

## Loan Term Sheet: Cornerstone Village

Draft | November 9, 2021

	Proposed Term																																						
<b>Lender</b>	City of Elk Grove (“City”)																																						
<b>Borrower</b>	Cornerstone Village - Elk Grove, LP, a limited partnership to be created for this Project (“Owner” or “Developer”)																																						
<b>Loan Amount</b>	The Loan Amount is \$3,436,000. Such amount is subject to the Cost Savings section set forth below.																																						
<b>Funding Source</b>	Affordable Housing Fund																																						
<b>Interest Rate</b>	4% simple interest per annum																																						
<b>Term</b>	City loan to have a term of 55 years. Balance due on sale. For amount due on refinancing, see “Refinancing” section.																																						
<b>Purpose</b>	<p>Construction and operation of an 84-unit affordable apartment project (commonly known as Cornerstone Village – Elk Grove, or “Project”) that is deed-restricted by means of a Regulatory Agreement for 55 years.</p> <p>The affordability mix is as shown:</p> <table border="1" style="margin-left: 20px; border-collapse: collapse; text-align: center;"> <thead> <tr style="background-color: #cccccc;"> <th rowspan="2">Affordability Level (% of AMI)</th> <th rowspan="2">Total Units</th> <th colspan="3">Number of Bedrooms</th> </tr> <tr style="background-color: #cccccc;"> <th>1BD</th> <th>2BD</th> <th>3BD</th> </tr> </thead> <tbody> <tr> <td>20%</td> <td>9</td> <td>9</td> <td>-</td> <td>-</td> </tr> <tr> <td>25%</td> <td>12</td> <td>12</td> <td>-</td> <td>-</td> </tr> <tr> <td>30%</td> <td>35</td> <td>16</td> <td>10</td> <td>9</td> </tr> <tr> <td>50%</td> <td>12</td> <td>-</td> <td>4</td> <td>8</td> </tr> <tr> <td>70%</td> <td>15</td> <td>5</td> <td>6</td> <td>4</td> </tr> <tr> <td>Unrestricted</td> <td>1</td> <td>-</td> <td>1</td> <td>-</td> </tr> </tbody> </table> <p>*AMI is the area median income, adjusted for household size.</p> <p>The Owner may modify the affordability mix to ensure the project remains competitive for other proposed affordable housing financing, provided that the average affordability remains at or below 45%. Any proposed changes to the number of units per bedroom count must be approved by the City in writing in advance of Owner filing a funding application with such changes.</p>	Affordability Level (% of AMI)	Total Units	Number of Bedrooms			1BD	2BD	3BD	20%	9	9	-	-	25%	12	12	-	-	30%	35	16	10	9	50%	12	-	4	8	70%	15	5	6	4	Unrestricted	1	-	1	-
Affordability Level (% of AMI)	Total Units			Number of Bedrooms																																			
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	<p>The unrestricted unit must be occupied by either the full-time property manager, full-time assistant property manager, or full-time maintenance staff.</p> <p>Project amenities must include interior and exterior universal design elements, a clubhouse with a multipurpose room and demonstration kitchen, an outdoor courtyard, staff offices for on-site property management and resident life team members, a conference room, laundry facilities, bike racks, benches, and lighted parking.</p>
<b>Unit Occupancy</b>	<p>Owner commits to working with the City to address homelessness, including by implementing a policy moving homeless Elk Grove households to the top of the waitlist for any vacant unit for which they are qualified.</p> <p>At the City’s request, Owner shall implement a randomized process to allocate units to qualified interested persons (“Lottery”) at the time of initial lease-up. To the extent allowable by fair housing laws, homeless Elk Grove households referred by the City will take precedence over persons selected through the Lottery. Units set aside for persons with an intellectual or developmental disability referred through the Alta California Regional Center or who otherwise qualify for Section 811 project-based rental assistance will have a separate entry process, to be reasonably approved in advance by the City’s Housing and Public Services Manager. Units set aside for persons experiencing homelessness may have a separate entry process (i.e., coordinated entry) if so required by another funding source.</p> <p>Owner shall (1) perform annual income certifications or recertifications and adjust unit affordability accordingly; and (2) provide City, within 14 days of City’s request, copies of any annual income certifications or recertifications. For example, this means that a household initially living in a 30% AMI unit and whose household income rises to 50% AMI would have their rent adjusted to the 50% AMI level, and the next available unit would be made available to a household earning 30% AMI. Nothing in this policy shall require Owner to violate any regulation of the California Low Income Housing Tax Credit (“LIHTC”) Program, California Department of Housing and Community Development (“HCD”) Multifamily Housing Program (“MHP”), California Department of Developmental Services (“DDS”), or project-based rental assistance contracts (collectively, “Affordable Housing Financing”) or fair housing laws. Owner understands that these requirements may be beyond what is required by other Affordable Housing Financing.</p>
<b>Social Services</b>	<p>On-site social services must meet the requirements specified in the HCD MHP guidelines in effect at the time of application. If the MHP guidelines require a supportive services plan, such plan shall be subject to the review and approval of the City.</p> <p>At a minimum, Owner must employ or contract for one full-time (40 hours per week) on-site resident services coordinator (or equivalent position), who will support residents in all of the units in the Project, and who will create</p>

