

NEW ISSUE RATING:  
BOOK-ENTRY ONLY

Standard & Poor's "AAA"  
See "RATING" herein.

In the opinion of Lewis Brisbois Bisgaard & Smith LLP, Bond Counsel, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986. In the further opinion of Bond Counsel, interest on the Bonds is a specific preference item for purposes of the federal individual or corporate alternative minimum taxes. Bond Counsel also observes that interest on the Bonds is exempt from State of California personal income taxes. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of or the accrual or receipt of interest on, the Bonds. "TAX MATTERS" See herein.

**\$6,500,000**

**El Monte Community Redevelopment Agency, California  
Multifamily Housing Revenue Refunding Bonds, Series 2004**

**(Ginnie Mae Collateralized Mortgage Loan – Pacific Towers Apartment Project)**

Dated: Date of Delivery

Due: As shown on inside cover

The El Monte Community Redevelopment Agency, California (the "Issuer") has agreed to issue its Multifamily Housing Revenue Refunding Bonds, Series 2004 (Ginnie Mae Collateralized Mortgage Loan - Pacific Towers Apartment Project) in the original aggregate principal amount of \$6,500,000 (the "Bonds"). The Bonds are issuable as fully registered bonds in the denomination of \$5,000 principal amount or any multiple thereof. Interest on the Bonds is payable on February 20 and August 20 of each year (each a "Payment Date"), commencing August 20, 2004. The Bonds will be issued in book-entry form only under a global book-entry system operated by the Depository Trust Company, New York, New York ("DTC"), and purchasers will not be entitled to receive certificates representing their Bonds for so long as the global book-entry system is in effect. See "THE BONDS - Book-Entry-Only System." Principal of and interest on the Bonds will be paid by BNY Western Trust Company, as Trustee (the "Trustee") directly to DTC, as the registered owner thereof. Any purchaser as a beneficial owner of a Bond must maintain an account with a broker or dealer who is, or acts through, a DTC Participant to receive payment of the principal of and interest on such Bond.

The Bonds are being issued pursuant to a Trust Indenture, dated as of March 1, 2004, between the Issuer and the Trustee (the "Indenture"), the proceeds of which are to be used to refund in whole the outstanding principal amount of the Issuer's \$6,500,000 El Monte Community Redevelopment Agency Multifamily Housing Revenue Bonds (Pacific Towers Apartment Project) Series 2003A (the "Prior Bonds"). Proceeds of the Prior Bonds will be transferred to the Indenture and be used to provide all or part of the funds with which to pay the costs of (i) acquiring, constructing and equipping an approximately 100-unit multifamily housing facility known as Pacific Towers Apartments (the "Project") in the City of El Monte, California, to be owned by TDF LP, a California limited partnership (the "Borrower") and (ii) issuance expenses in connection with the Bonds. Upon the satisfaction of certain conditions set forth in the Indenture, the proceeds deposited therein will be used to acquire fully modified mortgage-backed securities (the "Ginnie Mae Certificates"). The proceeds received from the sale of the Ginnie Mae Certificates will be used by Red Mortgage Capital, Inc. (the "Lender") to make a mortgage loan (the "Mortgage Loan") to the Borrower, which Mortgage Loan will be insured by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Administration ("FHA") under Section 221(d)(4) of the National Housing Act of 1934, as amended (the "National Housing Act"), and the regulations promulgated thereunder. The Ginnie Mae Certificates will be guaranteed as to timely payment of principal and interest by the Government National Mortgage Association ("Ginnie Mae") pursuant to Section 306(g) of the National Housing Act.

**THE BONDS ARE SUBJECT TO REDEMPTION PRIOR TO MATURITY AS MORE FULLY DESCRIBED HEREIN. PERSONS WHO PURCHASE BONDS AT A PRICE IN EXCESS OF THEIR PRINCIPAL AMOUNT BEAR THE RISK THAT THEY MIGHT LOSE ANY SUCH PREMIUM PAID IN THE EVENT THEIR BONDS ARE REDEEMED PRIOR TO MATURITY. SEE "CERTAIN RISK FACTORS - Loss of Premium from Early Redemption.**

There is no provision in the Bonds or the Indenture for an acceleration of the Bonds or payment of additional interest or penalties in the event interest on the Bonds is declared or becomes taxable.

Purchase of the Bonds involves a degree of risk. Perspective purchasers should consider the material under the caption "CERTAIN RISK FACTORS" herein.

**THE BONDS AND THE PREMIUM, IF ANY, AND INTEREST THEREON ARE A LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS THAT HAVE BEEN PLEDGED AND ASSIGNED TO THE TRUSTEE TO SECURE PAYMENT THEREOF. NEITHER THE MEMBERS OF THE ISSUER NOR ANY PERSONS EXECUTING THE BONDS SHALL BE PERSONALLY LIABLE THEREON. THE BONDS, THE INTEREST THEREON AND OTHER COSTS INCIDENT THERETO SHALL NOT BE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE CITY OF EL MONTE, CALIFORNIA (THE "CITY"), THE COUNTY OF LOS ANGELES, CALIFORNIA (THE "COUNTY"), THE STATE OF CALIFORNIA (THE "STATE") OR OF ANY OTHER POLITICAL SUBDIVISION THEREOF, AND NEITHER THE CITY, THE COUNTY NOR THE STATE OR ANY OTHER POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS, OR OTHER COSTS INCIDENT THERETO, EXCEPT FROM THE REVENUES AND MONEYS PLEDGED THERETO, NOR IN ANY EVENT SHALL THE BONDS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER SPECIFICALLY PLEDGED THERETO. THE ISSUER HAS NO TAXING POWER. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD"), FHA, GINNIE MAE OR ANY OTHER AGENCY THEREOF AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.**

This cover page contains certain information for quick reference only. It is not a summary of this issue. Investors must read the entire Official Statement to obtain information essential in the making of an informed investment decision.

The Bonds are offered when, as and if issued, subject to prior sale, withdrawal or modification of the offer without notice, and to the approval of legality by Lewis Brisbois Bisgaard & Smith LLP, San Bernardino, California, as Bond Counsel. Certain legal matters will be passed upon for the Issuer by Fulbright & Jaworski L.L.P., Los Angeles, California, as disclosure counsel; for the Lender by Krooth and Altman, Washington, D.C.; for the Borrower by Michael M. Stein, a P.C., Tarzana, California and for Kinsell, Newcomb & DeDios, Inc. (the "Underwriter") by Eichner & Norris PLLC, Washington, D.C. It is expected that the Bonds in definitive form will be available for delivery to DTC in New York, New York, on or about March 25, 2004.

Date: March 17, 2004

**KINSELL, NEWCOMB & DE DIOS, INC.**

## MATURITIES, AMOUNTS, INTEREST RATES AND PRICES

### Serial Bonds

<b>Maturity Date</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Price</b>
August 20, 2006	\$45,000	5.000%	106.033
August 20, 2007	\$45,000	5.000%	107.427
August 20, 2008	\$50,000	5.000%	108.188
August 20, 2009	\$50,000	5.000%	108.862
August 20, 2010	\$55,000	5.000%	108.534
August 20, 2011	\$60,000	5.000%	108.347
August 20, 2012	\$60,000	5.000%	107.073
August 20, 2013	\$65,000	5.000%	106.157
August 20, 2014	\$70,000	5.000%	104.961
August 20, 2015	\$70,000	5.000%	104.417

### Term Bonds

<b>Maturity Date</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Price</b>
August 20, 2025	\$1,015,000	5.250%	104.501%
August 20, 2045	\$4,915,000	4.800%	100.000%

**EL MONTE COMMUNITY REDEVELOPMENT AGENCY  
CITY OF EL MONTE**

**CITY COUNCIL/AGENCY BOARD**

Ernest G. Gutierrez, Mayor/Chairperson  
Art Barrios, Vice Mayor/Vice-Chairperson  
Juventino "J" Gomez, Councilmember/Member  
Emily Ishigaki, Councilmember/Member  
Patricia A. Wallach, Councilmember/Member

**CITY/AGENCY STAFF**

Juan D. Mireles, City Manager/Executive Director  
Eugene W. Moy, Redevelopment Manager  
E. Clarke Moseley, City Attorney/Agency General Counsel  
Clara Wong, Deputy City Manager/Agency Fiscal Officer  
Henry Velasco, City Treasurer/Agency Treasurer  
Lorene Gutierrez, City Clerk/Agency Secretary

**SPECIAL SERVICES**

**Financial Advisor To Agency**

Connolly Capital Group  
Encinitas, California

**Bond Counsel**

Lewis Brisbois Bisgaard & Smith  
San Bernardino, California

**Disclosure Counsel**

Fulbright & Jaworski L.L.P.  
Los Angeles, California

**Trustee**

BNY Western Trust Company  
Los Angeles, California

No dealer, broker, salesman or other person has been authorized by the Issuer, the Borrower or the Underwriter to give any information or to make any representations with respect to the Bonds other than those contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell nor the solicitation of an offer to buy nor shall there be any sale of the Bonds by any person in any jurisdiction in which such offer, solicitation or sale is not authorized or in which the person making such offer, solicitation or sale is not qualified to do so or to any person to whom it is unlawful to make such offer, solicitation or sale. The information set forth herein has been obtained from the Issuer (but only with respect to the Issuer), the Borrower and other sources which are believed to be reliable, but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation of, the Underwriter and is in a form deemed final and complete by the Issuer (but only with respect to the Issuer) and the Borrower for the purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended. The information and expressions of opinion stated herein are subject to change without notice. The Issuer has only furnished the information set forth herein under the caption "THE ISSUER" and "LITIGATION - Issuer" and has neither furnished nor verified any other information contained in this Official Statement. The delivery of this Official Statement shall not, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein or in the affairs of the Issuer or the Borrower since the date hereof.

The Issuer has appointed BNY Western Trust Company, a national banking association organized under the laws of the United States, to serve as Trustee. The Trustee is to carry out those duties assignable to it under the Indenture and Bond Documents. Except for the contents of this section, the Trustee has not reviewed or participated in the preparation of this Official Statement and assumes no responsibility for the nature, contents, accuracy or completeness of the information set forth in this Official Statement or for the recitals contained in the Indenture or the Bonds, or for the validity, sufficiency, or legal effect of any of such documents.

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

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

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

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## **OFFICIAL STATEMENT**

**relating to the original issuance of**

**\$6,500,000**

**El Monte Community Redevelopment Agency, California  
Multifamily Housing Revenue Refunding Bonds, Series 2004  
(Ginnie Mae Collateralized Mortgage Loan –Pacific Towers Apartment Project)**

### **INTRODUCTORY STATEMENT**

This Introduction is subject in all respects to the more complete information appearing elsewhere in this Official Statement. This Introduction is not to be read or used without reference to the entire Official Statement. For the definitions of certain capitalized terms used in this Official Statement which are not otherwise defined, reference should be made to the definitions appearing in Appendix A hereto.

The purpose of this Official Statement, which includes the cover page and appendices, is to set forth certain information in connection with the issuance and sale of by the El Monte Community Redevelopment Agency, California (the “Issuer”) of its Multifamily Housing Revenue Refunding Bonds, Series 2004 (Ginnie Mae Collateralized Mortgage Loan - Pacific Towers Apartment Project) (the “Bonds”) in the aggregate principal amount of \$6,500,000 as authorized by and pursuant to Chapter 8 of Part 1 of Division 24 of the Health and Safety Code of the State of California, as amended (the “Act”), commencing at Section 33750. The Bonds will be secured by, and issued pursuant to, a Trust Indenture dated as of March 1, 2004 (the “Indenture”) between the Issuer and BNY Western Trust Company, a state banking corporation, as trustee (the “Trustee”).

The Bonds are being issued by the Issuer to provide funds that will be used to refund in whole the outstanding principal amount of the Issuer’s \$6,500,000 Multifamily Housing Revenue Bonds Series 2003A (Pacific Towers Apartments Project) (the “Prior Bonds”). The proceeds of the Prior Bonds were invested in an investment agreement and when transferred to the Indenture pursuant to this transaction they will be used to provide part of the funds with which to pay the costs of (i) acquiring, constructing and equipping an approximately 100-unit affordable senior rental housing facility known as Pacific Towers Apartments (the “Project”) located in the Downtown El Monte Redevelopment Project in the City of El Monte, California, to be owned by TDF LP, a California limited partnership (the “Borrower”) and (ii) issuance expenses in connection with the Bonds. The Project will be financed pursuant to the Indenture and a Loan Agreement dated as of March 1, 2004 (the “Loan Agreement”) among the Issuer, the Trustee, Red Mortgage Capital, Inc. (the “Lender”) and the Borrower. The Loan Agreement provides that the financing will be accomplished through the Trustee’s acquisition of fully modified mortgage-backed securities (the “Ginnie Mae Certificates”), to be issued by the Lender, which will be guaranteed as to timely payment of principal and interest by the Government National Mortgage Association (“Ginnie Mae”). The proceeds used to acquire the Ginnie Mae Certificates are to be used by the Lender to make a mortgage loan (the “Mortgage Loan”) to the Borrower in an anticipated maximum principal amount of \$6,500,000 to finance the Project, which Mortgage Loan will be evidenced by a nonrecourse deed of trust note (the “Note”) secured by a deed of trust (the “Mortgage”). The Ginnie Mae Certificates consist of (i) construction loan certificates issued for each construction advance on the Mortgage Loan (the “Construction Loan Certificates”) and (ii) a permanent loan certificate issued after completion of construction of the Project in exchange for the Construction Loan Certificates previously delivered to the Trustee and the last advance under the Mortgage Loan (the “Project Loan Certificate”). The Federal Housing Administration of the United States Department of Housing and Urban Development (“FHA”) has issued its firm commitment (the “Commitment”) to the Lender to insure (the “Mortgage Insurance”),

upon compliance with the terms and conditions thereof, construction advances on the Mortgage Loan to the Borrower under Section 221(d)(4) of the National Housing Act of 1934, as amended (the “National Housing Act”). The Trustee will not have any interest in the Mortgage or the Note and will not have a claim against any Mortgage Insurance benefits. Upon satisfaction of certain conditions set forth in the Indenture and Loan Agreement, the Trustee will fund advances of the Mortgage Loan (other than the initial advance and the final advance) prior to receipt of the corresponding Construction Loan Certificate.

In the event the amount of the Project Loan Certificate is less than the anticipated amount of the Mortgage Loan as further provided herein, an amount of Bonds representing any difference may be redeemed (see “THE BONDS – Redemption of the Bonds – Extraordinary Mandatory Redemption” herein).

While the Project is under construction, the Borrower is to make monthly payments, pursuant to the Note, to the Lender representing interest only on the aggregate amounts disbursed to the Borrower under a building loan agreement. Payments of interest on the Note (less the Ginnie Mae guaranty fee, the servicing fee and any late charges on the Mortgage Loan) are to be passed through to the Trustee or its nominee by the Lender as monthly installments of interest on the Construction Loan Certificates and applied, together with investment earnings, if any, on the undisbursed Bond Proceeds and certain other moneys held by the Trustee, to pay debt service on the Bonds.

Following completion of the Project and Final Endorsement of the permanent Mortgage Loan for Mortgage Insurance, the Construction Loan Certificates are to be exchanged, along with the last advance under the Mortgage Loan, for a single Project Loan Certificate. See “GINNIE MAE MORTGAGE-BACKED SECURITIES PROGRAM.” In the event the Project Loan Certificate is not issued on or before the Delivery Date (as such dates may be extended), the Bonds will be redeemed pursuant to the Indenture at a price of par plus accrued interest. See “THE BONDS–Extraordinary Mandatory Redemption.” Following commencement of amortization, the Note shall be payable in approximately equal monthly installments of principal and interest over a period of 39 years and 11 months from the date of commencement of amortization, corresponding to the term of the Note. The Borrower’s payments of principal and interest on the Note to the Lender (less the Ginnie Mae guaranty fee, the servicing fee and any late charges on the Mortgage Loan) are to be passed through by the Lender to the Trustee or its nominee on a monthly basis as payments of principal of and interest on the Ginnie Mae Certificates, and such payments are to be applied to semiannual scheduled payments of interest and principal on the Bonds and to the payment of the Trustee’s fees and expenses, the Issuer’s fees and expenses and the fees and expenses of the Rebate Analyst engaged to perform arbitrage rebate analysis.

The Lender is obligated to make payments on the Ginnie Mae Certificates notwithstanding the failure of the Borrower to make payments on the Mortgage Loan. However, in the event that the Borrower defaults on the Mortgage Loan, the Lender may apply for Mortgage Insurance benefits which, when added to other funds required to be paid on the Ginnie Mae Certificates relating to the Mortgage Loan default, are to be passed through to the Trustee or its nominee under the Ginnie Mae Certificates and applied to the redemption of the Bonds. See “Ginnie Mae MORTGAGE-BACKED SECURITIES PROGRAM” and “THE BONDS – Redemption of the Bonds – Extraordinary Mandatory Redemption.” The ability of the Borrower to make Mortgage Loan payments may be affected by a variety of factors, including satisfactory completion of construction of the Project within cost and time constraints, the achievement and maintenance of a sufficient level of occupancy, sound management of the Project, increases in rates to cover increases in operating expenses, or other factors. See “CERTAIN RISK FACTORS” herein.

The exclusion of interest on the Bonds from gross income for Federal income tax purposes is dependent upon compliance with certain provisions of the Internal Revenue Code of 1986, as amended

(the “Code”) and applicable Treasury Regulations thereunder (the “Regulations”). Certain covenants under the Indenture, the Loan Agreement and a Regulatory Agreement and Declaration of Restrictive Covenants dated as of March 1, 2004 (the “Regulatory Agreement”), by and between the Issuer and the Borrower, are designed to require compliance with such requirements of the Code and the Regulations. THERE IS NO PROVISION IN THE BONDS OR THE INDENTURE FOR AN ACCELERATION OF THE BONDS OR PAYMENT OF ADDITIONAL INTEREST OR PENALTIES IN THE EVENT INTEREST ON THE BONDS IS DECLARED OR BECOMES TAXABLE, AND NEITHER THE ISSUER NOR THE BORROWER SHALL BE LIABLE FOR ANY SUCH PAYMENT OF ADDITIONAL INTEREST OR PENALTIES WHATSOEVER. Also, the enforcement of remedies available to the Issuer and Trustee upon a breach by the Borrower of the tax covenants under the Loan Agreement and the Regulatory Agreement are substantially limited by the requirements of FHA with respect to FHA’s insurance of the Mortgage Loan. See “SUBORDINATION TO MORTGAGE LOAN DOCUMENTS AND HUD REQUIREMENTS,” “TAX MATTERS” and “THE PROJECT – Qualified Residential Rental Project” herein.

The purchase of the Bonds involves a degree of risk. Prospective purchasers should carefully consider the material under the caption “CERTAIN RISK FACTORS” herein.

THE BONDS AND THE PREMIUM, IF ANY, AND INTEREST THEREON ARE A LIMITED OBLIGATION OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS THAT HAVE BEEN PLEDGED AND ASSIGNED TO THE TRUSTEE TO SECURE PAYMENT THEREOF. NEITHER THE MEMBERS OF THE ISSUER NOR ANY PERSONS EXECUTING THE BONDS SHALL BE PERSONALLY LIABLE THEREON. THE BONDS, THE INTEREST THEREON AND OTHER COSTS INCIDENT THERETO SHALL NOT BE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE CITY OF EL MONTE, CALIFORNIA (THE “CITY”), COUNTY OF LOS ANGELES, CALIFORNIA (THE “COUNTY”), THE STATE OF CALIFORNIA (THE “STATE”) OR OF ANY OTHER POLITICAL SUBDIVISION THEREOF INCLUDING THE ISSUER, AND NEITHER THE CITY, THE COUNTY NOR THE STATE OR ANY OTHER POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS, OR OTHER COSTS INCIDENT THERETO, EXCEPT FROM THE REVENUES AND MONEYS PLEDGED THERETO, NOR IN ANY EVENT SHALL THE BONDS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER SPECIFICALLY PLEDGED THERETO. THE ISSUER HAS NO TAXING POWER. THE BONDS ARE NOT A DEBT OF THE UNITED STATES OF AMERICA, THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FHA, GINNIE MAE OR ANY OTHER AGENCY THEREOF AND ARE NOT GUARANTEED BY THE FULL FAITH AND CREDIT OF THE UNITED STATES OF AMERICA.

In the event of conflict between the provisions of the Note, the Mortgage, the FHA Regulatory Agreement (as defined below) and certain other documents required by FHA or the Lender (collectively, the “Mortgage Loan Documents”) and the Indenture, the Loan Agreement or the Regulatory Agreement, the Mortgage Loan Documents will control. The Borrower also will execute a Regulatory Agreement required by FHA (the “FHA Regulatory Agreement”) with respect to the Project in order to provide for, among other things, a reserve fund for replacements, which will be held by the Lender. The Lender will hold a reserve for replacements as well as escrows for taxes, insurance and Mortgage Insurance premiums.

Brief descriptions of the Issuer, the Bonds, the security for the Bonds, the Borrower, the Project and Ginnie Mae Mortgage-Backed Securities Program and summaries of certain documents are set forth herein, including in the Appendices hereto. Such summaries do not purport to be complete or definitive, and each such summary is qualified in its entirety by reference to each such document. Such summaries

do not purport to be complete or definitive, and each such summary is qualified in its entirety by reference to each such document, copies of which are on file with the Trustee.

### **THE ISSUER**

Under the Act, the Issuer is authorized to make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties, or make loans to qualified mortgage lenders, for financing any of residential construction within a redevelopment project area. And residential construction of residences in which the dwelling units are committed, for the period during which the loan is outstanding, for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence. The Issuer also has power to issue bonds for any of the foregoing purposes.

The Issuer is a public body and a body corporate and politic of the State of California established in February 1972. The Issuer has been in continuous operation since that date. The Issuer's powers are vested in five Members. The current Members, their terms of office and their principal occupations are as follows:

<b>Name of Members</b>	<b>Term Expires</b>	<b>Occupation</b>
Ernest G. Gutierrez	2005	Retired educator
Art Barrios	2005	Retired educator
Juventino "J" Gomez	2005	Senior Deputy Director to L.A. County Supervisor
Emily Ishigaki,	2007	Retired businesswoman
Patricia A. Wallach	2007	Retired businesswoman

The Executive Director of the Issuer is Juan D. Mireles. The offices of the Issuer are located at 11333 Valley Boulevard, El Monte, California 91731, and its telephone number is 626-580-2001.

**THE ISSUER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER CONCERNING THE ECONOMIC FEASIBILITY OF THE PROJECT OR THE CREDIT-WORTHINESS OF THE PROJECT AND NO SUCH REPRESENTATION OR WARRANTY SHALL BE IMPLIED FROM THE ISSUANCE OF THE BONDS OR THE OTHER TRANSACTIONS DESCRIBED OR CONTEMPLATED HEREIN. THE ISSUER HAS NOT INDEPENDENTLY VERIFIED ANY INFORMATION CONTAINED IN THIS OFFICIAL STATEMENT OTHER THAN THE INFORMATION UNDER THIS CAPTION.**

The Issuer has not prepared or assisted in the preparation of this Official Statement, including any financial information included herein or attached hereto; and, except for the information contained under the caption, "THE ISSUER" and "LITIGATION - Issuer" the Issuer is not responsible for any statements made in this Official Statement. Accordingly, the Issuer disclaims responsibility for the disclosures set forth in this Official Statement or otherwise made in connection with the offer, sale, and distribution of the Bonds.

**THE BONDS ARE NOT AN OBLIGATION, EITHER GENERAL OR SPECIAL, AND DO NOT CONSTITUTE A PLEDGE OF THE GENERAL CREDIT OR TAXING POWER, OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, BUT ARE PAYABLE SOLELY FROM THE REVENUES AND PROPERTY PLEDGED THEREFOR IN THE THIS INDENTURE, AND NEITHER THE ISSUER, THE STATE NOR ANY SUCH**

**POLITICAL SUBDIVISION THEREOF SHALL BE LIABLE THEREON. THE BONDS HAVE BEEN ISSUED PURSUANT TO THE LAW AND IN ACCORDANCE WITH THE ACT. THE ISSUER HAS NO TAXING POWER.**

## **THE BONDS**

The Bonds are only available in book-entry only form. See “BOOK-ENTRY ONLY SYSTEM” below. So long as Cede & Co., as nominee of The Depository Trust Company (“DTC”), is the registered owner of the Bonds, references herein to the Bondholders or holders or Holders or registered owners of the Bonds means Cede & Co. and not the beneficial owners of the Bonds.

### **General Description**

The Bonds will be dated the Date of Delivery and shall bear interest until paid from the most recent date to which interest has been duly paid or provided for or, if no interest has been paid or duly provided for, from the Date of Delivery. Interest on the Bonds will be payable semiannually on February 20 and August 20 of each year, commencing August 20, 2004 (each a “Payment Date”), computed on the basis of a 360 day year of twelve 30-day months. The Bonds are issuable only as fully registered Bonds without coupons in the denomination of \$5,000 principal amount or any integral multiple thereof, and shall be initially available only in book-entry form. Principal of, premium, if any, and interest on the Bonds will be payable by the Trustee to Cede & Co.

The Bonds shall bear interest at the rates and will mature in the years and amounts stated on the inside cover page hereof. The Bonds shall be equally and ratably secured under the Indenture. Principal of and premium, if any, will be payable, upon surrender, at the designated corporate trust office of the Bond Registrar. Interest on the Bonds will be payable by check or draft mailed on each Payment Date to the person in whose name such Bond (or any predecessor Bond) is registered on the fifth day of the calendar month of such Payment Date.

### **Limited Obligations**

The Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Bond issued under the Indenture at the place, on the dates and in the manner provided in the Indenture and in the Bonds according to the true intent and meaning thereof, but solely from the revenues and receipts specifically pledged thereto pursuant to the Indenture. The principal of, premium, if any, and interest on the Bonds are payable solely from moneys and investments specifically pledged under the Indenture to the payment thereof in the manner and to the extent therein specified, and nothing in the Bonds or in the Indenture will be construed as pledging any other funds or assets of the Issuer.

### **Redemption of the Bonds**

Redemption of Bonds. The Bonds are subject to redemption prior to maturity as a whole or in part at any time on or after February 20, 2014, on the first date for which timely notice of redemption can be given under the Indenture, from (i) payments on the Ginnie Mae Certificates representing optional prepayments on the Mortgage Loan, or (ii) from Available Moneys, at the following redemption prices (expressed as a percentage of the principal amount of the Bonds as of the redemption date of the Bonds to be redeemed) plus accrued interest to the redemption date:

<b>Redemption Date (both dates inclusive)</b>	<b>Redemption Price</b>
February 20, 2014 through February 19, 2015	102%
February 20, 2015 through February 19, 2016	101%
February 20, 2016 and thereafter	100%

Payment of any premium is to be made only with Available Money.

