD, TRAVEL AND ENTERTAINMENT.** Travel costs may include expenses for transportation, lodging and subsistence and are only allowable for employees who are in travel status on official business and approved as part of this contract or with prior written approval and are specifically related to this contract. Costs must be considered reasonable and do not exceed charges allowed by contractor's Out of Town Travel Policy. See 2 CFR §200.474 for additional information on travel costs and [www.shra.org](http://www.shra.org) for the Out of Town Travel Policy.

The costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval. All entertainment costs must comply with 2 CFR §200.438. In addition, the costs of alcoholic beverages are not allowed under §200.423

33. **CHANGES IN LAWS AND REGULATIONS.** In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall automatically supersede the contract's scope of work and any attachments. The most current exhibits, laws, and regulations will be posted at [www.shra.org](http://www.shra.org).

34. **OTHER PROGRAM REQUIREMENTS.** Agency must provide Subrecipient with all relevant program information regarding the federal programs having jurisdiction over this Contract. Agency must assist Subrecipient in the interpretation of the requirements of such programs. Subrecipient shall be considered to be familiar with the requirements of such programs and shall comply with such requirements.



## HOPWA AND OTHER FEDERAL REQUIREMENTS

The following provisions shall be applicable to this Contract and binding on Subrecipient and Agency only if all or part of the funds to be paid for work performed under this Contract are provided under the Housing Opportunities for Persons with Aids Program administered by the United States Department of Housing and Urban Development. In the event of a dispute as to the applicability of any of the following provisions to Subrecipient's work under this Contract, Agency's determination shall be final.

1. **DEFINITIONS.** For purposes of this Contract and in addition to definitions made elsewhere in this Contract, the following quoted words and phrases contained in this Contract shall have the following meanings:
  - a. The "Act" is the federal Housing and Community Development Act of 1974, as amended.
  - b. "Allocable Costs" are particular to a Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. See 2 CFR §200.405.
  - c. "Contract Provisions" refers to "Attachment 1: Contract Provisions." This Attachment 3 contains the provisions common to all Agency administered HOPWA agreements.
  - d. "Cost Objective" generally means a service, program, project or activity in which costs can be assigned to and measured from. See 2 CFR §200.28.
  - e. "Direct Costs" are those costs that can be identified specifically with a particular final cost objective or other internally or externally funded activity, or that can be directly assigned to such activities relatively easy with a high degree of accuracy. See 2 CFR §200.413.
  - f. "HOPWA" is the federal Housing Opportunities for Persons with AIDS program administered by HUD. "CFR" is the Code of Federal Regulations.
  - g. "HOPWA Requirements" are the laws, rules and regulations (other than the Act) which are specifically applicable to this Contract. A substantial portion of the HOPWA Requirements are included in this Attachment 3.
  - h. "Indirect Costs" Indirect costs" means those costs incurred for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objectives specifically benefitted without effort disproportionate to the results achieved. See 2 CFR §§ 200.56, 200.413, and 200.414
  - i. "HUD" is the United States Department of Housing and Urban Development.
  - j. "OMB" is the federal Office of Management and Budget.
  - k. "Program Income" is defined in 2 CFR §200.80. Generally, Program Income is income to Subrecipient that is generated from the use of HOPWA funds under this Contract. Program Income may include, without limitation, proceeds of the sale, rent or lease of real or personal property acquired with such funds, principal and interest payments on loans of such HOPWA funds, and interest earned on other Program Income.
  - l. "Project Funds" are the funds to be paid to the Subrecipient under this Contract. All Project Funds are funds disbursed to the Recipient and Agency under the HOPWA Program.
  - m. "Quarterly Reports" are required to be submitted by Subrecipient in accordance with 2 CFR 200.328(b)(1). See 2 CFR §200.327, 200.328, 200.329, 200.512, 24 CFR Part 91, and 24 CFR §574.520 for additional reporting requirements.

n. "Reasonable Costs" include costs that are generally recognized as ordinary and necessary for the operation or efficient performance of the contract or award and do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. See 2 CFR §200.404.

o. "Subrecipient" is the Contractor as defined elsewhere in this Contract.

2. **EXHIBITS.** Exhibits to this Attachment are located online at [www.shra.org](http://www.shra.org) and contain a substantial portion of the Federal Requirements and are incorporated into this Contract.

**Subrecipient acknowledges they have reviewed and accept these Exhibits by initialing here: \_\_\_\_\_ :**

- a. Exhibit 1 – HOPWA Regulations: 24 CFR Part 574.
- b. Exhibit 2 – Requirements for Nonprofit Subrecipients. 2 CFR §200.70 and Appendix VIII to 2 CFR Part 200.
- c. Exhibit 3 - Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations *[applies only to Subrecipients who are not a state or local government or a public agency]*. See also 2 CFR §§ 200.52, 200.55, and Appendix VIII to 2 CFR Part 200.
- d. Exhibit 4 - Cost Principles for Nonprofit Organizations *[applies only to Subrecipients who are not a state or local government, a public agency or an educational institution]*. See 2 CFR §200.70, and Appendix VIII to 2 CFR Part 200.
- e. Exhibit 5 – Audits of Institutions of Higher Education and Other Nonprofit Organizations *[applies only to Subrecipients who are not a state or local government or a public agency]*. See also 2 CFR §§ 200.55, 200.418, 200.419, and Appendix III to 2 CFR Part 200.
- f. Exhibit 6 –Cost Principles for Educational Institutions *[applies only to Subrecipients who are an educational institution]*. See CFR §§ 200.418 and 200.419.
- g. Exhibit 7 –Principles for determining Costs Applicable to Grants and Contracts with State, Local and Federally-Recognized Tribal Indian Governments *[applies only to Subrecipients who are a state or local government, a public agency]*. 2 CFR §§ 200.416, 200.417, and Appendix VII to 2 CFR Part 200.
- h. Exhibit 8 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 2 CFR Part 200; see also 2 CFR §§200.416, 200.417, and Appendix VII to 2 CFR Part 200.
- i. Exhibit 9 – New Restrictions on Lobbying. 24 CFR Part 87; see also 2 CFR §200.450.
- j. Exhibit 10 – Federal Labor Standards Provisions; 29 CFR §5.5.
- k. Exhibit 11 – Executive Order 12432 – M/WBE; see also 2 CFR §200.321.
- l. Exhibit 12 – Executive Order 12138 – M/WBE; see also 2 CFR Section §200.321.
- m. Exhibit 13 – Executive Order 11625 – M/WBE and Agency assembled M/WBE materials.
- n. Exhibit 14 – Executive Order 11246, as amended – Equal Opportunity.
- o. Exhibit 15 – Executive Order 13166 – Limited English Proficiency Access.

p. Exhibit 16 – Equal Access to Housing and HUD Programs Regardless of Sexual Orientation or Gender Identity: 24 CFR Parts 5, 200, 570, 574, 882, 891 and 982

q. Exhibit 17 – Generally Applicable HUD Program Requirements; Waivers. 24 CFR Part 5. Exhibit 18. CPD Notice 15-02 – Appropriate Placement for Transgender Persons in Single Sex Emergency Shelters and Other Facilities.

r. Exhibit 20 – Notice CPD 06-07 Standards for HOPWA Short-Term Rent, Mortgage, and Utility (STRMU) Payments and Connections to Permanent Housing.

3. **FINDINGS AND REPRESENTATIONS.** This Contract has been made for the following purposes and based upon the following representations of the parties:

a. In accordance with the provisions of California Government Code §53703, Agency possesses full powers for the purpose of administering the expenditure of funds received under the federal Housing and Community Development Act of 1974, as amended, Housing Opportunities for Persons with AIDS Grant program, administered by the United States Department of Housing and Urban Development.

b. Agency has determined that the fulfillment of Subrecipient's obligations under this Contract serves the purposes of community improvement and welfare.

c. Pursuant to the provisions of California Government Code §53703 and after public hearing, Subrecipient has been allocated HOPWA funds for the uses and activities of this Contract.

d. Agency and Subrecipient are subject to all laws, rules and regulations regarding the use of HOPWA funds for the purposes and activities stated in this Contract.

4. **COSTS.** All costs must be must be necessary and reasonable for the performance of the federal award and be allocable thereto under these principles per 2 CFR §§ 200.403 and 404. Classifying a particular cost as direct or indirect depends on whether it can be identified directly with a cost objective (such as a project or activity) without disproportionate effort. All costs must comply with 2 CFR Part 200, Subpart E-Cost Principles (2 CFR §§ 200.420-200.475).

The contractor may elect, but is not required, to charge for indirect costs. If the contractor chooses to charge for indirect costs, the maximum indirect cost rate is 10% (*de minimis*), unless an indirect cost rate has been previously negotiated with and approved by the federal agency responsible for reviewing, negotiating and approving cost allocation plans or indirect cost rate proposals. The negotiated rate must be accepted by all federal awarding agencies.

5. **ADDITIONAL RESTRICTIONS OF FUNDS.** Subrecipient acknowledges that the funds for this Contract are HOPWA funds, the amount of which has been established after public hearing and that Agency has no authority to change the Project Funds except after public hearing and Recipient approval. Therefore, and notwithstanding any other provision of this Contract, the parties agree that the total compensation and reimbursement for all services and expenses required during the term of this Contract shall not exceed the Project Funds. Subrecipient shall provide, from whatever source, all additional funds necessary to fulfill Subrecipient's obligations under this Contract.

a. If Subrecipient incurs additional expenses or does additional work related to this Contract, Subrecipient shall bear all such costs and expenses unless the Agency has executed a written amendment to this Contract prior to Subrecipient's having incurred such costs and expenses.

b. Subrecipient shall use proceeds of this Contract only for the purposes stated in this Contract, as described in the Scope of Work, and strictly in compliance with all applicable laws, rules and regulations.

c. If Subrecipient is not a state or local government, educational institution or public agency, Subrecipient shall fully comply with the regulations, policies, guidelines and requirements Subrecipient shall deposit

any advance under this Contract in an interest bearing account and, unless specified otherwise in this Contract, shall remit any interest earned over \$100 to the Agency.

d. Project Funds shall not be used for any religious purposes, which prohibition is further described in 24 CFR §§ 5.109 and 574.300(c).

e. In the event of suspension or termination of this Contract, Subrecipient shall return unused funds to the Agency. If the Subrecipient improperly retains funds, the Agency may retain funds from future disbursements to the Subrecipient. In accordance with 2 CFR §§ 200.338 and 200.339, suspension or termination may occur if Subrecipient materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 2 CFR §§ 200.338, 200.339, 200.340, 200.341, and 200.342.

f. **RESEARCH AND DEVELOPMENT (R & D).** Funds may not be used for R & D. R & D means all research and development related activities, both basic and applied, that are performed by non-Federal entities. See 2 CFR § 200.87 for additional information on R & D.

6. **RETURN OF PROGRAM INCOME.** Subrecipient shall report receipt of all Program Income and return all Program Income to the Agency.

