

**FUNDING LOAN AGREEMENT**

**by and among**

**CITIBANK, N.A.,  
as Funding Lender**

**and**

**RHODE ISLAND HOUSING AND MORTGAGE  
FINANCE CORPORATION,  
as Governmental Lender**

**and**

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.,  
as Fiscal Agent**

\_\_\_\_\_  
**Dated as of August 1, 2021**  
\_\_\_\_\_

---

---

**TABLE OF CONTENTS**

**Page**

**ARTICLE I  
DEFINITIONS; PRINCIPLES OF CONSTRUCTION**

Section 1.1. Definitions..... 2  
Section 1.2. Effect of Headings and Table of Contents. .... 11  
Section 1.3. Date of Funding Loan Agreement..... 11  
Section 1.4. Designation of Time for Performance..... 11  
Section 1.5. Interpretation..... 11

**ARTICLE II  
TERMS; GOVERNMENTAL LENDER NOTE**

Section 2.1. Terms ..... 13  
Section 2.2. Form of Governmental Lender Notes. .... 13  
Section 2.3. Execution and Delivery of Governmental Lender Notes. .... 13  
Section 2.4. Required Transferee Representations; Participations; Sale and Assignment..... 13

**ARTICLE III  
PREPAYMENT**

Section 3.1. Prepayment Under the Borrower Notes ..... 14  
Section 3.2. Notice of Prepayment..... 14

**ARTICLE IV  
SECURITY**

Section 4.1. Security for the Funding Loan. .... 15  
Section 4.2. Delivery of Security..... 16

**ARTICLE V  
LIMITED LIABILITY**

Section 5.1. Source of Payment of Funding Loan and Other Obligations ..... 16  
Section 5.2. Exempt from Individual Liability. .... 17

**ARTICLE VI  
CLOSING CONDITIONS; APPLICATION OF FUNDS**

Section 6.1. Conditions Precedent to Closing..... 17

ARTICLE VII  
FUNDS AND ACCOUNTS

Section 7.1. Authorization to Create Funds and Accounts .....	18
Section 7.2. Investment of Funds.....	18
Section 7.3. Establishment of Funds.....	19
Section 7.4. Funding Loan Payment Fund.....	19
Section 7.5. Expense Fund.....	20
Section 7.6. Closing Costs Fund.....	20
Section 7.7. Project Fund.....	20
Section 7.8. Rebate Fund .....	23

ARTICLE VIII  
REPRESENTATIONS AND COVENANTS

Section 8.1. General Representations .....	24
Section 8.2. No Encumbrance on Security .....	25
Section 8.3. Repayment of Funding Loan.....	26
Section 8.4. Servicer .....	26
Section 8.5. Borrower Loan Agreement Performance.....	26
Section 8.6. Maintenance of Records; Inspection of Records .....	26
Section 8.7. Tax Covenants. ....	26
Section 8.8. Performance by the Borrower.....	27
Section 8.9. Maintenance of Records.....	27

ARTICLE IX  
DEFAULT; REMEDIES

Section 9.1. Events of Default. ....	28
Section 9.2. Acceleration of Maturity; Rescission and Annulment.....	28
Section 9.3. Additional Remedies; Funding Lender Enforcement.....	29
Section 9.4. Application of Money Collected.....	30
Section 9.5. Remedies Vested in Funding Lender .....	31
Section 9.6. Restoration of Positions .....	31
Section 9.7. Rights and Remedies Cumulative.....	31
Section 9.8. Delay or Omission Not Waiver.....	31
Section 9.9. Waiver of Past Defaults .....	31
Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Notes.....	31
Section 9.11. Waiver of Appraisal and Other Laws.....	32
Section 9.12. Suits to Protect the Security .....	32
Section 9.13. Remedies Subject to Applicable Law .....	32
Section 9.14. Assumption of Obligations. ....	32

ARTICLE X  
AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT  
AND OTHER DOCUMENTS

Section 10.1. Amendment of Funding Loan Agreement.....	33
Section 10.2. Amendments Require Funding Lender Consent.....	33
Section 10.3. Consents and Opinions.....	33