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	<p>customized events and classes that reflect the priorities of a resident needs assessment conducted at initial move-in and every 18-24 months thereafter. Owner shall submit a social services plan to the City biennially and provide reports to the City at least quarterly containing qualitative and quantitative data on activities offered and resident participation in activities.</p>
<b>Timing of Funding</b>	<p>Disbursements shall be as follows:</p> <ol style="list-style-type: none"> <li>1. 40% at the close of construction financing, and provided that Developer has posted payment and performance bonds for the full amount of the construction contract.</li> <li>2. 30% when the Project’s framing inspection for all buildings is certified as complete by the City’s Building Official, and provided that Developer has posted payment and performance bonds for the full amount of the construction contract.</li> <li>3. 20% when the Project has received final Certificate of Occupancy for all buildings and the City has received proof of unconditional lien releases for general contractor or proof to City’s satisfaction that Developer has posted a bond, at Developer’s expense, from which to pay any judgment later entered against Developer or the property as a result of the lien, and proof of clear title to the satisfaction of the City; any bond issued pursuant to this section shall be in an amount sufficient to fully satisfy the lien, plus other recoverable costs and attorney’s fees resulting from a judgment against Developer.</li> <li>4. 5% upon (1) approval by the City of the Project’s Cost Certification prepared and signed by a third-party CPA, (2) a final construction inspection by City confirming that the Project was constructed and completed in the manner and form approved by City, and 3) the City has received proof of unconditional lien releases for all subcontractors or proof to City’s satisfaction that Developer has posted a bond, at Developer’s expense, from which to pay any judgment later entered against Developer or the property as a result of the lien, or expiration of the lien period has occurred with no liens filed that have not been bonded for and proof of clear title to the satisfaction of the City; any bond issued pursuant to this section shall be in an amount sufficient to fully satisfy the lien, plus other recoverable costs and attorneys’ fees resulting from a judgment against Developer.</li> <li>5. 5% when the Project has achieved “Project Stabilization.”</li> </ol> <p>“Project Stabilization” will be defined as:</p> <ol style="list-style-type: none"> <li>1. Physical occupancy of no less than 95% of all units;</li> <li>2. Three (3) consecutive months of sustained economic occupancy (net rent collected divided by gross rent potential) of at least 95%; and</li> </ol>