7. **ANTI-KICKBACK RULES.** Monthly, or more often, Subrecipient must, without condition, pay the salaries of architects, draftsmen, technical engineers and technicians performing work under this Contract. Such payments shall be made without deduction or rebate, excepting only such payroll deductions as are mandatory by law or permitted by applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1937 (18 U.S.C., §874). Subrecipient shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Contract to ensure compliance by subcontractors with such regulations. Subrecipient shall be responsible for the submission of affidavits required of subcontractors under this Contract, except for such variations or exemptions as the Secretary of Labor may specifically allow.

8. **WORK HOURS.** Subrecipient must comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) and must cooperate with Agency in implementing and enforcing the provisions of such Act. Among other requirements of the act, Subrecipient must pay not less than one and one-half times the basic rate of pay for the work of Subrecipient's employee in excess of eight hours in one day or forty hours in one week in the performance of this Contract. Subrecipient must insert appropriate provisions in all subcontracts covering work under this Contract to ensure compliance with such Act. Subrecipient must meet and cooperate with Agency's Labor Compliance officer to assure compliance with such Act.

9. **WITHHOLDING OF SALARIES.** If, in the performance of this Contract, there is any underpayment of salaries by Subrecipient or by any subcontractor, Agency must withhold from Subrecipient out of payments due to him or her any amount sufficient to pay employees underpaid the difference between the salaries required under this Contract to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by Agency for and on account of Subrecipient or subcontractor to the respective employees to whom they are due.

10. **CLAIMS AND DISPUTES PERTAINING TO SALARY RATES.** Claims and disputes pertaining to salary rates or to classification of architects, draftsmen, technical engineers and technicians performing work under this Contract must be promptly reported in writing by Subrecipient to Agency for the latter's decision which shall be final with respect thereto.

11. **CONFLICT OF INTEREST.** No member, officer or any employee of Subrecipient, or its designees or agents, who exercises any functions or responsibilities with respect to the program during his or her tenure or for one (1) year thereafter, shall have an interest, direct or indirect, in any contract or its proceeds, for work to be performed in connection with the program assisted under this Contract. Subrecipient must incorporate, or cause to be incorporated, in all subcontracts a provision prohibiting such interest pursuant to the purposes of this

Section. In the procurement of supplies, furniture, equipment, construction, and services by Subrecipient, the conflict of interest provisions in 2 CFR §§ 200.318 and 200.319, respectively, shall apply.

12. **DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS.** No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because he or she has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable to his employer under this Contract.

13. **RECORDS, REPORTING AND MONITORING.** Agency may monitor the adequacy of Contractor's performance in any manner which Agency deems most effective. Contractor must cooperate with Agency in such monitoring. Subrecipient must keep all necessary books and records, including loan documentation and financial records, in connection with the operation and services performed under this Contract, in accordance with 2 CFR §200.333, and must document all transactions so Agency may properly audit all expenditures made pursuant to this Contract. Subrecipient must maintain and preserve all records related to this Contract in its possession for a period of three (3) years from the completion date of this Contract, unless otherwise directed by Agency. All books, records and accounts kept by Subrecipient in connection with the performance of this Contract shall be made available for inspection by representatives of the federal government and/or Agency staff as required to monitor or audit the program.

In addition to the reports specified in this Contract, Subrecipient shall retain the records required by the applicable provisions of 2 CFR §200.333 and provide the Agency with the reports required pursuant to 2 CFR §§ 200.328 and 200.343, and such other records and reports as the Agency may reasonably require in the administration of this Contract. Subrecipient shall keep all other necessary books and records, including property, personnel, loan documentation and financial records, in connection with the operation and services performed under this Contract. Subrecipient shall conduct audits in accordance with 2 CFR Part 200, Subpart F. Subrecipient shall document all transactions sufficiently for Agency to properly monitor and audit all expenditures made pursuant to this Contract.

14. **14. DRUG FREE WORKPLACE.** Subrecipient must comply with the Drug-Free Workplace Act of 1988 (final rule published on May 25, 1990) and Agency's policies and rules promulgated under the Act. Subrecipient must obtain such policies and rules from the Agency.

15. **RESTRICTIONS ON LOBBYING; FILING CERTIFICATION AND DISCLOSURE FORMS.** Subrecipient shall not use any funds paid under this Contract, directly or indirectly, for any political activity, whatsoever or to influence any public official or employee. In any event, Subrecipient shall comply with the restrictions on lobbying stated in 24 CFR Part 87. Subrecipient shall sign and return to the Agency the certification described in 24 CFR 87, Appendix A and the disclosure form described in 24 CFR Part 87, Appendix B. Subrecipient shall require any person receiving proceeds of this Contract from Subrecipient to comply with 24 CFR Part 87, including the submission to Agency of completed certifications under Appendix A and disclosure forms under Appendix B. See also 2 CFR §200.450.

16. **ELIGIBILITY AND NON-DISCRIMINATION (SECTION 109).** Subrecipient shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, color, religion, sex, national origin, ancestry, or physical or mental handicap, or age as more specifically set forth in 24 CFR §574.603, which requires compliance with the non-discrimination and equal opportunity requirements at 24 CFR Part 5 and Section 109 of the Act (42 USC §5301).

17. **CIVIL RIGHTS COVENANT.** As provided in 24 CFR §§ 5.105, and 574.603 and depending upon the type and nature of the grant of HOPWA funds, this Contract may be subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and HUD regulations. Subrecipient certifies that its activities under this Contract shall be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and that it will comply with the other provisions of Titles 2 and 24 of the CFR and with other applicable laws, to the full extent of their application. Further, pursuant to Executive Order 11063 (as amended pursuant to Executive Order 12259) set out in 24 CFR Part 107, in the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under the Contract, Subrecipient shall cause or require a covenant

running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex, or national origin, in the sale, lease or rental, or in the use or occupancy of such land or any improvements erected or to be erected thereon, and providing that the Agency and the United States are beneficiaries of and entitled to enforce such covenant. Subrecipient, in undertaking its obligation in carrying out the program assisted hereunder, shall take such measures as are necessary to enforce such covenant and shall not itself so discriminate.

18. **MINORITY/WOMEN'S BUSINESS ENTERPRISES REQUIREMENTS.** This Contract is subject to minority and women's business enterprises requirements set forth in Executive Orders 12432, 11625, and 12138. Subrecipient shall take all reasonable steps necessary to encourage the participation of minority and female owned businesses in work under this Contract.

a. With regard to any work of construction funded with Project Funds, such steps may include, without limitation, the following:

i. Obtaining the minority and Women's Business Enterprises Registry from the Agency MBE/WBE Coordinator to ensure such contractors receive an invitation to bid.

ii. Advertising the invitation to bid or to submit proposals in the El Hispano and the Sacramento Observer as well as in a newspaper of general circulation in the Sacramento metropolitan area.

iii. Reviewing the telephone directory or professional organization membership lists, or making direct contact with minority- or female-owned businesses for specialized trades and services, and inviting such firms to bid.

b. Subrecipient shall include the Minority and Women's Business Enterprises requirements, in the form prescribed by the Agency, in all contracts for use of funds under this Contract, and Subrecipient shall coordinate purchases of goods and services over \$10,000 with the Agency's MBE/WBE Coordinator.

c. Subrecipient shall maintain documentation of outreach efforts to minority and/or female owned businesses. Additionally, Subrecipient shall maintain documentation of contract awards for the Quarterly Reports.

19. **FLOOD DISASTER PROTECTION.** Pursuant to the requirements of the Flood Disaster Protection Act of 1973 (42 USC §4001), Subrecipient shall not use or permit the use of any portion of the assistance provided under this Contract for acquisition or construction purposes as defined by the Director of the Federal Emergency Management Agency (42 USC §4003(a)(4)), for use in an area identified by the Director of the Federal Emergency Management Agency as having special flood hazards unless the community in which such area is located is then participating in the national flood insurance program (described at 42 USC §§4011) and the use of any such assistance shall be subject to the mandatory purchase of flood insurance requirements of 42 USC §4012a.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Director as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, 42 USC §§4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under the Flood Disaster Protection Act of 1973 (42 USC §4012a). Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Contract.

20. **COMPLIANCE WITH AIR AND WATER ACTS.** This Contract is subject to the applicable requirements of the Clean Air Act (42 USC §7401 et seq.), the Federal Water Pollution Control Act, (33 USC §1251 et seq.), and the corresponding regulations of the Environmental Protection Agency (40 CFR Parts 1-49). In compliance with said regulations, Subrecipient shall cause or require to be inserted in all contracts and subcontracts funded with Project Funds, and with respect to any transaction which is not otherwise exempt from such laws and regulations, all of the following requirements:

a. A stipulation by the contractor or subcontractor that any facility to be utilized in the performance of the contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA).

b. Compliance with all the requirements of Section 114 of the Clean Air Act, (42 USC §7414c-8) and Section 308 of the Federal Water Pollution Control Act, (33 USC §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

c. A stipulation that, as a condition for the award of the contract, prompt notice shall be given to Agency by Subrecipient or the prospective contractor or subcontractor of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

d. Agreement by the contractor that he or she shall include or cause to be included the criteria and requirements in this Section 19a through 19c of this Section in every non-exempt subcontract and requiring that the contractor shall take such action as the government may direct as a means of enforcing such provisions.

e. In no event shall any amount of the assistance provided under this Contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) (42 USC §7413) of the Clean Air Act or Section 309(c) (32 USC §1319) of the Federal Water Pollution Control Act.

21. **RELOCATION.** This Contract is subject to the requirements of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC §4601 et seq.) and HUD implementing regulations at 24 CFR Part 42 and CFR §574.630. Subrecipient shall not undertake any of the work contemplated under this Contract if relocation is involved without first obtaining written approval from Agency. Subrecipient shall inform affected persons of the relocation assistance policies and procedures set forth in the regulations at 24 CFR Part 42 and 24 CFR 574.630.

22. **PROPERTY OWNERSHIP AND PROCUREMENT.** The Subrecipient, shall, in the acquisition or improvement of real and personal property with funds provided under this Contract, be subject to all applicable provisions of the Federal Requirements.

a. General property and procurement guidelines are contained in 2 CFR §§ 200.310-200.316 and 2 CFR §§ 200.317-200.326, respectively. In all cases in which personal property is sold, the proceeds shall be transferred to Agency for the HOPWA program or shall be Program Income, and, personal property not needed by the Subrecipient shall be transferred to Agency for the HOPWA program or shall be retained by Subrecipient after compensating the Agency.

b. Real property shall be acquired in accordance with Title III, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (24 CFR Part 42) and 24 CFR §574.630.

23. **USE OF DEBARRED, SUSPENDED OR PROHIBITED PARTIES.** Subrecipient shall not use any Project Funds, directly or indirectly, to award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of 2 CFR Part 2424, 2 CFR Part 180, and 2 CFR §200.213. Subrecipient will verify that the Federal Debarred List Registry does not include any contractor or subrecipient prior to awarding contracts and that they will record the date that the Registry was consulted. Subrecipient acknowledges this requirement by initialing here:

Subrecipient initials \_\_\_\_\_

24. **Davis Bacon Act And State Prevailing Wages.** The provisions of the Davis-Bacon Act do not apply to the HOPWA Program (24 CFR §574.655). However, if this Contract is for construction, alteration, or repair (including painting and decorating) of public buildings or public works, California State Prevailing wages may

apply (California Labor Code §1720 et seq.), in which case Subrecipient must comply with the provisions of California Labor Code §1720 et seq. and all rules, regulations and orders promulgated under said statutes.