Extraordinary Mandatory Redemption. The Bonds are subject to special mandatory redemption, at a redemption price of 100% of the principal amount thereof plus accrued interest to the redemption date, without premium, as a whole, or in part in Authorized Denominations;

(a) as a whole, but on two separate dates, if the Project Loan Certificate is not delivered to the Trustee or its Nominee on or before the Delivery Date (as such date may be extended pursuant to the Indenture) first, not more than 15 days after the Delivery Date from amounts in the Construction Fund and second, on the Construction Loan Certificate Maturity Date from amounts available from maturing Construction Loan Certificates and amounts in the Bond Fund. See “APPENDIX B – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE” attached hereto.

(b) in part, on any date, as soon as practicable, from amounts transferred from the Construction Fund to the Bond Fund pursuant to the Indenture, in a principal amount equal to the difference between the Project Loan Certificate Maximum Amount and the principal amount of the Project Loan Certificate, as delivered, after delivery of the Project Loan Certificate to the Trustee or its nominee (excluding any amount due to be redeemed as a result of scheduled amortization on the Mortgage Loan); and/or

(c) as a whole or in part, on any date, as soon as practicable, in a principal amount equal to payments received by the Trustee or its nominee on the Ginnie Mae Certificates exceeding regularly scheduled payments of principal and interest thereon (other than optional prepayments of the Mortgage Loan), including payments representing:

(i) casualty insurance proceeds or condemnation awards applied to the prepayment of the Mortgage Loan following a partial or total destruction or condemnation of the Project,

(ii) FHA Insurance proceeds or other amounts received with respect to the Mortgage Loan or Ginnie Mae Certificates as a result of a default under the Mortgage Loan,

(iii) a prepayment of the Mortgage Loan permitted or required by the applicable rules, regulations, policies and/or procedures of FHA or Ginnie Mae, particularly if FHA determines such prepayment would avoid an FHA Insurance claim,

(iv) a prepayment of a portion of the Mortgage Loan to the extent a reduction in the amount of the Mortgage Loan is required by FHA based upon any cost certification or other report required by FHA, and/or

(v) a prepayment of the Mortgage Loan made by the Borrower without notice or prepayment penalty while under supervision of a trustee in bankruptcy.

Mandatory Sinking Fund Redemption.

(a) The Bonds are required to be redeemed in part at a redemption price equal to 100% of the principal amount thereof to be redeemed plus interest accrued to the Sinking Fund Redemption Date in the amounts and on the Sinking Fund Redemption Dates set forth below:

**Bonds Maturing On August 20, 2025**

<b>Redemption Date</b>	<b>Principal Amount</b>	<b>Redemption Date</b>	<b>Principal Amount</b>
February 20, 2016	\$40,000	February 20, 2021	\$50,000
August 20, 2016	\$40,000	August 20, 2021	\$50,000
February 20, 2017	\$40,000	February 20, 2022	\$55,000
August 20, 2017	\$40,000	August 20, 2022	\$55,000
February 20, 2018	\$45,000	February 20, 2023	\$55,000
August 20, 2018	\$45,000	August 20, 2023	\$60,000
February 20, 2019	\$45,000	February 20, 2024	\$60,000
August 20, 2019	\$45,000	August 20, 2024	\$60,000
February 20, 2020	\$50,000	February 20, 2025	\$65,000
August 20, 2020	\$50,000	August 20, 2025†	\$65,000

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† Final Maturity

**Bonds Maturing On August 20, 2045**

<b>Redemption Date</b>	<b>Principal Amount</b>	<b>Redemption Date</b>	<b>Principal Amount</b>
February 20, 2026	\$65,000	February 20, 2036	\$120,000
August 20, 2026	\$70,000	August 20, 2036	\$125,000
February 20, 2027	\$70,000	February 20, 2037	\$125,000
August 20, 2027	\$75,000	August 20, 2037	\$130,000
February 20, 2028	\$75,000	February 20, 2038	\$135,000
August 20, 2028	\$75,000	August 20, 2038	\$135,000
February 20, 2029	\$80,000	February 20, 2039	\$140,000
August 20, 2029	\$80,000	August 20, 2039	\$145,000
February 20, 2030	\$85,000	February 20, 2040	\$150,000
August 20, 2030	\$85,000	August 20, 2040	\$155,000
February 20, 2031	\$90,000	February 20, 2041	\$155,000
August 20, 2031	\$90,000	August 20, 2041	\$160,000
February 20, 2032	\$95,000	February 20, 2042	\$165,000
August 20, 2032	\$95,000	August 20, 2042	\$170,000
February 20, 2033	\$100,000	February 20, 2043	\$175,000
August 20, 2033	\$105,000	August 20, 2043	\$180,000
February 20, 2034	\$105,000	February 20, 2044	\$185,000
August 20, 2034	\$110,000	August 20, 2044	\$190,000
February 20, 2035	\$115,000	February 20, 2045	\$195,000
August 20, 2035	\$115,000	August 20, 2045†	\$200,000

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† Final Maturity

(b) If the Bonds are redeemed in part pursuant to the optional or extraordinary mandatory redemption provision, the Sinking Fund Redemption Requirements of the Bonds set forth above will be reduced so that the resulting decrease in the Sinking Fund Redemption Requirements is proportional, as nearly as practical, to the decrease in payments under the Ginnie Mae Certificates and so that the resulting Sinking Fund Redemption Requirements are in Authorized Denominations.

### **Selection of Bonds for Redemption**

In the event of a partial redemption of the Bonds, the Bonds or portions thereof to be redeemed shall be selected randomly or in such manner as the Trustee may determine in its discretion.

### **Notice of Redemption**

When any redemption of Bonds is to be made under the Indenture, the Trustee, or the Bond Registrar on behalf of the Trustee, will give notice, in the name of the Issuer, of the redemption of such Bonds, which notice will meet the requirements described below. Such notice will be given by mailing by first class mail a copy of such notice, postage prepaid, not less than 15 nor more than 30 days (not less than 10 nor more than 15 days in the case of extraordinary mandatory redemption) before the redemption date, to the Owners of any Bonds or portions of Bonds to be redeemed, at their last addresses, if any, appearing upon the Bond Register, but any defect in such mailing will not impair any such redemption and failure so to mail any such notice will not affect the validity of the proceedings for the redemption of Bonds; provided that notice of a redemption (other than a mandatory sinking fund redemption) will also be mailed to the Rating Agency at its office in New York, New York (or its successor), to the Investor, and to the Underwriter at its principal office (or its successor), and to such other Persons as the Issuer will specify in writing to the Trustee, including all Persons then required by law or regulation to receive notice of such redemption.

Notwithstanding the foregoing or any other provision of the Indenture, in the event of a redemption by reason of the Trustee receiving payments on the Mortgage Loan made by the Borrower without notice or prepayment penalty while under the supervision of a trustee in bankruptcy, prior notice of redemption of Bonds will not be required if circumstances do not permit the Trustee to give such notice in accordance with the preceding paragraph.

Except in the case of an extraordinary mandatory redemption or in the case of a mandatory sinking fund redemption, the Trustee will not mail a notice of redemption until it has received Available Money to effect such redemption or, in the case of an optional redemption certification from the Lender that it has in its possession (credited to the appropriate “servicer’s account”) an amount of Available Money paid by the Borrower as a prepayment of principal and the applicable prepayment premium on the Mortgage Note equal to the amount required to redeem the Bonds.

The failure of the Trustee to mail notice of redemption to Persons other than the Owners of Bonds to be redeemed will not affect the sufficiency of the proceedings for redemption. The Trustee will be entitled to request, as an expense of the Trust Estate, receive and rely upon an opinion of counsel (which may be Bond Counsel) in determining who is required to receive such notice.

All official notices of redemption will be dated, will be given in accordance with the Letter of Representations if the Bonds are registered in the name of DTC or its nominee, and shall state: (i) the redemption date; (ii) the redemption price; (iii) if less than all Outstanding Bonds are to be redeemed, the identification by designation, letters, numbers or other distinguishing marks (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed; (iv) that on the redemption date the redemption price of each such Bond will become due and payable to the extent of funds on

deposit with the Trustee for that purpose, and that interest on the principal amount of each such Bond to be redeemed will cease to accrue on such date; (v) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment will be the Bond Registrar office of the Trustee; and (vi) such additional information as the Trustee or the Issuer deems appropriate.

If the Bonds are not then being held under a book-entry system, each further notice of redemption (other than an extraordinary redemption) shall be sent at least 30 days before the redemption date by first class mail or overnight delivery service to the Securities Depositories and to one or more Information Services. This further notice of redemption sent to the Securities Depositories pursuant to the preceding sentence will be sent at such time as will insure that such notice is received at least two Business Days before official notice of such redemption is received.

A second notice of redemption will be sent by the same means as the first such notice not later than 60 days after the redemption date to any Owner who shall not have presented for payment the Bond or Bonds called for redemption within 30 days after such date.

Failure to give any official or further notice or any defect therein will not affect the validity of the proceedings for redemption of any Bond with respect to which no such failure or defect has occurred or exists.

### **Rescission of Extraordinary Mandatory Redemption**

In the event that, prior to redemption of Bonds pursuant to the provisions described in clauses (i) or (ii) of paragraph (a) under “THE BONDS - Redemption of the Bonds – Extraordinary Mandatory Redemption,” either the Initial Delivery Date or the Delivery Date (as applicable) is extended pursuant to the Indenture or the Initial Construction Loan Certificate or the Project Loan Certificate (as applicable) has been delivered to the Trustee or its nominee, then, in either such event, the notice of such redemption will be rescinded, the Trustee will so notify the Owners of Bonds to whom such notice of redemption was sent, and the Bonds will not be so redeemed.

### **Additional Bonds**

The Indenture does not provide for the issuance of additional Bonds on a parity with the Bonds.

### **Transfer and Exchange of the Bonds**

So long as the Bonds are in book-entry only form, Cede & Co., as nominee of DTC, will be the sole registered owner of the Bonds. Transfers of beneficial interest in the Bonds will be made as described below under “THE BONDS – Book-Entry-Only System.”

### **Book-Entry-Only System**

The Bonds will be available in book-entry form only in the principal amount of \$5,000 and any integral multiple thereof. Purchasers of the Bonds will not receive certificates representing their interests in the Bonds purchased.

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an

authorized representative of DTC. One fully-registered Security certificate will be issued for the Securities, in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 85 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, GSCC, MBSCC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

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

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory

requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

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

Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, nor its nominee, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

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

## **SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**

The Bonds will be secured under the Indenture by (a) all right, title and interest of the Issuer in and to the Loan Agreement (except for the Issuer's right to receive payment of certain fees and expenses and its right to indemnification as provided therein), (b) all right, title and interest of the Issuer in the Ginnie Mae Certificates, including all payments with respect thereto and any interest, profits and other income derived from the investment thereof, (c) the funds, including moneys and investments therein, held by the Trustee pursuant to the terms of the Indenture, and (d) all other property of any kind mortgaged, pledged or hypothecated at any time as and for additional security under the Indenture by the Issuer or by anyone on its behalf or with its written consent in favor of the Trustee, which is authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture.

Bond proceeds held in the Construction Fund and the Bond Fund will be invested by the Trustee in the Investment Agreement with FSA Capital management Services, LLC, a Delaware limited liability company (the "Investment Agreement Provider"). The obligations of the Investment Agreement Provider under the Investment Agreement are fully guaranteed by Financial Security Assurance Inc. (the "Guarantor"). The Investment Agreement represents a repurchase agreement providing an investment at the rate of 0.85% per annum to December 15, 2005 in the case of the Construction Fund and a rate of

2.75% per annum to August 20, 2045 in the case of the Bond Fund. See “CERTAIN RISK FACTORS – Investment Agreement.” Funds will be advanced by the Trustee prior to the receipt of Construction Loan Certificates to fund amounts for which the Trustee has received evidence of Mortgage Insurance under the procedures set forth in the Indenture. See “APPENDIX B - SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Disbursements and Transfers From Construction Fund.”

The Bonds and the interest thereon are special obligations of the Issuer, payable solely from the revenues and the Trust Estate, which are specifically assigned and pledged to such purposes in the manner and to the extent provided in the Indenture. Neither the United States of America, HUD, FHA, any other agency of the United States of America, Ginnie Mae, the Issuer, the City of El Monte (the “City”), the County of Los Angeles (the “County”), the State, nor any political subdivision thereof (except the Issuer, to the limited extent set forth herein) will in any event be liable for the payment of the principal of, premium (if any) or interest on the Bonds or for the performance of any pledge, obligation or agreement of any kind whatsoever of the Issuer, and none of the Bonds or any of the Issuer’s agreements or obligations will be construed to represent or constitute an indebtedness of or a pledge of the full faith, and credit or taxing power of or a loan of the credit of any of the foregoing within the meaning of any constitutional, charter or statutory provision whatsoever. The Bonds and the premium, if any, and interest thereon will not represent or constitute a debt, bonded indebtedness or pledge or a loan of the faith and credit or the taxing power of the Issuer, the City, the County, the State, or any political corporation, subdivision or agency thereof within the meaning of any constitutional, charter or statutory provision. The Bonds are not and never will become general obligations of the Issuer and will not be payable from the general revenues of the Issuer, and neither the Issuer, the County, the City nor the State, any political corporation, subdivision, or agency thereof will be liable thereon, nor in any event will the Bonds be payable out of any funds or properties other than those of the Issuer specifically pledged therefor. No holder of any Bonds has the right to compel any exercise of the taxing power of the Issuer to pay the Bonds or the interest or the redemption premium, if any, thereon, and the Bonds will not be construed to create any moral obligation on the part of the Issuer with respect to the payment of the Bonds.

## **GINNIE MAE MORTGAGE-BACKED SECURITIES PROGRAM**

### **General**

The summary and explanation of the Ginnie Mae Mortgage-Backed Securities Program and the other documents referred to herein do not purport to be complete, and reference is made to the Ginnie Mae Mortgage-Backed Securities Guide (Ginnie Mae Handbook 5500.3) (the “Ginnie Mae Guide”) and to said documents for full and complete statements of their provisions. The following information concerning the Ginnie Mae Mortgage-Backed Securities Program has not been independently confirmed or verified by the Issuer, the Borrower or the Underwriter. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material changes in such information subsequent to the date hereof.

The Government National Mortgage Association (“Ginnie Mae”) is a wholly-owned corporate instrumentality of the United States within the Department of Housing and Urban Development (“HUD”) with its principal office in Washington, D.C.

The Ginnie Mae Certificates will be “fully modified pass-through” mortgage-backed securities issued and serviced by the Lender. The total face amount of the Ginnie Mae Certificates will be in approximately the same amount as the Note subject to a rounding convention. The Lender will be required to pass through to the Trustee or its nominee, as the holder of the Ginnie Mae Certificates, by the fifteenth (15th) day of each month the monthly scheduled installments of principal and interest (interest only on the Construction Loan Certificates) on the Note (less the Ginnie Mae guarantee fee, and the

Lender's servicing fee), whether or not the Lender receives such payment from the Borrower, plus any unscheduled prepayments of principal of the Note received by the Lender. Ginnie Mae guarantees the timely payment of the principal of and interest on the Ginnie Mae Certificates.

Two types of Ginnie Mae Certificates are intended to be issued by the Lender in connection with the financing of the Project: (i) Construction Loan Certificates ("Construction Loan Certificates") which are to be issued with respect to each construction loan advance under the Mortgage Loan and (ii) the Project Loan Certificate ("Project Loan Certificate") which is to be issued with respect to the permanent Mortgage Loan. Construction Loan Certificates are expected to be dated no later than the first day of the month following the month in which a construction advance is made under the Mortgage Loan and to provide that accrued interest for thirty (30) days is payable by the Lender to the Trustee or its nominee as holder of the Construction Loan Certificates commencing forty-five (45) days after the issue date, and continuing on the fifteenth (15th) day of each successive month thereafter until maturity of the Construction Loan Certificates (as such may be extended with the approval of Ginnie Mae) or exchange of the Construction Loan Certificates for the Project Loan Certificate, whichever is earlier.

### **Ginnie Mae Guaranty**

Ginnie Mae is authorized by Section 306(g) of Title III of the National Housing Act, as amended, to guarantee the timely payment of the principal of and interest on securities which are based on and backed by, among other things, mortgage pools consisting of a single mortgage insured by FHA under the National Housing Act. Section 306(g) of the National Housing Act further provides that "the full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection." An opinion, dated December 9, 1969, of the then Assistant Attorney General of the United States, states that such guaranties under Section 306(g) of mortgage-backed securities of the type being delivered by the Lender to the Trustee or its nominee are authorized to be made by Ginnie Mae and "would constitute general obligations of the United States backed by its full faith and credit."

Pursuant to such authority, Ginnie Mae, upon delivery of a Ginnie Mae Certificate to the Lender or its nominee in accordance with the related Ginnie Mae Guaranty Agreement, will have guaranteed the timely payment of the principal of and interest on such Ginnie Mae Certificate.

### **Ginnie Mae Borrowing Authority**

In order to meet its obligations under such guaranty, Ginnie Mae, in its corporate capacity under Section 306(d) of Title III of the National Housing Act, may issue its general obligations to the United States Treasury Department (the "Treasury") in an amount outstanding at any one time sufficient to enable Ginnie Mae, with no limitations as to amount, to perform its obligations under its guaranty of the timely payment of the principal of and interest on the Ginnie Mae Certificates. The Treasury is authorized to purchase any obligations so issued by Ginnie Mae and has indicated in a letter dated February 13, 1970, from the then Secretary of the Treasury to the then Secretary of HUD that the Treasury will make loans to Ginnie Mae, if needed, to implement the aforementioned guaranty.

Ginnie Mae warrants to the holder of the Ginnie Mae Certificates, in the related Ginnie Mae Guaranty Agreement, that, in the event Ginnie Mae is called upon at any time to make good its guaranty of the payment of principal of and interest on the Ginnie Mae Certificates, it will, if necessary, in accordance with Section 306(d), apply to the Treasury for a loan or loans in amounts sufficient to make payments of principal and interest on the Ginnie Mae Certificates.

## **Servicing of Mortgage Loan**

Under contractual arrangements between the Lender and Ginnie Mae, the Lender is responsible for servicing and otherwise administering the Mortgage in accordance with generally accepted practices of the mortgage banking industry and the Ginnie Mae Guide.

The monthly remuneration of the Lender, for its servicing and administrative functions, and the guaranty fee charged by Ginnie Mae, are based on the unpaid principal amount of the Ginnie Mae Certificates outstanding. The total of these servicing and guaranty fees for this transaction has been set at 0.25% per annum, payable monthly, calculated on the principal balance of the Ginnie Mae Certificates outstanding on the last day of the month preceding such calculation. Of the total fee, part is paid to Ginnie Mae as a guaranty fee (in this case, 0.13%), and the remainder (in this case, 0.12%) is retained by the Lender as a servicing fee. The Ginnie Mae Certificates carry interest rates that are fixed at 0.25% per annum less than the interest rate on the Note; and the servicing and guaranty fees are deducted from payments on the Note so that interest payments received by the Trustee or its nominee on the Ginnie Mae Certificates are not reduced below the stated rate of interest on the Ginnie Mae Certificates.

It is expected that interest and principal payments on the Note received by the Lender from the Borrower will be the source of moneys for payments on the Ginnie Mae Certificates. If such payments are less than what is due, the Lender may advance its own funds to ensure timely payments of scheduled installments coming due on the Ginnie Mae Certificates. Ginnie Mae guarantees such timely payment to the Trustee or its nominee in the event of the failure of the Lender to pass through such scheduled payments when due (whether or not made by the Borrower).

The Lender is required to advise Ginnie Mae in advance of any impending default on scheduled payments so that Ginnie Mae as guarantor will be able to continue such payments as scheduled on the 15th day of each month. However, if such payments are not received as scheduled, the Trustee or its nominee, on behalf of the Issuer, has recourse directly to Ginnie Mae.

The Ginnie Mae Guaranty Agreements to be entered into by the Lender and Ginnie Mae upon issuance of the Ginnie Mae Certificates (the "Ginnie Mae Guaranty Agreements") will provide that, in the event of a default by the Lender, including (i) a request to Ginnie Mae to make a payment of principal or interest on the Ginnie Mae Certificates when the Borrower is not in default under the Note, (ii) insolvency of the Lender, or (iii) default by the Lender under any other guaranty agreement with Ginnie Mae, Ginnie Mae shall have the right, by letter to the Lender, to effect and complete the extinguishment of the Lender's interest in the Note, and the Note shall thereupon become the absolute property of Ginnie Mae, subject only to the unsatisfied rights of the holders of the Ginnie Mae Certificates. In such event, each Ginnie Mae Guaranty Agreement will provide that on and after the time Ginnie Mae directs such letter of extinguishment to the Lender, Ginnie Mae shall be the successor in all respects to the Lender in its capacity under such Ginnie Mae Guaranty Agreement and the transaction and arrangements set forth or arranged for therein and will be subject to all responsibilities, duties and liabilities (except the Lender's indemnification of Ginnie Mae), theretofore placed on the Lender by the terms and provisions of such Ginnie Mae Guaranty Agreement, provided that at any time Ginnie Mae may enter into an agreement with any other eligible issuer of Ginnie Mae Certificates under which the latter undertakes and agrees to assume any part or all of such responsibilities, duties or liabilities theretofore placed on the Lender, and provided that no such agreement shall detract from or diminish the responsibilities, duties, or liabilities of Ginnie Mae in its capacity as guarantor of the Ginnie Mae Certificates, or otherwise adversely affect the rights of the holders thereof.

## **Payment of Principal and Interest on the Ginnie Mae Certificates**

As a condition to the issuance of each Ginnie Mae Certificate, the Lender will be obligated to deliver certain documents to Ginnie Mae prior to the anticipated delivery date of such Ginnie Mae Certificate, including evidence of the advance of the Mortgage Loan and its endorsement for Mortgage Insurance. During the period between the date of an advance under the Mortgage Loan and the issuance of the related Ginnie Mae Certificate, it is possible that the Borrower could default under the Mortgage or the Note or the Lender could default under the Ginnie Mae Guaranty Agreement. Ginnie Mae has stated, among other things, that, in the event of either or both types of default, it nevertheless will (except in the event of fraud or misrepresentation by the Lender) generally approve the issuance of the Construction Loan Certificate (other than the Initial Construction Loan Certificate) corresponding to the advance under the Note made prior to the default (Ginnie Mae has not made such a statement with respect to the issuance of a Project Loan Certificate).

In the event the Lender is in default under the Ginnie Mae Guaranty Agreement subsequent to an advance under the Note but prior to approval by Ginnie Mae of the issuance of a Construction Loan Certificate corresponding to such advance, Ginnie Mae is not required to assume the Lender's liability and responsibility under the Mortgage and the building loan agreement to complete the financing of the Project and the issuance of the remaining Ginnie Mae Certificates. If it were to decide to complete the financing, at its option, Ginnie Mae could either assume the role of the Lender and issue the Ginnie Mae Certificates to the Trustee or its nominee, or could arrange for issuance of the Ginnie Mae Certificates by another authorized issuer of Ginnie Mae Certificates. In the event Ginnie Mae decides not to complete or arrange for the completion of the financing, no further proceeds of the Bonds would be advanced to acquire additional Ginnie Mae Certificates with respect to the Project. Ginnie Mae would remain obligated to make payments under Ginnie Mae Certificates previously issued.

Payment of interest on each Ginnie Mae Certificate is required to be made in monthly installments on or before the 15th day of each month commencing the month next following the date of issuance of such Ginnie Mae Certificates. The Construction Loan Certificates shall provide for payment of interest only until maturity at a rate equal to the interest rate on the Note less the guaranty and servicing fees computed in accordance with the Ginnie Mae Guide. Accrued interest for 30 days shall be payable to the holders of the securities commencing on the 15th day of the month next following the issue date and shall be due continuously on the 15th day of each successive month. The Construction Loan Certificates will mature on the earlier of their stated maturity date or upon issuance of the Project Loan Certificate (i.e., after the final endorsement of the Note and after the Lender has complied with all of the requirements of the Ginnie Mae Guide for issuance of the Project Loan Certificate). Upon the issuance of the Project Loan Certificate and commencement of the payment of principal thereon, the Project Loan Certificate will be payable in monthly installments of principal and interest. Each installment on the Project Loan Certificate is applied first to interest and then in reduction of the principal balance then outstanding on the Project Loan Certificate. The amount of principal due on the Project Loan Certificate is the scheduled principal amortization currently due on the Note. The Construction Loan Certificate maturity date was established by allowing at least 200% of the HUD anticipated construction time. Upon approval by Ginnie Mae, in instances of mortgage default or other unusual circumstances preventing the finally endorsed mortgage from becoming eligible for mortgage-backed security pooling, retirement shall be by payment of cash. Payment of principal on the Project Loan Certificate is expected to commence 15 days after the commencement of amortization of principal of the Note, which is scheduled to occur on September 1, 2005. The maturity date of the Project Loan Certificate is expected to be set at August 15, 2045.

Each of the monthly installments shall be subject to adjustment by reason of any prepayments or other early or unscheduled recoveries of principal on the Note. In any event, the Lender is required to pay

to the Trustee or its nominee, as holder of the Ginnie Mae Certificates, monthly installments of not less than the interest due on the Ginnie Mae Certificates at the rate specified in the Ginnie Mae Certificates, together with any scheduled installments of principal whether or not collected from the Borrower and any prepayments or early recovery of principal. Final payment of the Project Loan Certificate shall be made upon surrender of the outstanding Project Loan Certificate.

At its option, the Lender may repurchase the Mortgage Loan and pay-off the Ginnie Mae Certificates in the event that (i) for four consecutive months, at least one missed payment on the Mortgage Loan remains uncured or (ii) no payment is made on the Mortgage Loan for three consecutive months.

### **Liability of the Lender**

The Ginnie Mae Certificates will not constitute a liability of nor evidence any recourse against the Lender. The Ginnie Mae Certificates are based on and backed by the Mortgage on the real property securing the Note. Recourse may be had by the Trustee or its nominee, only to Ginnie Mae in the event of any failure of timely payment as provided for in the Ginnie Mae guaranty agreements appended to the Ginnie Mae Certificates.