ARTICLE XI  
THE FISCAL AGENT

Section 11.1. Appointment of Fiscal Agent; Acceptance.....	33
Section 11.2. Certain Duties and Responsibilities of Fiscal Agent.....	33
Section 11.3. Notice of Default.....	34
Section 11.4. Certain Rights of Fiscal Agent.....	35
Section 11.5. Not Responsible for Recitals.....	36
Section 11.6. May Hold Funding Loan.....	36
Section 11.7. Moneys Held Hereunder.....	36
Section 11.8. Compensation and Reimbursement.....	36
Section 11.9. Required Eligibility of Fiscal Agent.....	37
Section 11.10. Resignation and Removal; Appointment of Successor.....	37
Section 11.11. Acceptance of Appointment of Successor.....	38
Section 11.12. Merger, Conversion, Consolidation or Succession to Business.....	38
Section 11.13. Appointment of Co-Fiscal Agent.....	38
Section 11.14. Loan Servicing.....	39
Section 11.15. No Recourse Against Officers or Employees of Fiscal Agent.....	39
Section 11.16. Instructions by Electronic Means.....	39
Section 11.17. Examination, Inquiry or Related Action by the Internal Revenue Service.....	40

ARTICLE XII  
MISCELLANEOUS

Section 12.1. Notices.....	40
Section 12.2. Term of Funding Loan Agreement.....	42
Section 12.3. Successors and Assigns.....	43
Section 12.4. Payments on Non-Business Days.....	43
Section 12.5. Governing Law.....	43
Section 12.6. Severability.....	43
Section 12.7. Execution in Several Counterparts.....	43
Section 12.8. Nonrecourse Obligation of the Borrower.....	43
Section 12.9. Electronic Transactions.....	43
Section 12.10. Reference Date.....	43
EXHIBIT A FORM OF GOVERNMENTAL LENDER NOTES.....	A-1
EXHIBIT B FORM OF REQUIRED TRANSFEREE REPRESENTATIONS.....	B-1
EXHIBIT C FORM OF WRITTEN REQUISITION (PROJECT FUND).....	C-1
EXHIBIT D CLOSING COSTS REQUISITION.....	D-1
EXHIBIT E FISCAL AGENT WIRING INSTRUCTIONS.....	E-1

## FUNDING LOAN AGREEMENT

**THIS FUNDING AGREEMENT**, dated as of August 1, 2021, is entered into by **CITIBANK, N.A.**, (together with any successor hereunder, the “Funding Lender”), **RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION**, a public corporation and instrumentality of the State of Rhode Island (the “State”) (together with its successors and assigns, the “Governmental Lender”) and **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a national banking association organized and existing under the laws of the United States of America, as fiscal agent (the “Fiscal Agent”).

### RECITALS

WHEREAS, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Chapter 55 of Title 42 of the General Laws of Rhode Island, 1956 (1998 Reenactment), as amended and supplemented (the “Act”); and

WHEREAS, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income; (b) to incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, prepayment premium, if any, on and interest on such indebtedness of the Governmental Lender; and

WHEREAS, Braeburn Chatham, LP, a California limited partnership (the “Borrower”), has requested the Governmental Lender to enter into this Funding Loan Agreement under which the Funding Lender (i) will advance funds (the “Funding Loan”) to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the “Borrower Loan”) to the Borrower to finance the acquisition, rehabilitation and equipping of (a) a 51-unit multifamily rental housing development located in 4 buildings in the City and County of Providence, Rhode Island, known as Braeburn Apartments, and (b) a 40-unit multifamily rental housing development located in 7 buildings in the City and County of Providence, Rhode Island, known as Chatham Village Apartments (collectively, the “Braeburn Chatham Apartments” or the “Project”); and

WHEREAS, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement, dated as of August 1, 2021 (as it may be supplemented or amended, the “Borrower Loan Agreement”), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

WHEREAS, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Multifamily Note (Fixed Rate) (the “Borrower Series 2021A Note”) and its Multifamily Note (Variable Rate) (the “Borrower Series 2021B Note,” and together with the Borrower Series 2021A Note, the “Borrower Notes”), each dated the Closing Date, and the obligations of the Borrower under the Borrower Notes will be secured by a lien on and security interest in the Project pursuant to an Open-End Mortgage to Secure Present and Future Loans Under Chapter 25 of Title 34 of the General Laws, Assignment of Rents, Security Agreement and Fixture Filing dated as

of August 1, 2021 (the “Security Instrument”), made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

WHEREAS, the Governmental Lender has executed and delivered to the Funding Lender its Multifamily Housing Revenue Note (Braeburn Chatham Apartments Project), Series 2021A (the “Governmental Lender Series 2021A Note”) and its Multifamily Housing Revenue Note (Braeburn Chatham Apartments Project), Series 2021B (the “Governmental Lender Series 2021B Note,” and together with the Governmental Lender Series 2021A Note, the “Governmental Lender Notes”), each dated as of the Closing Date, evidencing its obligations to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make this Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender have been done and performed, and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Notes, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

## ARTICLE I

### DEFINITIONS; PRINCIPLES OF CONSTRUCTION

**Section 1.1. Definitions.** For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

(b) Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

(c) The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants.”

(d) All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

(e) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to “Approved Accounting Method” refer to such principles as they exist at the date of application thereof.