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	<p>3. Three (3) consecutive months of sustained operating performance at or above a debt coverage ratio of 1.20 (inclusive of all amortizing debt payments).</p>
<b>Annual Payments</b>	<p>Following completion of construction, annual payments to the soft lenders on the project will equal to 50% of Residual Cash Flow, of which the City of Elk Grove will receive a percentage equal to its proportional amount of soft debt to the Project.</p> <p>Residual Cash Flow is defined as all rental and other income generated by the Project after:</p> <ol style="list-style-type: none"> <li>1. Payment of the following operating expenses for the Project:               <ol style="list-style-type: none"> <li>a. Property management fee not to exceed the lesser of 1) \$720 per unit per annum, with a 3.0% escalator per annum, or 2) 7.0% of the Project's effective gross income;</li> <li>b. Advertising, legal, accounting, security, and other general office administration expenses;</li> <li>c. Utilities;</li> <li>d. Payroll expenses and payroll taxes;</li> <li>e. Maintenance, repairs, grounds, pool, and turnover costs;</li> <li>f. Property insurance;</li> <li>g. Taxes and assessments;</li> <li>h. Costs of social service programs offered to residents;</li> </ol> </li> <li>2. Cash deposited into the Project's Replacement Reserve and/or Operating Reserve in such amounts as are required by the Project lenders (including the City) and/or tax credit investor (including a requirement that if drawn, operating reserves must be replenished prior to any distributions of cash flow);</li> <li>3. Cash deposited into escrow for property taxes and/or insurance as may be required by any of the Project Lenders;</li> <li>4. Payment of senior loan debt service;</li> <li>5. Payment of asset management fees to the tax credit investor limited partner in an amount no greater than \$10,000 per annum starting in the first year the Project receives a certificate of occupancy and escalating at no more than 3% per year;</li> <li>6. Payment of asset management fees to the Managing General Partner of the Project partnership in an amount no greater than \$25,000 per annum with payments starting in the first year the Project receives a certificate of occupancy and escalating at no more than 3% per year; and,</li> <li>7. Payment of the deferred portion of the Adjusted Developer Fee, if any.</li> </ol>

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	<p>Note: All payments not specified above, including those to General Partner(s), Limited Partner(s), or parties related thereto, and including but not limited to asset management fees, incentive fees, monitoring or oversight fees, and performance fees will be “below the line” and payable only from Residual Cash Flow.</p> <p>Further, any identity of interest costs (e.g. use of a related party management company, vendor, or the like) included within the Project’s annual operating budget must be disclosed and approved by the City as necessary and reasonable. The City approves The John Stewart Company as property manager for the Project.</p>
<b>Balloon Payment</b>	At the expiration of the loan term, 100% of the principal balance of the loan and all accrued interest will be due.
<b>Refinancing</b>	City approval shall be required for any proposed refinancing, including of the senior permanent financing.
<b>Security</b>	<p>City loan will be secured by a deed of trust, UCC filing, and assignment of rents and leases junior to construction and permanent financing sources set forth.</p> <p>The City loan will be in junior position, behind tax-exempt bond financing and loans greater in principal amount than the City’s loan. City approval shall be required for any changes to the senior financing, with such approval not to be unreasonably withheld.</p> <p>City will require joint and several corporate guarantees from the underlying corporate owners of the general partner(s), member(s), or other controlling entities of the Owner, and from any other guarantors required by the other financing sources investing in the Project.</p> <p>Required guarantees will include:</p> <ol style="list-style-type: none"> <li>1. A guarantee of Project completion;</li> <li>2. A guarantee of replacement reserve deposits; and</li> <li>3. A guarantee for full and prompt payment of any loss, damage, liability, action, cause of action, cost, or expense incurred by City as a result of, and to the extent of, i) fraud or material gross misrepresentation, ii) intentional bad faith waste, iii) losses resulting from Owner/Developer’s failure to properly maintain insurance, iv) gross misappropriation of any of the rents, security deposits, loan proceeds, insurance proceeds, condemnation awards, or any other proceeds derived from the collateral security; and/or v) unauthorized disbursements of Residual Cash Flow.</li> </ol>