### **SOURCES AND USES OF FUNDS**

The Trustee will deposit the proceeds of the Bonds into the Refunding Account under the Indenture and use such funds, together with other moneys, to redeem the Prior Bonds in whole. The proceeds of the Prior Bonds will be transferred to the Construction Fund of the Indenture and be used to provide all or part of the funds with which to pay the costs of (i) acquiring, constructing and equipping the Project and (ii) issuance expenses in connection with the Bonds.

#### **Sources of Funds**

Par Amount of Bonds	\$6,500,000
Bond Premium	84,780
Equity Contribution	361,121
Letter of Credit <sup>1</sup>	277,554
Prior Bond Proceeds	<u>6,500,000</u>
<b>Total</b>	<b><u>\$13,723,455</u></b>

#### **Uses of Funds**

Deposit to Construction Fund	\$6,500,000
Deposit to Bond Fund	40,000
Deposit for Capitalized Interest Account <sup>1</sup>	444,554
Deposit to Costs of Issuance Fund	238,901
Deposit Refunding Account	<u>6,500,000</u>
<b>Total</b>	<b><u>\$13,723,455</u></b>

<sup>1</sup> Cash in amount of \$167,000 and a letter of credit in the amount of \$277,554.

### **PRIVATE PARTICIPANTS**

*The following information concerning the private participants has been provided by representatives of the private participants and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.*

## **The Borrower**

The Borrower is TDF LP, a California limited partnership, formed for the specific purpose of developing and owning the Project. The general partners of the Borrower are (1) Titan Foundation, a California non-profit corporation ("TF") whose President is Jean Lang. TF is the Managing General Partner with a 0.001% ownership and (2) JLT Titan LLC, a California limited liability company ("JLT") whose manager is Dr. Francis Yu. JLT is a co-general partner with a 0.009% ownership interest in the Borrower. The principal office of the Borrower is located at 10501 Valley Boulevard, Suite 1888, El Monte, California 91731.

TF was formed in 1986 for the purpose of pursuing educational or charitable activities. JLT was formed in 2001 for the purpose of pursuing real estate investment. JLT and its principals or its affiliates, has an ownership interest in or has developed housing developments consisting of over 360 units in California.

## **Low Income Housing Tax Credit Investor**

Contemporaneous with the issuance of the Bonds, the Borrower expects to enter into a partnership agreement with Wachovia Affordable Housing Community Development Corporation (the "Tax Credit Investor") pursuant to which the Tax Credit Investor shall have required a 99.99% ownership interest in the Borrower. Pursuant to the partnership agreement, the equity funding arrangements for the funding of the tax credit equity are expected to be approximately \$3,138,056 paid in stages during and after construction. These funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

The Borrower and the Managing Partner have no substantial assets other than the Project and do not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership of the Project. However, the Tax Credit Investor and JLT are engaged in and will continue to engage in the acquisition, development, ownership and management of similar types of housing projects. They may be financially interested in, as officers, partners or otherwise, and devote substantial times to, business and activities that may be inconsistent or competitive with the interests of the Project.

The obligations and liabilities of the Borrower under the Mortgage Note and Mortgage are of a non-recourse nature and are limited to the Project and moneys derived from the operation of the Project. Neither the Borrower nor its members have any personal liability for payments on the Mortgage Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower has substantial funds available for the Project. Accordingly, neither the Borrower's financial statements nor those of its members are included in this Official Statement.

A default on the Mortgage Loan by the Borrower could result in a redemption of the Bonds prior to their scheduled maturities. See "THE BONDS - Redemption of the Bonds".

## **The Contractor**

The DTK Builders, a California general partnership (the "Contractor"), will serve as the general contractor for the construction of the Project. The Contractor is 45% owned by DTK Construction, Inc., a California corporation ("DTK Construction"). David Kwan is the president and sole shareholder of DTK

Construction. Sun Bio Active Lab LLC, a California limited liability company (doing business as Titan K Construction) ("Titan K Construction") owns 55% of the Contractor. Peter CF Cheung, an affiliate of the general partner of the Borrower, is the principal member manager of Sun Bio, which is an affiliate of JLT. The Contractor was established in 2004. This is the first construction project for the Contractor. The DTK Construction has a current staff of approximately eight (8) employees in its Monterey Park, California office. DTK Construction was established in 1988 and holds California license number 637017, which is both a general engineering and general contractor's license. DTK Construction has been involved in the construction of over 1,000 residential, commercial, industrial, and hotel units. DTK Construction has also been involved in the construction of public works. Titan K Construction was established in 1983, and its principal holds California license number 517548. The principals of Titan K Construction have over 20 years experience with the building of residential, commercial and industrial projects.

### **The Architect**

The design architect for the Project is JPI Design Inc. (the "Architect"), located in Ontario, California. The firm, founded in 2000, provides architecture services. The Architect has more than 15 years of architectural experience in a wide variety of building types. Howard Jones serves as project architect, California license #C8677 on this Project. The Architect has worked on approximately 30 housing projects, comprised of approximately 2,300 units.

### **The Management Agent**

The Borrower has entered into a Management Agreement with Barker Management (the "Management Agent"). The Management Agent will assume responsibility for the day-to-day management and marketing services of the Project. The Management Agent was formed in 1973 and specializes in property management and the supervision of residential and commercial properties. The Management Agent currently manages over 150 apartment facilities throughout California and Nevada for a total of over 7,500 units. Peter Barker, the managing member of the Management Agent, has over five years of experience in the management of conventional and affordable housing developments. The Management Agent has a current staff of approximately 300 full-time employees.

### **The Lender**

Red Mortgage Capital, Inc. (the "Lender"), an Ohio corporation, is a mortgage banking firm specializing in FHA-insured construction and permanent mortgage loans, Fannie Mae forward commitment and permanent mortgage loans, and both Fannie Mae and FHA bond credit enhancements for multifamily and seniors housing projects across the United States. The Lender is also approved by GNMA to issue modified pass-through securities.

The Lender is one of the most active FHA mortgagees and GNMA issuers for HUD insured project loans and one of the top Fannie Mae DUS lenders (by annual volume) in the country. As of December 31, 2002, the Lender serviced 737 multifamily and seniors housing project loans aggregating nearly \$4.4 billion, which includes 236 FHA-insured mortgage loans totaling \$858 million and 423 Fannie Mae mortgage loans totaling \$3 billion.

### **The Trustee**

BNY Western Trust Company, a state banking corporation, will act as Trustee pursuant to the Indenture. The obligations of the Trustee are described in the Indenture. The Trustee has undertaken only those duties and obligations expressly set forth in the Indenture. The Trustee's principal office is in

Los Angeles, California. The Trustee has not independently passed upon the validity of the Bonds, the security of the payment therefor, the value or condition of any assets pledged to the payment thereof, the adequacy of the provisions for such payment, the status for federal or state income tax purposes of the interest on the Bonds, or the investment quality of the Bonds. Except for the contents in this section, the Trustee has not reviewed or participated in the preparation of this Official Statement and has assumed no responsibility for the nature, content, accuracy or completeness of the information included in this Official Statement.

### **The Investment Agreement Provider**

The Investment Agreement Provider is FSA Capital Management Services LLC, a Delaware limited liability company (the "Investment Agreement Provider"). Concurrently with the Investment Agreement Provider's execution and delivery of the Investment Agreement, Financial Security Assurance Inc. ("Financial Security") will issue its Financial Guaranty Insurance Policy for the Investment Agreement (the "Policy"). The Policy guarantees the scheduled payment of principal of and interest on the investment with the Investment Agreement Provider under the Investment Agreement when due.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

Financial Security is a New York domiciled insurance company and a wholly owned subsidiary of Financial Security Assurance Holdings Ltd. ("Holdings"). Holdings is an indirect subsidiary of Dexia, S.A., a publicly held Belgian corporation. Dexia, S.A., through its bank subsidiaries, is primarily engaged in the business of public finance in France, Belgium and other European countries. No shareholder of Holdings or Financial Security is liable for the obligations of Financial Security.

Neither Financial Security, the Investment Agreement Provider nor any of their respective directors, officers, employees, shareholders or agents shall be liable or responsible for (i) the payment of any amounts owing on or with respect to the Bonds; (ii) the use or application by the Trustee of any moneys payable to the Trustee under the Investment Agreement; (iii) any acts or omissions of the Trustee or the Issuer with respect to the Bonds or under the Indenture or any other document or agreement relating to the Bonds (the "Bond Documents"); (iv) the validity or enforceability of the Bonds or any of the Bond Documents; or (v) the Trustee's performance of its obligations under the Investment Agreement or under any of the Bond Documents. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" herein.

### **THE PROJECT**

The Project, which will be known as the Pacific Towers Apartments, is an 100-unit affordable senior citizen residential rental development to be located in the City of El Monte, California. Pursuant to California Civil Code Section 81.3 (c)(2) and (3), at least one (1) person per household must be sixty-two (62) years of age or older. The City has recorded restrictive covenants against the site imposing age restrictions for qualified tenants. The Project will be constructed as two four-story buildings, one three-story building and a one-story building with a basement. The buildings will be wood framed stucco structures with two elevators. There will be a pedestrian bridge connecting the second, third and fourth floors of the two buildings. The Project will provide approximately 73,480 square feet of residential space and 8,000 square feet of commercial space and an adult day care center located on a rectangular 1.25 acre parcel. Not more than ten percent (10%) of the Bond proceeds shall be used to construct the adult day care facility. The remainder of the construction costs for the commercial space is provided by other sources.

Each of the units will consist of a living room, dining area, kitchen and one or two bedrooms, and one or two bathrooms. Project amenities include: range/oven/hood, garbage disposal, smoke detector, carpet throughout except for the kitchen and bathrooms, which will have vinyl flooring; and in the common areas there will be a television, karaoke, an exercise room, a game room, activity room, a solarium and planting area. All utilities will be included in the rent.

The unit mix of the Project is as follows:

	<b>Approximate Square Footage</b>	<b>Number of Units</b>
One Bedroom/One Bath	500	95
Two Bedrooms/Two Baths	700	<u>5</u>
<b>Total:</b>		<b>100</b>

### **Plan of Financing**

The total permanent project cost of the Project is estimated by the Borrower to be \$12,554,609, not including interim sources or uses of funds or accrued interest on the Bonds. The sources and uses of funds for the Project are projected to be approximately as follows:

#### **Sources of Funds**

Prior Bond Proceeds	\$6,500,000
Bond Premium	84,780
Tax Credit Equity <sup>1</sup>	2,196,638
Borrower Deferred Equity	1,323,268
Borrower's Cash Loan	531,423
Letter of Credit	500,000
Public Funds	<u>1,418,500</u>
<b>Total</b>	<b><u>\$12,554,609</u></b>

#### **Uses of Funds**

Land Costs	\$1,931,900
On-Site & Off Site Cost	321,567
Hard Construction Costs	6,578,681
Construction Interest	478,969
Developer Profit and Overhead	1,274,242
Bond Costs of Issuance	248,901
Financing Costs	350,749
Reserves and Deposits	550,000
Other Soft Cost	<u>819,600</u>
<b>Total</b>	<b><u>\$12,554,609</u></b>

<sup>1</sup> In addition to this amount, the Tax Credit Investor is expected to fund an additional amount equal to approximately \$941,418 upon completion of the Project. Such amounts are expected to fund additional reserve requests, repay certain subordinate loans, replace certain letters of credit and, if available, pay additional developer's fees.

Pursuant to applicable regulations, the maximum principal amount of the Note may not exceed 90% of the estimated replacement cost of the Project. To the extent not previously incurred, the Borrower

will provide its equity contribution to the Project by cash contribution. No assurance can be given, however, that actual costs will be consistent with FHA's determination. If actual costs are lower, a portion of the Bonds could be redeemed as a result of a reduction in the amount of the Note at Final Endorsement for Mortgage Insurance. If, on the other hand, actual costs are higher, the Borrower could be required to seek additional financing to complete the Project. A failure to obtain such financing could cause the Borrower to default on the Note. See "CERTAIN RISK FACTORS – Construction" herein.

### **Subordinate Loans**

The Issuer will provide the Borrower certain permitted secondary financing for the Project (together the secondary financings are referred to herein as, the "Secondary Financing"). The Secondary Financing will be provided on a non-recourse basis and will be payable solely from "surplus cash" as defined in the HUD Regulatory Agreement. Secondary Financing will be evidenced by five (5) separate surplus cash notes. Three (3) of these surplus cash notes will be secured by the Project and the two (2) remaining surplus cash notes will be secured by a collateral assignment of the Borrower's interest in certain surplus cash from the Project. The definition of the term "surplus cash" is consistent with the non-recourse source of funds available to the Borrower under the HUD mortgage insurance underwriting standard for permitted secondary financings in HUD/FHA insured projects. The terms of the surplus cash notes are summarized in the following five paragraphs.

Agency Letter of Credit Reimbursement Obligation Note in the amount of \$500,000, which will accrue interest from the date of any draw under the letters of credit provided by the Issuer for the Project at the variable rate of interest charged by East-West Bank to the Issuer (which will be the prime rate plus three percent (3%)). This obligation will be secured by the Collateral Pledge and Assignment Agreement dated as of March 1, 2004 executed by the Borrower for the benefit of the Issuer. The maturity date for this obligation will be a date forty five (45) years after its date and installments of principal and interest will be payable to the Issuer prior to such date from surplus cash of the Project.

Project Gap Loan Note in the amount of \$518,500, which will accrue interest at the applicable federal rate set by the U.S. Treasury for determining imputed interest ("AFR") in effect five (5) business days before the date of such note compounded annually, made by the Borrower to the order of the Issuer, and secured by the Subordinate Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement Project Gap Loan Deed of Trust dated as of March 1, 2004 executed by the Borrower for the benefit of the Issuer. The maturity date for this obligation will be forty five (45) years after its date and installments of principal and interest will be payable to the Issuer prior to such date from surplus cash of the Project;

Special Project Construction Reserve Fund Note in the amount of \$250,000, which will accrue interest from the date of the Bonds at a rate of five percent (5%) compounded annually, made by the Borrower to the order of the Issuer and secured by the Collateral Pledge and Assignment Agreement dated as of March 1, 2004 executed by the Borrower for the benefit of the Issuer. The maturity date for this obligation will be forty five (45) years after its date and installments of principal and interest will be payable to the Issuer prior to such date from surplus cash of the Project;

Standby Operating Loan Note in an amount not to exceed \$560,000, which will accrue interest from the date of any draw under the Standby Operating Loan Note at a rate of five percent (5%) compounded annually, made by the Borrower to the order of the Issuer and secured by the Subordinate Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement (Standby Operating Loan Deed of Trust) dated as of March 1, 2004 executed by the Borrower for the benefit of the Issuer. Amounts may be drawn annually commencing with the first such draw in the fourth year of the Project in an amount not to exceed \$17,500 per year, subject to certain conditions. The maturity date for

this obligation will be forty five (45) years after its date and installments of principal and interest will be payable to the Issuer prior to such date from surplus cash of the Project. Draws by the Borrower under this note will be authorized only to the extent to assist the Borrower to satisfy certain annual debt service coverage covenants under the Mortgage Loan and its Tax Credit Investor Limited Partnership Agreement.

Long Term Project Loan Note in the amount of \$650,000, which will accrue interest at a rate of five percent (5%) compounded annually until the fifteenth (15<sup>th</sup>) anniversary of the Note and thereafter it will accrue interest at a rate of three percent (3%) compounded annually, until maturity, made by the Borrower to the order of the Issuer, and secured by the Subordinate Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement (Long Term Project Loan Deed of Trust) dated as of March 1, 2004 executed by the Borrower for the benefit of the Issuer. The maturity date for this obligation will be fifty five (55) years after its date and installments of principal and interest will be payable to the Issuer prior to such date from surplus cash of the Project.

### **Project Operating Budget**

In issuing its commitment to insure the Note, FHA approved a projection of revenues and expenditures (on a cash basis) for the first twelve months of operation of the Project after the commencement of amortization of the Note that anticipated an excess of revenues over expenses. Such projection was based on information supplied to FHA by the Borrower. No representations are made that the projected revenues will be realized. Such operation projections were based on assumptions concerning future events and circumstances that may not materialize. In order to provide for possible variations, FHA requires the Borrower to provide at Initial Endorsement a reserve for cost of equipping and renting the Project subsequent to completion and to pay insurance premiums and fund an initial operating deficit escrow. The Borrower will provide such reserves through a cash deposit or letters of credit to be held by the Lender for such purpose.

### **Management Agreement**

The Borrower has entered into a Management Agreement to engage The Management Agent to manage the Project. Under the Management Agreement, the Management Agent will manage the day-to-day operations of the Project after the Project has opened and will also provide certain management and marketing services to the Project prior to the opening.

### **Qualified Residential Rental Project**

The Borrower intends to construct and operate the Project as a qualified residential rental project in accordance with the provisions of Section 142(d) of the Code. Concurrently with the issuance of the Bonds, the Borrower, the Issuer and the Trustee will enter into the Regulatory Agreement. Under the Regulatory Agreement, the Borrower will agree that at all times during the qualified project period the Borrower will rent (i) at least 10% of the units in the Project to persons whose adjusted family income (determined in accordance with the provisions of the Code) is 50% or less of the median area income (adjusted for family size) and (ii) 90% of the units in the Project to persons whose adjusted family income (determined in accordance with the provisions of the Code) is 60% or less of the median area income (adjusted for family size). The qualified project period commences on the first day on which at least 10% of the units are occupied and continues until the later of (a) the date which is fifteen (15) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied, (b) the first date on which no tax-exempt private activity bonds with respect to the Project are outstanding, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates, or (d) any later date required by the Regulatory Agreement. The failure of the Borrower to comply with the Regulatory Agreement could cause interest on the Bonds to be included in gross income for federal

income tax purposes. See “APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT”.

The Project will also be encumbered by an Extended Use Agreement required by Section 42 of the Code relating to tax credits, which will (a) restrict the income levels of 100% of the units in the Project to amounts not greater than 60% of the area median income adjusted for family size, and (b) restrict the rents which may be charged for occupancy of units in the Project to not more than 30% of 60% of area median income, adjusted for family size.

Additional restriction on rent and occupancy are imposed on the Project pursuant to the HUD Regulatory Agreement (as defined in the Indenture).

## **CERTAIN RISK FACTORS**

The Bonds are special limited obligations of the Issuer and impose no general or special liability upon the Issuer, or its members or officials, or personal liability upon the Borrower or its members, directors or employees for payment of principal, premium, if any, or interest thereon. The Bonds are payable solely from the Trust Estate, the earnings from the investment of such Bond proceeds, payments made to the Trustee or its nominee under the Ginnie Mae Certificates including payments made or to be made on the Note and passed through to the Trustee or its nominee, all moneys held in any fund established under the Indenture (except the Rebate Fund and moneys required to be deposited therein), including investment income earned thereon, excluding any insurance premiums, taxes or other amounts required to be escrowed pursuant to the Mortgage.

### **Risk of Early Redemption**

Prospective purchasers of the Bonds should consider carefully all possible factors that may cause the Bonds to be redeemed earlier than projected. They include the possibilities that: the Borrower may not achieve delivery of the Project Loan Certificate; the Borrower may elect to prepay the Note pursuant to its provisions; or the Note may be prepaid as a result of a condemnation award or an insurance recovery or in the event of a default under the Mortgage (as a result of the inability to complete the Project with the resources available therefor or the inability to operate the Project successfully) from the proceeds of the Mortgage Insurance; that the Ginnie Mae Certificates may be redeemed following a default under the Note; or that there is an FHA required mortgage reduction as a result of cost certification.

### **Loss of Premium from Early Redemption**

**Purchasers of Bonds, including those who purchase Bonds at a price in excess of their principal amount or who hold such a Bond trading at a price in excess of par, should consider the fact that the Bonds are subject to redemption at a redemption price equal to their principal amount plus accrued interest in the event such Bonds are redeemed prior to maturity.** This could occur, for example, in the event the Project Loan Certificate is not delivered by the date required under the Indenture (as such date may be extended pursuant to the Indenture) or is delivered in a principal amount less than \$6,500,000 (for reasons other than receipt by the Lender of regularly scheduled principal amortization payments) or in the event that the Note is prepaid as a result of a casualty or condemnation award payments affecting the project or there is a default under the Mortgage. See “THE BONDS – Redemption of the Bonds – Extraordinary Mandatory Redemption.”

## **Construction**

Construction of the Project has not yet commenced. The Borrower has made arrangements which it anticipates will be sufficient to assure the acquisition, construction and equipping of the Project within fourteen (14) months of the initial closing of the Mortgage Loan, the required completion date specified in the construction contract. It is estimated that final endorsement of the Note will be obtained within approximately six months after completion of construction. No assurance can be given, however, that the arrangements made by the Borrower are sufficient and that these steps will be completed prior to that date. If the Note is not finally endorsed by HUD and the Project Loan Certificate is not delivered to the Trustee or its nominee on or before the Delivery Date, all or a portion of the Bonds must be called for redemption (unless such date is extended). See “THE BONDS – Redemption of the Bonds – Extraordinary Mandatory Redemption.” The anticipated date, as reflected in this Official Statement, for completion of construction of the Project and Final Endorsement by HUD may be subject to various delays, including delays in construction, whether or not occasioned by default, and delays in cost certification and in HUD’s processing thereof and/or delays resulting from disputes between the Borrower and Contractor.

Any changes in the plans and specifications for the construction of the Project must be approved by FHA and any increase in costs resulting from a change must be funded by the Borrower unless and until such increased costs result in a mortgage increase. The Issuer is under no obligation to issue any additional bonds to fund mortgage increases.

If actual costs to develop and construct the Project are less than projected, a portion of the Bonds might be redeemed as a result of a reduction in the principal amount of the Note at Final Endorsement. If actual costs are higher than projected, the Borrower could be required to seek additional financing to complete the Project, and a failure to obtain such financing could cause the Borrower to default on the Note resulting in the redemption of the Bonds. See “THE PROJECT – Estimated Project Costs” herein.

## **Issuance of Ginnie Mae Certificates**

It is anticipated that the Trustee will acquire the Project Loan Certificate on or before November 30, 2005, as such acquisition date may be extended pursuant to the terms of the Indenture. The purchase of the Project Loan Certificate is subject to the following conditions, among others: (a) the submission by the Lender to Ginnie Mae of certain documents required by Ginnie Mae in form and substance satisfactory to Ginnie Mae, (b) the Lender’s continued compliance, on the date of issuance of the Project Loan Certificate, with all of Ginnie Mae’s eligibility requirements, specifically including, but not limited to, certain net worth requirements, (c) the Lender’s continued ability to issue and deliver the Project Loan Certificate, as such ability may be affected by the Lender’s bankruptcy, insolvency or reorganization, and (d) final endorsement of the Note for insurance by FHA (which, in turn, is dependent upon a number of factors such as lien-free completion of construction of the Project, HUD approval of the Borrower’s cost certification and payment by the Borrower of amounts due in connection with the Project). In the event that the Project Loan Certificate is not issued as a result of a failure of any of the conditions listed above, the Bonds will be subject to early redemption in whole or in part as discussed under “Extraordinary Mandatory Redemption.”

## **Adequacy of Revenues**

The primary security for the Bonds is the Ginnie Mae Securities. None of the Issuer, the Trustee or the Underwriter has made any independent evaluations of the Borrower’s revenues, and no representations are made as to the adequacy of such revenues to maintain the Project and to make payments required under the Loan Agreement. Furthermore, the terms of the Loan Agreement prohibit

the Bondowners or the Trustee from exercising any right that the Borrower may have under the Borrower's operating agreement or otherwise to require any member of the Borrower to make any additional contributions to the Borrower.

### **Failure to Maintain Occupancy**

The economic feasibility of the Project and its ability to provide revenues to the Borrower to make payments on the Note depend in large part upon its being substantially occupied. Occupancy of the Project may be affected by competition from existing competing facilities or from competing facilities which may be constructed in the area served by the Project, including new facilities which the Borrower, or its affiliates, may construct. Circumstances may occur, including but not limited to, insufficient demand for low income housing in the Project's location, decreases in the population, deterioration of the structure and living facilities, and construction of competing projects for low income individuals or other more attractive living accommodations, which could increase the rate of vacancy. Further, the sustained failure of tenants to meet their rental payment obligations would make it difficult for the Project to meet its current operating expenses that could result in a curtailment of essential services and decrease the desirability of the Project to existing or prospective tenants.

### **Loss of Exclusion of Interest from Federal Gross Income on Bonds**

The exclusion of interest on the Bonds from gross income for federal income tax purposes is dependent upon continuing compliance by the Borrower with certain requirements of the Code; however, the enforcement remedies available to the Issuer and the Trustee are severely limited and may be inadequate to prevent the loss of the exclusion of interest on the Bonds from federal gross income retroactive to the date of issuance of the Bonds. (See "TAX MATTERS" herein). Under current HUD requirements, such an occurrence will not constitute a default under the Mortgage Loan, and the provisions of the Indenture, the Loan Agreement and the Regulatory Agreement are subordinate to the Mortgage (see "SUBORDINATION TO MORTGAGE LOAN DOCUMENTS AND HUD REQUIREMENTS" herein.) Because the Mortgage Loan cannot be accelerated for this reason, no payments of principal in such event shall be passed through the Ginnie Mae Certificates. Thus the Bonds cannot be redeemed in such event and could continue to remain outstanding with interest on the Bonds becoming includable in gross income for federal income tax purposes, in some cases retroactively to the date of issuance of the Bonds. Furthermore, the Borrower or the Lender may be required or permitted by the HUD requirements to take or refrain from taking actions which could cause the interest on the Bonds to become subject to inclusion in gross income for federal income tax purposes. THERE IS NO PROVISION IN THE BONDS OR THE INDENTURE FOR AN ACCELERATION OF THE BONDS OR PAYMENT OF ADDITIONAL INTEREST OR PENALTIES IN THE EVENT INTEREST ON THE BONDS IS DECLARED OR BECOMES TAXABLE, AND NEITHER THE ISSUER NOR THE BORROWER SHALL BE LIABLE FOR ANY SUCH PAYMENT OF ADDITIONAL INTEREST OR PENALTIES WHATSOEVER. The Holders' remedy, if any, will be limited to legal action against the Borrower. Any such claims against the Borrower are limited by applicable HUD requirements.

In the event that interest on the Bonds should become subject to federal income taxation, the market for and value of the Bonds may be adversely affected.