(f) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

(g) All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(h) References to the Governmental Lender Notes as “tax-exempt” or to the “tax-exempt status” of the Governmental Lender Notes are to the exclusion of interest on the Governmental Lender Notes (other than any portion of the Governmental Lender Notes held by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

(i) The following terms have the meanings set forth below:

**“Additional Borrower Payments”** shall have the meaning given such term in the Borrower Loan Agreement.

**“Affiliate”** shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

**“Approved Transferee”** means (1) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the “Securities Act”) that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (2) an Affiliate of the Funding Lender, (3) a trust or custodial arrangement established by the Funding Lender or one of its Affiliates or any state or local government or any agency or entity which is a political subdivision of a federal, state or local government (a “Governmental Entity”), in each case (i) the beneficial interests in which will be owned only by QIBs or (ii) the beneficial interests in which will be rated in the “BBB” category or higher without regard to modifier (or the equivalent investment grade category) by at least one nationally recognized rating agency, or (4) a Governmental Entity.

**“Authorized Amount”** shall mean, with respect to the Governmental Lender Series 2021A Note, \$[14,480,000], the maximum principal amount of the Governmental Lender Series 2021A Note authorized under this Funding Loan Agreement, and, with respect to the Governmental Lender Series 2021B Note, \$[5,400,000], the maximum principal amount of the Governmental Lender Series 2021B Note authorized under this Funding Loan Agreement.

**“Authorized Governmental Lender Representative”** shall mean the Chair, Executive Director, Deputy Executive Director, Chief Financial Officer, Director of Finance, General Counsel and Manager of Treasury and Capital Planning of the Governmental Lender, and any other officer or employee of Rhode Island Housing designated to perform a specified act, to sign a specified document or to act generally, on behalf of the Governmental Lender as specified by a written certificate of any of the foregoing furnished to the Funding Lender and the Fiscal Agent, which certificate contains the specimen signature of such other office or employee of the Governmental Lender.

**“Borrower”** shall mean Braeburn Chatham, LP, a [Rhode Island] limited partnership.

**“Borrower Loan”** shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of the Borrower Loan Amount, as evidenced by the Borrower Notes.

**“Borrower Loan Agreement”** shall mean the Borrower Loan Agreement, dated as of August 1, 2021, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

**“Borrower Loan Agreement Default”** shall mean any event of default set forth in 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable cure period.

**“Borrower Loan Amount”** shall mean the amount of \$[19,880,000], being the combined original maximum principal amount of the Borrower Series 2021A Note and the Borrower Series 2021B Note.

**“Borrower Loan Documents”** shall have the meaning given such term in the Borrower Loan Agreement.

**“Borrower Notes”** shall mean, collectively, the Borrower Series 2021A Note and the Borrower Series 2021B Note.

**“Borrower Series 2021A Note”** shall mean that certain Multifamily Note (Fixed Rate), dated the Closing Date, in the original stated principal amount of \$[14,480,000], made by the Borrower and payable to the Governmental Lender, as endorsed and assigned by the Governmental Lender without recourse to the Funding Lender, as it may thereafter be amended, supplemented or replaced from time to time.

**“Borrower Series 2021B Note”** shall mean that certain Multifamily Note (Variable Rate), dated the Closing Date, in the original stated maximum principal amount of \$[5,400,000], made by the Borrower and payable to the Governmental Lender, as endorsed and assigned by the Governmental Lender without recourse to the Funding Lender, as it may thereafter be amended, supplemented or replaced from time to time.

**“Borrower Tax Certification”** shall mean the tax certification of the Borrower delivered to the Governmental Lender, Tax Counsel and the Funding Lender in connection with the closing of the Borrower Loan.

**“Business Day”** shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York or the city where the Fiscal Agent is located are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

**“Closing Costs Fund”** shall mean the fund of that name established under Section 7.3 hereof.

**“Closing Date”** shall mean August \_\_, 2021, the date that initial Funding Loan proceeds are disbursed hereunder.

**“Code”** shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

**“Conditions to Conversion”** shall have the meaning given such term in the Construction Funding Agreement.

**“Construction Funding Agreement”** means that certain Construction Funding Agreement, dated as of August 1, 2021, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Fiscal Agent for disbursement to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during rehabilitation, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

**“Contingency Draw-Down Agreement”** means the Contingency Draw-Down Agreement of even date herewith among the Funding Lender, the Fiscal Agent and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

**“Control”** shall mean, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

**“Default”** shall mean the occurrence of an event, which, under any Funding Loan Document, would, but for the giving of notice or passage of time, or both, be an event of default under the applicable Funding Loan Document or a Borrower Loan Agreement Default.