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	<p>The guarantee of Project completion and the guarantee of replacement reserve deposits will each include a provision to the following effect:</p> <p style="padding-left: 40px;">In the event any provision contained in this Guaranty causes Owner to violate any regulation of the LIHTC or other Affordable Housing Financing programs or causes Owner to be disqualified from receiving any federal or state tax credits through the LIHTC Program, such provision shall be deemed unenforceable and the remaining provisions of this Guaranty shall remain in full force and effect.</p>
<b>Bidding/Procurement</b>	<p>All construction subcontracts must be competitively and publicly bid, with a minimum of three qualified bids for each trade or subtrade. Owner to provide all bid records to City upon request. Owner must make a reasonable effort to secure a minimum of three qualified bids, including by publicly publishing notices related to bid opportunities in local or regional newspapers and providing plans and bid documents online. Owner must also advertise bid opportunities via the Sacramento Regional Builder’s Exchange and the Sacramento Housing and Redevelopment Authority’s MBE/WBE/Section 3 contractors list. Owner shall provide City with a list of all bids received by Owner, including the name of the bidder and contract information and the bid details.</p> <p>Awards to any firm other than the lowest responsive and responsible bidder, in cases where the selected firm’s bid exceeds the lowest responsive and responsible bid by more than 15%, must be approved in advance by the City. Procurement of non-construction goods and services shall be substantiated by a minimum of three cost estimates for like items for all purchases over \$50,000; if the lowest-cost provider is not selected, written justification must be provided. City shall respond to such requests for approval within ten (10) business days of receipt of said request and shall not withhold approval unreasonably. City acknowledges that all consultants and contractors listed in the Owner’s City loan application for the Project have already been selected.</p> <p>The parties agree that if Owner breaches this term, it will be impracticable or extremely difficult to determine the damages suffered by the City. It is therefore agreed that (1) upon the second instance of Owner’s failure to comply with this term, Owner shall pay the City the sum of \$2,500 as liquidated damages, and (2) upon the third instance of Owner’s failure to comply with this term, and for each additional instance of non-compliance thereafter, Owner shall pay the City the sum of \$5,000 as liquidated damages. The amount of liquidated damages set forth herein shall be deducted from the available City Loan Amount.</p>
<b>Change Orders</b>	<p>Written authorization from City for all change orders and/or line item budget adjustments of \$75,000 or more for construction costs and \$25,000 or more for soft costs is required. City shall respond to such request for approval within eight (8) business days of receipt of said change order and shall not withhold approval unreasonably.</p>

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	<p>In the event of emergency due to weather, fire, or other condition that threatens life, safety or excessive property damage, Owner may immediately proceed with required change order work to prevent such threatened loss or injury. In any such emergency, Owner shall notify City and submit all documentation associated with such change order to City within two (2) business days for City’s review and approval. City shall not withhold approval unreasonably; provided, however, that if City reasonably denies any such request, such denial will result in a Change Order Violation as defined below unless such violation can be cured.</p> <p>The parties agree that if Owner approves change orders or other line item budget adjustments in excess of the above-noted amounts and without the City’s written authorization prior to approval (each, a “Change Order Violation”), and such violation is irreversible or remains uncured, it will be impracticable or extremely difficult to determine the damages suffered by the City. It is therefore agreed that (1) upon the occurrence of the first Change Order Violation, Owner shall pay the City liquidated damages in the amount of the unauthorized amount of the applicable change order, (2) upon the occurrence of the second Change Order Violation, Owner shall pay the City liquidated damages in the amount of the unauthorized amount of the applicable change order, plus the lesser of 5% administrative cost or \$2,500, and (3) upon the occurrence of each Change Order Violation thereafter, Owner shall pay the City liquidated damages in the amount of the unauthorized amount of the applicable change order, plus the lesser of 5% administrative cost or \$5,000. The amount of liquidated damages set forth herein shall be deducted from the available City Loan Amount.</p>
<b>Cost Savings</b>	<p>If, at the completion and stabilization of the Project development, there are excess proceeds as a result of a reduction in total development costs or a net increase in other permanent sources compared to the Project’s approved Financing Plan after considering all final sources of funding and adjustments thereto that have been reasonably approved by the City (as will be further defined in the loan agreement between Owner and the City), Owner shall receive 50% of the excess proceeds in the form of developer fee to the extent it does not result in a total cash out developer fee that is in excess of what is allowed by HCD and LIHTC. The other soft lenders for the Project shall receive the other 50% of the excess proceeds, which shall be split to each soft lender in proportion to the amount of each party’s loan contribution to the Project. In the event the City has fully disbursed its loan prior to the Project’s completion, the Owner will make a one-time payment credited against the principal balance of the loan (i.e. effectively treating that portion of the City loan as construction lending only).</p>
<b>Bonding</b>	<p>Payment and performance bonding will not be required on the construction if the City does not provide funding during construction and the senior lender’s loan documents do not obligate the City to fund any portion of the Project cost prior to issuance of final Certificates of Occupancy. Unconditional lien releases or proof to City’s satisfaction that Developer has posted a bond, at Developer’s expense, from which to pay any judgment later entered against</p>