Moreover, there can be no assurance that the present provisions of the Code, or the rules and regulations thereunder, will not be prospectively or retroactively adversely amended or modified, thereby resulting in the inclusion in gross income of the interest on the Bonds for federal income tax purposes or otherwise eliminating or reducing the benefits of the present advantageous tax treatment of the Bonds. While no such legislation has been formally proposed or adopted, there can be no assurance that Congress

would not adopt legislation applicable to the Bonds or to the Borrower and that the Project would be able to comply with any such future legislation in a manner necessary to maintain the federal tax treatment of the Bonds. Subject to applicable HUD requirements, the Borrower is required under the Loan Agreement to use its best efforts to comply with any Federal income tax law requirements in order to maintain the tax-exempt status of the Bonds to the extent that any such other requirements are made applicable to the Project. There is no assurance, however, that the Borrower would be able to comply with any such other requirements.

### **Estimated Project Expenses; Management**

The success of the Project depends upon economic conditions, successful management of the Project and other factors. Furthermore, should management of the Project in the future prove to be inefficient, increases in operating expenses might exceed increases in rents that can be supported by market conditions. The economic feasibility of the Project also depends to a large extent on operating expenses. No assurances can be given that moneys available to the Borrower from operation of the Project will be sufficient to make the required payments on the Note.

### **Information Not Verified**

Information with regard to the Project has been obtained from the Borrower and its affiliates. Much of that information involves predictions with regard to future events, such as the time required to complete the construction of the Project and the future operating expenses of the Project; such information is, by its nature, not subject to verification. Aside from the analyses made by FHA in determining to insure the Mortgage Loan, no feasibility study or other independent verification of the Project has been undertaken.

### **Investment Earnings**

The possible investment earnings on the proceeds from the sale of the Bonds and other amounts received and held by the Trustee that have been estimated herein are based on assumed interest rates. While these assumptions are believed to be reasonable in view of the interest rates presently and previously available on the types of securities in which the Trustee is permitted to invest under the Indenture, there can be no assurance that similar interest rates will be available on such securities in the future.

### **Investment Agreement**

Moneys in the Construction Fund and in the Bond Fund are to be invested in the Investment Agreement. The Investment Agreement expires on December 15, 2005 with respect to the Construction Fund, and August 20, 2045 with respect to the Bond Fund. The Investment Agreement provides for a rate of return on invested funds in the Construction Fund of 0.85% per annum and on invested funds in the Bond Fund of 2.75% per annum. A downgrading of the rating of the Investment Agreement Provider's debt is likely to result in the rating of the Bonds being downgraded and negatively affect the market price of the Bonds.

The Investment Agreement is an unsecured general obligation of the provider thereof. Before the purchase of the Project Loan Certificate, if sufficient investment earnings on the Investment Agreement are not paid or provided to the Trustee, moneys may not be available to pay interest on the Bonds when due.

Payments under the Investment Agreement may be subject to the automatic imposition of a stay that would prohibit creditors, including the Trustee, from making claims thereunder in the event of the filing of a bankruptcy petition with respect to the Borrower. During the pendency of such a stay, payments on the Bonds may not be made in a timely manner.

### **Risk of Loss from Nonpresentment Upon Redemption**

The rights of holders of Bonds to receive interest will terminate on the date, if any, on which the Bonds are to be redeemed pursuant to a call for redemption, notice of which has been given under the terms of the Indenture. See “THE BONDS - Redemption of the Bonds - Notice of Redemption.”

### **Enforceability of Remedies**

The realization of any rights upon a default will depend upon the exercise of various remedies specified in the Indenture. Any attempt by the Trustee to enforce such remedies may require judicial action, which is often subject to discretion and delay. Under existing law, certain of the legal and equitable remedies specified in the Indenture may not be readily available.

The remedies available to the Trustee and the Holders of the Bonds upon an event of default under the Loan Agreement or the Indenture are in many respects dependent upon regulatory and judicial actions that are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under the Loan Agreement or the Indenture may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds, the Loan Agreement and Bond Purchase Agreement will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

### **Secondary Market and Prices**

The Underwriter will not be obligated to repurchase any of the Bonds and no representation is made concerning the existence of any secondary market therefor, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Bonds, and no assurance can be given that initial offering prices for the Bonds will continue for any period of time. Any prospective purchaser of the Bonds, therefore, should undertake an independent investigation through its own advisors regarding the desirability and practicability of the investment in the Bonds. Any prospective purchaser should be fully aware of the long term nature of an investment in the Bonds and should assume that it will have to bear the economic risk of its investment indefinitely. Any prospective purchaser of the Bonds that does not intend or that is not able to hold the Bonds for a substantial period of time is advised against investing in the Bonds.

### **Nonrecourse Obligation**

The Borrower’s obligations under the Loan Agreement and the Mortgage Loan documents, including the Mortgage and the Note, are strictly nonrecourse obligations. The Borrower has no obligation to fund operating deficits, to cover any losses in the event of a default on the Bonds or otherwise to invest its own funds in the Project or to continue the Project in operation.

## SUMMARY OF THE NOTE AND MORTGAGE

This summary and explanation of the Note and Mortgage does not purport to be comprehensive and is qualified in its entirety by reference to the Note and Mortgage for full and complete statements of their provisions.

The Mortgage from the Borrower to the Lender will secure the Note. The Mortgage Loan proceeds will be disbursed by the Lender in accordance with the progress of construction and the Lender will be reimbursed for the initial and final advances upon the purchase of the initial Construction Loan Certificate and the Project Loan Certificate by the Trustee. It is expected that interim advances will be funded by the Lender from funds provided by the Trustee from the Construction Fund. The Mortgage Loan disbursements will be insured by FHA as construction progresses under Section 221(d)(4) of the National Housing Act, as amended, and the regulations thereunder. Upon the issuance of Construction Loan Certificates, the Lender will make payments thereon which may differ from the Note payments. Upon the purchase of the Project Loan Certificate from the Lender by the Trustee or its nominee, on behalf of the Issuer, monthly scheduled installments of principal and interest on the Note (less the Ginnie Mae guaranty fee and the Lender's servicing fee) will be passed through to the Trustee as scheduled payments of principal and interest on the Project Loan Certificate.

It is expected that the Mortgage Loan, as evidenced by the Note and Mortgage, (i) will be insured by FHA pursuant to and in accordance with the provisions of Section 221(d)(4) of the National Housing Act and applicable regulations thereunder, as evidenced by the initial endorsement by FHA of the Note evidencing the Mortgage Loan; (ii) will be in the maximum principal amount of \$6,500,000, which is subject to being reduced, without penalty, upon final endorsement of the Mortgage Loan for Mortgage Insurance by FHA; (iii) will bear interest at the rate of 5.689% per annum; (iv) will have a final maturity of August 1, 2045; (v) will be payable in equal monthly installments of principal and interest in the amount of \$34,364.94, commencing on September 1, 2005; (vi) will be secured on a nonrecourse basis; and (vii) will not be subject to prepayment prior to February 1, 2014 without the consent of the holder of the Note except that (A) the Note will be subject to mandatory prepayment in whole or in part at any time without premium or penalty, from the proceeds of any casualty insurance or condemnation awards received following a partial or total destruction or condemnation of the Project, in the event and to the extent that such casualty proceeds or condemnation awards are not applied to the repair or restoration of the Project in accordance with the Mortgage Loan Documents; (B) the Note will be subject to prepayment in whole or in part on the last business day of any month at the option of the Borrower, on and after February 1, 2014, upon at least 30 days advance written notice to the Lender, together with the applicable premium plus accrued interest through the last day of the month in which the prepayment occurs; (C) the Note will be subject to partial prepayment to the extent required by FHA based upon any cost certification or other report required to be provided to FHA; and (D) the Note will be subject to mandatory prepayment in whole or in part without the consent of the mortgagee and without prepayment penalty if HUD determines that prepayment will avoid an FHA insurance claim and therefore is in the best interest of the Federal government, notwithstanding any prepayment prohibition imposed and/or penalty required by the Note with respect to prepayments made prior to February 1, 2015. In the event of a partial prepayment described in subparagraph (A), (B), (C) or (D) above, the Note may be reamortized to reflect its reduced principal amount.

If the Borrower makes any such prepayment on the Note, the amount prepaid will be paid to the Lender and passed through to the Trustee, or its nominee, as prepayment on the Ginnie Mae Certificates, and applied to the redemption of Bonds, as described under "GINNIE MAE MORTGAGE-BACKED SECURITIES PROGRAM."

The debt evidenced by the Note and Mortgage is a nonrecourse obligation of the Borrower secured only by the Project.

### **SUBORDINATION TO MORTGAGE LOAN DOCUMENTS AND HUD REQUIREMENTS**

The Indenture, the Loan Agreement and the Regulatory Agreement (the “Bond Financing Documents”) provide that, notwithstanding anything in such documents to the contrary, the Bond Financing Documents will be subordinate to the Mortgage Loan Documents. The provisions of the Bond Financing Documents are subject to the National Housing Act, all applicable FHA mortgage insurance regulations and related administrative requirements, the Mortgage Loan Documents, all applicable Ginnie Mae regulations and related administrative requirements and the Ginnie Mae documents (collectively the “HUD Requirements”). In the event of any conflict between the provisions of the Bond Financing Documents and the HUD Requirements, the HUD Requirements will control. Enforcement of the Bond Financing Documents will not result in any claim against the Project, the Mortgage proceeds, any reserve or deposit required by HUD in connection with the Mortgage, or the rents or other income from the Project (except “surplus cash,” as defined in the FHA Regulatory Agreement). No assurance can be made that such provision will not impair the excludability of interest on the Bonds from gross income for federal income tax purposes.

### **CONTINUING DISCLOSURE**

The Borrower will enter into a Disclosure Agreement dated as of March 1, 2004 (the “Continuing Disclosure Agreement”) with BNY Western Trust Company acting as the Dissemination Agent, obligating the Borrower to send, or cause to be sent, certain financial information with respect to the Borrower and the Project to certain information repositories annually and to provide notice, or cause notice to be provided, to the Municipal Securities Rulemaking Board and a state information repository, if any, of certain enumerated events for the benefit of the Beneficial Owners and Holders of any of the Bonds, in order to allow the Underwriter to meet the requirements of Section (b)(5)(i) of Securities Exchange Commission Rule 15c2-12 (the “Rule”).

A failure by the Borrower to comply with the provisions of the Disclosure Agreement will not constitute a default under the Indenture or Loan Agreement (although Bondholders will have any available remedy at law or in equity for obtaining necessary disclosures). Nevertheless, such a failure to comply is required to be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds. See “APPENDIX F – FORM OF CONTINUING DISCLOSURE AGREEMENT” attached hereto.

### **TAX MATTERS**

In the opinion of Bond Counsel, under current law, (a) interest on the Bonds will not be included in gross income for Federal income tax purposes, except when held by a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and (b) interest on the Bonds will be exempt from all taxes in the State of California. Interest on the Bonds is an item of tax preference for purposes of the Federal alternative minimum income tax imposed on individuals and corporations. No other opinion is expressed by Bond Counsel regarding the tax consequences of the ownership of or the receipt or accrual of interest on the Bonds.

Bond Counsel's opinion will be given in reliance on certifications by representatives of the Issuer and the Borrower as to certain facts relevant to both the opinion and requirements of the Code, and is subject to the condition that all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order for interest on the Bonds to be, or continue to be, not included in gross income for federal income tax purposes are so satisfied. The Issuer and the Borrower have covenanted to comply with provisions of the Code regarding, among other matters, the use, expenditure and investment of bond proceeds, the use of the Project as a "qualified residential rental project" and the timely payment to the United States of any arbitrage rebate amounts with respect to the Bonds. Failure by the Borrower or the Issuer to comply with such covenants, among other things, could cause interest on the Bonds to be included in gross income for Federal income tax purposes retroactively to their date of issue.

A form of the opinion of Bond Counsel is attached hereto as Appendix E. Copies of such opinion will be available at the time of the initial delivery of the Bonds.

### **Premium On Tax-Exempt Bonds**

The Bonds (the "Premium Bonds") will be reoffered to members of the public (excluding bond houses, brokers and other intermediaries acting in the capacity of wholesalers or underwriters) at an initial offering price which exceeds the stated redemption price payable at the maturity of such Bonds. The Premium Bonds will be considered for federal income tax purposes to have "bond premium" equal to the amount of such excess. The basis for federal income tax purposes of a Premium Bond in the hands of an initial purchaser who purchases such Bond in the initial offering must be reduced each year and upon the sale or other taxable disposition of such Bond by the amount of amortizable bond premium. This reduction in basis will increase the amount of any gain (or decrease the amount of any loss) recognized for federal income tax purposes on the sale or other taxable disposition of a Premium Bond by the initial purchaser. No corresponding deduction is allowed for federal income tax purposes, however, for the reduction in basis resulting from amortizable bond premium. The amount of bond premium on a Premium Bond which is amortizable each year (or shorter period in the event of a sale or disposition of a Premium Bond) is determined under special tax accounting rules which use a constant yield throughout the term of the Premium Bond based on the initial purchaser's original basis in such Bond.

### **Other Tax Matters**

In addition to the matters addressed above, prospective purchasers of the Bonds should be aware that the ownership of tax-exempt obligations may result in collateral Federal income tax consequences to certain taxpayers, including without limitation, financial institutions, property and casualty insurance companies, S corporations, foreign corporations subject to the branch profits tax, recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations. Prospective purchasers of the Bonds should consult their tax advisors as to the applicability and impact of such consequences.

Prospective purchasers of the Bonds should consult their own tax advisors as to the status of interest on the Bonds under the tax laws of any state other than California.

## **LEGAL MATTERS**

All legal matters incident to the authorization, issuance, sale and delivery of the Bonds by the Issuer to the Underwriter are subject to the approval of legality by Lewis Brisbois Bisgaard & Smith LLP, San Bernardino, California, as Bond Counsel. Certain legal matters will be passed upon by Fulbright & Jaworski L.L.P., Los Angeles, California, disclosure counsel; Krooth and Altman,

Washington, D.C., counsel to the Lender; Michael M. Stein, a P.C., Tarzana, California, counsel to the Borrower; and for the Underwriter Eichner & Norris PLLC, Washington, D.C.

### **LITIGATION**

To the best knowledge of the Issuer there is no action, suit or proceeding pending or threatened restraining or enjoining the execution or delivery of the Bonds or in any way contesting or affecting the validity of the foregoing.

To the best knowledge of the Borrower, there is no pending or threatened action, suit or proceeding seeking to restrain or enjoin the execution or delivery of the Bonds or in any way contesting or affecting the validity of the foregoing or which in any way contests the existence or powers of the Borrower, and there is no pending or threatened action, suit or proceeding pending against or relating to the Borrower or the Project or which could have a material adverse effect on the financial condition or operation of the Borrower or the Project.

### **UNDERWRITING**

A portion of the Bonds are being purchased by Kinsell, Newcomb & De Dios, Inc. (the "Underwriter"). The remainder of the bonds are being purchased by an institutional investor. The Underwriter has agreed, subject to certain conditions, to purchase a portion of the Bonds at a price equal to the principal amount of such Bonds at the prices set forth on the inside cover page hereof plus an additional amount of \$207,000. The Underwriter will be paid a gross underwriting fee equal to \$48,750 (excluding an amount paid to the Underwriter in an amount equal to \$207,000 to reimburse the Underwriter for the additional amount paid by them in excess of the reoffering price. The Bond Purchase Agreement provides that the obligations of the Underwriter to purchase a portion of the Bonds are subject to certain terms and conditions and the approval of certain legal matters by counsel.

The Bond Purchase Agreement provides that the obligation of the Underwriter is subject to certain conditions, including, among other things, that (i) no event has occurred which impairs or threatens to impair the status of the interest on the Bonds as exempt from Federal income taxation and (ii) proceedings relating to the Bonds are not pending or threatened by the Securities and Exchange Commission.

The Borrower has agreed to indemnify the Underwriter and the Issuer against certain liabilities in connection with the issuance and sale of the Bonds. The Underwriter may allow concessions to certain dealers who may realow concessions to other dealers.

### **RATING**

Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, has given the Bonds the rating "AAA." The rating reflects only the views of the rating agency, and an explanation of the significance of such rating may be obtained from it. No assurance can be given that the rating will be maintained for any given period of time or that the rating may not be revised downward or withdrawn entirely by the rating agency if, in its judgment, circumstances so warrant. Any such downward change in or withdrawal of the rating may have an adverse effect on the market price of the Bonds. The Underwriter and the Issuer have undertaken no responsibility after issuance of the Bonds to assure the maintenance of the rating or to oppose any such revision or withdrawal.

## **OTHER MATTERS**

The foregoing summaries and explanations do not purport to be comprehensive and are expressly made subject to the exact provisions of documents referred to herein. Copies of the Indenture, the Loan Agreement and the Regulatory Agreement may be obtained from the Trustee or the Underwriter. Any statements in this Official Statement involving matters of opinion or forecast, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement among the Issuer, the Borrower or the Underwriter and the purchasers or Holders of any Bonds.

This Official Statement has been approved by the Issuer and the Borrower for distribution by the Underwriter to prospective purchasers of the Bonds.

The agreements of the Issuer with the Bondowners are fully set forth in the Indenture. This Official Statement is not to be construed as a contract with the purchasers of the Bonds. Any statements herein involving matters of opinion or estimates, whether or not expressly so stated, are intended merely as such and not as representations of fact. This Official Statement has been approved by the Issuer and Borrower.

**EL MONTE COMMUNITY REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
/s/ Ernest G. Gutierrez, Chairperson

[Signatures continued on next page]

[Counterpart signature page of Official Statement]

**TDF LP, A CALIFORNIA LIMITED PARTNERSHIP**

By: Titan Foundation,  
Managing General Partner

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/s/ Jean Lang, President

By: JLT Titan LLC, Co-General Partner

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/s/ Francis Yu, MD, Member and Manager

**APPENDIX A**  
**CERTAIN DEFINITIONS**

The following is a summary of certain definitions contained in various documents entered into with respect to the Bonds and in this Official Statement. It is a summary only and does not purport to be a complete statement of the contents thereby. Reference is made to the full text of the documents herein described for a complete recital of the definitions contained therein.

“Act” means the Articles 10 and 11, Division 2, Title 5 (commencing with Section 53570) of the California Government Code, as amended (the “Refunding Law”) and Section 33782 of the Health and Safety Code of the State of California, as amended.

“Act of Bankruptcy” means notice to the Trustee that the Borrower has become insolvent or has failed to pay its debts generally as such debts become due or has admitted in writing its inability to pay any of its indebtedness or has consented to or has petitioned or applied to any court or other legal authority for the appointment of a receiver, liquidator, trustee or similar official for itself or for all or any substantial part of its properties or assets or that any such trustee, receiver, liquidator or similar official has been appointed or that insolvency, reorganization or liquidation proceedings (or similar proceedings) have been instituted by or against the Borrower.

“Authorized Denomination” means \$5,000 or any integral multiple thereof except one Bond of may be in a denomination of less than \$5,000.

“Authorized Representative” means, with respect to the Trustee, any trust officer or authorized agent thereof; with respect to the Issuer, the Executive Director or its Secretary-Treasurer or any other Person(s) designated by the Board as authorized representative of the Issuer in writing to the Trustee; and with respect to the Borrower, any officer of the Borrower or any other Person or Persons designated to act on behalf of the Borrower by a certificate of the Borrower filed with the Issuer and the Trustee.

“Available Money” means proceeds of the Bonds, any payments or prepayments on a Ginnie Mae Certificate, and any payments made by the Borrower and held by the Trustee for a period of 123 days, provided that no Act of Bankruptcy has occurred during such period, or any money with respect to which the Trustee has received an opinion of nationally recognized bankruptcy counsel to the effect that the use by the Trustee of such money in accordance with the Indenture would not constitute an avoidable preference or be subject to the automatic stay provisions of Sections 547 and 362(a), respectively, of the United States Bankruptcy Code or similar laws of the United States of America or the State in the event a petition in bankruptcy is filed by or against the entity depositing such money.

“Bonds” means the El Monte Community Redevelopment Agency, California Multifamily Housing Revenue Refunding Bonds, Series 2004 (Ginnie Mae Collateralized Mortgage Loan - Pacific Towers Apartment Project) in the original aggregate principal amount of \$6,500,000.

“Bond Counsel” means the firm of Lewis Brisbois Bisgaard & Smith LLP, San Bernardino, California, or any other firm of nationally recognized bond counsel, duly admitted to practice law before the highest court of any state and designated by the Issuer as its Bond Counsel for the Bonds.

“Bond Fund” means the Bond Fund established pursuant to the Indenture.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated March 17, 2004, among the Issuer, the Borrower, the Underwriter and the Placed Bonds Purchaser named therein.

“Bond Purchaser” means the initial purchaser of the Bonds.

“Borrower” means TDF LP, a California limited partnership.

“Borrower’s Tax Certificate” means the Tax Certificate of the Borrower relating to arbitrage limitations, requirements for exempt facility private activity bonds and general restrictions dated the date of issue.

“Building Loan Agreement” means the Building Loan Agreement between the Borrower and the Lender as the same may be supplemented, amended or modified.

“Business Day” means any day, other than a Saturday or a Sunday, on which banking institutions are open in the State of California and in the states in which the principal corporate trust office of the Trustee and any of the offices of the Bond Registrar designated from time to time by the Bond Registrar for the transfer or exchange of Bonds are located.

“Capitalized Interest Account” means the Capitalized Interest Account within the Construction Fund established by the Indenture.

“Carryover Amount” means the amounts set forth in the Indenture.

“City” means the City of El Monte, California.

“Code” means the Internal Revenue Code of 1986, as amended, to the date of issue of the Bonds.

“Construction Fund” means the Construction Fund established in the Indenture.

“Construction Loan Certificate” means any Ginnie Mae Certificate, other than the Project Loan Certificate, which represents an amount of the proceeds of the Mortgage Loan advanced by the Lender to the Borrower.

“Construction Loan Certificate Maturity Date” means July 15, 2006, or such later date as may be permitted by the provisions of the Indenture.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated as of March 1, 2004, among the Borrower, the Dissemination Agent and the Trustee, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means all expenses of issuing the Bonds, the Mortgage Loan or the Indenture, including but not limited to legal, financial, advisory and printing expenses, the initial fees of the Trustee (including any fees and expenses of counsel to the Trustee) under the Indenture, or the initial fee of any bank or other agency for collection or administration of the Bonds, any underwriter’s discount on or placement fee for the Bonds, and any and all other similar out of pocket expenses incurred for the purpose of issuing the Bonds.

“Delivery Date” means November 30, 2005, unless extended in accordance with the terms of the Indenture as described under APPENDIX B-“SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE” attached.

“Dissemination Agent” means initially BNY Western Trust Company, and any successor Dissemination Agent appointed by the Borrower.

“DTC” means The Depository Trust Company, New York, New York.

“Event of Default” means, with respect to the Indenture, any of the events enumerated under APPENDIX B-“SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE” “Events of Default; Acceleration; Remedies.”

“Extraordinary Services” and “Extraordinary Expenses” means and include, but not by way of limitation, services, actions and things carried out and all expenses incurred by the Trustee or the Issuer in respect of or to prevent default or subsequent to a default under the Indenture and the Mortgage Loan Documents, including any reasonable attorneys’ fees actually incurred and other litigation costs, and other

actions taken and carried out which are not expressly set forth in the Indenture, and costs associated with printing of replacement Bonds.

“Extraordinary Issuer Fees and Expenses” means all of those fees, expenses and disbursements payable to the Issuer under the Indenture for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by Bond Counsel and Issuer's Counsel which are to be paid by the Borrower pursuant to the Loan Agreement.

“Extraordinary Trustee Fees and Expenses” means all those fees, expenses and disbursements payable to the Trustee under the Indenture for Extraordinary Services and Extraordinary Expenses that are to be paid by the Borrower pursuant to the Loan Agreement.

“FHA” means the Federal Housing Administration of HUD or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD, the Federal Housing Commissioner and their representatives or agents.

“FHA Insurance” means the insurance of the Mortgage Note by FHA pursuant to Section 221(d)(4) of the National Housing Act.

“Final Advance” means the final advance of Mortgage Loan proceeds made by the Lender.

“Final Endorsement” means the final endorsement of the Mortgage Note by FHA for FHA Insurance.

“Financing Documents” means the Loan Agreement, the Indenture, the Bonds, the Regulatory Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Investment Agreement and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof, but excluding the Ginnie Mae Documents and the Mortgage Loan Documents.

“Ginnie Mae” means the Government National Mortgage Association, an organizational unit within HUD, or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD and his representatives or agents.

“Ginnie Mae Certificate” means a Construction Loan Certificate or the Project Loan Certificate, as the case may be, each being a mortgage-backed security issued by the Lender and guaranteed as to timely payment of interest, in the case of a Construction Loan Certificate, or of principal and interest, in the case of the Project Loan Certificate, by Ginnie Mae pursuant to the National Housing Act, as amended, and the regulations promulgated thereunder and backed by the Mortgage Loan.

“Ginnie Mae Documents” means the Ginnie Mae Certificates, the commitment issued by GNMA to the Lender to guaranty the Ginnie Mae Certificates and all other documents, certifications and assurances executed and delivered by the Lender, Ginnie Mae or the Borrower in connection with the Ginnie Mae Certificates.

“Government Obligations” means bonds, notes and other evidences of indebtedness of the United States of America or of any agency or instrumentality thereof backed by the full faith and credit of the United States of America.

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

“HUD Regulatory Agreement” means the Regulatory Agreement entered into between the Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“Indenture” means the Trust Indenture, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture.

“Investment Agreement” means the Investment Agreement, effective as of the Closing Date, among the Borrower, the Trustee and FSA Capital management Services LLC, as the same may be supplemented, amended or modified from time to time, providing for investment of moneys in the Bond Fund and the Construction Fund, and any substitute agreement for the investment of such moneys, having substantially the same terms, with or guaranteed by an entity the un-secured long-term debt obligations of which are rated by the Rating Agency in a rating category at least as high as the rating on the Bonds, and which upon a downgrading of such rating will either (i) provide collateral at a level required by the Rating Agency to maintain a rating of “AAA” on the Bonds or remit such moneys to the Trustee, or (ii) assign the investment agreement to another entity which meets all of the criteria herein for an investment provider; provided that in such case (i) the Trustee has received the rating confirmation required by the Indenture, and (ii) Bond Counsel has approved any changes made to such investment agreement.

“Issuer” means the El Monte Community Redevelopment Agency, California, a public body and body corporate and politic of the State of California.

“Issuer’s fees and Expenses” means the Ordinary Issuer Fees and the Extraordinary Issuer Fees and Expenses.

“Lender” means Red Mortgage Capital, Inc., an Ohio corporation, or its successors and assigns or, if Red Mortgage Capital, Inc. loses its status as an FHA-approved mortgagee, any other mortgagee approved by FHA and their respective successors or assigns.