**“Draw-Down Notice”** shall mean a notice described in Section 1.01 of the Contingency Draw-Down Agreement regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

**“Event of Default”** shall have the meaning ascribed thereto in Section 9.1 hereof.

**“Fiscal Agent”** shall mean The Bank of New York Mellon Trust Company, N.A., a national banking association, as fiscal agent hereunder, and any successor fiscal agent or co-fiscal agent appointed under this Funding Loan Agreement.

**“Fiscal Agent Fees”** shall mean the initial acceptance fee of the Fiscal Agent in the amount of \$\_\_\_\_\_ payable on the Closing Date and the ongoing compensation and expenses payable to the Fiscal Agent as follows:

(a) the annual fee of the Fiscal Agent in the amount of \$\_\_\_\_\_ annually per Series of Governmental Lender Notes, payable in advance by the Borrower to the Fiscal Agent on the Closing Date, and thereafter on each anniversary date of the Closing so long as any portion of the Funding Loan is outstanding;

(b) the reasonable fees and charges of the Fiscal Agent for necessary extraordinary services rendered by it and/or reimbursement for extraordinary expenses incurred by it under this Funding Loan Agreement as and when the same become due, including reasonable fees and expenses of legal counsel and internal default administrators (including fees prior to litigation, at trial or for appellate proceedings); **provided, however**, that the Fiscal Agent shall not be required to undertake any such extraordinary services unless provision for payment of extraordinary expenses satisfactory to the Fiscal Agent shall have been made; and

(c) for purposes of the Borrower Loan Agreement, indemnification of the Fiscal Agent by the Borrower.

**“Fitch”** shall mean Fitch, Inc. or its successor.

**“Funding Lender”** shall mean Citibank N.A., a national banking association, and any successor under this Funding Loan Agreement and the Borrower Loan Documents.

**“Funding Loan Agreement”** shall mean this Funding Loan Agreement, dated as of August 1, 2021, by and among the Funding Lender, the Governmental Lender, and the Fiscal Agent, as it may from time to

time be supplemented, modified or amended by one or more agreements or other instruments supplemental hereto entered into pursuant to the applicable provisions hereof.

**“Funding Loan Documents”** shall mean (i) this Funding Loan Agreement, (ii) the Borrower Loan Agreement, (iii) the Regulatory Agreement, (iv) the Tax Certificate, (v) the Borrower Loan Documents, (vi) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (vii) all amendments, modifications, renewals and substitutions of any of the foregoing.

**“Funding Loan Payment Fund”** shall mean the fund of that name established under Section 7.3 hereof.

**“Governmental Lender”** shall mean Rhode Island Housing and Mortgage Finance Corporation.

**“Governmental Lender Fees”** shall mean (i) the Governmental Lender’s initial fee in the amount of \$[1% of Borrower Loan Amount] and the Governmental Lender’s tax credit allocation fee in the amount of \$[1% of 10-year credit amount], each payable on the Closing Date, and (ii) the Ongoing Governmental Lender Fee.

**“Governmental Authority”** shall have the meaning given such term in the Borrower Loan Agreement.

**“Governmental Lender Series 2021A Note”** shall mean the Governmental Lender Series 2021A Note described in the recitals of this Funding Loan Agreement.

**“Governmental Lender Series 2021B Note”** shall mean the Governmental Lender Series 2021B Note described in the recitals of this Funding Loan Agreement.

**“Governmental Lender Notes”** shall mean, collectively, the Governmental Lender Series 2021A Note and the Governmental Lender Series 2021B Note.

**“Highest Rating Category”** shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax exempt municipal debt established by S&P is “A 1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG 1” (for fixed rate) or “VMIG 1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (i) both S&P and Moody’s rate a Permitted Investment and (ii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

**“Maturity Date”** shall mean (i) with respect to the Governmental Lender Series 2021A Note, March 1, 2054, and (ii) with respect to the Governmental Lender Series 2021B Note, March 1, 2024.

**“Maximum Rate”** shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

**“Minimum Beneficial Ownership Amount”** shall mean an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

**“Moody’s”** shall mean Moody’s Investors Service, Inc., or its successor.

**“Negative Arbitrage Deposit”** has the meaning set forth in the Contingency Draw-Down Agreement.

**“Note Proceeds Account”** means the Note Proceeds Account of the Project Fund established under Section 7.3.

**“Noteowner”** or **“owner of the Governmental Lender Notes”** means the owner of the Governmental Lender Notes as shown on the registration books maintained by the Fiscal Agent pursuant to Section 2.4(e).