25. **FEDERAL LABOR STANDARDS.** For construction, rehabilitation, alteration, or repair of real property funded with Project Funds, Subrecipient shall comply, and shall cause all subcontractors on such work to comply, with the applicable provisions of the Contract Work Hours and Safety Standards Act, as amended, (40 USC §3701 et seq.) and all rules, regulations and orders promulgated under said Acts. Among other provisions, said Acts establish minimum wages and fringe benefits; prohibit deductions or rebates from payments; provide for the withholding of funds to assure compliance with wage provisions; and provide for the termination of the contract and debarment of the contractor for failure so to comply. Subrecipient shall also comply, and shall cause all subcontractors on such work to comply, with all other applicable HUD labor requirements, including, without limitation, the requirements of 29 CFR Parts 3 and 5, which govern the payment of wages and the ratio of apprentices and trainees to journeymen. If wage rates higher than those required under such regulations are imposed by state or local law, nothing in this Contract is intended to relieve Subrecipient of its obligations, if any, to require payment of the higher rates. Subrecipient shall cause or require to be inserted, in all such contracts, provisions which subject the parties to the Federal Labor Standards Provision and all other applicable regulations and requirements of HUD. Subrecipient shall not award any contract subject to the provisions of Section 25 of the Contract to any contractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

26. **ECONOMIC OPPORTUNITY EMPLOYMENT REQUIREMENTS.** The following is applicable to all contracts related to the project which is the subject of this Contract.

a. The contract requires that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area.

b. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

c. Contractor will send to each labor organization or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his or her commitments under this Employment Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d. Contractor will include this Employment Clause in every subcontract for work in connection with the project.

e. **Good Faith Effort.** Each Contractor or subcontractor undertaking work in connection with a Section 3 covered project must fulfill his or her obligation to utilize lower-income project area residents as employees to the greatest extent feasible by:

i. Identifying the number of positions in the various occupational categories including skilled, semi-skilled, and unskilled labor, needed to perform each phase of the Section 3 covered project;

ii. Identifying the positions described in Paragraph (1) of this Section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

iii. Identifying the positions described in Paragraph (1) of this Section, the number of positions in the various occupational categories which are not currently occupied by regular permanent employees;

iv. Establishing the positions described in Paragraph (3) of this Section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower-income residents of the Section 3 covered project area;



v. Making a good faith effort to fill all of the positions identified in Paragraph (4) of this Section with lower income project area residents first and foremost, through the First Source Program;and

vi. Making a good faith effort to fill of the positions identified in Paragraph (4) of this Section with lower-income project area residents.

27. **ARCHITECTURAL BARRIERS ACT.** Subrecipient shall comply with the Architectural Barriers Act of 1968 (42 USC §4151), as applicable, which Act requires that the design of any facility, except a private residence, that is constructed, renovated, remodeled or rehabilitated with funds received pursuant to this Contract shall comply with the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically Handicapped," as described in 41 USC §§ 101-4712, and Subrecipient shall cooperate with Agency in its inspections pursuant to such provisions.

28. **LEAD-BASED PAINT.** The use of lead-based paint is prohibited in any residential structure constructed or rehabilitated with Project Funds, which prohibitions are further described in 24 CFR Part 35.. For those properties constructed prior to 1978, Subrecipient shall assure that rehabilitation applicants, purchasers or tenants, as the case may be, shall be notified (i) that the property may contain lead-based paint, (ii) of the hazards of lead-based paint, (iii) of the symptoms and treatment of lead-based poisoning (iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards), (v) of the advisability and availability of blood level screening for children under the age of seven years of age, and (vi) that, in the event lead-based paint is found on the property, appropriate abatement procedures may be undertaken. Subrecipient shall follow the procedures for the elimination of lead-based paint hazards, to the extent required under 24 CFR 574.635.

29. **FOOD, TRAVEL AND ENTERTAINMENT.** Travel costs may include expenses for transportation, lodging and subsistence and are only allowable for employees who are in travel status on official business and approved as part of this contract or with prior written approval and are specifically related to this contract. Costs must be considered reasonable and do not exceed charges allowed by contractor's Out of Town Travel Policy. See 2 CFR §200.474 for additional information on travel costs and [www.shra.org](http://www.shra.org) for the Out of Town Travel Policy.

The costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval. All entertainment costs must comply with 2 CFR §200.438. In addition, the costs of alcoholic beverages are unallowable per 2 CFR §200.423.

30. **CHANGES IN LAWS AND REGULATIONS.** In the event an applicable law or regulation is modified or eliminated, or new law or regulation is adopted, the revised law or regulation shall automatically supersede the contract's scope of work and any attachments. The most current exhibits, laws and regulations will be posted at [www.shra.org](http://www.shra.org).

31. **OTHER PROGRAM REQUIREMENTS.** Agency must provide Subrecipient with all relevant program information regarding the federal programs having jurisdiction over this Contract. Agency must assist Subrecipient in the interpretation of the requirements of such programs. Subrecipient shall be considered to be familiar with the requirements of such programs and shall comply with such requirements.

**EXHIBIT 3****Compliance Violations and Actions****COMPLIANCE VIOLATIONS AND ACTIONS**  
(All payments due and payable within 30-days of assessment)

<b>Tenant Eligibility and Affordability Violations</b>		
<b>Compliance Violation</b>	<b>Fees and Actions*</b>	<b>Corrective Time Period</b>
Tenants over income at initial move-in	Initial \$500 per unit, again every 90 days until another income qualified tenant is housed. Correction: Evict tenant if tenant fraud. Otherwise, next available unit must be Affordable and rented to an Income-Qualified tenant.	90 days from discovery date to avoid additional \$500 charge every 90-days the problem is not corrected.
Incorrect eligibility documentation	Initial \$50 per file for incorrect calculations, verifications, or required documents. Additional \$50 per month if not corrected. Correction: Submit copies of corrections to compliance staff as applicable.	30 days from discovery date to submit copies of corrections to compliance staff to avoid additional \$50 per month if not corrected
Failure to complete annual recertifications	Initial \$250 for each incomplete file. Additional \$50 per month if not corrected. Correction: Submit copies of recertifications to compliance staff.	30 days from discovery date to submit corrections to avoid additional \$50 per month if not corrected.
Failure to maintain tenant eligibility records	Initial \$500 per unit, again every 90-days thereafter until new records in place. Additional \$100 per unit per month the project remains out of compliance. Correction: Immediately establish new files/records.	30 days from discovery date to submit copies of new records to avoid additional \$100 per unit per month the project remains out of compliance.
Incorrect Rents	Reimbursement to tenant of the entire amount overcharged. \$100 payment to Agency for each over-charged unit. Correction: Refund tenant with letter of correction.	30 days from discovery date to avoid additional \$100 per overcharged unit per month fee to Agency.
Failure to submit complete and accurate monthly Bond Report by due date	Initial \$100 per report. Additional \$100 per day until complete and accurate report submitted. Correction: Submit copies of corrections to compliance staff as applicable.	7 days from discovery date to submit complete and accurate report to avoid additional \$100 per day charge.
Failure to comply with approved Management Plan	Initial \$100 per report. Additional \$100 per day until complete and accurate report submitted. Correction: Submit copies of corrections to compliance staff as applicable.	30 days from discovery date to submit corrections to avoid additional \$100 per day charge.
Failure to submit complete and accurate quarterly Resident Services report by due date	Initial \$100 per report. Additional \$100 per day until complete and accurate report submitted. Correction: Submit copies of corrections to compliance staff as applicable.	7 days from discovery date to submit corrections to avoid additional \$100 per day charge.

Failure to provide a resident service required by Resident Services Plan	Initial \$250 per service. Additional \$100 per day until service is provided. Correction: Implement required service or new resident services plan submitted and approved; approved plan implemented.	7 days from discovery date to implement required service or provide new resident services plan to avoid additional \$100 per day charge; 30 days from discovery date to implement new plan to avoid additional \$100 per day charge.
Noncompliant lease	\$100 per noncompliant lease. Correction: Prepare and execute approved lease or addendum to address the deficiency.	30 days from discovery date to avoid additional \$100 per noncompliant lease per month charge to Agency.

Housing Quality Standards Violations		
Compliance Violation	Fees and Actions*	Corrective Time Period
Verifiable existence of Toxic Mold	\$200 per unit. Additional \$75 per day charge each time efforts fall outside of corrective timeframes. Correction: Prepare and submit action plan that addresses scope of work and timetable to complete. Relocate tenant if necessary. Obtain certified clearance that mold has been abated and unit is safe to occupy once again.	3-days from discovery date to submit action plan to address. 10-days to relocate tenant if necessary. 30-days to obtain certification that unit is mold free. \$75 per day additional charge each time efforts fall outside of these timeframes.
Broken pipes and plumbing facilities	\$200 per unit. Additional \$75 charge per day if not corrected. Correction: Repair/replace as necessary	7-days from discovery date to avoid additional \$75 per day each day thereafter corrective action not taken.
Smoke detectors not working in the units	\$200 per unit with non-functional smoke detector. Additional \$75 charge per day if not corrected. Correction: Replace batteries or non-working unit within 24 hours.	Within 24 hours of discovery date to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Windows with large cracks or missing glass	\$200 per unit. Additional \$75 charge per day if not corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Infestation of roaches or vermin	\$200 per infested unit. Additional \$75 charge per day if not corrected. Correction: Letter from pest control company verifying removal of pests with paid invoice to compliance staff.	7-days from date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Non-working heating unit (Winter) or air conditioning unit (Summer)	\$500 per nonworking unit. Additional \$75 charge per day if not corrected. \$75 re-inspection fee if necessary to verify problem corrected. Correction: Repair/replace as necessary.	Within 24 hours of discovery date to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Excessive amount of urine/ feces	\$200 per unit. Additional \$75 charge per day if not corrected. Correction: Clean unit as necessary and address problem as the lease allows. Submit correction letter with documentation to compliance staff.	7-days from date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Excessive amount of trash/garbage in the unit	\$75 per unit. Additional \$75 charge per day if not corrected. Correction: Clean unit and send letter of correction to compliance staff.	14-days from date of discovery to avoid an additional \$75 per day thereafter each day corrective action not taken.
Hazardous exterior	\$500 for hazardous conditions. Additional	7-days from date of discovery to avoid \$75 per

conditions	\$75 charge per day if not corrected. \$75 re-inspection fee. Correction: Clean and/or repair as necessary. Re-inspection to verify problem addressed.	day additional charge each day corrective action not taken.
Large holes walls/ceiling	\$100 per unit. Additional \$75 charge per day if not corrected. Correction: Submit correction letter with documentation to compliance staff.	30-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.
Non-Operable Security Gate	\$500 per non-working gate. Additional \$75 charge per day if not corrected. \$75 re-inspection fee if necessary to verify problem corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.
No Security Cameras (if cameras required)	\$250 per discovery. Additional \$75 charge per day if not corrected. \$75 re-inspection charge to verify problem corrected. Correction: Replace cameras.	30-days from the date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Non-working Security Cameras	\$100 per camera per discovery. Additional \$75 charge per day if not corrected. \$75 re-inspection charge to verify problem corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.
Non-working or non-accessible amenities/services	\$100 per item per discovery. Additional \$75 charge per day if not corrected. \$75 re-inspection charge to verify problem corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.