“Letter of Credit” means an unconditional irrevocable letter of credit in favor of the Trustee, in form and substance satisfactory to the Rating Agency that is either issued or confirmed by an issuer whose short-term and long-term ratings meet the requirements of the Indenture, initially that certain Letter of Credit dated March 25, 2004 delivered by East West Bank, a banking corporation organized under the laws of the State of California, to the Trustee for deposit to the Capitalized Interest Account.

“Letter of Representations” means the Blanket Issuer Letter of Representations given by the Issuer to DTC.

“Loan Agreement” means the Loan Agreement, dated as of March 1, 2004, among the Lender, the Borrower, the Issuer and the Trustee, as the same may be supplemented, amended or modified.

“Mortgage” means the Deed of Trust and Assignment of Rents, Profits and Income, from the Borrower in favor of the Lender as the same may be supplemented, amended or modified.

“Mortgage Loan” means the loan from the Lender to the Borrower evidenced by the Mortgage Note and secured by the Mortgage.

“Mortgage Loan Documents” means the Mortgage, the Mortgage Note, the HUD Regulatory Agreement and all other documents required by the Lender and/or HUD in connection with the Mortgage Loan.

“Mortgage Note” means the Deed of Trust Note of the Borrower payable to the order of the Lender in the principal amount of \$6,500,000, as the same may be supplemented, amended or modified.

“National Housing Act” means the National Housing Act, as amended, and the applicable regulations thereunder.

“Ordinary Services” and “Ordinary Expenses” means, in the case of the Trustee, the actions taken and carried out and those fees, costs, and expenses (including but not limited to attorneys fees and expenses) incurred by the Trustee as expressly set forth in this Indenture, excluding Extraordinary Services and Extraordinary Expenses.

“Ordinary Trustee Fees and Expenses” means the amounts due to the Trustee for the Ordinary Services and the Ordinary Expenses of the Trustee incurred in connection with its duties under the Indenture, payable semiannually on each Payment Date, beginning August 20, 2004, in an annual amount

0.05% of the principal amount of the Outstanding Bonds (with a minimum fee of \$1,200). Such amount includes the fees of the Trustee in its capacity as Dissemination Agent.

“Opinion” means a written opinion of any attorney or firm of attorneys acceptable to the Trustee, who may be counsel to but will not be a full-time employee of the Issuer, the Borrower or the Trustee.

“Outstanding,” as applied to the Bonds, means, as of the applicable date, all Bonds, which have been authenticated and delivered by the Trustee under the Indenture, except:

- (a) Bonds canceled upon surrender, exchange or transfer or canceled because of payment or redemption, on or prior to such date;
- (b) Defeased Bonds as provided under the Indenture; and
- (c) Bonds in lieu of which others have been executed and authenticated under the Indenture;

provided that Bonds that are owned by the Issuer, the Borrower or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or the Borrower will be deemed not to be Outstanding for purposes of determining whether the Owners of the requisite percentage of Bonds have concurred in any demand, direction, request, notice, consent, waiver or other action under the Indenture, except that for purposes of determining whether the Trustee will be protected in relying on any such concurrence of Owners, only Bonds known by the Trustee to be so owned will be deemed not to be Outstanding. Bonds so owned that have been pledged in good faith may be regarded as Outstanding for such purposes, if the pledgee establishes to the satisfaction of the Trustee the pledgee’s right to vote on such Bonds and the pledgee is not a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or the Borrower. In case of a dispute as to such right, the Trustee will be fully protected in relying on an Opinion of counsel. At the time of any such determination, the Issuer will furnish the Trustee a certificate of an Authorized Representative of the Issuer, upon which the Trustee may rely, describing all Bonds held by the Issuer so to be excluded.

“Payment Date” means the 20th day of each February and August, after the Closing Date, commencing August 20, 2004. In the case of payment of defaulted interest, “Payment Date” also means the date of such payment established pursuant to the Indenture.

“Permitted Investments” means any of the following, which at the time of investment are legal investments under the laws of the State for the investment of the Issuer’s funds:

- (i) Government Obligations;
- (ii) Federal Housing Administration’s debentures;
- (iii) Federal Home Loan Mortgage Corporation’s (FHLMC) participation certificates (excluding stripped mortgage securities which are purchased at prices exceeding their principal amounts) which guarantee timely payment of principal and interest and senior debt obligations;
- (iv) Farm Credit Banks’ (Federal Land Banks, the Federal Intermediate Credit Banks and Banks for Cooperatives) consolidated system wide bonds and notes;
- (v) Federal Home Loan Banks’ consolidated debt obligations;
- (vi) Federal National Mortgage Association’s (FNMA) mortgage-backed securities (excluding stripped mortgage securities which are purchased at prices exceeding their principal amounts) and senior debt obligations;
- (vii) Resolution Funding Corp’s (REFCORP) debt obligations;
- (viii) Federal funds, certificates of deposit, time deposits, deposit accounts and bankers’ acceptances (having original maturities of not more than 365 days) of any bank (including the Trustee or

any affiliate of the Trustee), the unsecured short term obligations of which are rated “A-1+” by Standard & Poor’s;

(ix) Deposits that are fully insured by the Federal Deposit Insurance Corp. (FDIC) by any bank the unsecured short term obligations of which are rated “A-1” by Standard & Poor’s;

(x) Debt obligations rated “AAA” by Standard & Poor’s (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date);

(xi) Commercial paper (having original maturities of not more than 270 days) rated at the time of purchase “A-1+” by Standard & Poor’s;

(xii) Shares of a money market mutual fund or other collective investment fund registered under the federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of AAAM or AAAMG by Standard & Poor’s, which only invests in obligations listed in (i) hereof, and repurchase agreements and reverse repurchase agreements relating to such securities, including money market mutual funds from which the Trustee or its affiliates receive a fee for investment advisory or other services to the fund;

(xiii) Shares of a tax-exempt municipal money market mutual fund or other collective investment fund registered under the Federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, having assets of at least \$100,000,000, and having a rating of AAAM or AAAMG by Standard & Poor’s, for which at least 95% of the income paid to the holders on interest in such money market fund will be excludable from gross income under Section 103 of the Code, including money market funds for which the Trustee or its affiliates receive a fee for investment advisory or other services to the fund.

(xiv) Repurchase agreements with any institution the unsecured, uninsured and unguaranteed debt obligations of which are rated “AAA” by Standard & Poor’s; or commercial paper of which is rated “A-1+” by Standard & Poor’s;

(xv) Any stripped securities assessed or rated “AAA” by Standard & Poor’s;

(xvi) Any Investment Agreement; and

(xvii) Any and all other obligations of investment grade and having a national recognized market including, but not limited to, rate guarantee agreements, guaranteed investment contracts, or other similar arrangements offered by any firm, agency, business, governmental unit, bank, insurance company, or other entity, provided that each such obligation shall permit moneys so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys, and provided that each such obligation has a long-term rating which is equal to or better than the rating on the Bonds.

“Project” means the acquisition, construction and equipping of an approximately 100-unit affordable senior rental housing project in El Monte, California, known as Pacific Towers Apartments.

“Project Loan Certificate” means the Ginnie Mae Certificate issued after the Mortgage Loan is finally endorsed for FHA Insurance.

“Project Loan Certificate Maximum Amount” means \$6,500,000.

“Qualified Financial Institution” means (i) a securities dealer, the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation, and which is on the Federal Reserve Bank of New York’s list of primary government securities dealers, provided such dealer has been approved by the Rating Agency; (ii) a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provisions of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provisions of law, a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any

state or territory of the United States of America, a savings bank, a savings and loan association, or an insurance company or association chartered or organized under the laws of any state of the United States of America and financial institutions that are rated Aaa or financial institutions whose guarantors are rated Aaa; (iii) a corporation affiliated with or which is a subsidiary of any entity described in (i) or (ii) above or which is affiliated with or a subsidiary of a corporation which controls or wholly owns any such entity or which is a subsidiary of a foreign insurance company; or (iv) the Ginnie Mae or any successor thereto or Fannie Mae or any successor thereto; provided that for each such entity delineated in clause (ii) and (iii) its unsecured or uncollateralized long-term debt obligations, or obligations secured or supported by a letter of credit, contract, agreement or surety bond issued by any such organization, have been assigned a credit rating by each Rating Agency which is not lower than the rating then assigned (i.e., at the time an Investment Agreement is entered into) to any Outstanding Bonds by such Rating Agency.

“Qualifying Tenant” means any tenant (i) whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of low income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as low income shall be with respect to 10% of the units sixty percent (60%) of the median gross income for the Area with adjustments for family size sixty percent, and, with respect to the other 90% of the units (60%) of the median gross income for the Area with adjustments for family size; and (ii) whose income does not exceed the qualifying limits for low income families as established and amended from time to time pursuant to Section 8 of the Housing Act, or who otherwise qualify as individuals or families of low or moderate income as defined by Section 1.103-8 of the Regulations. If all the occupants of a unit are students (as defined under Section 151(e)(4) of the Code), no one of who is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Qualifying Tenants. The determination of a tenant’s status as a Low Income Tenant shall be made by the Owner upon initial occupancy of a unit in the Project by such Tenant, on the basis of an Income Certification executed by the Tenant.

“Rating Agency” means Standard & Poor’s Ratings Service and its successors and assigns.

“Rebate Analyst” means the Person or entity with experience in calculating rebates, which is responsible for calculating the rebate amounts due to the United States of America.

“Rebate Analyst Fee” means the fee paid to the Rebate Analyst during the term of the Indenture, which fee shall not exceed \$2,500 every five years, in arrears, commencing on February 20, 2009; provided that in the event of any prepayment of the principal amount of the Ginnie Mae Certificates which reduces the monthly payment of principal and interest on the Ginnie Mae Certificates (other than pursuant to scheduled amortization), the foregoing amount shall be reduced by the same fraction that the monthly payment on the Ginnie Mae Certificate was reduced.

“Rebate Fund” means the fund of that name, the creation of which is provided for in the Indenture.

“Rebate Year” means the period beginning on the date of issuance of the Bonds and ending on August 20, 2004, and for all other Rebate Years, the one year period beginning on the day after the preceding Rebate Year and ending on the following August 20, unless another period is required by law; provided, however, that the last Rebate Year for the Bonds shall end on the Retirement Date.

“Record Date” means the 15th day preceding each Payment Date.

“Regulatory Agreement” means the Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants dated as of March 1, 2004, with respect to the Project between the Issuer and the Borrower, as the same may be further supplemented, amended or modified from time to time.

“Sinking Fund Redemption Date” means each February 20 and August 20 in each of the years specified in the Indenture.

“State” means the State of California.

“Tax Credit Investor” means Wachovia Affordable Community Development Corporation, or its designated affiliate, in its capacity as owner of a 99.99% limited partnership interest in the Borrower.

“Trust Estate” means the trust estate pledged by the Issuer and described in the Granting Clauses of the Indenture.

“Trustee” means BNY Western Trust Company, a state banking corporation organized and existing under the laws of the State of California and having its Principal Office in Los Angeles, California, or its successor, as Trustee under the Indenture.

“Trustee Fees” means the Ordinary Trustee Fees and Expenses and the Extraordinary Trustee Fees and Expenses.

## APPENDIX B

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

The following is a summary of the provisions of the Indenture by and between the Issuer and the Trustee. The summary does not purport to be comprehensive or definitive and reference is made to the full text of the Indenture for a complete recital of its terms, a copy of which is on file with the Issuer and the Trustee.

#### Security for the Bonds

Under the Indenture, as security for payment of the principal of, premium, if any, and interest on the Bonds and for funds advanced by the Trustee pursuant thereto, the Issuer pledges and assigns to, and grants a security interest to the Trustee in, the following described property:

- (a) All right, title and interest of the Issuer in the Loan Agreement (except for the Issuer's Reserved Rights;
- (b) All right, title and interest of the Issuer in the Ginnie Mae Certificates, including all payments with respect thereto and any interest, profits and other income derived from the investment thereof;
- (c) The Funds, including moneys and investments therein, held by the Trustee pursuant to the terms of the Indenture;
- (d) All other property of any kind mortgaged, pledged or hypothecated at any time as and for additional security under the Indenture by the Issuer or by anyone on its behalf or with its written consent in favor of the Trustee, which is authorized to receive all such property at any time and to hold and apply it subject to the terms of the Indenture; and
- (e) To the extent not covered above, all proceeds of all of the foregoing.

The following Funds and Accounts will be established and maintained by the Trustee under the Indenture:

- (a) Bond Fund and the Special Mandatory Redemption Account, therein;
- (b) Costs of Issuance Fund;
- (c) Construction Fund, and within the Construction Fund, the Capitalized Interest Account;
- (d) Rebate Fund; and
- (e) Refunding Account.

This Rebate Fund is not established for the benefit of the Bondholders.

#### Deposits Into Bond Fund: Use of Money in Bond Fund

The Trustee will deposit in the Bond Fund when and as received:

- (a) all income, revenues, proceeds and other amounts received from or in connection with the Project Loan Certificate;
- (b) all earnings and gains from the investment of money held in the Bond Fund;
- (c) all earnings and gains from the investment of money held in the Construction Fund;
- (d) all income, revenues and proceeds received from or in connection with the Construction Loan Certificates;

(e) all amounts transferred to or deposited in the Bond Fund from the Construction Fund as described below (including but not limited to draws on the Letter of Credit); and

(f) additional security or any other amounts received by the Trustee which are subject to the lien and pledge of the Indenture for the benefit of the Owners.

All amounts in the Bond Fund, other than those in the Special Mandatory Redemption Account, will be used by the Trustee in the following priority:

(a) on each Payment Date, for payment of principal of and premium, if any, and interest on the Bonds due on such Payment Date, and on each date on which Bonds are to be redeemed (otherwise than pursuant to extraordinary mandatory redemption) for payment of the redemption price of such Bonds;

(b) on the date of purchase of any Construction Loan Certificate or the Project Loan Certificate, an amount equal to the accrued interest to be paid with respect to such purchase; and

(c) on each Payment Date, for payment of the Administrative Fees.

Upon acquisition, the Project Loan Certificate will be registered in the name of the Trustee or its nominee in and for the benefit of the Bond Fund.

#### **Special Mandatory Redemption Account**

Amounts transferred to the Bond Fund from the Construction Fund pursuant to the Indenture or attributable to the receipt by the Trustee of payments under the Ginnie Mae Certificates exceeding regularly scheduled payments of principal and interest will be deposited in the Special Mandatory Redemption Account in the Bond Fund and used by the Trustee solely to redeem Bonds pursuant to the Indenture.

#### **Deposits Into Costs of Issuance Fund: Use of Moneys in Costs of Issuance Fund**

On the Closing Date, an amount set forth in the Indenture will be deposited into the Cost of Issuance Fund. The amount in the Cost of Issuance Fund shall be paid by the Trustee for costs of issuance upon receipt of a requisition therefore signed by the Borrower. Any amounts remaining in the Costs of Issuance Fund after September 1, 2004 that are not being held to pay Costs of Issuance previously requisitioned but not yet paid shall be transferred, at the written request of the Borrower, to the Borrower or its designee.

#### **Deposits Into Construction Fund: Use of Moneys in Construction Fund**

(a) On the Closing Date, the Trustee will deposit in the Construction Fund an amount representing a portion of the proceeds of the Bonds.

(b) On the Closing Date, the Trustee shall deposit in the Capitalized Interest Account (i) a portion of the premium paid to the Trustee by the Underwriter for the Bonds, and (ii) an additional amount in the form of a Letter of Credit.

(c) Moneys in the Construction Fund (and in the Bond Fund with respect to accrued interest thereon) shall be applied to the acquisition of Ginnie Mae Certificates and, at the Lender's option, the funding of interim advances as provided in the Indenture. Upon the acquisition thereof, the Initial Construction Loan Certificate shall be registered in the name of the Trustee or its nominee in and for the benefit of the Construction Fund.

#### **Rebate Fund**

The Rebate Fund will be used as a repository of the Rebate Amount, if any. Such Rebate Fund will be held in trust for the benefit of the United States of America and shall not be subject to any lien, security interest, right, claim or encumbrance of any other person, including the Issuer, the Borrower, or

the Owners of the Bonds. The Borrower has covenanted in the Loan Agreement to employ and pay the Rebate Analyst to determine for every five (5) Rebate Years the Rebate Amount.

The Trustee will make information that it has access to regarding the Bonds and investments under the Indenture available to the Rebate Analyst prior to the end of each Rebate Year (commencing with the date of delivery of the Bonds), will make deposits into and disbursements from the Rebate Fund in accordance with the directions received solely from the Rebate Analyst, will invest moneys in the Rebate Fund pursuant to the written direction of the Borrower, and will deposit income from such investments immediately upon receipt thereof in the Rebate Fund.

If a deposit to the Rebate Fund is required as a result of the computations made as of the end of each Rebate Year by the Rebate Analyst, the Borrower will pay the Trustee such amounts as are necessary to make such deposit not more than twenty-five (25) days after the end of such Rebate Year as provided in the Loan Agreement.

The Trustee shall notify the Issuer of the amount so deposited. The Trustee shall notify the Issuer of any payment of rebate to be made from the Rebate Fund not less than 15 days before such payment is to be made, and shall remit from the Rebate Fund to the United States Treasury, at the times designated by the Rebate Analyst but in no event later than thirty (30) days after every fifth (5th) Rebate Year the amount specified by the Rebate Analyst. Within thirty (30) days after any Retirement Date, the Trustee shall remit to the United States Treasury the entire aggregate amount of the Rebate Amount, as finally directed and computed by the Rebate Analyst, not theretofore paid to the United States Treasury. If on any such payment date the amount on deposit in the Rebate Fund is less than the amount of the payment required to be made to the United States Treasury, the Trustee will have the right to withdraw funds first from the Bond Fund in the amount of such insufficiency. All payments to the United States of America pursuant to this section shall be made by the Trustee for the account of and in the name of the Issuer and shall be paid by check posted by certified United States mail (return receipt requested) addressed to the Internal Revenue Service address specified on Form 8038-T, and shall be accompanied by Form 8038-T and such other forms or statements required by the Code, the Regulations, or other administrative guidelines. The Issuer shall cooperate with the Borrower and the Trustee in executing the Form 8038-T, but shall have no liability for the information contained in such form. The Trustee shall retain records of all calculations and rebate payments required by this section for a period ending six (6) years after the last Retirement Date.

The Trustee and the Issuer may conclusively rely, without further inquiry or investigation, on the information, instructions and forms provided or prepared by the Rebate Analyst under the Indenture or the Loan Agreement with regard to any actions to be taken by the Trustee or the Issuer, including payments to be made, pursuant to this section and will have no liability for any consequences of any failure of the Borrower or Rebate Analyst to supply accurate or sufficient instructions or to compute erroneously any payment due pursuant to this section. The Trustee and the Issuer shall have no responsibility or duty to perform any rebate calculation or to expend its own funds to make any rebate payments.

If at any time during the term of the Indenture, the Borrower, the Issuer or the Trustee, desire to take any action which would otherwise be prohibited by the terms of the Indenture, such person shall be permitted to take such action if it shall first obtain and provide, at the expense of the Borrower, to the other persons named in the Indenture an opinion of Bond Counsel to the effect that such action shall not adversely affect the exclusion of interest on the Bonds from gross income of the Owners of any Bond for federal income tax purposes and shall be in compliance with the laws of the State.

Notwithstanding any provision of the Bond Documents and unless otherwise specifically agreed to in a separate written agreement, the Trustee shall not be liable or responsible for any method of calculation, or any calculation or determination which may be required in connection with or for the purpose of complying with Section 148 of the Code or any successor statute or any regulation, ruling, or other judicial or administrative interpretation thereof, including, without limitation, the calculation of

amounts required to be paid to the United States of America or the determination of the maximum amount which may be invested in “non-purpose investments” having a yield higher than the yield on the Bonds, in connection with any such investments, and the Trustee shall not be liable or responsible for monitoring the compliance by the Borrower or the Issuer of any of the requirements of Section 148 of the Code or any applicable regulation, ruling or other judicial administrative interpretation thereof. It is acknowledged and agreed that the sole obligation of the Trustee in this regard shall be to invest monies received by the Trustee pursuant to the instructions of the Borrower in a specific investment identified by the Borrower and to disburse monies in accordance with the terms of the Indenture. Without limiting the duties of the Trustee expressly set forth in the Indenture, the Trustee shall have no obligation or responsibility whatsoever in connection with (i) any federal or state tax-exempt status of the Bonds or the interest thereon or (ii) the consequences of the investment or non-investment of any funds or accounts relating to the Bonds under Section 148 of the Code.

### **Investment of Funds**

Subject to the provisions of the Indenture, money on deposit in the Funds shall be invested and reinvested, to the extent practicable, by the Trustee in Permitted Investments, as directed in writing by the Lender until delivery of the Project Loan Certificate and, thereafter, by an Authorized Representative of the Borrower; provided that in the event of the failure of the Borrower, as applicable, to provide timely written directions as to such investment or reinvestment, the Trustee shall invest or reinvest any or all money held by it in the Funds, to the extent practicable, in the Investment Agreement provided such investment is rated “AAA” or better or in investments described in clause (xiii) of the definition of Permitted Investments or such other comparable cash management fund if the foregoing fund shall become unavailable for any reason; provided that such funds qualify as Permitted Investments and mature on the earlier of 180 days or when needed. The Trustee may make Permitted Investments through its own or any affiliate’s investment department. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees, which may be deducted from income earned or investments.

The Trustee will enter into the Investment Agreement. On and after the effective date of the Investment Agreement, all moneys in the Construction Fund and the Bond Fund shall be invested in the Investment Agreement, to the fullest extent possible, and shall be withdrawn as provided thereunder.

Pending application of the money in the Rebate Fund as required pursuant to the Indenture, such money will be invested and reinvested, without regard to yield, in Government Obligations maturing on or before the date the money invested therein is required to be paid to the United States of America pursuant to the Indenture as an Authorized Representative of the Borrower shall direct in writing. However, if no such investment is available or if no such direction is given, the Trustee shall hold such money uninvested.

The Trustee, in making any investment pursuant to this section, shall not be required to verify that an investment is authorized by law, but may at any time request, receive and rely upon the Opinion of Bond Counsel, addressed to the Trustee and the Issuer, to the effect that such investment will not cause the Bonds to become “arbitrage bonds” under the Code. Any fees and expenses incurred by the Trustee in obtaining such Opinion of Bond Counsel shall be an expense reasonably incurred by the Trustee and shall be charged to and paid by the Borrower.

### **No Disposition of Ginnie Mae Certificates**

Except as otherwise provided in the Indenture, without the prior written consent of the Owners of 100% of the Bonds, neither the Issuer nor the Trustee will sell or otherwise dispose of the Ginnie Mae Certificate (other than delivery of the Project Loan Certificate to the Lender in accordance with its terms thereof) after its acquisition for an amount less than an amount sufficient, together with other amounts then held under the Indenture and available for the payment of the Bonds, to defease the Bonds in

accordance with the Indenture on the first date following such sale on which the Bonds may be redeemed pursuant to the optional redemption provisions of the Indenture.

### **Continuing Disclosure**

Pursuant to the Loan Agreement, the Borrower has undertaken all responsibility for compliance with continuing disclosure requirements under Securities and Exchange Commission Rule 15c2-12, and the Issuer shall have no liability to the holders of the Bonds or any other person with respect to such disclosure matters. The Borrower has contracted with a Dissemination Agent to assist it in complying with and carrying out all of the provisions of the Continuing Disclosure Agreement and the Loan Agreement applicable to it. Notwithstanding any other provision of the Indenture, failure of the Borrower or the Dissemination Agent to comply with the Continuing Disclosure Agreement will not be considered an Event of Default; however, any bondholder may take such actions, and if requested by at least 25% of the bondholders, the Trustee shall take such action, as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower to comply with its obligations under the Continuing Disclosure Agreement or to cause the Trustee to comply with its obligations. See “EXHIBIT F – FORM OF THE CONTINUING DISCLOSURE AGREEMENT” attached hereto.

### **Events of Default; Acceleration; Remedies**

Each of the following events will be an Event of Default under the Indenture:

(a) default in the due and punctual payment of the principal of, premium, if any or interest on any Bond when and as the same will become due and payable, whether at maturity as expressed therein, by proceedings for redemption (except as otherwise provided in the Indenture), by acceleration, or otherwise; or

(b) default in the performance or observance of any other of the covenants, promises, stipulations, agreements or conditions on the part of the Issuer contained in the Indenture or in the Bonds and failure to remedy the same after notice thereof pursuant to the Indenture.

If an Event of Default described in paragraph (a) above occurs and is continuing, the Trustee may, and will, if requested by the Owners of 25% of the aggregate principal amount of the Bonds then Outstanding, by notice in writing to the Issuer, the Investor, the Lender and the Borrower, declare the principal of all of the Bonds then Outstanding and the interest accrued thereon to be due and payable immediately, and, upon any such declaration, the same will become and will be immediately due and payable, but only from the revenues and receipts in the Indenture specifically pledged for such purpose, including, without limitation, amounts paid pursuant to the Ginnie Mae Certificates and amounts on deposit in the Bond Fund and accounts therein.

If an Event of Default described in paragraph (b) above occurs, at any time after delivery of the Project Loan Certificate, then, and in each and every such case during the continuance of such Event of Default, the Trustee will, if requested by the Owners of 100% of the aggregate principal amount of the Bonds then Outstanding, by notice in writing to the Issuer, the Lender and the Borrower, declare the principal of all of the Bonds then Outstanding and the interest accrued thereon to be due and payable immediately, and, upon any such declaration, the same will become and will be immediately due and payable, but only from the revenues and receipts in the Indenture specifically pledged for such purpose, including, without limitation, amounts paid pursuant to the Ginnie Mae Certificates and amounts on deposit in the Bond Fund and accounts therein.

Upon the occurrence and during the continuance of an Event of Default, the Trustee may proceed to protect and enforce its rights as the owner of the Ginnie Mae Certificates and the rights of the Owners by mandamus or other action, suit or proceeding at law or in equity for specific performance of any agreement therein contained; provided, however, that no Event of Default under the Indenture will be deemed to be a default by the Borrower under the Mortgage Note.

Upon the occurrence of an Event of Default, if requested to do so and upon written request by the Owners of the required percentage of the aggregate principal amount of the Bonds then Outstanding and if indemnified as provided in the Indenture, the Trustee will exercise such one or more of the rights and powers conferred by the Indenture as the Trustee, upon being advised by counsel, will deem most expedient in the interests of the Owners.