**“Ongoing Governmental Lender Fee”** shall mean the Governmental Lender’s annual administration fee payable by the Borrower pursuant to Section 2.5(a) of the Borrower Loan Agreement on a monthly basis in an amount equal to 25 basis points of the then Outstanding aggregate principal amount of the Governmental Lender Notes, calculated on the basis of a 365/366 day year for the actual number of days elapsed in such month.

**“Opinion of Counsel”** shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Notes from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

**“Permitted Investments”** shall mean, to the extent authorized by law (including the Governmental Lender’s applicable investment policy) for investment of any moneys held under this Funding Loan Agreement:

(a) Direct obligations of the United States of America including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America (“Government Obligations”).

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America, or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Demand deposits or time deposits with, or certificates of deposit issued by, the Fiscal Agent or its affiliates or any bank organized under the laws of the United States of America or any state or the District of Columbia which has combined capital, surplus and undivided profits of not less than \$50,000,000 and maturing in less than 365 days; provided that the Fiscal Agent or such other institution has been rated at least “VMIG-1”/”A-1+” by Moody’s/S&P which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or collateralized pursuant to the requirements of the Office of the Comptroller of the Currency.

(d) Bonds (including tax-exempt bonds), bills, notes or other obligations of or secured by Fannie Mae, Freddie Mac, the Federal Home Loan Bank or the Federal Farm Credit Bank.

(e) Money market funds rated AAA by S&P which are registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, as amended, which may be administered by the Fiscal Agent or its affiliates.

(f) Collateralized Investment Agreements or Repurchase Agreements with financial institutions rated in the “A” category or higher without regard to qualifiers, by at least one Rating Agency. The agreement must be continually collateralized with obligations specified in paragraphs (a), (b) and/or (d) above, eligible for wire through the Federal Reserve Bank System or the DTC/PTC as applicable, and at a level of at least 103% of the amount on deposit and valued no less than daily. The collateral must be held by a third party custodian and be free and clear of all liens and claims of third parties. Securities must be valued daily, marked-to-market at current market price plus accrued interest. If the market value of the securities is found to be below the required level, the provider must restore the market value of the securities to the required level within one (1) business day. Permitted collateral must be delivered to and held in a segregated account by the Fiscal Agent or a custodian (the “Collateral Agent”), and the Collateral Agent cannot be the provider. The collateral must be delivered to the Collateral Agent before/simultaneous with payment (perfection by possession of certificated securities). Acceptable collateral must be free and clear of all liens and claims of third parties and shall be registered in the name of the Collateral Agent for the benefit of the Governmental Lender and Fiscal Agent. The agreement shall state that the Collateral Agent has a valid and perfected first priority security interest in the securities, any substituted securities and all proceeds thereof.

(g) Any other investment authorized by the laws of the State, if such investment is approved in advance in writing by the Funding Lender in its sole discretion.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment or any agreement with a maturity profile greater than the date(s) on which funds representing the corpus of the investment may be needed under the Funding Loan Documents. This exception (1) shall not apply to Permitted Investments listed in paragraph (g).

(2) any obligation bearing interest at an inverse floating rate.

(3) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(4) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

**“Person”** shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

**“Pledged Revenues”** shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Notes, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement

and the Borrower Notes, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and (ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon (except any amounts on deposit in the Expense Fund, Closing Costs Fund and Rebate Fund).

**“Prepayment Premium”** shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Notes (including any Prepayment Premium as set forth in the Borrower Notes) and (ii) any premium payable on the Governmental Lender Notes pursuant to this Funding Loan Agreement.

**“Project”** shall have the meaning given to that term in the Borrower Loan Agreement.

**“Project Fund”** shall mean the fund of that name established under Section 7.3 hereof.

**“Rebate Fund”** shall mean the fund of that name established under Section 7.3 hereof.

**“Regulations”** shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

**“Regulatory Agreement”** shall mean, collectively, (i) that certain Regulatory Agreement, dated as of August 1, 2021, by and between the Governmental Lender and the Borrower, as hereafter amended or modified, and (ii) the Declaration of Land Use Restrictive Covenants for Low Income Housing Tax Credits, dated August 1, 2021, by and between the Governmental Lender and the Borrower.

**“Remaining Funding Loan Proceeds Account”** has the meaning set forth in the Contingency Draw-Down Agreement.

**“Required Transferee Representations”** shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.

**“Resolution”** shall mean the resolution of the Governmental Lender authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which the Governmental Lender is a party.

**“Responsible Officer”** shall mean any officer within the Corporate Trust department (or any successor group) of the Fiscal Agent, including any vice president, assistant vice president, assistant secretary or any other officer or assistant officer of the Fiscal Agent customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, who is responsible for the administration of this Funding Loan Agreement.