\* No compliance fee will be assessed for one incident of each type of compliance violation per annual inspection provided the violation is corrected within the specified corrective time period. The second and subsequent violations will be assessed compliance fees as detailed in the Tenant Eligibility and Affordability Violations and Housing Quality Standards Violations tables.

Exhibit 5B: 30-Year Local Funding Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording  
per Government Code §§6103 & 27383.

When recorded, return to:  
SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY  
801 12<sup>th</sup> Street – 4<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Portfolio Management

**REGULATORY AGREEMENT FOR RESIDENTIAL RENTAL PROPERTY  
AND DECLARATION OF RESTRICTIVE COVENANTS AFFECTING REAL PROPERTY**

PROJECT NAME:	Capitol Park Hotel
PROJECT ADDRESS:	1121 9th Street, Sacramento, CA
APN:	006-0102-016-0000, 006-0102-018-0000

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS AFFECTING REAL PROPERTY (REGULATORY AGREEMENT) AS OF THE EFFECTIVE DATE.

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. Terms being defined are indicated by quotation marks.

TERM	DEFINITION				
"Effective Date"	This Regulatory Agreement shall be effective as of the following date: [_____, 2020]				
"Agency"	Sacramento Housing and Redevelopment Agency A joint powers agency				
"Agency Address"	801 12th Street, Sacramento, California 95814				
"Owner"	Mercy Housing California 90, L.P., a California limited partnership				
"Owner Address"	Owner's business address is as follows: 2512 River Plaza Drive, Suite 200, Sacramento, CA 95833				
"Jurisdiction"	City of Sacramento				
"Property"	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 – Legal Description of the Property and incorporated in this Regulatory Agreement by this reference				
"Funding Agreement"	The Funding Agreement between Agency and Owner as follows: <table><tr><td>Titled:</td><td>Acquisition, Construction and Permanent Loan Agreement</td></tr><tr><td>Dated:</td><td>[_____, 2020]</td></tr></table>	Titled:	Acquisition, Construction and Permanent Loan Agreement	Dated:	[_____, 2020]
Titled:	Acquisition, Construction and Permanent Loan Agreement				
Dated:	[_____, 2020]				
"Agency Funding"	Agency Funding made by Agency to Owner under the Funding Agreement for development of the Property				
"Agency Funding Amount"	The amount of Agency Funding, as follows: \$10,100,000.00				

"Funding Requirements"	The legal restrictions on the use of the funds that Agency has used to make Agency Funding, as applicable to and restricting the Property. The Housing Trust Funds and Mixed Income Housing Ordinances Funding Requirements are set out in Exhibit 2 – Funding Requirements.
"Approved Use"	The Approved Uses of the Property are as follows: Owner shall assure that the residential space on the Property is used as a residential property available for rent. Owner shall assure that the approximate 3,300 square feet of commercial space open to the public on the Property will enhance the living environment of the residents of the Project, and is subject to approval by Agency; and contains no less than the following number of total units: 134 studio units.
"Disapproved Use"	Owner shall assure that the Property is not used, in whole or in part, for any Disapproved Use. A Disapproved Use of the Property is any use other than the Approved Uses, and includes, but is not limited to a liquor store/bar, adult store/film, veterinarian office/kennel, funeral, video arcade/pool hall, bowling alley, music, dancing, manufacturing, repair facility, vehicle related, service stations, hazardous materials, storage or warehousing facilities, tattoo and/or piercing establishment, pawn shop, check cashing or paycheck advance business, passive activity (e.g., switching station), nuisances, and/or medical marijuana.

**3. RESTRICTED PARCELS; APPROVAL OF LEASES.** In order to assure that the proper number and types of units have been rented in accordance with this Regulatory Agreement, Owner is prohibited from leasing any Unit within the Project until either the parties have recorded against the Property a list of the Restricted Units or Agency has approved the individual lease or lease form for the Restricted Units. The following numbers of units are restricted for each respective funding source. The initial rents for the Restricted Units shall be the following; provided, however, that upon the request of Owner, Owner and Agency may agree to a schedule for the Restricted Units that complies with the following affordability requirements as of the date when the Project is available for occupancy. In any event the rents for the Restricted Units may be adjusted not more often than annually. The rents shall include allowance for utilities and costs reasonably related to the rental of the Restrictive Units, as may be required in determining the rents for the applicable funding sources. Only Restrictive Units indicated under Agency Funding Source are assisted by Agency. Nevertheless, Owner shall assure the affordability of all of the following Restrictive Units at the named affordability levels. Additionally, higher rents may be charged for Restrictive Units subject to U.S. Department of Housing and Urban Development Housing Assistance Payment Vouchers, provided that the actual rents paid by the tenants do not exceed the affordability levels for the respective Restrictive Units. Restrictive Units with HOME as its funding source are fixed units if referenced by Apartment Number or equivalent; otherwise such units are "floating units" in which the number of units of an affordability level and bedroom type remains the same, but the actual designated unit may change from time to time. Notwithstanding any conflicting provision in the Funding Requirements, the Initial Rent per Unit per Month listed in this Regulatory Agreement shall be paramount and controlling.

Agency Funding Source:	Other Funding Source:	Affordability Level:	Number of Units:	Restricted Units:	Initial Rent per Unit per Month:
Housing Trust Fund (HTF)	Low Income Housing Tax Credits (LIHTC)	Very Low Income 50% AMI	12	Studio	\$756
Mixed Income Housing Ordinance Fund (MIHF)	LIHTC	Very Low Income 50% AMI	16	Studio	\$756
Total Units			28		

**4. MANAGEMENT AGREEMENT.** Owner agrees that at all times the Project shall be managed by a property manager (i) approved by Agency in its reasonable discretion and (ii) who has successfully managed at least five projects over forty units in size and subject to a recorded regulatory agreement for at least three years' prior to the application, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or

local governmental requirements applicable to such projects (the "Manager"). Owner shall submit to Agency from time to time such information about the background, experience and financial condition of any existing or proposed Manager as Agency may reasonably require to determine whether such Manager meets the requirements for a Manager set forth herein. Agency reserves the right to conduct periodic reviews of the management practices and of the Manager to determine if the Project is being operated and managed in accordance with the requirements and standards of this Loan. Owner agrees to cooperate with Agency in such reviews.

If Agency determines in its reasonable judgment that the Project is not being operated and managed in accordance with one or more of the requirements or standards of the Funding Agreement, Agency may deliver notice to Owner requesting replacement of the Manager, which notice shall state clearly the reasons for such request. Owner agrees that, upon receipt of such notice, Owner shall within 60 days submit to Agency, a proposal to engage a new Manager meeting the requirements of this provision. Agency shall respond within 30 days to such proposal or such approval shall be deemed given. Upon receipt of such consent or deemed consent, Owner shall promptly terminate the existing Manager's engagement and engage the new Manager.

Owner shall not enter into any management agreement or arrangement with any party with respect to the management of the Project without Agency's prior written consent, such consent not to be unreasonably withheld or delayed. Owner shall not materially modify, amend or terminate any approved management agreement (other than as required to comply with the terms of the Funding Agreement and/or applicable law) without Agency's prior written consent, which consent will not be unreasonably withheld or delayed; provided, however, that such consent shall not be required to extend the term of an existing management agreement.

**Approved Management Company:**

Mercy Housing Management Group

**5. SPECIAL PROVISIONS.** Owner shall also comply with the following special provisions:

Provision	Term
<b>ANNUAL ADMINISTRATIVE FEE.</b> Borrower agrees to pay an annual administrative fee ("Fee") to Lender as compensation for monitoring compliance with regulatory restrictions and the administration of the Loan. Borrower shall pay annually a Fee equal to 12.5 basis points (0.125%) of the Loan Amount and One Hundred and No/100 Dollars (\$100.00) for each unit assisted by the Loan Program, not to exceed an annual amount of Fifteen Thousand Dollars and No Cents (\$15,000.00) per project. Fee payments shall commence on the Closing Date for the prorated semiannual period from the Closing Date to and including November 2020, and in equal semiannual installments in advance on each May 1 and November 1 of each year thereafter throughout the term of the Regulatory Agreement.	See Term in Section 9 of this Regulatory Agreement.

**6. REPRESENTATIONS.** Agency has provided Agency Funding to Owner to develop the Property, subject to the terms of the Funding Agreement. This Regulatory Agreement is a substantial part of the consideration to Agency for making Agency Funding. The funds used by Agency under the Funding Agreement are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. Further, Agency has made Agency Funding in accordance with the laws, rules and regulations to which Agency is subject. Therefore, Agency has made Agency Funding conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement, including without limitation, the Funding Agreement. Owner represents that it has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

7. COVENANTS. Owner makes the following covenants. Unless Owner has received the prior written consent or Agency approval otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

- a. Owner shall use and permit others to use the Property only for the Approved Use.
- b. Owner shall ensure full compliance with the Funding Requirements.
- c. Owner shall not convey, transfer, hypothecate, or otherwise encumber any of the Property or permit the conveyance, transfer, hypothecation, or encumbrance of the Property unless such assignee, transferee, beneficiary, or encumbrancer has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this Regulatory Agreement.
- d. Owner shall not cause and shall not permit expansion, reconstruction, or demolition of any part of improvements on the Property, except as provided by the Funding Agreement.
- e. Owner shall maintain the Property and all building improvements, grounds, furniture and equipment of the Property in good repair and condition and in compliance with all applicable housing quality standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, waste materials, and hazardous substances. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.
- f. Owner shall not cause and shall not permit discrimination based on race, color, national origin, religion, sexual orientation, gender, familial status, age or disability in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for him/her/itself, his/her/its heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.
- g. 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 sex, gender identity, or sexual orientation.
- h. Owner shall ensure compliance with the obligations imposed by the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) as amended by California Welfare and Institutions Code Section 17851, which restrict Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in such act.
- i. Owner shall provide Agency with a detailed resident services plan including but not limited to the following information: (1) identification of all entities responsible for providing resident services to Project tenants and each entity's role in the provision of those services; (2) a description of the services to be provided; (3) a resident services budget; and (4) Prior to execution, Borrower must submit to Lender any agreement providing for the resident services by a third party which agreement is subject to Lender approval. The agreement must include a minimum of twenty (20) hours per week of on-site resident services, including an on-site service coordinator for six (6) hours, and the remaining fourteen (14) hours for educational, workforce development, enrichment, case management, and transportation assistance programs.
- j. Owner shall not pass utility charges paid by Owner, including water, sewer, and garbage collection charges, through to residents as an add-on to their contracted rent subject to adjustments permitted by applicable utility allowances.



k. Owner shall not make payment of rental insurance premiums a condition of occupancy. If Owner require 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.

l. Owner shall make fifty percent (50%) of the residential units and all indoor common areas smoke free.