No remedy conferred by the Indenture upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each such remedy will be cumulative and will be in addition to any other remedy given to the Trustee or to the Owners thereunder or now or thereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default will impair any such right or power or will be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default under the Indenture, whether by the Trustee or by the Owners, will extend to or will affect any subsequent default or Event of Default or will impair any rights or remedies consequent thereon.

#### **Right of Owners To Direct Proceedings**

Anything in the Indenture to the contrary notwithstanding, but subject to the Indenture the Owners of a majority in aggregate principal amount of Bonds then Outstanding will have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture or any other proceedings thereunder; provided, however, that such written direction is not otherwise than in accordance with the provisions of law and of the Indenture, and provided, further, that the Owners of the Bonds will look solely to the Trustee for the benefits of the Ginnie Mae Certificates and any payment of any claim on the Ginnie Mae Certificates may be made to the Trustee without any liability or accountability to the Owners to see to the application of the benefits of the Ginnie Mae Certificates.

#### **Supplemental Indentures Not Requiring Consent of Owners**

The Indenture shall not be supplemented or amended in any respect subsequent to the initial issuance of the Bonds, except as provided in and in accordance with and subject to the provisions of the Indenture. Subject to the Indenture, the Issuer and the Trustee may, from time to time and at any time, without the consent of or notice to any of the Owners but upon 30 days' written notice to the Lender, enter into Supplemental Indentures for the following purposes:

(a) To cure any formal defect, omission, inconsistency or ambiguity in the Indenture in a manner not adverse to the Owner of any Bond;

(b) To impose on the Trustee (with its consent) for the benefit of the Owners any additional rights, remedies, powers, Authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with the Indenture as theretofore in effect;

(c) To add to the covenants and agreements of, and limitations and restrictions upon, the Issuer in the Indenture other covenants, agreements, limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with the Indenture theretofore in effect;

(d) To subject to the Indenture additional revenues, properties or collateral;

(e) To modify, amend or supplement the Indenture in such manner as required to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute

hereafter in effect or state securities (“Blue Sky”) laws, and, if they so determine, to add to the Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute or state securities law;

(f) To make any change required by the Rating Agency in connection with obtaining and maintaining a rating on the Bonds;

(g) To authorize different denominations of the Bonds and to make correlative amendments and modifications to the Indenture regarding exchangeability of Bonds of different Authorized Denominations, redemptions of portions of Bonds of particular Authorized Denominations and similar amendments and modifications of a technical nature;

(h) To make such changes as are required to provide for the conversion of the Bonds to certificated form;

(i) To make such changes as are elsewhere expressly permitted by the Indenture;

(j) To make any other change in the Indenture which will not prejudice in any material respect the rights of the Owners of the Bonds then Outstanding; and

(k) To make any changes that will become effective only at the time when no Bonds remain Outstanding and that are not described in the Indenture.

Before the Issuer and the Trustee will adopt any such Supplemental Indenture pursuant to this section or simultaneously with such adoption, there will be or have been delivered to the Issuer and the Trustee an Opinion of Bond Counsel, stating that such Supplemental Indenture is authorized or permitted by the Indenture and will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms and will not cause the interest on the Bonds to be included in gross income of the Owners for federal income tax purposes.

### **Supplemental Indentures Requiring Consent of Owners**

Exclusive of Supplemental Indentures provided for above and subject to the terms and provisions contained in the Indenture, the Owners of two-thirds in aggregate principal amount of the Bonds then Outstanding will have the right from time to time, notwithstanding any other provision of the Indenture, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental to the Indenture as are deemed necessary or desirable by the Issuer for the purposes of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Indenture or in any Supplemental Indenture; provided, however, that nothing in the Indenture will permit, or be construed as permitting (a) (i) an extension of the maturity of the principal of or the interest on any Bond, (ii) a reduction in the principal amount of or premium, if any, on any Bond or the rate of interest thereon, (iii) an extension of time or a reduction in amount of any payment required by any sinking fund that may be applicable to any Bonds, (iv) a privilege or priority of any Bond over any other Bond or (v) a reduction in the aggregate principal amount of Bonds required for consent to such Supplemental Indenture, without the consent and approval of the Owners of all of the Bonds then Outstanding, or (b) any change in the Indenture without consent of the Owners of all the Bonds.

If at any time the Issuer will request in writing the Trustee to enter into any Supplemental Indenture for any of the purposes of this section, the Trustee will, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such Supplemental Indenture to be sent to the Lender and to each Owner of Bonds then Outstanding by registered or certified mail to the address of such Owner as it appears on the registration books; provided, however, that failure to give such notice, or any defect therein, will not affect the validity of any proceedings pursuant to the Indenture. Such notice, which at the request of the Trustee will be prepared by the Issuer, will briefly set forth the nature of, the proposed Supplemental Indenture and will state that copies thereof are on file at the

Principal Office of the Trustee for inspection by all Owners. If, within 60 days or such longer period as will be prescribed by the Issuer following the giving of such notice, the Owners of two-thirds in aggregate principal amount of the Bonds then Outstanding will have consented to and approved the execution thereof as provided in the Indenture, no Owner of any Bond will have any right to object to any of the terms and provisions contained therein, or the operation thereof, or to enjoin or restrain the Trustee or the Issuer from executing such Supplemental Indenture or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture as provided in the Indenture, the Indenture will be and be deemed to be modified and amended in accordance therewith.

#### **Amendment of Loan Agreement and Ginnie Mae Certificates Not Requiring Consent of Owners**

Subject to the provisions of the Indenture, the Issuer, and the Trustee will, without the consent of or notice to the Owners, consent to any amendment, change or modification of the Ginnie Mae Certificates or the Loan Agreement as may be required:

- (a) by the provisions of, or as contemplated in, the Loan Agreement, the Ginnie Mae Certificates or the Indenture;
- (b) for the purpose of curing any ambiguity or formal defect or omission therein;
- (c) to make any change therein that may be required by Ginnie Mae or HUD to conform such instruments to the requirements of applicable federal law or regulations and/or the terms of any the Mortgage Loan Documents or the Ginnie Mae Documents;
- (d) to make any change therein required by the Rating Agency in connection with obtaining and maintaining a rating on the Bonds;
- (e) to make any other change therein which, will not prejudice in any material respect the rights of the Owners of the Bonds then Outstanding; or
- (f) No amendment to the Loan Agreement shall be made which adversely affects the express rights of the Investor thereunder without the written consent of the Investor.

#### **Amendments of Loan Agreement and Ginnie Mae Certificates Requiring Consent of Owners**

Except for amendments, changes or modifications as provided above, neither the Issuer nor the Trustee will consent to any amendment, change or modification of the Loan Agreement or Ginnie Mae Certificates without the written approval or consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding given and procured as provided in the Indenture. If at any time the Issuer and the Borrower request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee will, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in the Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and will state that a copy of the instrument embodying the same is on file at the Principal Office of the Trustee for inspection by all Owners.

#### **Amendment by Unanimous Consent**

Notwithstanding any other provision of the Indenture, the Issuer and the Trustee may consent to any amendment, change or modification of the Loan Agreement, the Ginnie Mae Certificates upon receipt of the consent of the Owners of all Bonds then Outstanding.

#### **Subordination of Indenture**

Notwithstanding anything in the Indenture or any other Financing Document to the contrary:

- (a) In the event of any conflict between any provision contained elsewhere in the Indenture or in any other Financing Document and any provision contained in the subordination provisions contained in the Indenture, the provision contained in such shall govern and be controlling in all respects.

(b) The provisions of the Indenture and the other Financing Documents are subject and subordinate to the National Housing Act, all applicable HUD insurance (and Section 8, if applicable) regulations and requirements, the Mortgage Loan Documents, all applicable Ginnie Mae regulations and requirements and the Ginnie Mae Documents; and in the event of any conflict between the provisions of the Indenture or the provisions of any of the other Financing Documents and the provisions of the National Housing Act, any applicable HUD regulations, HUD requirements, the Mortgage Loan Documents, any applicable Ginnie Mae regulations, Ginnie Mae requirements, and/or the Ginnie Mae Documents, the said National Housing Act, HUD regulations, HUD requirements, Mortgage Loan Documents, Ginnie Mae regulations, Ginnie Mae requirements and Ginnie Mae Documents shall be controlling in all respects.

(c) No amendment to the Indenture or any of the other Financing Documents shall be made if such amendment would result in a conflict with the National Housing Act, any applicable HUD regulations, HUD requirements, Ginnie Mae regulations, Ginnie Mae requirements, the Mortgage Loan Documents or the Ginnie Mae Documents.

(d) Enforcement of the provisions of the Indenture or the provisions or any of the other Financing Documents shall not result in any claim under the Mortgage Loan, or any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit made with the Lender or another person or entity required by HUD or the Lender in connection with the Mortgage Loan transaction, or against the rents or other income from the Project (other than available Surplus Cash, if any).

(e) The Borrower shall not be deemed to be in violation of the Indenture or any other Financing Documents if it shall take (or refrain from taking) any actions required (or prohibited) by HUD pursuant to the National Housing Act, applicable mortgage insurance regulations, related administrative requirements, the Mortgage Loan Documents, applicable Ginnie Mae regulations, related administrative requirements and the Ginnie Mae Documents and, if applicable, Section 8 of the U.S. Housing Act of 1937 and regulations promulgated thereunder.

(f) The provisions of this section will inure to the benefit of the Borrower, Lender and HUD, and their successors and assigns.

(g) Any assignment, transfer or pledge of the Mortgage Loan or a participation in the Mortgage Loan by way of a participation or other arrangement which may be made pursuant to the terms of the Indenture or any of the other Financing Documents shall be made in accordance with the National Housing Act and the HUD regulations. Any assignment, transfer or pledge not made in accordance with the terms of this section and said HUD regulations shall be void.

(h) A default under the Indenture or any other Financing Document shall not constitute a default under the Mortgage Note, Mortgage or any other Mortgage Loan Document.

(i) Nothing contained in the Indenture or any other Financing Document shall restrict or adversely affect the duties and obligations of the Lender under the contract of mortgage insurance between the Lender and HUD.

(j) Project funds held by the Lender on behalf of the Borrower under the contract of mortgage insurance are required to be maintained separate and apart from the funds established and held for payments to the Owners and the various escrows and funds under the Indenture and the other Financing Documents.

(k) Except for funds held under the Indenture, any pledge of Project funds for the benefit of the Owners is limited to a pledge of principal and interest payments received by the Trustee on the Ginnie Mae Certificates. There is no pledge of gross revenues of the Project or any Project assets.

(l) The Lender will maintain certain HUD-required escrow funds outside the terms of the Indenture. The enforcement of the Indenture will not result in the Trustee or any Borrower having any

right to, interest in, or claim against any HUD-required escrow fund, the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Mortgage Loan transaction, or the rents or other income from the Project (other than available Surplus Cash, if any).

(m) The Bonds are not a debt of the United States of America, HUD, Ginnie Mae or any other governmental agency and are not guaranteed by the full faith and credit of the United States.

(n) In the event that proceeds are received from a condemnation award or from the payment of a claim under a hazard insurance policy, early redemption of the Bonds can arise only subsequent to a prepayment of the insured mortgage.

(o) The Indenture does not provide for the creation of a project reserve for replacement.

### **The Trustee**

The Trustee pursuant to the Indenture accepts the trusts and obligations imposed upon it by the Indenture and agrees to perform such trusts and obligations, but only upon and subject to the following express terms and conditions and no implied covenants and obligations will be read into the Indenture against the Trustee:

(a) The Trustee, as evidenced by its due execution of the Indenture, accepts the trusts and obligations imposed upon it by the Indenture and agrees to perform and observe faithfully all of the duties, conditions and requirements imposed upon it in the Indenture. Except during the continuance of an Event of Default, the Trustee undertakes to perform such functions and duties and only such functions and duties as are specifically set forth in the Indenture, and no implied duties or obligations shall be read into the Indenture against the Trustee. In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by the Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs, subject to the limitations on liability set forth in the Indenture, and subject to the provisions of the Indenture.

(b) All notices or other instruments required by the Indenture to be delivered in writing to the Trustee, in order to be effective, must be delivered at the address for notices to the Trustee set forth in the Indenture, or at such other location as the Trustee may designate to the Issuer in writing. With respect to an Event of Default pursuant to the Indenture, the Trustee shall not be deemed to have notice of any such Event of Default (other than failure by the Lender to make any payment on the Ginnie Mae Certificates when due or failure by the Issuer to file with the Trustee any documents required by the Indenture to be so filed) unless and until it shall have received written notice thereof, and in the absence of such notice so received, the Trustee may conclusively assume that there is no such Event of Default. Nonetheless, the Trustee may in its sole discretion take notice of an Event of Default without specific notification thereof. In such case, the Trustee shall proceed as if it had received such specific notification.

(c) The Trustee will not be liable with respect to any action taken or omitted to be taken thereunder except for its own negligence or willful misconduct; provided that:

(i) The duties and obligations of the Trustee will be determined solely by the express provisions of the Indenture; the Trustee shall be obligated to take only such actions as are specifically set forth therein or as are specifically required to be taken by the Trustee when requested in writing from time to time in accordance with the Indenture by the Issuer or by the Owners of not less than the aggregate principal amount of Outstanding Bonds specified therein with respect to the action in question (subject to the restrictions set forth in the Indenture); and

(ii) The Trustee may rely, without any independent investigation or inquiry, as to the truth of the statements and to the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee conforming to the procedural requirements of the Indenture; but in the case of any such certificate or opinion which by any provision is specifically

required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not it conforms in all material respects to the procedural requirements of the Indenture; and

(iii) The Trustee shall not be liable for any error of judgment made in good faith by the Trustee unless it will be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iv) The Trustee will not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the written direction of the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding (or such lesser amount as may be specified therein) or otherwise in accordance with the express provisions of the Indenture.

### **Resignation of Trustee**

The Trustee may resign and be discharged from the trusts created by the Indenture by giving the Issuer, the Lender and the Borrower at least 60 days' advance written notice. Such resignation shall take effect on the day specified in such notice, but the Trustee shall not be discharged from the trusts created under the Indenture until a successor Trustee has been approved and appointed in accordance with the Indenture. Subsequent to such date, the Trustee shall have no further duties and obligations under the Indenture.

### **Removal of Trustee**

The Trustee may be removed at any time, either with or without cause, by the Issuer at the written request of the Borrower, so long as the Borrower is not in default under any of the Financing Documents or the Mortgage Loan Documents, or the Owners of a majority in aggregate principal amount of Outstanding Bonds, provided that all fees and expenses of the Trustee that are due and owing pursuant to the Indenture and that are not disputed shall first be paid. The Trustee may be removed at any time, either with or without cause, by the Issuer so long as there has been no Event of Default which then remains uncured, and provided that all fees and expenses of the Trustee that are due and owing pursuant to the Indenture and that are not disputed shall first be paid. Any removal of the Trustee pursuant to the Indenture shall be effected by delivery to the Trustee, the Lender and the Borrower of a written instrument to that effect signed by an Authorized Representative of the Issuer. Such removal shall take effect on the day specified in such notice, but the Trustee shall not be discharged from the trusts created under the Indenture until a successor Trustee has been approved and appointed. Subsequent to such date, the Trustee shall have no further duties and obligations under the Indenture.

### **Appointment of Successor Trustee**

In case at any time the Trustee shall resign, be removed or otherwise become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the office of such Trustee under the Indenture, and the Borrower, with the consent of the Issuer, shall promptly appoint a successor trustee. Any such appointment shall be made by a written instrument executed by an Authorized Representative of the Borrower and the Issuer. The Issuer shall direct the successor Trustee to mail notice by first-class mail, postage prepaid, at least once within 30 days of such appointment, to the Lender, the Borrower and the Owners of all Outstanding Bonds at their addresses on the Bond Register.

If, in a proper case, no appointment of a successor Trustee shall be made pursuant to the Indenture within 90 days after the receipt by the Issuer of the Trustee's notice of resignation given pursuant to the Indenture or of removal of the Trustee pursuant to the Indenture, the retiring Trustee, at the expense of the Borrower, or any Owner may apply to any court of competent jurisdiction to appoint a

successor Trustee. The court may thereupon after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

There shall at all times be a Trustee thereunder which shall be an association or a corporation organized and doing business under the laws of the United States or any state thereof, authorized under such laws to exercise corporate trust powers. Any successor Trustee shall have a combined capital and surplus of at least \$100,000,000 and assets under trust of at least \$100,000,000, and be subject to supervision or examination by federal or state agency, or shall have been appointed by a court of competent jurisdiction pursuant to the Indenture. If such association or corporation publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to above, then for the purposes of this section, the combined capital and surplus of such association or corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time any successor Trustee shall cease to be eligible in accordance with the provisions of this section and another association or corporation is eligible, the Trustee shall resign immediately in the manner and with the effect specified in the Indenture.

## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

*The following is a brief summary of the Loan Agreement by and between the Issuer, the Borrower, the Trustee and the Lender. The summary does not purport to be complete, comprehensive or definitive and reference is made to the full text of the Loan Agreement for a complete recital of terms, a copy of which is on file with the Issuer and the Trustee.*

#### **Issuance of Bonds; Loan of Bond Proceeds**

In order to provide funds for payment of costs related to financing the Project and the issuance of the Bonds:

The Issuer will simultaneously with the execution and delivery of the Loan Agreement proceed with the issuance and sale of the Bonds. The Issuer agrees to deposit the proceeds of sale of the Bonds in accordance with the Indenture.

Subject to the satisfaction of all of the terms and conditions set forth in that certain Commitment For Insurance of Advances issued by HUD, as amended (the "FHA Commitment"), with respect to the Mortgage Loan and the requirements of the Lender, the Lender agrees to make the Mortgage Loan to the Borrower and will promptly deliver the Ginnie Mae Certificates to the Trustee if and when issued, in accordance with the Indenture. Notwithstanding anything to the contrary contained in the Loan Agreement, the Indenture or any of the other Financing Documents, the Lender shall have no obligation to make the Mortgage Loan unless and until Initial Endorsement has occurred and all other terms and conditions of said FHA Commitment and the requirements of the Lender have been satisfied.

The Borrower agrees to take all actions required of it to cause the Ginnie Mae Certificates to be promptly issued and delivered as contemplated by the Loan Agreement, including the funding of all required escrows and reserves.

The Trustee agrees to make disbursements from the Construction Fund in accordance with the Indenture.

In the event that the Mortgage Note commences amortization prior to the date that the Project Loan Certificate is purchased by the Trustee, the Lender agrees to retain for its own account all payments on the Mortgage Note that represent principal amortization payments thereof which are received prior to the date of purchase of the Project Loan Certificate by the Trustee and not to pass through such principal amortization payments to the Trustee; provided, however, that the retention of such principal amortization payments by the Lender shall result in a reduction in the amount of the Project Loan Certificate when issued equal to any such principal amortization payments.

#### **Amounts Payable**

The Borrower covenants to make payments required by the Mortgage Note, as and when the same become due. The Borrower covenants that, for so long as the Bonds are outstanding and except as otherwise contemplated by the Loan Agreement or by the Indenture, or as may be required by HUD, it will not execute any amendment to the Mortgage Note that results in a decrease in the amount payable thereunder without the consent of the Owners of all of the Bonds Outstanding on the effective date of such amendment.

To the extent not paid pursuant to the Mortgage Note or the Indenture, the Borrower also will pay, or cause to be paid, as and when the same become due, (a) to the Trustee, as provided in the Indenture, its fees for services rendered and for expenses reasonably incurred by it as Trustee under the Indenture, including the reasonable fees of its counsel, all charges, exchange or registration of transfer of

Bonds and all other such amounts which the Borrower assumes or agrees to pay, including any cost or expense necessary to cancel and discharge the Indenture upon payment in full of the Bonds, (b) to the Trustee the amount, if any, required to pay the principal of and interest on the Bonds when due, (c) to the Issuer or to any payee designated by the Issuer, the Issuer Fees and Expenses as provided in the Indenture, all expenses of the Issuer, its agents or employees reasonably incurred at any time related to the Bonds or the Project or the financing thereof, including, without limitation, legal and advisory fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Bonds or in connection with questions or other matters arising under such documents, which amounts described in clause (c) will be paid upon demand and in any event no later than thirty (30) days after receipt of request for payment thereof; (d) to the Rebate Analyst the Rebate Analyst Fee; (e) any Rebate Amount; and (f) to FHA, Ginnie Mae and the Lender all fees and expenses associated with obtaining FHA and Ginnie Mae approvals necessary for the issuance of the FHA Commitment and the Ginnie Mae Certificates; provided, however, that the aggregate of all such amounts paid to the Issuer, or to the Trustee on its behalf, will not equal or exceed an amount which would cause the “yield” on any “purpose investment” to be “materially higher” than the “yield” on the Bonds, as such terms are defined in the Code.

### **Special Covenants**

The Borrower has agreed to comply with certain tax covenants and other special covenants relating to the operation of the Project as follows:

The Borrower agrees that no assignment or transfer of title to the Project, except as may be required by HUD or the Lender shall be made unless (1) the Lender and HUD consent to such assignment or transfer, as long as the Mortgage Loan is held by the Lender and insured by FHA, and (2) the transferee or assignee, as the case may be, assumes all of the duties of the Borrower under the Loan Agreement and the Mortgage Loan Documents, subject to the provisions of such documents. Upon the assumption of the duties of the Borrower by an assignee as provided in the Loan Agreement, the Borrower shall be released from all executory obligations so assumed. Provided however, that nothing contained in this section shall be construed to supersede any provisions regarding assignment and transfer of the Project contained in the Mortgage Loan Documents.

Notwithstanding anything to the contrary contained in any of the Financing Documents or the Mortgage Loan Documents, the respective interests of Borrower’s special limited partner (as defined in the Partnership Agreement described herein) and Investor are transferable to any affiliate of Investor in accordance with the terms of that certain Second Amended and Restated Agreement of Limited Partnership of TDF LP dated as of March 24, 2004 (the “Partnership Agreement”) without the consent of Issuer, Trustee or Lender. Upon the expiration of the HUD Regulatory Agreement and the Regulatory Agreement, the interests of the Investor in the Borrower may be transferred to the Borrower’s general partner or its affiliate without the consent of Issuer, Trustee or Lender. The respective interests of Borrower’s special limited partner and Investor is transferable to a non-affiliate of the Investor, with the consent of Lender, which consent may not be unreasonably withheld, so long as such assignment provides that such transferee accepts the limited partnership interest and agrees to be bound by the terms of the Partnership Agreement.

Also, notwithstanding anything to the contrary contained in any of the Financing Documents or the Mortgage Loan Documents, the Investor is permitted to remove the Borrower’s general partner for cause in accordance with the Partnership Agreement without the consent of the Issuer, Trustee or Lender; provided, however, that Investor shall not elect and appoint a successor general partner therefor without the consent of the Lender, which consent shall not be unreasonably withheld, further provided that the Lender’s consent shall not be required if Investor elects and appoints the Borrower’s special limited partner as successor general partner, or such special limited partner otherwise succeeds the removed

general partner pursuant to the Partnership Agreement. Notwithstanding the foregoing, the substitute general partner shall assume all of the rights and obligations of the removed general partner hereunder.

The Borrower represents, warrants and agrees that:

The Borrower shall not take any action or omit to take any action, which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Bonds from the gross income, as defined, in section 61 of the Code, of the owner thereof for federal income tax purposes. Subject to any required HUD approval, the Borrower and the Issuer shall execute such amendments thereof and supplements thereto (and shall comply with the provisions thereof) as may, in the opinion of Bond Counsel, be necessary to preserve or perfect such exclusion. The Borrower shall comply with each specific covenant in this covenant at all times prior to the last maturity of the Bonds, unless and until there shall have been delivered to the Trustee and the Issuer an opinion of Bond Counsel to the effect that failure to comply with such covenant shall not adversely affect the excludability of interest on the Bonds from the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes, and thereafter such covenant shall no longer be binding upon Borrower.

All representations, warranties, and certifications made by the Borrower in connection with the delivery of the Bonds on the closing date, including, but not limited to, those representations, warranties, and certifications contained in the Tax Certificate provided by the Borrower (the "Borrower's Tax Certificate") and any certificate concerning the tax-exempt status of the Bonds executed by the Borrower, are and shall be true, correct, and complete in all respects. The Borrower shall not take any action or omit to take any action with respect to the gross proceeds (as defined in Borrower's Tax Certificate) of the Bonds or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause any Bond to be classified as an "arbitrage bond" within the meaning of section 148 of the Code. The Borrower shall comply with all covenants and requirements contained in the Borrower's Tax Certificate. The Borrower covenants that it will comply with the requirements and conditions of the Borrower's Tax Certificate and the Regulatory Agreement.

The Borrower will not take or permit any action that would adversely affect the excludability of the interest on the Bonds from gross income for federal income tax purposes or the exemption from personal income taxes of the State of the interest on the Bonds and, if it should take or permit any such action, it shall take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof; and, subject to any required HUD approval, it will take such action or actions, including amendment of the Loan Agreement and the Regulatory Agreement, as may be necessary, in the opinion of Bond Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations the interest on which is excludable from gross income for federal income tax purposes and affecting the Project. If the Borrower becomes aware of any situation, event or condition which would result in the interest on the Bonds becoming subject to inclusion in gross income for federal income tax purposes or subject to personal income taxation by the State, the Borrower shall promptly give written notice thereof to the Issuer, the Lender and the Trustee.

Additionally:

The Borrower shall not (A) request, authorize, approve or permit to be approved on its behalf, any payment of the proceeds of the Bonds if, as a result of such payment, (1) less than 95% of the proceeds of the Bonds expended at that time would be considered as having been used to provide a "qualified residential rental project" within the meaning of Sections 142(a)(7) and 142(d) of the Code, or (2) the Costs of Issuance financed by the Bonds would exceed 2% of the proceeds of the Bonds, within the meaning of Section 147(g) of the Code, or (3) less than fifty percent (50%) of the qualified basis (as defined in Section 42 of the Code) of any building that is part of the Project will be financed with the

proceeds of the Bonds, or (B) take or refrain from taking any other action that would constitute or result in non-compliance with Section 142(d) or Section 42 of the Code, or would otherwise result in the loss of the exclusion of interest on any Bonds from gross income for Federal income tax purposes. Without limitation by reason of the foregoing or any other provision of the Loan Agreement, the Borrower agrees to take all action required under the Code with respect to use of the proceeds of the Bonds and operation of the Project or as may be necessary, in the opinion of Bond Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements proposed or promulgated by the Department of Treasury or the Internal Revenue Service pertaining to obligations issued under Section 142(d) of the Code, to prevent loss of the exclusion of interest on the Bonds from gross income for Federal income tax purposes, and to refrain from taking any action that would result in loss of such exclusion. Without limiting the generality of the foregoing the Borrower shall not use the proceeds of the Bonds, or permit such proceeds to be used, directly or indirectly, to provide any airplane, skybox or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

The Borrower represents and agrees, in compliance with Section 142(d) of the Code, that substantially all of the Project consists of units of similar quality and type of construction, containing facilities for living, sleeping, eating, cooking and sanitation, the Project is on a contiguous tract of land and all of the buildings, structures and facilities constituting the Project comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

The Borrower represents that no proceeds of any financing used to acquire ownership of the Project were used to reimburse the Borrower for expenditures previously made or incurred by the Borrower with respect to the Project before 60 days prior to March 28, 2002.