**“Securities Act”** shall mean the Securities Act of 1933, as amended.

**“Security”** shall have the meaning assigned to it in Section 4.1.

**“Security Instrument”** shall mean the Open-End Mortgage to Secure Present and Future Loans Under Chapter 25 of Title 34 of the General Laws, Assignment of Rents, Security Agreement and Fixture Filing (as amended, restated and/or supplemented from time to time) dated as of August 1, 2021, made by

the Borrower in favor of the Governmental Lender, as assigned by the Governmental Lender to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

**“Servicer”** shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially, the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

**“Servicing Agreement”** shall mean any servicing agreement or master servicing agreement entered into between the Funding Lender and a Servicer relating to the servicing of the Funding Loan and/or the Borrower Loan, and any amendments thereto or replacement thereof.

**“S&P”** shall mean S&P Global Ratings, a division of S&P Global Inc., or its successors.

**“State”** shall mean the State of Rhode Island.

**“Tax Certificate”** shall mean the Tax Certificate, dated August \_\_, 2021, executed and delivered by the Governmental Lender and the Borrower, together with the Borrower Tax Certification, dated August \_\_, 2021, executed and delivered by the Borrower.

**“Tax Counsel”** shall mean Hawkins Delafield & Wood LLP or any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

**“Tax Counsel Approving Opinion”** shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Notes constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes and court decisions, the interest on the Governmental Lender Notes is excluded from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

**“Tax Counsel No Adverse Effect Opinion”** shall mean an opinion of Tax Counsel to the effect that the taking of the action specified therein will not adversely affect the exclusion of interest on the Governmental Lender Notes from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

**“UCC”** shall mean the Uniform Commercial Code as in effect in the State.

**“Unassigned Rights”** shall mean the Governmental Lender’s rights to reimbursement and payment of its fees, costs and expenses and payment by the Borrower of the Rebate Amount under Section 2.5 of the Borrower Loan Agreement, its rights of access under Section 5.17 thereof, its rights to indemnification under Section 5.15 thereof, its rights to attorneys’ fees under Sections 5.11 and 5.14 thereof, its rights to receive notices, reports and other statements and its rights to consent to certain matters, as provided in this Funding Loan Agreement and the Borrower Loan Agreement, and the Governmental Lender’s rights under the Regulatory Agreement.

**“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Registration,” “Written Request,” and “Written Requisition”** shall mean a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized Governmental Lender Representative or an authorized representative of the

Funding Lender and delivered to the Funding Lender, the Servicer, the Fiscal Agent or such other Person as required under the Funding Loan Documents.

“*Yield*” shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

**Section 1.2. Effect of Headings and Table of Contents.** The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

**Section 1.3. Date of Funding Loan Agreement.** The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

**Section 1.4. Designation of Time for Performance.** Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

**Section 1.5. Interpretation.** The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

## ARTICLE II

### TERMS; GOVERNMENTAL LENDER NOTES

#### Section 2.1. Terms.

(a) **Principal Amount.** The total principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) **Draw-Down Funding.** The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender directly to the Fiscal Agent (pursuant to the wiring instructions on Exhibit E attached hereto) for the account of the Governmental Lender for disbursement to the Borrower as and when needed to make each advance in accordance with the disbursement provisions of the Borrower Loan Agreement and the Construction Funding Agreement. Upon each advance of principal under the Borrower Loan Agreement and the Construction Funding Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the initial advance of \$ \_\_\_\_\_ (being all of the proceeds of the Governmental Lender Series 2021A Note [in the amount of \$[14,480,000], and \$ \_\_\_\_\_ of the proceeds of the Governmental Lender Series 2021B Note]), which amount is at least equal to the lesser amount of \$50,000 or 5% of the aggregate principal amount of the Governmental Lender Notes. Subject to the terms and conditions of the Borrower Loan Agreement, the Funding Lender agrees to fund such initial advance, on behalf of the Governmental Lender, to the Fiscal Agent for disbursement to the Borrower under the Borrower Loan Agreement on the Closing Date, and the Funding Lender agrees that a like amount will be deemed to be correspondingly and simultaneously advanced for the account of the Governmental Lender under this Funding Loan Agreement as an advance on the Funding Loan. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after December 31, 2024; **provided, however**, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender, such date may be changed

to a later date as specified in such Tax Counsel No Adverse Effect Opinion. The Governmental Lender has reviewed and approved the form of Contingency Draw-Down Agreement and consents to the terms thereof and agrees to take all actions reasonably required of the Governmental Lender in connection with the conversion of the Funding Loan to a fully drawn loan pursuant to the provisions of the Contingency Draw-Down Agreement in the event a Draw-Down Notice is filed by the Funding Lender or the Borrower.