**8. NATURE OF COVENANTS.** The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in this Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and 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, Agency, Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against Owner, its successors and assigns and every successor in interest to all or any part of the Property.

**9. TERM.** The term of this Regulatory Agreement shall commence on the Effective Date and continue until the terms of all of the covenants, including without limitation, the terms stated in the Funding Requirements, have expired or otherwise been terminated. Notwithstanding the term in the Funding Requirements, the term of this Regulatory Agreement shall be thirty (30) years from the date of the completion of the rehabilitation of the Property, as evidenced by a Certificate of Occupancy or building permit sign offs by the Building Department of the City of Sacramento.

**10. EXPIRATION OF AFFORDABILITY PERIOD.** Owner agrees the rent of "in-place" tenants at the conclusion of the Term will continue to be governed by the applicable affordability restrictions, so long as those tenants continue to live in the development.

**11. REVIVAL OF COVENANTS AFTER FORECLOSURE.** The affordability restrictions shall be revived after foreclosure, or deed in lieu of foreclosure, according to the original terms if, during the original term of this Regulatory Agreement, Owner who was owner of record before the termination event, or a party related to Owner obtains an ownership interest in the Property or Restricted Unit, as the case may be. 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.

**12. MULTIPLE FUNDING REQUIREMENTS.** If more than one form of Funding Requirements is attached, each Restricted Unit shall be subject to the Funding Requirements for every Funding Source applied to the respective Restricted Unit. If the terms of the Funding Requirements shall conflict as to any Restricted Unit, the Funding Requirements shall be construed so as to meet all applicable requirements for the respective Restricted Unit, including without limitation the use of the most restrictive requirements and the use of the "Recapture" formula that results in the greatest repayment to Agency.

**13. RECORDKEEPING AND REPORTING.** Upon request of Agency, Owner shall promptly provide any additional information or documentation requested in writing by Agency to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall 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 and the status of any deeds of trust encumbering the Property.

**14. AUDIT AND INSPECTION.** The Property and all related furniture, equipment, buildings, plans, offices, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition for audit and shall be subject to examination by Agency or its agents. The books and accounts of the operations of the Property shall be kept in accordance with generally accepted accounting principles. Owner shall provide Agency access to the Property and its tenants during reasonable hours for the purpose of reviewing Owner's compliance with this Regulatory Agreement.

**15. INDEMNITY FOR OWNER'S FAILURE TO MEET LEGAL REQUIREMENTS.** Owner shall indemnify and hold Agency, its officers, directors, and employees harmless from any and all liability arising from Owner's failure to

comply with the covenants, conditions and restrictions contained in this Regulatory Agreement or to comply with all other laws, rules, regulations and restrictions related to the use of Agency Funding. Without limitation, such indemnity shall include repayment to the appropriate parties of rents or sales proceeds in excess of amounts authorized to be charged and repayment to Agency of the costs of funds and the value of lost opportunities resulting from the required repayment by Agency to the funding source of funds improperly used.

**16. CHANGES WITHOUT CONSENT OTHERS.** Only Agency and its successors and assigns, and Owner (subject to the reasonable approval of Owner's lender) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Regulatory Agreement without the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Property.

**17. DEFAULT.** Upon a breach of any of the provisions of this Regulatory Agreement by Owner, Agency may give written notice of such breach to Owner by registered or certified mail. If such violation is not corrected to the satisfaction of Agency within sixty (60) days after the date such notice is mailed or within such further time as Agency may determine in its sole and absolute discretion is necessary to correct the breach, and without further notice to Owner, Agency may declare a default under this Agreement, effective on the date of such declaration of default, and upon such default Agency may: (a) take any action then available under the Funding Agreement for a default under the Funding Agreement; (b) apply to any court for specific performance of this Regulatory Agreement, (c) apply to any court for an injunction against any violation of this Agreement; (d) apply to any court for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, (e) apply to any court for money damages; or (f) apply to any court or other tribunal for such other relief as may be appropriate. The parties agree the injury to Agency arising from a default under any of the terms in this Regulatory Agreement would be irreparable, and the amount of damage would be difficult to ascertain.

**18. REGULATORY AGREEMENT VIOLATIONS.** Owner shall pay the program compliance fees and expenses to Agency set forth in Compliance Violations and Actions (Exhibit 3 - Compliance Violations and Actions) in reimbursement of the amounts and time expended by Agency to insure Owner's compliance with State statutes and federal regulations and Owner's obligations under this Regulatory Agreement as a result of Owner not meeting its obligations and reporting requirements. No compliance fee will be assessed for one incident of each type of compliance violation per annual inspection provided the violation is corrected within the specified corrective time period. The second and subsequent violations will be assessed compliance fees as detailed in the Compliance Violations and Actions tables.

**19. BINDING SUCCESSORS IN INTEREST.** This Regulatory Agreement shall bind and the benefits shall inure to Owner, its successors in interest and assigns, and to Agency and its successors for the term of this Regulatory Agreement.

**20. CONTRADICTION 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 Regulatory Agreement, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict with this Regulatory Agreement.

**21. COMPLIANCE AMENDMENTS.** If revisions to the provisions of this Regulatory Agreement are necessitated to comply with the laws or regulations governing Agency Funding, Owner agrees to execute modifications to this Regulatory Agreement that are needed to comply with such laws or regulations.

**22. ATTORNEYS' FEES.** If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach of default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs 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 Regulatory 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, unless the award or

judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the other party.

**23. SEVERABILITY.** The invalidity or unenforceability of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions.

**24. ELECTION OF REMEDIES.** To the extent applicable, in the event of any breach of any covenant, condition or restriction contained in this Regulatory Agreement, Agency shall reasonably endeavor to remedy such breach by conference and conciliation. If, in the opinion of Agency, Agency 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 Agency.

Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are unsuitable only for uses not permitted under this Regulatory Agreement.

The remedies of Agency under this Regulatory Agreement are cumulative, and the exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreement shall not be deemed an election of remedies and shall not preclude the exercise by Agency of any one or more of its other remedies.

**25. NO WAIVER.** No waiver by Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

**26. NOTICES.** Written notices and other written communications by and between the parties shall be addressed to Owner at Owner's Address and to Agency at Agency Address or such other address as each respective party has designated by written notice to the other party.

**THE PARTIES HAVE EXECUTED THIS REGULATORY AGREEMENT in Sacramento, California as of the Effective Date**

**OWNER : MERCY HOUSING CALIFORNIA 90, L.P.,  
A CALIFORNIA LIMITED PARTNERSHIP**

**AGENCY: SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY,  
A JOINT POWERS AUTHORITY**

**By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner**

**By: \_\_\_\_\_  
La Shelle Dozier, Executive Director**

**By: Mercy Housing Calwest  
a California nonprofit public benefit  
corporation, its sole member/manager**

**Approved as to form:**

**By: \_\_\_\_\_  
Stephan Daues, Vice President**

**\_\_\_\_\_  
Agency Counsel**

**EXHIBIT 1**

**LEGAL DESCRIPTION**

**For APN/Parcel ID(s): 006-0102-016 and 006-0102-018**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:**

**PARCEL ONE**

All that portion of Lots 7 and 8, in the Block Bounded by 9th and 10th, "K" and "L" Streets, of the City of Sacramento, according to the official Plat thereof, described as follows:

Beginning at a point marking the Northwest corner of said Lot 8; thence from said point of beginning South 71°11'56" East 80.37 feet to the Northeast corner of said Lot 8; thence South 71°11'56" East 5.00 feet; thence South 18°48'25" West 100.00 feet; thence North 71°11'56" West 5.00 feet to a point on the Easterly Line of said Lot 8; thence North 72°02'56" West 35.00 feet; thence South 18°48'25" West 60.00 feet to a point on the Southerly line of said Lot 8; thence North 71°12'09" West 45.47 feet to the Southwest corner of said Lot 8; thence Northeasterly along the Westerly line of said Lot 8 to the point of beginning.

**PARCEL TWO**

An easement for light, air and building separation and access for maintenance and repair over, across, and upon the following described portion of Lots 7 and 8 in the Block Bounded by 9th and 10th, "K" and "L" Streets of the City of Sacramento, according to the official plat thereof.

Beginning at a point on the South line of said Lot 8 located South 71°12'09" East 45.47 feet from the Southwest corner of said Lot 8; thence from said point of beginning North 18°48'25" East 60.00 feet; thence South 72°02'56" East 40.00 feet; thence North 18°48'25" East 100.00 feet to a point on the North line of said Lot 7 located South 71°11'56" East 85.37 feet from the Northwest corner of said Lot 8; thence along the North line of said Lot 7 South 71°11'56" East 5.00 feet; thence South 18°48'25" West 105.00 feet; thence North 72°02'56" West 40.00 feet; thence South 18°48'25" West 55.00 feet on the South line of said Lot 8; thence along said South line North 71°12'09" West 5.00 feet to the point of beginning.

APN: 006-0102-016-0000, 006-0102-018-0000

## **EXHIBIT 2**

### **FUNDING REQUIREMENTS**

#### **HTF FUNDING REQUIREMENTS HOUSING TRUST FUND – CITY OF SACRAMENTO FINANCING FOR RESIDENTIAL RENTAL PROPERTY**

These "HTF Funding Requirements" are attached to a Regulatory Agreement, and are incorporated in that Regulatory Agreement. In turn, the Regulatory Agreement is incorporated in the Loan that is described in the Regulatory Agreement. The capitalized terms used in these HTF Funding Requirements shall have the meanings below in the body of the these HTF Funding Requirements. Terms being defined are indicated by quotation marks. Capitalized terms in these HTF Funding Requirements that are not defined below are defined in the Regulatory Agreement.