The Borrower represents and agrees that the weighted average maturity of the Bonds does not exceed 120% of the remaining average reasonably expected economic life of the Project, determined pursuant to Section 147(b) of the Code, as set forth in the certificates or letters of representation of the Borrower delivered on the date of the issuance of the Bonds. The Borrower agrees that it will not make any changes in the Project which would, at the time made, cause the average reasonably expected economic life of the Project, determined pursuant to Section 147(b) of the Code, to be less than the average reasonably expected economic life of the Project set forth in such certificates or letters of representation of the Borrower, unless the Borrower shall file with the Trustee an opinion of Bond Counsel that such changes to the Project will not result in loss of the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

The Borrower shall not and the Issuer shall not knowingly (A) take or omit to take any action, or approve the Trustee's making any investment or use of the proceeds of any Bonds or any other monies within their respective control (including without limitation the proceeds of any insurance or any condemnation award with respect to the Project) or the taking or omission of any other action, the taking or omission of which would cause any Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or (B) barring unforeseen circumstances, approve the use of the proceeds from the sale of any Bonds otherwise than in accordance with the Issuer's "non-arbitrage" certificate given immediately prior to the issuance of Bonds.

The Borrower shall, at its sole expense, determine and pay on behalf of the Issuer the Rebate Amount to the United States, as and when due, in accordance with the "rebate requirement" described in Section 148(f) of the Code and Treasury Regulations thereunder, including without limitation, Treasury Regulations Sections 1.148-1 through -10, and retain records of all such determinations until six years after payment of the Bonds. For purposes of this section, "Rebate Amount" shall mean the excess of (A) the future value of all non-purpose receipts with respect to the Bonds over (B) the future value of all non-purpose payments with respect to the Bonds, in each case calculated under this section pursuant to

Section 148 of the Code and the Treasury Regulations thereunder, or such other amount of arbitrage required to be rebated to the United States of America under Section 148 of the Code or the Treasury Regulations thereunder.

The Borrower represents that the Bonds are not and will not be “Federally guaranteed,” as such term is used in Section 149(b) of the Code. Less than 25% of the net proceeds of the Bonds will be used directly or indirectly to acquire land (excluding buildings) or any interest therein and no portion of such land is to be used for farming purposes within the meaning of Section 147(c)(1) of the Code.

(A) At least 95% of the net proceeds of the sale of the Bonds shall be expended for qualified project costs (as defined in the Borrower’s Tax Certificate), (B) the Borrower will expend the proceeds of the Bonds so that at least 50% of the qualified basis of each building will be financed with the proceeds of the Bonds, and (C) no portion of the net proceeds of the sale of the Bonds shall be used to acquire existing property or any interest therein unless at least 15% of the net proceeds of the sale of the Bonds are used for rehabilitation expenditures as defined in Section 147(d) of the Code.

### **FHA Requirements**

The provisions of the Loan Agreement are subject and subordinate to the National Housing Act, all applicable HUD insurance (and Section 8, if applicable) regulations and requirements, the Mortgage Loan Documents, all applicable Ginnie Mae regulations and requirements and the Ginnie Mae Documents; and in the event of any conflict between the provisions of the Loan Agreement and the provisions of the National Housing Act, any applicable HUD regulations, HUD requirements, the Mortgage Loan Documents, any applicable Ginnie Mae regulations, Ginnie Mae requirements and/or the Ginnie Mae Documents, the said National Housing Act, HUD regulations, HUD requirements, Mortgage Loan Documents, Ginnie Mae regulations, Ginnie Mae requirements and Ginnie Mae Documents will be controlling in all respects.

### **Conflict With Mortgage and FHA Regulations;**

### **Supremacy of Mortgage and FHA Insurance**

In the event the terms of the Loan Agreement conflict with FHA documents or applicable FHA regulations, such FHA documents and FHA regulations will control. Notwithstanding any other provision of the Loan Agreement to the contrary, it is expressly agreed by the Borrower, the Trustee and the Issuer that: (a) in the event of a foreclosure of the Mortgage or a transfer of title by deed-in-lieu of foreclosure to the holder of the Mortgage or to a Person other than the Borrower or any “related Person” within the meaning of the Code, the covenants and restrictions (the “Covenants and Restrictions”) of the Loan Agreement will automatically terminate; (b) the failure of the Borrower to comply with the Covenants and Restrictions cannot be nor will be deemed by the Borrower, Issuer or the Trustee to be the basis of a default under the Mortgage; (c) enforcement of the Covenants and Restrictions will not result in any claim by the Issuer or the Trustee against the Project, the proceeds of the Mortgage, any reserve or deposit required by FHA in connection with the Mortgage Loan transaction or the rents or income from the Project (other than Surplus Cash); (d) any amendment to the Loan Agreement will be contingent upon the prior written approval of HUD, if required; (e) any of the covenants and restrictions set forth in the Loan Agreement which require the Borrower to take any action necessary to preserve the tax exemption of the interest on the Bonds or prohibiting the Borrower from taking any action that might jeopardize the tax exemption are qualified to except therefrom actions required or prohibited by FHA pursuant to Section 221(d)(4) of the National Housing Act; (f) the Borrower and the Issuer agree that the Covenants and Restrictions are subordinate to all applicable provisions of the National Housing Act (including related administrative requirements of the FHA Commissioner) and the Mortgage (including related loan documents required by FHA); (g) no failure on the part of the Borrower to comply with the provisions of the Loan Agreement will serve as a basis for a default on the Mortgage Loan or any of the

Mortgage Loan Documents; (h) enforcement of the provisions of the Loan Agreement shall not result in any claim under the Mortgage Loan, or any claim against the Project, Mortgage Loan proceeds, any reserve or deposit made with the Lender or another Person or entity required by HUD or the Lender in connection with the Mortgage Loan transaction or against the rents or other income from the Project (other than Surplus Cash); (i) the Borrower shall not be deemed to be in violation of the Loan Agreement if it shall take (or refrain from taking) any action required (or prohibited) by HUD pursuant to the National Housing Act, applicable mortgage insurance regulations, related administrative requirements, the Mortgage Loan Documents, applicable Ginnie Mae regulations, related administrative requirements and the Ginnie Mae Documents and, if applicable, Section 8 of the U.S. Housing Act of 1937, as amended, and regulations promulgated thereunder; (j) in the event that any covenant or provision contained in the Loan Agreement is more stringent or burdensome than the minimum requirements, as in effect on the date hereof, imposed for the financing of housing developments under the Act with bonds which are tax-exempt pursuant to Section 142(d) of the Internal Revenue Code (and implementing regulations), any such covenant or provision therein which is more stringent or burdensome shall automatically become and be deemed a nullity and shall be reduced to and be replaced by the comparable minimum requirement in effect on the date of execution of the Agreement to ensure such tax-exemption, as if the same were fully set forth at length therein; and (k) in consideration of HUD's agreeing to insure the Mortgage Loan, and in reliance by HUD upon the promises of the Borrower and the Issuer to comply therewith, HUD has reserved the right to require the Issuer to remove or void any restrictions in excess of those necessary to ensure tax-exemption for the Bonds upon a determination by HUD that the restriction(s) is (are) threatening the financial viability of the Project (i.e., impairing the Borrower's ability to sustain a level of income sufficient to meet all financial obligations of the Project, including debt service costs, HUD-required escrows and Project operating expenses). In the absence of the Issuer's compliance with a HUD request to take appropriate action to unilaterally remove or void the restriction(s), the Issuer expressly recognizes the power of HUD to take the appropriate action to unilaterally remove or void the restriction(s) and that HUD shall not have to look any further than the legal instrument containing the restriction(s) for the power to remove or void it. In the event of any conflict between the Loan Agreement and/or any other rule, requirement or regulation of HUD, FHA, and/or Ginnie Mae on the one hand, the National Housing Act and any regulations promulgated thereunder, any of the Mortgage Loan Documents and/or any other rule, requirement or regulation of HUD, FHA or Ginnie Mae will control. The Loan Agreement is a Financing Document and is subject to the provisions of the Indenture.

### **Operation of Project**

The Owner shall operate or cause the Project to be operated as qualified residential rental project under Section 142(d) of the Code and otherwise in accordance with the requirements of the Act.

Further, all work performed in connection with the Project shall be performed in strict compliance with all applicable federal, state and municipal laws, ordinances, rules and regulations now in force or that may be enacted thereafter.

### **Rebate Requirement**

The Borrower will pay all reasonable costs of calculating Rebate Amounts and will deliver all Rebate Amounts so calculated to the Rebate Analyst.

### **Continuing Disclosure**

The Borrower covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of the Loan Agreement or the Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement will not be considered an Event of Default under the Indenture or a default with respect to the Bonds or the Mortgage Loan Documents.

## **Events of Default**

Each of the following will constitute an event of default under the Loan Agreement:

- (a) The Borrower defaults in the performance of any covenant, agreement or obligation under the Loan Agreement and such default remains uncured for a period of 30 days after written notice thereof has been given by the Issuer, the Lender or the Trustee to the Borrower;
- (b) An Event of Default under the Indenture occurs and is continuing; or
- (c) Any warranty, representation or other statement made by or on behalf of the Borrower contained in the Loan Agreement or in the Indenture or in any instrument furnished in connection with the issuance or sale of any Bonds was false or misleading in any material respect at the time it was made; or
- (d) An Act of Bankruptcy of the Borrower.

Notwithstanding the foregoing, no event of default under the Loan Agreement will constitute (i) an event of default under the Bonds, or (ii) a default under any of the Mortgage Loan Documents, unless the facts and circumstances giving rise to such Event of Default constitute a default under the Mortgage Loan Documents.

The Issuer and the Trustee each agree that the Investor may act to cure any Event of Default and that they shall accept such cure as though made by the Borrower.

## **Remedies on Default**

Upon the occurrence of an Event of Default under “Events of Default” described above, the Issuer and the Trustee will look solely to the Borrower for the payment of all sums or the performance of all or any part of the monetary obligations due or incurred as a result of such Event of Default.

In addition to the remedies granted to the Issuer and the Trustee under the Loan Agreement, the Issuer, or the Trustee acting on behalf of the Issuer, subject to its rights under the Indenture, may take any one or more of the following steps:

- (a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants under the Loan Agreement or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or the Trustee under the Loan Agreement; and
- (b) except as provided in the Loan Agreement, take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower under the Loan Agreement.

The Issuer and the Trustee will cooperate in any action taken by the other with respect to the Loan Agreement to enforce the covenants contained therein. The Borrower will pay all reasonable costs and expenses that may be incurred by the Issuer or the Trustee in connection with the exercise of such rights.

## **Obligations of Borrower**

The obligation of the Borrower to make payments on the Mortgage Note, to make all other payments provided for in the Loan Agreement and to perform and observe the other agreements and covenants on its part in the Loan Agreement will be absolute and unconditional, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Issuer, the Trustee, the Lender or any other Person. Subject to prepayment of the Mortgage Note in full and termination as provided in the Loan Agreement, the Borrower will not suspend or discontinue any such payment under the Loan Agreement or on the Mortgage Note (any reamortization of payments on the Mortgage Note in accordance with the Indenture will not constitute a suspension or discontinuance of

payments on the Mortgage Note) or fail to perform and observe any of its other agreements and covenants contained in the Loan Agreement or terminate the Loan Agreement for any cause, including, without limiting the generality of the foregoing, any acts or circumstances that may deprive the Borrower of the use and enjoyment of the Project, failure of consideration or commercial frustration of purpose, any damage to or destruction of the Project or any part thereof, the taking by eminent domain of title to or the right to temporary use of all or any part of the Project, any change in the tax or other laws of the United States of America, the State of California or any political or taxing subdivision of either thereof or any failure by the Issuer to perform and observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with the Loan Agreement.

**Limitation of Issuer's Liability**

All obligations of the Issuer incurred under the Loan Agreement and under the Indenture shall be special and limited obligations of the Issuer, payable solely and only from the Trust Estate. No owner of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision thereof, nor to enforce the payment thereof against any property of the State or any such political subdivision thereof, including the Issuer, except as provided in the Indenture.

## APPENDIX D

### SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

*The following summary of certain provisions of the Regulatory Agreement by and among the Issuer, the Borrower and the Trustee. The summary does not purport to be comprehensive or definitive and reference is made to the full text of the Regulatory Agreement for a complete recital of its terms, a copy of which is on file with the Issuer and the Trustee.*

Capitalized terms used herein shall have the meaning given in the Indenture unless otherwise defined in this Agreement.

The Regulatory Agreement is expressly subordinate to the terms of that certain Regulatory Agreement For Multifamily Housing Projects dated as of the same date thereof made by and between the Borrower and the Secretary of Housing and Urban Development in connection with the FHA financing (the "FHA Regulatory Agreement"). As long as the FHA Regulatory Agreement and the Financing Documents (as defined in the Indenture) are in effect, the terms of the Regulatory Agreement shall only be enforced with the prior written consent of the Lender and HUD. In the event of foreclosure or transfer of title by deed in lieu of foreclosure, the Regulatory Agreement and the restrictions thereunder will automatically terminate, as more fully set forth in the provisions of Section 2(c) thereof.

#### **Term of Restrictions**

(a) The term of the Occupancy Restrictions set forth in Section 4 of the Regulatory Agreement ("Occupancy Restrictions") shall commence on the date of delivery of the Bonds and shall end on the latest of the following: (i) the date which is 55 years after the date of delivery of the Bonds; or (ii) the first day on which none of the Bonds are outstanding.

(b) The term of the Rental Restrictions set forth in Section 5 of the Regulatory Agreement ("Rental Restrictions") will remain in effect during the longer of (i) the period during which any of the Bonds remain outstanding; or (ii) the term of the Occupancy Restrictions set forth in paragraph (a) of this Section 2.

(c) Notwithstanding the provisions of (a) and (b) of this Section 2, the Regulatory Agreement and all other restrictions hereunder shall terminate upon foreclosure of any deed of trust given to secure the Bonds or any deed of trust given to secure another security instrument which secures the Bonds (a "Deed of Trust") or transfer of title to the Project by deed in lieu of foreclosure. In addition, the Regulatory Agreement and the restrictions hereunder shall also cease to apply in the event of an involuntary noncompliance caused by unforeseen events such as fire, seizure, requisition, a change in federal law or an action of a federal agency after the date of issue of the Bonds which prevents the Issuer from enforcing the requirements of the Regulatory Agreement, or condemnation or similar event, provided in all such cases that the Bonds are retired at the first available call date. However, in the event that any insurance proceeds or condemnation award or other amounts received as a result of such loss or destruction are used to provide a project which meets the requirements of Section 142(d) or any successor provision of the Code and Treasury Regulation Section 1.103-8(b), as amended, or any successor law or regulation, the Regulatory Agreement shall be automatically reinstated. The foregoing provisions of this paragraph shall cease to apply in the event of foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at any time subsequent to such event and during the period set forth in paragraph (a) of this Section 2, the obligor on the acquired purpose obligation (as defined in Section 1.103-13(b)(4)(iv)(A) of the Treasury Regulations) or a related person (as defined in Section 1.103-10(e) of the Treasury Regulations) obtains an ownership interest in the Project for federal tax purposes.

## **Termination of Regulatory Agreement**

The Regulatory Agreement shall terminate upon the earlier of (i) termination of the Occupancy Restrictions and the Rental Restrictions as provided in paragraphs (a) and (b) of this Section 2, or (ii) a termination pursuant to the provisions of paragraph (c) of this Section 2.

## **Project Restrictions**

(a) The Project was constructed for the purpose of providing multifamily residential rental property, specifically senior citizen rental apartments, and will constitute a qualified residential rental project, as such phrase is used in Section 142(a)(7) of the Code.

(b) Each component of the Project consists of a building or structure or several proximate buildings or structures which are located on a single tract of land or contiguous tracts of land which may include facilities functionally related and subordinate thereto.

(c) In the event a unit within a building or structure is occupied by the Borrower, the building or structure must include no fewer than four units not occupied by the Borrower.

(d) All of the units in the Project contain complete living, sleeping, eating, cooking, and sanitation facilities for a single person or a family.

(e) None of the units in the Project will at any time be utilized on a transient basis, or used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium or rest home.

(f) All of the units in the Project will be leased, rented, or available for lease or rental on a continuous basis to members of the general public (other than units for a resident manager or maintenance personnel or units for Qualifying Tenants as provided for in Section 4(a) hereof).

(g) The Borrower shall not restrict Qualifying Tenants (as hereinafter defined) from the enjoyment of unrestricted access to all common facilities and common areas of the Project.

(h) The Borrower shall not discriminate on the basis of race, creed, color, sex, or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(i) None of the proceeds of the Bonds will be used to finance commercial property, and no more than five percent of the proceeds of the Bonds will be used other than to finance residential rental property.

(j) All tenant lists, applications, and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower which is unrelated to the Project. Such documents shall be maintained in the offices of the Issuer in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Issuer, the Trustee or the Owners of the Bonds.

(k) All tenant leases (including existing renewals of leases) shall be expressly subordinate to any deed of trust, and all leases (including existing renewals of leases) of units to Qualifying Tenants shall contain clauses, among others, wherein each individual lessee:

(1) certifies the accuracy of the statements made in its application and Certification of Tenant Eligibility;

(2) agrees that the family income, family composition and other eligibility requirements at the time the lease is executed shall be deemed substantial and material obligations of his tenancy; that he will comply promptly with all requests for income, family composition and other information relevant to determining Qualifying Tenants status from the Borrower, the Issuer or the Trustee; and that his failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his tenancy; and

(3) agrees that his or her lease may be terminated on thirty (30) days' notice after any noncompliance by such tenant if such noncompliance would adversely affect the federal tax-exempt status of interest on the Bonds.

(l) If the Project includes a rental or management office, such office shall be used exclusively for the rental or management of the Project.

(m) For a period of ten (10) years after the Project is placed in use, the Project shall offer to Project residents educational classes (such as computer training and English as a second language (pursuant to a written agreement with a third party provider) or there must be educational classes (pursuant to a written agreement with a third party provider) available to Project residents, the Project will offer to Project residents within one quarter mile from the Project.

(n) For a period of ten (10) years after the Project is placed in use, the Project shall offer to Project residents service amenities (such as social services and meals on site or such service must be available to the Project residents within one quarter mile.

(o) The Project shall utilize building materials that will increase energy efficiency by at least 15% above the energy standards set forth by the California Energy Commission Title 24, Part 6 of the California Energy Code of Regulations (Title 24 energy standards). The Project shall incorporate the following energy efficient items: Natural gas for cooking and space heating; fluorescent light fixtures for at least 75% of the light fixtures.

### **Occupancy Restrictions**

(a) (i) At least ten percent (10%) of the units in the Project shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants as defined in this Section (a)(i) and such units will consist of 1 bedroom/1 bath units. For the purposes of this paragraph 4(a)(i), Qualifying Tenants shall mean those persons and families who shall be determined from time to time by the Borrower to be eligible as "individuals whose income is fifty percent (50%) or less of area median gross income" within the meaning of Section 142(d)(2)(B) of the Code in a manner consistent with the method of determination of lower income families that is, as of the date of issuance of the Bonds, in effect under the Section 8 Program (or if such program has been terminated as of the date of issuance of the Bonds, under such program as in effect immediately prior to such termination).

(ii) At least ninety percent (90%) of the units in the Project shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants as defined in this Section 4(a)(ii) and such units will consist of 85 1 bedroom/1 bath units and 5 2 bedroom/2 bath units. For the purposes of this paragraph (a)(ii), Qualifying Tenants shall mean those persons and families who shall be determined from time to time by the Borrower to be eligible as

“individuals whose income is sixty percent (60%) or less of area median gross income” within the meaning of Section 142(d)(2)(B) of the Code in a manner consistent with the method of determination of lower income families that is, as of the date of issuance of the Bonds, in effect under the Section 8 Program (or if such program has been terminated as of the date of issuance of the Bonds, under such program as in effect immediately prior to such termination).

For purposes of this definition, the occupants of a residential unit shall not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are “students”, as defined in Section 151(c)(4) of the Code, no one of whom is entitled to file a joint return under Section 6013 of the Code. The determination of whether an individual or family is a Qualifying Tenant will be made at the time the tenancy commences and on an ongoing basis thereafter, determined at least annually. Any unit occupied by an individual or family who is a Qualifying Tenant at the commencement of occupancy shall not continue to be treated as if occupied by a Qualifying Tenant during their tenancy in such unit if such individual or family subsequently ceases to be a Qualifying Tenant unless such individual's or family's income does not exceed 140% of the maximum income of a Qualifying Tenant for a family of its size.

In the event that a unit does cease to be treated as occupied by a Qualifying Tenant for such reason, and thereupon less than the requisite percentage of the completed units in the Project (as required by Sections (4)(a)(i) and (ii) hereof) would not be occupied by, or held vacant and available for occupancy by, Qualifying Tenants, the next vacant unit of comparable or smaller size not previously occupied by a Qualifying Tenant must be rented to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant. Any completed unit vacated by a Qualifying Tenant which results in the Project not being in compliance with the provisions of this Section must be rented (on other than a temporary basis) to a Qualifying Tenant before any other units in the Project are rented to tenants who are not Qualifying Tenants until the Project is again in compliance.

(b) As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant shall be required annually to sign and deliver to the Borrower a Certification of Tenant Eligibility substantially in the form attached hereto as Exhibit B, or in such other form as may be approved by Bond Counsel (the “Eligibility Certification”). In said Eligibility Certification the prospective Qualifying Tenant certifies that he or his family qualifies as being of low or moderate income. In addition, such person shall be required to provide whatever other information, documents or certifications are deemed necessary by the Issuer to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that such tenant continues to be a Qualifying Tenant within the meaning of Section 4(a) hereof.

(c) The form of lease to be utilized by the Borrower in renting any units in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Eligibility Certification.

(d) Eligibility Certifications will be maintained on file by the Borrower with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year, and the Borrower will, promptly upon receipt, file a copy thereof with the Issuer.

(e) On the first day of the Qualified Project Period and on or before the first day of each January, April, July and October thereafter, the Borrower will submit to the Issuer a certificate, substantially in the form of Exhibit C attached hereto, executed by the Borrower stating the percentage of units of the Project which were occupied by Qualifying Tenants at all times during the preceding three months and identifying Qualifying Tenants who commenced or terminated occupancy of the Project

during such three months (provided that if such percentage exceeds the percentage required by this agreement to be held for occupancy by Qualifying Tenants, the Borrower may certify as to that percentage of units).

(f) The Borrower covenants and agrees that during the term of the Regulatory Agreement, it will prepare and submit to the Issuer on or before July 1 of each year, commencing July 1, 2005, a report certified to be accurate by the Borrower (a) identifying the tenancies and the dates of occupancy (or vacancy) for all dwelling units in the Project including the percentage of the dwelling units of the Project which were occupied by Qualified Tenants (or held vacant and available for occupancy by Qualified Tenants) at all times during the year preceding the date of such certificate (b) describing all transfers or other changes in ownership of the Project or any interest therein and (c) stating, that to the best knowledge of the person executing such certificate after due inquiry, all units were rented or available for rental on a continuous basis during such year to members of the general public and that the Borrower was not otherwise in default under the Regulatory Agreement during such year (provided that as to clauses (a) and (b), the Borrower may provide information as to only the percentage of units required by the Regulatory Agreement to be held for occupancy by Qualifying Tenants).

(g) On July 1, 2005 and each July 1 thereafter, the Borrower shall certify to the United States Treasury Department that the Project and the tenants thereof comply with the restrictions set forth in Sections 3 and 4(a) hereof.

(h) The Borrower will immediately notify the Issuer at any time the dwelling units in the Project are not occupied or available for occupancy as provided above.

(i) The Borrower will obtain and maintain on file with respect to each Qualifying Tenant residing in the Project, evidence reasonably satisfactory to the Issuer as to such Qualifying Tenant's income for the taxable year immediately preceding such Qualifying Tenant's initial occupancy in the Project, which may include OMB Form No. 2502-0204, "Certification and Re-Certification of Tenant Eligibility".

(j) The Borrower shall pay the Issuer an annual administrative fee equal to one-eighth (1/8) of one percent (1%) of the current amount outstanding on the Bonds as provided in the Indenture.

### **Rental Restrictions**

(a) The Borrower represents, covenants and warrants that once available for occupancy, each unit in the Project will be rented or available for rental to members of the general public (subject to the rental restrictions as provided in the Regulatory Agreement) on a continuous basis until the termination of such requirements, as provided in Section 2(c) hereof.

(b) Subject to notice and an opportunity to cure as provided in Section 8.11 of the Indenture, the rental restrictions imposed by this Section and the occupancy restrictions of Section 4(a) hereof may be enforced by the Issuer by an action for specific performance.

### **Compliance with Law, Code and Rules**

(a) The Borrower covenants and agrees that (i) it will comply with all requirements of law applicable to it or to the Project; and (ii) at no time will it take any action, or fail to take any action, which action or failure to act would adversely affect the exemption from federal income taxation, under Section 103, Section 142(d) of the Code and the regulations promulgated thereunder of the interest on the Bonds.

(b) The Borrower agrees that it will not request any disbursement, and that the Issuer will make no disbursement of the proceeds of the Bonds for any costs of:

(i) any “airplane”, “skybox or other private luxury box”, a “facility primarily used for gambling”, or a “store the principal business of which is the sale of alcoholic beverages for consumption off premises” within the meaning of Section 147(e) of the Code;

(ii) land, or an interest therein, to be used for “farming purposes” within the meaning of Section 147 (c) of the Code; and

(iii) any property, other than a building (and fixtures located therein as of the date of the building's acquisition), the “first use” of which is not pursuant to such acquisition within the meaning of Section 147(d) of the Code.