(c) Origination Date; Maturity. The Funding Loan shall be originated on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) Principal. The outstanding principal amount of each Governmental Lender Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances with respect to the related Borrower Note under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Lender Note previously received upon payment of corresponding principal amounts under the related Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of each Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Fiscal Agent shall keep a record of all principal advances made on each Governmental Lender Note and all principal repayments made under each Governmental Lender Note and shall upon written request provide the Governmental Lender and the Funding Lender with a statement of the outstanding principal balance of each Governmental Lender Note and the Funding Loan.

(e) Interest. Interest shall be paid on the outstanding principal amount of each Governmental Lender Note at the rate or rates set forth in the related Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(f) Corresponding Payments. The payment or prepayment of principal, interest and premium, if any, due on the Funding Loan and each Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the related Borrower Note. The Governmental Lender Series 2021A Note shall be payable from payments on the Borrower Series 2021A Note, and the Governmental Lender Series 2021B Note shall be payable from payments on the Borrower Series 2021B Note.

(g) Usury. The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Notes, and all agreements made in the Governmental Lender Notes, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Notes, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall

control every other provision of the Governmental Lender Notes, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

**Section 2.2. Form of Governmental Lender Notes.** As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Notes. The Governmental Lender Notes shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement. In connection with Conversion, the Funding Lender shall have the right to exchange the then existing Governmental Lender Series 2021A Note on or after the Conversion Date for a new Governmental Lender Series 2021A Note with a dated date of the Conversion Date and in a stated principal amount equal to the then outstanding principal amount of the Governmental Lender Series 2021A Note, which principal amount will equal the Permanent Period Amount of the Borrower Loan as represented by the Borrower Series 2021A Note.

**Section 2.3. Execution and Delivery of Governmental Lender Notes.** The Governmental Lender Notes shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of Authorized Governmental Lender Representative and sealed with its corporate seal (or a facsimile thereof), attested by the manual or facsimile signature of another Authorized Governmental Lender Representative who did not execute the Governmental Lender Notes. The manual or facsimile signatures of individuals who were the proper officers of the Governmental Lender at the time of execution shall bind the Governmental Lender, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the authentication and delivery of the Governmental Lender Notes or shall not have held such offices at the date of the Governmental Lender Notes.

**Section 2.4. Required Transferee Representations; Participations; Sale and Assignment.**

(a) The Funding Lender shall deliver to the Governmental Lender and the Fiscal Agent the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Closing Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Lender Notes and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Lender Notes and the Funding Loan, to the extent permitted by subdivision (c) below, provided that such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender and the Fiscal Agent, the Required Transferee Representations; *provided, however*, that no Required Transferee Representations shall be required to be delivered by transferees or beneficial interest holders described in clauses (3) or (4) of the definition of “Approved Transferee.”

(c) Notwithstanding the other provisions of this Section 2.4, no beneficial ownership interest in the Governmental Lender Notes and the Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount; *provided, however*, that beneficial ownership interests in the Governmental Lender Notes and Funding Loan described in clause (3) of the definition of “Approved Transferee” may be sold in any amount without regard to the Minimum Beneficial Ownership Amount.

(d) No service charge shall be made for any sale or assignment of any portion of the Governmental Lender Notes, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such sale or assignment. Such sums shall be paid in every instance by the purchaser or assignee of the Funding Loan or portion thereof.

(e) The Governmental Lender Notes, or any interest therein, shall be in fully-registered form transferable to subsequent holders only on the registration books which shall be maintained by the Fiscal Agent for such purpose and which shall be open to inspection by the Governmental Lender and the Funding Lender. The Governmental Lender Notes shall not be transferred through the services of the Depository Trust Company or any other third party registrar.

(f) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Notes.

### ARTICLE III

#### PREPAYMENT

##### **Section 3.1. Prepayment of the Governmental Lender Notes from Prepayment under the Borrower Notes.**

(a) Voluntary Prepayment. Each Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds of the Governmental Lender received by the Governmental Lender or the Fiscal Agent, as provided in the Borrower Loan Agreement, to the extent and in the manner and on any date that the related Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the related Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the related Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of a Borrower Note, thereby causing the related Governmental Lender Note to be prepaid, except as specifically permitted in the applicable Borrower Note, without the prior written consent of Funding Lender and the Governmental Lender, which consent may be withheld in Funding Lender's sole and absolute discretion.

(b) Mandatory Prepayment. Each Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the related Borrower Note at the direction of the Funding Lender in accordance with the terms of the related Borrower Note, at a prepayment price equal to the outstanding principal balance of the related Borrower Note prepaid, plus accrued interest plus any other amounts payable under the related Borrower Note or the Borrower Loan Agreement.