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	Developer or the property as a result of the lien and satisfactory evidence of clear title will be accepted in lieu of payment and performance bonding for the purposes of the loan documents; any bond issued pursuant to this section shall be in an amount sufficient to fully satisfy the lien, plus other recoverable costs and attorneys' fees resulting from a judgment against Developer. Payment and performance bonding may be required for construction of public improvements per City policy and State law.
<b>Developer Fee</b>	The Adjusted Developer Fee shall be limited to the lesser of: a) \$2,500,000; b) 10% of total development cost, excluding the developer fee itself; or c) the developer fee approved by CTCAC. "Adjusted Developer Fee" shall mean the total developer fee as allowed under CTCAC regulations, less any amount contributed as equity to the Project.
<b>Insurance</b>	<p>Owner and Project must carry insurance that meets the requirements of Attachment B of the Request for Proposals due on March 24, 2021. Proof of workers compensation and automobile insurance will be provided by The John Stewart Company as the property manager for the Project. Further, the City retains the right to update insurance requirements (e.g. coverage limits) for its Affordable Housing Program from time to time. The Project must agree to comply with any such updates so long as those requirements are reasonable and consistent with standards applied to affordable housing projects financed with LIHTC.</p> <p>Additionally, insurance proceeds must be used wholly to repair or rebuild property in the event of damage except for those insurance proceeds specifically allocated for covering rent loss or loss of tax credits due to the casualty, as long as defined as a separate benefit in the policy.</p>
<b>Reporting</b>	<p>During initial lease-up of Project units, Owner will provide the City with monthly financial and occupancy reporting. Following Project Stabilization, Owner may provide monthly or quarterly financial and occupancy reporting. Audited financial statements demonstrating compliance with the formula for the distribution of cash flow as described in the "Annual Payments" section of this term sheet will be due not later than the first month of the second quarter of the year following the reporting year. Failure to comply with the reporting requirements will result in liquidated damages of \$500 per violation per month, provided that Owner has failed to cure the non-compliance within 30 days from written notice from City.</p> <p>Additionally, the City reserves the right to reasonably alter, supplement, or otherwise modify the frequency or content of required reports as needed to maintain adequate oversight of the Project, to address findings related to noncompliance by the Project, or to standardize reporting requirements across its portfolio of assisted projects.</p>
<b>Conditions</b>	The funding of the City loan is conditioned on the following:

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	<ol style="list-style-type: none"> <li>1. The Project has secured the unconditional commitment of all funding sources necessary to develop the Project. Those sources currently contemplated include a construction loan, tax-exempt bonds, 4% tax credit equity financing (or such substantially similar substitute financing as may be available from the California Tax Credit Allocation Committee), HCD MHP financing, and financing from the California Department of Developmental Services; however, so long as the Project is in balance (i.e. funding sources equal projected Project costs), these sources may be revised prior to construction closing and any draw down on the City's loan.</li> <li>2. The Owner has maintained clear title to the property to the satisfaction of the City.</li> <li>3. The Owner and City have agreed as to the form of loan documents and have each executed the documents.</li> <li>4. All insurance requirements are met.</li> <li>5. A market study and an as-built appraisal that meet the Affordable Housing Loan Program Guidelines requirements have been submitted.</li> </ol>
<b>Commitment Length</b>	City loan commitment terminates after the earlier of: a) twenty-four (24) months from the date of this loan commitment, or b) October 31, 2023.
<b>Regulatory Agreement</b>	Owner shall enter into a Regulatory Agreement, in a form provided by the City, which will include an affordability covenant to be recorded against the property, senior to all liens and junior only to the TCAC LURA, CDLAC, and any HCD regulatory agreements (if required by HCD guidelines or policy), for the Project requiring that the units remain affordable at levels consistent with the affordability mix in the "Purpose" section. Owner shall provide all proposed regulatory agreements or other forms of deed restriction for the City's review and approval prior to execution. The Regulatory Agreement must remain against the property, binding against all successors in interest, for the full term, even in the event of foreclosure by the senior lender.
<b>Reserves</b>	<p>Owner must establish and shall maintain an Operating Reserve Account and a Replacement Reserve Account (collectively, the Reserve Accounts). All Reserve Accounts shall be held in interest-bearing segregated accounts held in banks or credit unions fully licensed to do business in the State of California and insured to the maximum limit of either the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Association (NCUA) as applicable. Any interest earned on the Reserve Accounts shall remain within the Reserve Accounts.</p> <p>All Reserve Accounts shall remain in place through the restriction period notwithstanding any change in ownership and in no circumstances may be disbursed for "exit taxes" upon any future transfer of limited partner interests.</p>

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	<p>Any withdrawal or transfer from the Reserve Accounts shall require the written approval of the City, by and through its designee. The City's approval or request for additional information to substantiate the need for the withdrawal or transfer shall be provided within ten (10) business days of its receipt of a request for such action.</p> <ol style="list-style-type: none"><li>1. Operating Reserve Account: Not later than receipt of 8609s, Owner shall fund and maintain an Operating Reserve Account of not less than three months of underwritten operating expenses, replacement reserve deposits, and debt service. After Project Stabilization, the Operating Reserve Account may be used to pay operating costs and expenses to the extent the collected gross receipts are insufficient for such purpose. Further, the Operating Reserve Account may not be used to pay any identity of interest costs, including management fees. If drawn upon, the Operating Reserve Account must be replenished to its required minimum balance prior to distributions of Residual Cash Flow.</li><li>2. Replacement Reserve Account: Owner shall fund a Replacement Reserve Account with annual deposits in the first year following construction completion (which may be prorated based on the actual date of completion) equal to \$250 per unit per year. In subsequent years, the deposit to the Replacement Reserve shall be increased by 3.5% annually. To the extent that other Project lenders require higher annual deposits to the Replacement Reserve Account, the 3.5% inflator will not be required so long as the total aggregate amount of annual deposits is equal to or greater than \$250 per unit per year plus the 3.5% annual inflator compounded annually. Disbursements from this Replacement Reserve Account shall be for the purpose of effecting replacement of structural elements and mechanical equipment of the Project or for other similar purposes for the benefit of the Project.</li></ol> <p>Prior to a Transfer Event, Owner shall submit to the City a Qualified Capital Needs Assessment. The entity which shall own the Project subsequent to the Transfer Event (the "Post Transfer Owner") shall covenant to the City that the Post Transfer Owner (and any assignee thereof) shall:</p> <ol style="list-style-type: none"><li>1. Set aside at the closing of the Transfer Event adequate funds to perform the Short Term Work;</li><li>2. Perform the Short Term Work within three years from the date of the Transfer Event;</li><li>3. Make monthly deposits to reserves as are necessary to fund the Long Term Work, taking into account any balance in replacement reserve accounts upon the conclusion of the Transfer Event beyond those required by Section 1 of this clause; and</li><li>4. Complete the long term work when required, or prior thereto, pursuant to the Qualified Capital Needs Assessment.</li></ol>