### **Transfer Restrictions**

The Borrower covenants and agrees that the Borrower will cause or require as a condition precedent to any conveyance, transfer, assignment or any other disposition of the Project prior to the termination of the Rental Restrictions and Occupancy Restrictions provided herein (the “Transfer”) that the transferee of the Project pursuant to the Transfer assume in writing pursuant to an assumption agreement (the “Tax Regulatory Assumption Agreement”), in a form acceptable to the Issuer all duties and obligations of the Borrower under the Regulatory Agreement, including this Section 7. Any transfers of this Agreement shall require the prior written consent of the Issuer. Notwithstanding the foregoing, this provision shall not affect any permitted transfers of limited partnership interests or removal of the general partner of the Borrower as provided in the Loan Agreement

### **Enforcement**

(a) The Borrower shall permit any duly authorized representative of the Issuer, including the Trustee, to inspect any books and records of the Borrower regarding the Project and with respect to the incomes of Qualifying Tenants which pertain to compliance with the provisions of the Regulatory Agreement, the Law and Section 142(d) or any successor provision of the Code.

(b) The Borrower shall submit any information, documents or certificates requested by the Issuer or the Trustee which either of them deem reasonably necessary to substantiate the Borrower's continuing compliance with the provisions of the Regulatory Agreement, the Law and Section 142(d) or any successor provision of the Code.

(c) The Issuer and the Borrower each covenants that it will not knowingly take or permit any action that would adversely affect the exemption from federal income taxation of interest on the Bonds. Moreover, the Borrower and the Issuer each covenants to take any lawful action (including amendment of the Regulatory Agreement as may be necessary, in the opinion of Bond Counsel) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations the interest on which is tax-exempt under Section 142(d) or any successor provision of the Code and affecting the Project.

(d) The Borrower covenants and agrees to give written notice to the Issuer of any violation of the Borrower's obligations hereunder within five (5) days after first discovering any such violation. If any such violation is not corrected to the satisfaction of the Issuer within the period of time specified by the Issuer, which shall be at least thirty (30) days after the date any notice to the Borrower is mailed, or

within such further time as the Issuer determines is necessary to correct the violation without loss of tax exemption of interest on the Bonds, but not to exceed any limitations set by applicable regulations, without further notice the Issuer shall declare a default under the Regulatory Agreement effective on the date of such declaration of default. Upon such default the Borrower hereby agrees to pay the Issuer an amount equal to any rents or other amounts received by the Borrower for any units in the Project which were in violation of the Regulatory Agreement during the period such violation continued. The Issuer shall apply to any court, state or federal, for specific performance of the Regulatory Agreement or an injunction against any violation of the Regulatory Agreement, or any other remedies at law or in equity or any such other actions as shall be necessary or desirable so as to correct non-compliance with the Regulatory Agreement.

(e) The Borrower and the Issuer each acknowledges that (i) the primary purpose for requiring compliance by the Borrower with the restrictions provided in the Regulatory Agreement is to comply with the Law and to preserve the federal income tax exemption of interest on the Bonds to the Owners thereof, and (ii) the Owners of the Bonds, who are declared to be third party beneficiaries of the Regulatory Agreement, shall be entitled, for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

### **Amendment**

It is agreed that the parties hereto shall promptly amend the Regulatory Agreement (in a form suitable for recording) (a) to the extent and when necessary or advisable, in the opinion of Bond Counsel, to preserve the exemption of interest on the Bonds from federal income taxation and (b) to the extent requested by any party if, in the opinion of Bond Counsel, such amendment will not adversely affect the federal tax exemption of interest on the Bonds; provided that no such amendments shall be permitted or required hereunder if there is pending before Congress, or either house of Congress, legislation which if enacted would be applicable to the Bonds and could affect the tax-exempt status of interest on the Bonds, unless such amendment would not adversely affect the tax-exempt status of interest on the Bonds if such legislation were to become law. The Regulatory Agreement may also be amended as provided in the Indenture.

### **Governing Law**

The Regulatory Agreement shall be governed by the laws of the State of California and, where applicable, the laws of the United States of America.

### **HUD and FHA Requirements**

Notwithstanding any thing in the Regulatory Agreement to the contrary.

(a) The provisions of the Regulatory Agreement are subject and subordinate to the National Housing Act, all applicable HUD insurance (and Section 6 of the U.S. Housing Act of 1937, if applicable) regulations and related administrative requirements and the FHA Loan Documents and in the event of any conflict between the provisions of the Regulatory Agreement and the provisions of the National Housing Act, any applicable HUD (and Section 6 of the U.S. Housing Act of 1937, if applicable) regulations and related Housing Act, HUD (and Section 8 of the U.S. Housing Act of 1937, if applicable) regulations and related administrative requirements and FHA Loan Documents shall be controlling in all respects.

(b) The Regulatory Agreement shall not be construed to restrict or adversely affect the duties and obligations of the Lender under the contract of mortgage insurance between the Lender and HUD with respect to the Mortgage Loan.

(c) Any project funds held by the Lender for or on behalf of the Borrower in connection with the Mortgage Loan under the contract of mortgage insurance between the lender and HUD shall be maintained separate and apart from the funds established and held by the Trustee for the benefit of the owners of the bonds and the various escrows and funds, if any, under the Indenture.

(d) Neither the Issuer, nor the Trustee, nor any of the owners of the Bonds has or shall be entitled to assert any claim against the Mortgage, any reserve or deposit required by HUD in connection with the Mortgage Loan, or the rents or income of the Project other than available "Surplus Cash" (as such term is defined in the FHA Regulatory Agreement). The preceding sentence shall not be deemed to restrict the rights of the Issuer, the Trustee or the Lender or any of the owners of the Bonds to proceed under any separate agreement against any party other than the Borrower who has guaranteed the performance of the Borrower's obligations under the Regulatory Agreement.

(e) The monetary obligations of the Borrower, if any, contained in the Regulatory Agreement shall be limited obligations, payable solely from the income and assets of the Project, and neither the Borrower nor any successor assignee thereof, nor any partner or employee of the Borrower, nor any successor or assignee thereof, shall have any personal liability for the satisfaction of any obligations of the Borrower or any claim arising out of the Regulatory Agreement; and neither the Issuer nor the Trustee shall be entitled to assert any claim against the Mortgage, any reserve or deposit required by HUD in connections with the Mortgage Loan, or the rents or income of the Project other than available "Surplus Cash" (as such term is defined in the FHA Regulatory Agreement).

(f) Any default by the Borrower under the Regulatory Agreement shall not constitute a default under the FHA Loan Documents.

(g) The Borrower shall not be in violation of the Regulatory Agreement if it shall take (or refrain from taking) any actions prohibited (or required) by HUD pursuant to the National Housing Act, applicable HUD (and Section 8 of the U.S. Housing Act of 1937, if applicable) insurance regulations and related administrative requirements and the FHA Loan Documents.

(h) The Regulatory Agreement and the restrictions hereunder are subject and subordinate to the lien and security interest granted by the Mortgage. In the event of foreclosure or transfer of title by deed in lieu of foreclosure, the Regulatory Agreement and the restrictions hereunder shall automatically and immediately terminate and shall thereafter be of no further force and effect.

(i) The Regulatory Agreement may not be amended without the prior written approval of HUD.

(j) The provisions of the Regulatory Agreement shall inure to the benefit of HUD, its successor and assigns.

(k) In the event that any covenant or provision contained in the Regulatory Agreement is more stringent or burdensome than the minimum requirements, as in effect on the date thereof, imposed for the financing of multifamily residential rental housing developments with bonds which are tax-exempt pursuant to the Internal Revenue Code (and implementing regulations), any such covenant or provision herein which is more stringent or burdensome shall automatically become and be deemed null and shall be reduced to and be replaced by the comparable minimum requirement provided for in the Internal

Revenue Code (and implementing regulations) in effect on the date of execution of the Regulatory Agreement, as if the same were fully set forth at length herein.

(1) In consideration of HUD's agreeing to insure the Mortgage Loan, and in reliance by HUD upon the premises of the Borrower, the Lender and the Issuer to comply herewith, HUD has reserved the right to require the Issuer to remove or void any restrictions that exceed the requirements of the Internal Revenue Code upon a determination by HUD that the restriction(s) is threatening the financial viability of the project (i.e., impairing the Borrower's ability to sustain a level of income sufficient to meet all financial obligations of the Project, including debt service costs, HUD-required escrows, and project operating expenses) . In the absence of the Issuer's compliance with a HUD request to take appropriate action to unilaterally remove or void the restriction(s), such Issuer expressly recognizes the power of HUD to take the appropriate action to unilaterally remove or void the restrictions(s) and that HUD shall not have to look any further than the legal instrument containing the restriction(s) for the power to remove or void it.

In the event of any conflict between the provisions of the Section 19 and the provisions contained in any other Section of the Regulatory Agreement, the provisions of the Section 19 shall govern and be controlling in all respects.

## APPENDIX E

### PROPOSED FORM OF OPINION OF BOND COUNSEL

*Upon delivery of the Bonds, Lewis Brisbois Bisgaard & Smith LLP, San Bernardino, California (“Bond Counsel”), proposes to render its final approving opinion with respect to the Bonds in substantially the following form:*

El Monte Community Redevelopment Agency  
11333 Valley Blvd.  
El Monte, CA. 91731

\$6,500,000

El Monte Community Redevelopment Agency, California  
Multifamily Housing Revenue Refunding Bonds, Series 2004  
(Ginnie Mae Collateralized Mortgage Loan - The Pacific Towers Apartment Project)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the El Monte Community Redevelopment Agency (the “Issuer”) of its El Monte Community Redevelopment Agency, Multifamily Housing Revenue Refunding Bonds, Series 2004 (Ginnie Mae Collateralized Mortgage Loan – Pacific Towers Apartments) in the aggregate principal amount of \$6,500,000 (the “Bonds”). The Bonds are issued pursuant to the provisions of Chapter 8 of Part 1 of Division 24 of the Health & Safety Code (the “Act”), and the Trust Indenture dated as of March 1, 2004 (the “Indenture”) by and between the Issuer and BNY Western Trust Company, as trustee (the “Trustee”). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

In such connection, we have reviewed the Indenture; the Loan Agreement; the Tax Certificate; opinions of counsel to the Trustee and the Borrower; certificates of the Issuer, the Trustee, the Borrower and others; and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

We have relied on the opinions of counsel to the Borrower, dated the Closing Date, regarding, among other matters, the current status of the Borrower and its authorization to execute the Loan Agreement dated as of March 1, 2004 among the Borrower, Issuer, Trustee and Red Mortgage as Lender (the “Loan Agreement”).

Certain agreements, requirements and procedures contained or referred to in the Indenture, the Loan Agreement, the Tax Certificate and other relevant documents may be changed and certain actions (including without limitation, defeasance of Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. No opinion is expressed herein as to any Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of counsel other than ourselves.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Our engagement with respect to the Bonds has concluded with their issuance, and we disclaim any obligation to update this letter.

We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any

parties other than the Issuer. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the second and third paragraphs hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Loan Agreement and the Tax Certificate, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes.

We call attention to the fact that the rights and obligations under the Bonds, the Indenture, the Loan Agreement and the Tax Certificate and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum or waiver provisions contained in the foregoing documents.

Based upon and subject to the foregoing, and in reliance thereon, as of the date hereof we are of the following opinions:

1. The Issuer is a public body, corporate and politic duly organized and existing under the laws of the State of California with full legal power to issue the Bonds. The Bonds constitute the valid and binding limited obligations of the Issuer.

2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Issuer. The Indenture creates a valid first lien pledge of the Trust Estate (except the Rebate Fund and the Refunding Account) to secure the payment of the principal of and interest on the Bonds, subject to the provisions of the Indenture set forth therein.

3. The Loan Agreement has been duly executed and delivered by, and constitutes a valid and binding agreement of the Issuer.

4. The Bonds are not a lien or charge upon the funds or property of the Issuer except to the extent of the aforementioned pledge. Neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or interest on the Bonds. The Bonds are not a debt of the State of California, and said State is not liable for the payment thereof.

5. Interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and interest on the Bonds is a specific preference item for purposes of the federal individual and corporate alternative minimum taxes. Interest on the Bonds is exempt from State of California personal income taxes. We express no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds.

[End of Opinion]

## APPENDIX F

### CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by TDF LP, a California limited partnership (the "Borrower"), and BNY Western Trust Company, as dissemination agent and as trustee under the Indenture (the "Dissemination Agent" and "Trustee") in connection with the El Monte Community Redevelopment Agency, California issuance and sale of \$6,500,000 aggregate principal amount of its Multifamily Housing Revenue Refunding Bonds, Series 2004 (Ginnie Mae Collateralized Mortgage Loan - Pacific Towers Apartment Project) (the "Bonds"). The Bonds are being issued pursuant to a Trust Indenture dated as of March 1, 2004 (the "Indenture") between the Issuer and the Trustee. The proceeds of the Bonds are being loaned by the Issuer to the Borrower pursuant to a Loan Agreement dated as of March 1, 2004 (the "Loan Agreement") among the Issuer, the Borrower, Red Mortgage Capital, Inc. (the "Lender") and the Trustee. Pursuant to the Loan Agreement, the Borrower, Dissemination Agent and the Trustee covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Borrower, the Dissemination Agent and the Trustee for the benefit of the Bondholders and in order to assist the Participating Underwriter (defined below) in complying with the Rule (defined below). The Borrower, the Dissemination Agent and the Trustee acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Agreement, and has no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures. This Disclosure Agreement does not apply to any other bonds issued or to be issued by the Issuer, whether in connection with the Project or otherwise.

The Borrower is an "obligated person" under the Rule. There are no other "obligated persons" with respect to the Bonds within the meaning of the Rule. The Trustee is not an "obligated person" under the Rule.

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

*"Annual Report"* shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

*"Disclosure Representative"* shall mean JLT LLC, a California limited liability company, a General Partner of the Borrower, or its designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent and the Trustee from time to time.

“*Dissemination Agent*” shall mean BNY Western Trust Company, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

“*Listed Events*” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

*NRMSIRs* means, as of any date, any Nationally Recognized Municipal Securities Information Repository then recognized by the Securities and Exchange Commission for purposes of the Rule. As of the date of this Undertaking, the NRMSIRs are:

Bloomberg Municipal Repository  
100 Business Park Drive  
Skillman, NJ 08558  
Phone: (609) 279-3225  
Fax: (609) 279-5962  
Email: munis@bloomberg.com

FT Interactive Data  
Attn: NRMSIR  
100 William Street  
New York, NY 10038  
Phone: (212) 771-6999  
Fax: (212) 771-7390  
Email: NRMSIR@FTID.com  
Website: <http://www.InteractiveData.com>

Standard & Poor’s J. J. Kenny Repository  
55 Water Street, 45th Floor  
New York, NY 10041  
Phone: (212) 438-4595  
Fax: (212) 438-3975  
Email: nrmsir\_repository@sandp.com

DPC Data, Inc.  
One Executive Drive  
Fort Lee, NJ 07024  
Phone: (201) 346-0701  
Fax: (201) 947-0107  
Email: nrmsir@dpcdata.com

The names and addresses of all current NRMSIRs should be verified each time information is delivered pursuant to this Disclosure Agreement. A current NRMSIR list can be found in the SEC’s website at: <http://www.sec.gov/info/municipal/nrmsir.htm>.

“*Participating Underwriter*” shall mean the original Underwriter or Underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds, initially, Kinsell Newcomb & DeDios, Inc.

“*Repository*” shall mean each National Repository and each State Repository.

“*Rule*” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“*State Repository*” shall mean any public or private repository or entity designated by the State of California (the “*State*”) as a state information depository for the purpose of the Rule.

Section 3. Provision of Annual Reports.

(a) The Borrower shall, or shall cause the Dissemination Agent upon written request and provision of such Annual Report to, commencing with the Borrower's fiscal year ending in 2004, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Not later than 180 Business Days subsequent to the end of the Borrower's fiscal year, the Borrower shall provide the Annual Report to the Dissemination Agent, the Trustee and the Lender. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement. The Borrower shall provide a written certification with each Annual Report furnished to the Dissemination Agent, the Trustee and the Lender to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder. The Dissemination Agent, the Trustee and the Lender may conclusively rely upon such certification of the Borrower and shall have no duty or obligation to review such Annual Report.

(b) If by fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the Repositories, the Trustee has not received a copy of the Annual Report, the Trustee shall contact the Borrower to determine if the Borrower is in compliance with subsection (a).

(c) If the Trustee is unable to verify that an Annual Report has been provided to the Repositories by the date required in subsection (a), the Trustee shall send a notice to each Repository in substantially the form attached as Exhibit A.

(d) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of each Repository; and

(ii) to the extent it can confirm the filing of the Annual Report, file a report with the Borrower and the Trustee certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided, and listing all the Repositories to which it was provided.

Section 4. Content of Annual Reports. The Borrower's Annual Report shall contain or incorporate by reference the following:

1. Borrower's Audited Financial Statement.
2. Average annual occupancy of the Project for the preceding calendar year.
3. Operating data for the Project for the preceding calendar year, including total revenue, operating expenses, net operating income, total debt service and net cash flow.

Any or all of the items listed above may be incorporated by reference to other documents, including official statements of debt issues with respect to which the Borrower is an "obligated person" (as defined by the Rule), which have been filed with each of the Repositories or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Borrower shall clearly identify each such other document so incorporated by reference.

Section 5. Reporting of Significant Events.

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions or events affecting the status of the Bonds.
7. Modifications to rights of holders of the Bonds.
8. Bond calls.
9. Defeasances.
10. Release, substitution, or sale of property securing repayment of the Bonds.
11. Rating changes.

(b) The Trustee shall, promptly after obtaining actual knowledge of the occurrence of any of the Listed Events (with no obligation to determine the materiality thereof)(except events listed in clauses (a)(1), (8) or (9)) contact the Disclosure Representative, inform such person of the event, and request that the Borrower promptly notify the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f), and promptly direct the Trustee whether or not to report such event to the Bondholders and in the absence of such direction shall not report such event unless otherwise required to be reported by the Trustee to the Bondholders under the Indenture. The Trustee may conclusively rely upon such direction (or lack thereof). For purposes of this Disclosure Agreement, “actual knowledge” of the occurrence of such Listed Events shall mean actual knowledge by the officer at the office of the Trustee in El Monte, California with regular responsibility for the administration of matters related to the Indenture.

(c) Whenever the Borrower obtains knowledge of the occurrence of a Listed Event, whether because of a notice from the Trustee pursuant to subsection (b) or otherwise, the Borrower shall as soon as possible determine if such event would constitute material information for Holders of Bonds, provided, that any event under subsection (a)(11) will always be deemed to be material.

(d) If the Borrower has determined that knowledge of the occurrence of a Listed Event would be material, the Borrower shall promptly notify the Dissemination Agent in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (f).

(e) If in response to a request under subsection (b), the Borrower determines that the Listed Event would not be material, the Borrower shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the Borrower to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Repository. Notwithstanding the foregoing:

- (i) notice of the occurrence of a Listed Event described in subsections (a)(1), (8) or (9) shall be given by the Dissemination Agent unless the Borrower gives the Dissemination Agent affirmative instructions not to disclose such occurrence; and

(ii) notice of Listed Events described in subsections (a)(8) and (9) need not give given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Indenture.

Section 6. Termination of Reporting Obligation. The Borrower's obligations under this Disclosure Agreement shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If the Borrower's obligations under the Loan Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the Borrower and the original Borrower shall have no further responsibility hereunder.

Section 7. Dissemination Agent. The Borrower may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent. The Dissemination Agent may resign by providing thirty days (30) written notice to the Borrower, the Issuer and the Trustee.

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the Borrower, the Dissemination Agent and the Trustee may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the Borrower and the Trustee to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule. Neither the Trustee nor the Dissemination Agent shall be obligated to enter into such amendment that modifies or increases their respective duties or obligations hereunder.

Section 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the Borrower shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the Borrower to comply with any provision of this Disclosure Agreement, the Trustee, at the written request of any Participating Underwriter or the holders of at least twenty-five percent (25%) aggregate principal amount of Outstanding Bonds, shall, but only to the extent funds in an amount satisfactory to the Trustee have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges of the Trustee whatsoever, including, without limitation, fees and expenses of its attorneys, or any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Disclosure Agreement in the event of any failure of the Borrower to comply with this Disclosure Agreement shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Trustee and Dissemination Agent. Article IX of the Indenture is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Indenture and the Dissemination Agent shall be entitled to

the same protections, limitations from liability and indemnities afforded the Trustee thereunder. The Dissemination Agent and the Trustee shall have only such duties as are specifically set forth in this Disclosure Agreement, and the Borrower agrees to indemnify and save the Dissemination Agent, the Trustee, their officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their rights, obligations, powers and duties hereunder, including the costs and expenses (including reasonable attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's or Trustee's respective breach of trust, negligence or willful misconduct. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent or the Trustee and payment of the Bonds. The Dissemination Agent shall be paid compensation as provided in the Indenture and Loan Agreement. The Dissemination Agent and the Trustee shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the Borrower, the Issuer, the Bondholders, or any other party. Neither the Trustee or the Dissemination Agent shall have any liability to the Bondholders or any other party for any monetary damages or financial liability of any kind whatsoever related to or arising from the breach of this Agreement. Any company succeeding to all or substantially all of the Dissemination Agent's corporate trust business shall be the successor to the Dissemination Agent hereunder without execution or filing any paper or any further act.

The Dissemination Agent agrees to disseminate the information provided to it hereunder in the form delivered by the Borrower. The Dissemination Agent is acting hereunder solely in an agency capacity and as such is merely a conduit for the Borrower, and shall have no liability or responsibility for the form, content, accuracy or completeness of any information furnished hereunder. Any such information may contain a legend to that effect.

The Dissemination Agent shall have no obligation to make disclosure concerning the Bonds, the Project or any other matter except as expressly set out herein, provided that no provision of this Disclosure Agreement shall limit the duties, trusts, rights, powers or obligations of the Trustee under the Indenture. The fact that the Trustee has or may have any banking, fiduciary or other relationship with the Borrower or any other party in connection with the Project or otherwise, apart from the relationship created by the Indenture and this Disclosure Agreement, shall not be construed to mean that the Trustee has knowledge or notice of any event or condition relating to the Bonds or the Project except in its respective capacities under such agreements.

No provision of this Disclosure Agreement shall require or be construed to require the Borrower or the Dissemination Agent to interpret or provide an opinion concerning any information disclosed hereunder.

The Borrower shall not disclose information: (1) deemed confidential or proprietary by the Borrower; (2) the disclosure of which is prohibited by applicable law; or (3) otherwise not subject to disclosure.

The Annual Report may contain such disclaimer language as the Borrower may deem appropriate. Any information disclosed hereunder by the Dissemination Agent may contain such disclaimer language as the Dissemination Agent may deem appropriate.

#### Section 12. FHA Requirements.

(a) The provisions of this Disclosure Agreement are subject and subordinate to the National Housing Act, all applicable Mortgage Insurance (and Section 8 if applicable) regulations and requirements, and the Mortgage Loan Documents. In the event of any conflict between the provisions of this Disclosure Agreement and the provisions of the National Housing Act, any applicable HUD regulations, HUD requirements, or the Mortgage Loan Documents, the said National Housing Act, HUD regulations, HUD requirements, and Mortgage Loan Documents, shall be controlling in all respects. No

amendment to this Disclosure Agreement shall conflict with any such act, regulations, requirements or Mortgage Loan Documents.

(b) Notwithstanding anything contained in this Disclosure Agreement to the contrary, neither the Issuer, nor the Underwriter, nor any other person may assert any claim arising hereunder against the Borrower's interest in the Project, the proceeds of the mortgage on the Project, any reserve or deposit made with the Lender or with any other entity that is required by FHA in connection with the Mortgage Loan, or in the rents or other income of the Project for the payment of any charge due hereunder except to the extent available from "surplus cash" as that term is defined in the FHA Regulatory Agreement; provided, however, that nothing contained in this Section 12 or elsewhere in this Disclosure Agreement or any other documents executed in connection with the Bonds shall alter, affect or diminish the rights of the Lender under the Mortgage Loan Documents.

(c) This Disclosure Agreement is a Financing Document (as defined in the Indenture) and is subject to the provisions of Section 12.08 of the Indenture.

(d) The provisions of this Section 12 shall inure to the benefit of the Lender and HUD.

Section 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Borrower, the Trustee, the Dissemination Agent, the Participating Underwriter, the Lender, HUD and holders from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 14. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows, and shall be effective only upon receipt:

To the Borrower:

TDF LP  
10501 Valley Boulevard, Suite 1888  
El Monte, California 91731  
Attention: Jean Lang  
Telephone: (626) 279-7979  
Fax: (626) 279-7978

To the Trustee/Dissemination Agent:

BNY Western Trust Company  
700 South Flower Street, Suite 500  
Los Angeles, California 90017-4104  
Attention: Corporate Trustee Services  
Ref: El Monte Pacific Towers  
Telephone: (213) 630-6231  
Fax: (213) 630-6215

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices of communications should be sent, effective only upon receipt.

Section 15. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Dated as of March 1, 2004

**TDF LP, A CALIFORNIA LIMITED PARTNERSHIP**

By: Titan Foundation,  
Managing General Partner

\_\_\_\_\_  
Jean Lang, President

By: JLT Titan LLC, Co-General Partner

\_\_\_\_\_  
Francis Yu, MD, Member and Manager

[Signatures continued on next page]

[Trustee's counterpart signature page to Continuing Disclosure Agreement]

**BNY Western Trust Company,**  
as Trustee and Dissemination Agent

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

**EXHIBIT A  
TO CONTINUING DISCLOSURE AGREEMENT**

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF  
FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: El Monte Community Redevelopment Agency, California

Name of Bond Issue: \$6,500,000 aggregate principal amount of Multifamily Housing Revenue Refunding Bonds, Series 2004 (GNMA Collateralized – Pacific Towers Apartment Project) (the “Bonds”)

Name of Borrower: TDF LP, a California limited partnership

Date of Issuance: March 25, 2004

NOTICE IS HEREBY GIVEN that the above-captioned Borrower (the “Borrower”) has not provided an Annual Report with respect to Pacific Towers Apartments in connection with the above-named bonds (the “Bonds”) as required by a Trust Indenture dated as of March 1, 2004 (the “Indenture”), between the Issuer and BNY Western Trust Company, as Trustee (the “Trustee”) and the Loan Agreement dated as of March 1, 2004 (the “Loan Agreement”), among the Issuer, the Trustee, the Lender and the Borrower. The Borrower anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated:

**BNY Western Trust Company,**  
as Dissemination Agent on Behalf of Borrower

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

Title: \_\_\_\_\_

cc: Borrower