1. **RECITALS.** The Loan is funded by the Agency with proceeds of the Housing Trust Fund ("HTF") of the City of Sacramento. The Agency has approved the Loan on condition that the property securing the Loan ("Property") is rehabilitated or developed as residential rental property ("Project") with certain units regulated in accordance with the HTF ("HTF-Assisted Units") by recordation of these HTF Funding Restrictions as covenants running with the land. The Project has been determined to be within a seven mile distance from the non-residential projects generating the funds or has access to existing or planned public transit such that it is reasonable that tenants of the Project could commute from the Project to the non-residential projects generating the funds. The Project conforms to any City "Fair Share" plan currently adopted and in effect. HTF-Assisted Units are made affordable by such regulation to persons and households that qualify as low-income or very low-income as indicated in the table in Article I of the Regulatory Agreement. The development of the Project will benefit the Project Area because the Project will provide housing for persons who work within the Project Area. The Project is located within the City of Sacramento ("City"). Most Project Area workers live outside of the Project Area and come from throughout the City, including the vicinity of the Property.
2. **AFFORDABILITY REQUIREMENTS.** Owner shall assure that all of the HTF-Assisted Units assisted with HTF funds shall be rented at or below the following rates:
  - a. Low-Income Units shall be rented for not more than thirty percent (30%) of sixty percent (60%) of the Sacramento Metropolitan Statistical Area median income ("Median Income"), as determined annually by the federal Department of Housing and Urban Development, as adjusted for family size appropriate to the size and number of bedrooms in the respective HTF-Assisted Unit.
  - b. Very Low-Income Units shall be rented for not more than thirty percent (30%) of fifty percent (50%) of the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective HTF-Assisted Unit.
  - c. Unless Owner has obtained prior written Agency authorization, Owner shall maintain the allocation of HTF-Assisted Units by the bedroom sizes stated in the Regulatory Agreement.
  - d. Owner shall be responsible to determine the affordable rents for the HTF-Assisted Units. Within ten (10) days of Owner request, Agency shall provide all information necessary for Owner to compute such affordable rents and will assist Owner in determining such rents.
2. **OCCUPANCY REQUIREMENTS.** Owner shall assure that all HTF-Assisted Units shall be occupied by households earning less than eighty percent (80%) of Median Income.
3. **UNIT QUALITY.** Owner shall assure that Assisted Units assisted with HTF funds must be comparable in size and amenities to other units in the Project.
4. **TERM.** These covenants shall burden and regulate the HTF-Assisted Units for a term of thirty (30) years.

**MIHF FUNDING REQUIREMENTS**

**MIXED INCOME HOUSING ORDINANCE FUND – CITY OF SACRAMENTO  
FINANCING FOR RESIDENTIAL RENTAL PROPERTY**

**TO FOLLOW IN V3**

**EXHIBIT 3****Compliance Violations and Actions****COMPLIANCE VIOLATIONS AND ACTIONS**  
(All payments due and payable within 30-days of assessment)

<b>Tenant Eligibility and Affordability Violations</b>		
<b>Compliance Violation</b>	<b>Fees and Actions*</b>	<b>Corrective Time Period</b>
Tenants over income at initial move-in	Initial \$500 per unit, again every 90 days until another income qualified tenant is housed. Correction: Evict tenant if tenant fraud. Otherwise, next available unit must be Affordable and rented to an Income-Qualified tenant.	90 days from discovery date to avoid additional \$500 charge every 90-days the problem is not corrected.
Incorrect eligibility documentation	Initial \$50 per file for incorrect calculations, verifications, or required documents. Additional \$50 per month if not corrected. Correction: Submit copies of corrections to compliance staff as applicable.	30 days from discovery date to submit copies of corrections to compliance staff to avoid additional \$50 per month if not corrected
Failure to complete annual recertifications	Initial \$250 for each incomplete file. Additional \$50 per month if not corrected. Correction: Submit copies of recertifications to compliance staff.	30 days from discovery date to submit corrections to avoid additional \$50 per month if not corrected.
Failure to maintain tenant eligibility records	Initial \$500 per unit, again every 90-days thereafter until new records in place. Additional \$100 per unit per month the project remains out of compliance. Correction: Immediately establish new files/records.	30 days from discovery date to submit copies of new records to avoid additional \$100 per unit per month the project remains out of compliance.
Incorrect Rents	Reimbursement to tenant of the entire amount overcharged. \$100 payment to Agency for each over-charged unit. Correction: Refund tenant with letter of correction.	30 days from discovery date to avoid additional \$100 per overcharged unit per month fee to Agency.
Failure to submit complete and accurate monthly Bond Report by due date	Initial \$100 per report. Additional \$100 per day until complete and accurate report submitted. Correction: Submit copies of corrections to compliance staff as applicable.	7 days from discovery date to submit complete and accurate report to avoid additional \$100 per day charge.
Failure to comply with approved Management Plan	Initial \$100 per report. Additional \$100 per day until complete and accurate report submitted. Correction: Submit copies of corrections to compliance staff as applicable.	30 days from discovery date to submit corrections to avoid additional \$100 per day charge.
Failure to submit complete and accurate quarterly Resident Services report by due date	Initial \$100 per report. Additional \$100 per day until complete and accurate report submitted. Correction: Submit copies of corrections to compliance staff as applicable.	7 days from discovery date to submit corrections to avoid additional \$100 per day charge.



Failure to provide a resident service required by Resident Services Plan	Initial \$250 per service. Additional \$100 per day until service is provided. Correction: Implement required service or new resident services plan submitted and approved; approved plan implemented.	7 days from discovery date to implement required service or provide new resident services plan to avoid additional \$100 per day charge; 30 days from discovery date to implement new plan to avoid additional \$100 per day charge.
Noncompliant lease	\$100 per noncompliant lease. Correction: Prepare and execute approved lease or addendum to address the deficiency.	30 days from discovery date to avoid additional \$100 per noncompliant lease per month charge to Agency.

Housing Quality Standards Violations		
Compliance Violation	Fees and Actions*	Corrective Time Period
Verifiable existence of Toxic Mold	\$200 per unit. Additional \$75 per day charge each time efforts fall outside of corrective timeframes. Correction: Prepare and submit action plan that addresses scope of work and timetable to complete. Relocate tenant if necessary. Obtain certified clearance that mold has been abated and unit is safe to occupy once again.	3-days from discovery date to submit action plan to address. 10-days to relocate tenant if necessary. 30-days to obtain certification that unit is mold free. \$75 per day additional charge each time efforts fall outside of these timeframes.
Broken pipes and plumbing facilities	\$200 per unit. Additional \$75 charge per day if not corrected. Correction: Repair/replace as necessary	7-days from discovery date to avoid additional \$75 per day each day thereafter corrective action not taken.
Smoke detectors not working in the units	\$200 per unit with non-functional smoke detector. Additional \$75 charge per day if not corrected. Correction: Replace batteries or non-working unit within 24 hours.	Within 24 hours of discovery date to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Windows with large cracks or missing glass	\$200 per unit. Additional \$75 charge per day if not corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Infestation of roaches or vermin	\$200 per infested unit. Additional \$75 charge per day if not corrected. Correction: Letter from pest control company verifying removal of pests with paid invoice to compliance staff.	7-days from date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Non-working heating unit (Winter) or air conditioning unit (Summer)	\$500 per nonworking unit. Additional \$75 charge per day if not corrected. \$75 re-inspection fee if necessary to verify problem corrected. Correction: Repair/replace as necessary.	Within 24 hours of discovery date to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Excessive amount of urine/ feces	\$200 per unit. Additional \$75 charge per day if not corrected. Correction: Clean unit as necessary and address problem as the lease allows. Submit correction letter with documentation to compliance staff.	7-days from date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Excessive amount of trash/garbage in the unit	\$75 per unit. Additional \$75 charge per day if not corrected. Correction: Clean unit and send letter of correction to compliance staff.	14-days from date of discovery to avoid an additional \$75 per day thereafter each day corrective action not taken.
Hazardous exterior	\$500 for hazardous conditions. Additional	7-days from date of discovery to avoid \$75 per

conditions	\$75 charge per day if not corrected. \$75 re-inspection fee. Correction: Clean and/or repair as necessary. Re-inspection to verify problem addressed.	day additional charge each day corrective action not taken.
Large holes walls/ceiling	\$100 per unit. Additional \$75 charge per day if not corrected. Correction: Submit correction letter with documentation to compliance staff.	30-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.
Non-Operable Security Gate	\$500 per non-working gate. Additional \$75 charge per day if not corrected. \$75 re-inspection fee if necessary to verify problem corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.
No Security Cameras (if cameras required)	\$250 per discovery. Additional \$75 charge per day if not corrected. \$75 re-inspection charge to verify problem corrected. Correction: Replace cameras.	30-days from the date of discovery to avoid \$75 per day additional charge each day thereafter corrective action not taken.
Non-working Security Cameras	\$100 per camera per discovery. Additional \$75 charge per day if not corrected. \$75 re-inspection charge to verify problem corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.
Non-working or non-accessible amenities/services	\$100 per item per discovery. Additional \$75 charge per day if not corrected. \$75 re-inspection charge to verify problem corrected. Correction: Repair/replace as necessary.	7-days from date of discovery to avoid \$75 per day additional charge each day corrective action not taken.

\* No compliance fee will be assessed for one incident of each type of compliance violation per annual inspection provided the violation is corrected within the specified corrective time period. The second and subsequent violations will be assessed compliance fees as detailed in the Tenant Eligibility and Affordability Violations and Housing Quality Standards Violations tables.

Exhibit 6: Escrow Instructions

**JOINT ESCROW INSTRUCTIONS  
FOR AGENCY LOAN**

"Effective Date" [DATE] \_\_\_\_\_

Agency and Borrower execute these Escrow Instructions as of the Effective Date. This document, including attachments and any amendments and additions, shall constitute the joint escrow instructions of Agency and Borrower for the Agency loan secured by the Property.

**ARTICLE I. GENERAL TERMS.**

1. **GENERAL.** These Escrow Instructions, in addition to items listed below, include Article II Instructions, which is attached to and incorporated in these Escrow Instructions by this reference.

2. **DEFINITIONS.** The capitalized terms in these Escrow Instructions shall have the meanings assigned in Article I General Terms and as defined in Article II Instructions. (Terms being defined are indicated by quotation marks.)

<b>"Title Company"</b>	Fidelity National Title Company		
	<b>Address:</b>	1375 Exposition Blvd., Suite #240, Sacramento, CA 95815	
<b>"Escrow" with Title Company</b>	<b>Escrow Number:</b>	FSSE-0102000234 -SR	<b>Attention:</b> Mark Clayton
	<b>"Agency"</b>	Sacramento Housing and Redevelopment Agency, a joint powers authority (SHRA) for the following loans: \$3,200,000.00 HOME Investment Partnerships Program funds (HOME) \$1,700,000.00 Community Development Block Grant funds (CDBG) \$1,100,000.00 Housing Opportunities for Persons With AIDS funds (HOPWA) \$1,800,000.00 Housing Trust Funds (HTF) \$2,300,000.00 Mixed Income Housing Ordinance Funds (MIHF) <b>\$10,100,000.00 Total SHRA Loan</b>  Housing Authority of the City of Sacramento, a public body, corporate and politic (HACS) for the following loan: \$3,200,000.00 Housing Authority Successor Agency funds (HASAF) <b>\$3,200,000.00 Total HACS Loan<sup>1</sup></b>  <b>\$13,300,000.00 Total SHRA and HACS Loans</b>  <b>Legend:</b> <sup>1</sup> At Close of Escrow, the Borrower shall disburse \$1,500,000.00 from the HASAF Loan Amount through Escrow to HACS to repay the promissory note evidencing the Predevelopment and Permanent Loan on behalf of its affiliate, 1121 9 <sup>th</sup> Street LLC, and satisfy all obligation under the Predevelopment and Permanent Loan Agreement and Predevelopment and Permanent Loan Agreement Note. Thereafter, HACS shall execute all documents HACS deems necessary to release 1121 9 <sup>th</sup> Street LLC from the Predevelopment and Permanent Loan Documents.	
<b>"Borrower"</b>	<b>Address:</b>	801 12 <sup>th</sup> Street, Sacramento, CA 95814	
	<b>Attention:</b>	Anne Nicholls	
	<b>Mercy Housing California 90. L.P., A California limited partnership</b>		
	<b>Address:</b>	2512 River Plaza Drive, Suite 200, Sacramento, CA 95833	

<b>"Closing Date"</b>	<b>Attention:</b> Rich Ciraulo		
	November 23, 2020		
<b>"Property"</b>	<b>Address:</b>	1121 9th Street, Sacramento, CA 95814	<b>APN:</b> 006-0102-016-0000 and 006-0102-018-0000
<b>Description of the transaction</b>	\$13,300,000 acquisition, construction and permanent loans by SHRA and HACS to Borrower for the rehabilitation of the Property, commonly referred to as Capitol Park Hotel.		