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	<p>For purposes of this section, the following terms shall have the following meanings:</p> <ol style="list-style-type: none"> <li>1. “Qualified Capital Needs Assessment” shall mean a capital needs assessment for the property dated within one hundred eighty (180) days of the proposed Transfer Event which is prepared by an independent third-party architect, engineer, or other qualified firm approved by the City and clearly sets forth (1) the capital needs of the Project for the next three (3) years (the “Short-Term Work”) and the projected costs thereof, and (2) the capital needs of the Project for the subsequent twelve (12) years (the “Long Term Work”) and the projected contributions to reserves that will be needed to accomplish that work.</li> <li>2. “Transfer Event” shall mean (1) a transfer of the ownership of the Project, (2) the sale or assignment of a partnership interest in Owner and/or (3) the refinancing of secured debt on the Project. The following shall not be deemed a Transfer Event: (1) the transfer of the Project or a partnership interest in Owner in which reserves remain with the Project and the debt encumbering the Project is not increased, refinanced or otherwise modified, (2) the refinancing of Project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the Project lender and third parties as transaction costs, provided that reserves remain with the Project, (3) the replacement of a general partner by a limited partner upon the occurrence of a default by a general partner in accordance with partnership agreement of the Project owner, or (4) a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party.</li> </ol>
<b>Operating Budget Oversight</b>	<p>Prior to the beginning of its fiscal year, Owner shall submit a proposed operating budget to the City for review and approval. The City shall respond to such requests for approval within ten (10) business days of receipt of said request and shall not withhold approval unreasonably. The proposed budget must i) identify any identity of interest or related party costs if the management company is an affiliate of the Owner, ii) compare the proposed budget to the prior year’s (or trailing 12 month) actual operating costs, and iii) provide explanations of substantive changes in the budget.</p>
<b>Distributions of Residual Cash Flow</b>	<p>Owner shall not make distributions of Residual Cash Flow to any Controlling Entity or related parties, other than for normal operating costs in the annual budget approved by the City, without written approval by the City based on a determination by the City that:</p> <ol style="list-style-type: none"> <li>1. No default in the terms of the City’s loan or related documents exists and is continuing;</li> <li>2. All required Reserve Accounts and escrows are fully and properly funded;</li> <li>3. The most recent annual audit of the Project has been received by the City and shows no material weaknesses or unresolved findings; and</li> <li>4. Making a distribution of Residual Cash Flow will not require the property to access Operating Reserve Accounts.</li> </ol>

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	<p>To obtain approval to make a Residual Cash Flow distribution, Owner shall submit to the City a request at least fifteen (15) business days prior to any anticipated distribution together with a current financial statement for the Project that will enable the City to assess criteria above. Owner shall provide a prompt response to the City's requests for additional documentation, if needed.</p> <p>Unauthorized distributions of Residual Cash Flow will result in liquidated damages of \$1,000 per day, provided that Owner fails to return any unauthorized distributions within three (3) business days of written notice from City.</p>
<b>Other</b>	<p>The City's willingness to make the loan as anticipated herein is contingent upon and made with specific reliance on the evaluation of the specific individuals and entities making up the Owner.</p> <p>Owner agrees that no sale or transfer of general or limited partnership interests, member interests, managing member interest, or other controlling interest in the Owner will be made without the prior written consent of the City. This will include but is not limited to:</p> <ol style="list-style-type: none"><li>1. The voluntary or involuntary re-assignment of the role of general partner, managing member, or other controlling entity or individual (collectively the "Controlling Entities") to another entity or individual;</li><li>2. Sale or transfer of the interest of any owner of a Controlling Entity;</li><li>3. Sale or transfer of any other interests in Owner, including but not limited to a limited partner interest, special limited partner interest, or member interest.</li></ol> <p>Notwithstanding anything to the contrary in this Agreement or any other Loan Document, the City consents to the transfer of the Investor limited partner's interest or Investor member's interest in the Owner among affiliates of the Investor. Owner must provide notice of such transfer to the City at least 30 days prior to the transfer.</p> <p>Additionally, the City's willingness to make the Loan as anticipated herein is also contingent upon and made with specific reliance on the evaluation of the planned property manager for the Project. Initially, and throughout the term of this Agreement, the City must approve of any property management company, or another similar agent, employed by the Owner. The City's approval of a specific property management company or agent for the Project may be withdrawn only for cause, and with applicable cure periods, and upon notice of same the Owner will identify and contract with a property manager otherwise acceptable to the City.</p> <p>Initially, the City has approved The John Stewart Company as the property manager for the Project.</p>