<b>"Recorded Documents"- The following documents are to be recorded in the order listed (top being first in priority). Copies of the Recorded documents are attached.</b>	<b>Documents:</b>	<b>Marked for return to:</b>
	<ol style="list-style-type: none"> <li>1. Regulatory Agreement (HOME, CDBG and HOPWA)</li> <li>2. Regulatory Agreement (HTF and MIHF)</li> <li>3. Regulatory Agreement (HASAF)</li> <li>4. Deed of Trust (HOME)</li> <li>5. Deed of Trust (CDBG)</li> <li>6. Deed of Trust (HOPWA)</li> <li>7. Deed of Trust (HTF)</li> <li>8. Deed of Trust (MIHF)</li> <li>9. Deed of Trust (HASAF)</li> </ol>	Sacramento Housing and Redevelopment Agency 801 12th Street - 4 <sup>th</sup> Floor Sacramento, CA 95814 Attention: Anne Nicholls
<b>"Agency Items"</b>	<ol style="list-style-type: none"> <li>1. SHRA Loan Agreement for subject loan (HOME, CDBG, HOPWA, HTF and MIHF)</li> <li>2. HACS Loan Agreement for subject loan (HASAF)</li> <li>3. Promissory Note (HOME)</li> <li>4. Promissory Note (CDBG)</li> <li>5. Promissory Note (HOPWA)</li> <li>6. Promissory Note (HTF)</li> <li>7. Promissory Note (MIHF)</li> <li>8. Promissory Note (HASAF)</li> <li>9. Authorizing resolutions for all Borrower signatories</li> </ol>	
<b>"Borrower Items"</b>	<ol style="list-style-type: none"> <li>1. Loan proceeds in an amount not to exceed 90% of the \$10,100,000.00 SHRA Loan: \$9,090,000.00; and</li> <li>2. Loan proceeds in an amount not to exceed 90% of the \$3,200,000.00 HACS Loan: \$2,880,000.00.</li> </ol>	

<b>"Special Provisions":</b>	Title Policy shall, in addition to customary endorsements, bear the following endorsements: CLTA 101.2 Mechanic's Lien Endorsement Title Policy shall, in addition to customary endorsements, bear the following endorsements: <ul style="list-style-type: none"> <li>• ALTA 9.6 and 9.7 (or CLTA 100) Covenants, Conditions or Restrictions</li> </ul>
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<b>"Agency Title Policy" in the form of an ALTA Agency's</b>	<b>Documents:</b>	<b>Coverage amount:</b>
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<b>Policy insuring that the following are valid liens against the property:</b>	<ol style="list-style-type: none"> <li>1. Regulatory Agreement (HOME, CDBG and HOPWA)</li> <li>2. Regulatory Agreement (HTF and MIHF)</li> <li>3. Regulatory Agreement (HASAF)</li> <li>4. Deed of Trust (HOME)</li> <li>5. Deed of Trust (CDBG)</li> <li>6. Deed of Trust (HOPWA)</li> <li>7. Deed of Trust (HTF)</li> <li>8. Deed of Trust (MIHF)</li> <li>9. Deed of Trust (HASAF)</li> </ol>	In the amount of the SHRA and HACS loans secured (\$13,300,000.00)	
<b>The title policies shall be subject only to the following "Conditions of Title":</b>	Items of 1 through 9 and 14 through 17 of the Title Company's Preliminary Report for the Escrow	<b>Dated:</b>	July 23, 2020
		<b>Number:</b>	FSSE-0102000234-SR

**THE PARTIES HAVE EXECUTED THESE ESCROW INSTRUCTIONS** in Sacramento, California as of the date first written above.

**BORROWER: MERCY HOUSING CALIFORNIA 90,  
L.P., A CALIFORNIA LIMITED PARTNERSHIP**

By: 1121 9th Street LLC,  
a California limited liability company,  
its general partner

By: Mercy Housing Calwest  
a California nonprofit public benefit  
corporation, its sole member/manager

By: \_\_\_\_\_  
Stephan Daucs, Vice President

**AGENCY: SACRAMENTO HOUSING AND  
REDEVELOPMENT AGENCY, A JOINT POWERS  
AUTHORITY**

By: \_\_\_\_\_  
La Shelle Dozier, Executive Director

## ARTICLE II. INSTRUCTIONS

1. **CLOSING DATE.** Escrow shall close on or before the Closing Date as it may be changed from time to time by written agreement of Borrower and Agency.

2. **CONDITIONS TO CLOSE OF ESCROW.** "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date.

2.1. **CONDITIONS.** The following are conditions to the Close of Escrow:

2.1.1. The conditions precedent to performance stated in the Recorded Documents are satisfied as of the Closing Date.

2.1.2. Simultaneously with the Close of Escrow, Title Company shall issue the Agency Title Insurance to Agency (at Borrower's cost) in the amount stated. The Agency Title Insurance shall include all usual and customary endorsements and any endorsements and other commitments as Agency may reasonably require. The Agency Title Insurance shall show the Recorded Documents marked for return to Agency as valid liens against the Property in favor of the Agency, subject only to the Conditions of Title, and securing, as applicable, Borrower's performance of its obligations and repayment of Agency Funding.

2.1.3. Prior to the Closing Date, the parties shall duly execute (in Escrow or prior to deposit in Escrow) each such document and shall execute those to be recorded in a manner suitable for recording.

2.1.4. On or before the Closing Date, Agency shall also deposit with Title Company the Borrower Items and any Loan Amount then to be disbursed under this Agreement, but not less than closing costs, fees and charges required for Close of Escrow.

2.1.5. On or before the Close of Escrow, Borrower shall also deposit with Title Company the Agency Items and Borrower's share of closing costs and fees.

2.1.6. Title Company is satisfied that all required funds have been deposited in Title Company's account for the Escrow, have cleared the originating bank and are available for transfer by Title Company's check or wire transfer to the appropriate party.

2.2. **DEED OF TRUST FORM.** If no exhibit setting out the form of the Deed of Trust form is attached, the Title Company shall draw the Deed of Trust on the Title Company's Long Form Deed of Trust. Title Company shall assure that the Deed of Trust includes a standard clause giving Agency the option to accelerate the Loan upon the sale, conveyance, transfer or further encumbrance of the Property, whether voluntary or involuntary. Title Company shall also affix the following provision to the Deed of Trust and incorporate it in the Deed of Trust by reference:

*"The Loan Agreement requires the filing of the "Regulatory Agreement" that is defined in the Loan Agreement. The Regulatory Agreement contains covenants running with the land and is recorded against the Property. If Borrower does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Agency's written notice to Borrower of such failure, the principal balance of the Loan shall, at Agency's option, be immediately due and payable, together with all unpaid interest at the stated rate from the date of the advancement of the Loan's proceeds."*

**2.3. UPON CLOSE OF ESCROW.** The Close of Escrow shall take place on the Closing Date. On the Closing Date, Title Company shall complete the Close of Escrow as follows and in the following order (unless otherwise stated, all recorded documents are recorded with the Sacramento County Recorder):

2.3.1. Assure fulfillment of the Special Provisions;

2.3.2. Assure all documents are complete and affix legal descriptions of the Property as necessary to complete them;

2.3.3. Obtain full execution of all unexecuted documents;

2.3.4. Date all undated documents as of the Closing Date;

2.3.5. Record the Recorded Documents in the priority listed;

2.3.6. Determine all closing costs and fees; including without limitation, all charges, fees, taxes and title insurance premiums payable under this Agreement on Close of Escrow and any other fees and charges approved for payment from Escrow by both parties and deduct such fees from the Loan proceeds deposited by Agency in Escrow;

2.3.7. Deliver the Agency Items to Agency and the Borrower Items to Borrower; and

2.3.8. Prepare and deliver to Borrower and Agency, respectively, one signed original of all documents included for delivery to either party and not delivered for recording, one signed original of Title Company's closing statement showing all receipts and disbursements of the Escrow, and one conformed copy of each of the recorded documents.

**2.4. INABILITY TO CLOSE.** If Title Company is unable to simultaneously perform all of the preceding instructions, Title Company shall notify Borrower and Agency, and upon each of their directions return to each party all documents, items and funds deposited in Escrow by such party (less fees and expenses incurred by the respective party) and bill the respective parties for any unpaid fees and expenses incurred in Escrow. If Escrow fails to close on the Closing Date because Borrower has not complied with Borrower's obligations under this Loan Agreement, then Borrower shall pay the costs incurred through Escrow to the date the Escrow is terminated, including the cost of any preliminary title report and any cancellation fees or other costs of this Escrow. If Escrow fails to close on or before the Closing Date because Agency has not complied with Agency's obligations under this Loan Agreement, such costs shall be paid by Agency. If Escrow fails to close on or before the Closing Date for any other reason, such costs shall be divided equally between the parties.

**2.5. COMMISSIONS.** Agency is not responsible, by this Loan Agreement or otherwise, to pay commissions in relation to this transaction.

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### ACCEPTANCE OF ESCROW INSTRUCTIONS

Your acceptance of this escrow shall create a contractual obligation by you with Agency and Borrower for complete compliance with these instructions. Agency and Borrower reserve the right to jointly revoke this escrow at any time upon their payment to you of your fees and reimbursement to you of your expenses in accordance with the terms of these escrow instructions. Your obligations as Escrow Holder under these escrow instructions shall be subject to the following provisions:

You are not responsible as to the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in this escrow nor as to the authority or rights of any person executing such instrument. Except as otherwise provided in these escrow instructions, your duties as Escrow Holder are limited to the proper handling of monies and the proper safekeeping of instruments and other items received by you as Escrow Holder, and for the performance of your obligations as specifically provided under these escrow instructions. You are responsible for the sufficiency of any instruments or documents prepared by you for this escrow.

Borrower agrees to indemnify and hold you harmless from damages incurred as a result of your good faith and diligent performance of your duties under these escrow instructions.

Upon your acceptance of these escrow instructions, return the executed counterparts of these escrow instructions to Agency and Borrower, respectively.

Escrow Holder acknowledges receipt of the foregoing escrow instructions and agrees to act as Escrow Holder and to comply with the terms and conditions of the escrow instructions.

Dated: \_\_\_\_\_

**TITLE COMPANY**  
**FIDELITY NATIONAL TITLE COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_  
Its authorized agent and signatory

Exhibit 7: Funding Requirements

**EXHIBIT 7A: HOME FUNDING AND OTHER FEDERAL REQUIREMENTS  
RENTAL PROJECT**

These "HOME Funding and Other Federal Requirements" are attached to the Loan Documents (Loan Agreement and Regulatory Agreement), and are incorporated in the Loan Documents. The capitalized terms used in these HOME and Other Federal Funding Requirements shall have the meanings below in the body of these HOME Funding and other Federal Requirements. Terms being defined are indicated by quotation marks. Capitalized terms in these HOME Funding and Other Federal Requirements that are not defined below are defined in the Loan Documents. References to the CFR are to the Code of Federal Regulations. Project specific restrictions are set forth in Section 3 of this Regulatory Agreement.

1. **Definitions.** For the purposes of the Loan Documents and in addition to the definitions made elsewhere in the Loan Documents, the following capitalized words and phrases contained in this Contract shall have the following meanings:

"HOME" is the federal HOME Investment Partnership program (Catalogue of Federal Domestic Assistance FDA 14.239) administered by the U.S. Department of Housing and Urban Development.

a. The "HOME Requirements" are the laws, rules and regulations which are specifically applicable to this contract. A substantial portion of the Federal Requirements included in this Attachment 2.

b. "Exhibits" to this Attachment 2 contain a substantial portion of the Federal Requirements, and are incorporated into this Agreement in the form of a Compact Disc (CD) or cloud content management and file sharing service (e.g., Box).

**Borrower acknowledges receipt of the Exhibits by initialing here: \_\_\_\_.**

The Exhibits included the following:

- i. Exhibit 1 – HOME Regulations: 24 Code of Federal Regulations (CFR) Part 92.
- ii. Exhibit 2 – Requirements for nonprofit subgrantees; 2 CFR §200.70; Appendix VIII to 2 CFR Part 200
- iii. Exhibit 3 – Restrictions on Lobbying; 24 CFR Part 87; see also 2 CFR §200.450
- iv. Exhibit 4– Federal Labor Standards Provisions: 29 CFR Part 5

2. **Recitals.** The Agency Funding includes proceeds of the federal HOME Investment Partnerships Act ("HOME") and its implementing regulations (commencing at 24 CFR Part 92) ("HOME Funds"). The Agency has approved the Agency Funding on condition that the property described in the Loan Documents ("Property") is rehabilitated or developed as residential rental property ("Project") with certain units regulated in accordance with laws, rules and regulations regarding the use of HOME funds for the benefit of low-income persons ("HOME Restricted Units") by recordation of these Home Funding and Other Federal Restrictions as covenants running with the land. HOME Restricted Units are made affordable by such regulation to persons and households that qualify as low-income or very low-income as indicated in the table in Section 3 of the Regulatory Agreement.

3. **Use of Home Funds.** Owner shall assure that the HOME Funds are used only for qualified uses. HOME Funds may only be used to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations, all as further defined in 24 CFR §§ 92.205-92.209. The HOME Funds shall not be used for project reserve accounts except as expressly authorized or to provide operating subsidies.

Owner shall not utilize the Project for explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, and to the extent that Owner engages in such explicitly religious activities, it shall perform such activities and offer such services outside of the program pursuant to which Owner is developing the Project pursuant to this Agreement. The Owner further represents that the Project units are available to

all persons regardless of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice; and that there are no religious or membership criteria for tenants of the Property.

4. **Property Standards.** Upon completion, the Project will comply with the applicable property standards of 24 CFR § 92.251. For the term of these Funding Requirements, Owner shall provide Agency access at all reasonable times for inspection to assure compliance with such standards. Such provisions are generally as follows:

a. If the Project is new construction, it must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

b. All other HOME-assisted housing (such as acquisition) must meet all applicable State and local housing quality standards and code requirements.

c. The housing must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 United States Code (USC) Section 794) and covered multifamily dwellings, as defined at 24 CFR §100.201, must also meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 USC §§ 3601et. seq.).

d. Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280. These standards pre-empt State and local codes covering the same aspects of performance for such housing. Also, installation of manufactured housing units must comply with applicable State and local laws or codes, or in the absence of such laws or codes, the participating jurisdiction must comply with the manufacturer's written instructions for installation of manufactured housing units. Manufactured housing that is rehabilitated using HOME funds must meet the requirements set out in Section 4.a.

e. Owner must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401.

5. **Lead-Based Paint.** Owner shall comply with the Lead-Based Paint Poisoning Prevention Act (42 USC §4821et. seq.), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §4851et. seq.), and implementing regulations.

6. **Affordability Requirements.** Owner shall assure that the of HOME Restricted Units shall be rented at or below the following rates:

a. Low-Income Units shall be rented for amounts that do not exceed thirty percent (30%) of sixty-five percent (65%) of the Sacramento Metropolitan Statistical Area median income ("Median Income"), as determined annually by the federal Department of Housing and Urban Development ("HUD"), as adjusted for family size appropriate to the size and number of bedrooms in the respective HOME Restricted Unit, provided however that if the tenant is paying for utilities and services for the HOME Restricted Unit, the rent shall not exceed the maximum amount calculated as set forth in this subdivision minus a monthly allowance for utilities and services as set forth in the maximum monthly allowances for utilities and services established and updated annually by the Agency pursuant to 24 CFR §92.252(d).

b. Very Low-Income Units shall be rented for amounts that do not exceed thirty percent of fifty-percent (50%) of the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective HOME Restricted Unit, provided however that if the tenant is paying for utilities and services for the HOME Restricted Unit, the rent shall not exceed the maximum amount calculated as set forth in this subdivision minus a monthly allowance for utilities and services as set forth in the maximum monthly allowances for utilities and services established and updated annually by the Agency pursuant to 24 CFR §92.252(d).

c. Notwithstanding any other provision, the maximum rent on any HOME-Restricted Unit shall not exceed the "Fair Market Rent" as established by HUD under 24 CFR §888.111.

d. Unless Owner has obtained prior written Agency authorization, Owner shall maintain the allocation of HOME-Restricted Units by the bedroom sizes stated in the Regulatory Agreement.

e. Such maximum rent limits shall be recalculated periodically after HUD determination of the Fair Market Rent or the Median Income; provided, however, that the rents are not required to be lower than the initial rent for the HOME-Restricted Units. Owner shall give tenants not less than thirty (30) days' notice of a change in rents.

f. The Agency shall review and approve rents proposed by Owner for the HOME Restricted Units, subject to the maximum rent limitations as set forth in section 6(a), (b) and (c) of this Agreement. The Agency will provide Owner with information on updated HOME rent limits. Owner must annually provide the Agency with information on rents and occupancy of HOME Restricted Units to demonstrate compliance with this Section 6. The Agency must review rents for compliance and approve or disapprove them every year.

g. The foregoing affordability requirements may, with the consent of the Agency, terminate on foreclosure or deed in lieu of foreclosure; provided, however, that the affordability requirements will revive according to the original terms if the Owner at the time of foreclosure, or any entity that includes such Owner or anyone with whom such Owner has or had family or business ties, obtains an ownership interest in the Project or Property.

7. Occupancy Requirements. Owner shall assure that all HOME Restricted Rental Units shall be initially occupied by households earning less than sixty-five percent (65%) of the Median Income, as verified by the Agency. Notwithstanding any other provision, if five or more units in the Project are HOME-Restricted Units, not less than twenty percent of the HOME-Restricted Units shall be Very Low-Income Units and shall be occupied by families whose annual income does not exceed fifty-percent (50%) of the Median Income. If a tenant of a HOME-Restricted Unit no longer qualifies as for the HOME-Restricted Unit as a result of an increase in family income, the HOME-Restricted Unit continues to qualify under these Funding Requirements so long as actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with these Funding Requirements until the noncompliance is corrected. Such tenants shall pay as rent the lesser of the amount payable by the tenant under State or local law or thirty percent (30%) of the family's adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 USC Section 42) must pay rent governed by such section. In addition, for projects where HOME units are designated as floating pursuant to 24 CFR §92.252(j), tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood. If the HOME-Restricted Units are not occupied by eligible tenants within six months following the date of Project completion, Owner shall, in accordance with the requirements of 24 CFR §92.252, submit marketing information to Agency and to HUD and, if appropriate, submit a marketing plan. If any HOME-Restricted Unit has not been rented to eligible tenants 18 months after the date of project completion, Owner shall repay the HOME funds invested in such HOME-Restricted Unit to HUD.

8. Income Verification. Owner shall fully cooperate with Agency by requiring every prospective tenant of a HOME Restricted Unit to provide to Owner, prior to initial occupancy of a Home-Restricted Unit and annually, all information required to verify income-eligibility of the prospective tenant to assure income eligibility in accordance with 24 CFR § 92.203. For the initial eligibility determination, Owner shall cause the tenant to provide the Agency with at least two months of source documents evidencing annual income (by way of example, wage statement, interest statement, unemployment compensation statement) for the family. Thereafter, Owner shall cause the tenant to provide the Owner with such source documents; a written statement of the amount of the family's annual income and family size, with a certification that the information is complete and accurate and assurance that the family will provide source documents upon request; or a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the family, stating the tenant's family size and the amount of the family's annual income or alternatively, stating the current dollar limit for very low or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed such limit.

9. Tenant Protections; Lease Provisions. Owner shall comply with the following provisions for protection of tenants in HOME-Restricted Units.

a. Owner shall enter into an initial lease with a tenant of a HOME-Restricted Unit for not less than one year, unless by mutual agreement between the tenant and the Owner and not required by Owner as a condition of entering into the lease. Such lease shall not contain any of the following provisions, in addition to any other applicable requirements of law:

i. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Owner in a lawsuit brought in connection with the lease;

ii. Agreement by the tenant that the Owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties; excepting an agreement by the tenant

concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit that is in accordance with State law;

- iii. Agreement by the tenant not to hold the Owner or the Owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- iv. Agreement of the tenant that the Owner may institute a lawsuit without notice to the tenant;
- v. Agreement by the tenant that the Owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- vi. Agreement by the tenant to waive any right to a trial by jury;
- vii. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- viii. Agreement by the tenant to pay attorney's fees or other legal costs, even if the tenant wins in a court proceeding by the Owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- ix. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

b. An Owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, the Owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.

c. Owner must adopt and follow written tenant selection policies and criteria that:

- i. Limit the housing to very low-income and low-income families;
- ii. Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants);
- iii. Limit eligibility or give a preference to a particular segment of the population if required in the Loan Documents (and only if the limitation or preference is described in the Agency's consolidated plan).

1. Any limitation or preference must not violate nondiscrimination requirements in 24 CFR §92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR Part 574, the Shelter Plus Care program under 24 CFR Part 582, the Supportive Housing program under 24 CFR Part 583, supportive housing for the elderly or persons with disabilities under 24 CFR Part 891), and the limit or preference is tailored to serve that segment of the population.

2. If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

- a. The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- b. Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and