**Section 3.2. Notice of Prepayment.** Notice of prepayment of a Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the related Borrower Note is timely and properly given to the Funding Lender and the Governmental Lender in accordance with the terms of the related Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of a Governmental Lender Note is required to be given.

## ARTICLE IV

### SECURITY

**Section 4.1. Security for the Funding Loan.** To secure the payment of the Funding Loan and each Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and each Governmental Lender Note are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the “Security”):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement, the Borrower Notes, the Security Instrument and the other Borrower Loan Documents, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held by the Fiscal Agent under this Funding Loan Agreement and any amounts held at any time in the Remaining Funding Loan Proceeds Account, any Negative Arbitrage Deposit and any other amounts held under the Contingency Draw-Down Agreement (other than the Closing Costs Fund), subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement may come into the possession or control of the Fiscal Agent, the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Funding Lender and the Fiscal Agent are hereby authorized to receive any and all such property as and for additional security for the Funding Loan and each Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The foregoing pledge does not include amounts on deposit or required to be deposited in the Rebate Fund. The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on each Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of each Governmental Lender Note

by the Governmental Lender. The Security so pledged and then or thereafter received by the Fiscal Agent or the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

**Section 4.2. Delivery of Security.** To provide security for the payment of the Funding Loan and each Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and each Governmental Lender Note its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Funding Lender the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) Each Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;
- (b) The originally executed Borrower Loan Agreement and Regulatory Agreement;
- (c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Notes and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;
- (d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and
- (e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

The Governmental Lender shall deliver and deposit with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security including, at the request of the Funding Lender, any amounts held under the Contingency Draw-Down Agreement, at the expense of the Borrower.

## **ARTICLE V**

### **LIMITED LIABILITY**

**Section 5.1. Source of Payment of Funding Loan and Other Obligations.** The Funding Loan and the Governmental Lender Notes are special, limited obligations of the Governmental Lender, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned hereunder. None of the Governmental Lender, the State, or any political subdivision thereof (except the Governmental Lender, to the limited extent set forth herein) nor any public agency shall in any event be liable for the payment of the principal of, premium (if any) or interest on the Funding Loan or the Governmental Lender Notes or for the performance of any pledge, obligation or agreement of any kind whatsoever with respect thereto except as set forth herein, and none of the Funding Loan or the Governmental Lender Notes or any of the Governmental Lender's agreements or obligations with respect

to the Funding Loan, the Governmental Lender Notes, or hereunder, shall be construed to constitute an indebtedness of or a pledge of the faith and credit of or a loan of the credit of or a moral obligation of any of the foregoing within the meaning of any constitutional or statutory provision whatsoever. The Governmental Lender has no taxing power.

**Section 5.2. Exempt from Individual Liability.** All covenants, conditions, obligations and agreements of the Governmental Lender contained in this Funding Loan Agreement are and shall be deemed to be covenants, conditions, obligations and agreements of the Governmental Lender to the full extent authorized by the Act and permitted by the laws and Constitution of the State. No covenant, condition, obligation or agreement contained herein shall be deemed to be a covenant, condition, agreement or obligation of any present or future officer, commissioner, director, employee or agent of the Governmental Lender in his/her individual capacity, and neither the officers, commissioners, directors, employees or agents of the Governmental Lender executing the Governmental Lender Notes or this Funding Loan Agreement shall be liable personally on the Governmental Lender Notes or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the issuance of the Governmental Lender Notes or the execution of this Funding Loan Agreement.

## ARTICLE VI

### CLOSING CONDITIONS; APPLICATION OF FUNDS

**Section 6.1. Conditions Precedent to Closing.** Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Funding Lender or the Governmental Lender, as applicable, in its sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Governmental Lender Notes;
- (b) Receipt by the Funding Lender of the original executed Borrower Notes, endorsed without recourse to the Funding Lender by the Governmental Lender;
- (c) Receipt by the Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Certificate and the Security Instrument;
- (d) Receipt by the Funding Lender of a certified copy of the Resolution;
- (e) Executed Required Transferee Representations from the Funding Lender;
- (f) Delivery into escrow or to the Fiscal Agent, as appropriate, of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;
- (g) Receipt by the Governmental Lender, the Funding Lender and the Fiscal Agent of a Tax Counsel Approving Opinion;
- (h) Receipt by the Funding Lender of an Opinion of Counsel to the effect that the Governmental Lender Notes are exempt from registration under the Securities Act of 1933, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(i) Receipt by the Funding Lender and the Governmental Lender of an Opinion of Special Counsel to the Governmental Lender, dated as of the Closing Date, in form and substance acceptable to the Funding Lender and the Governmental Lender;

(j) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower that are enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender; and

(k) Receipt by the Funding Lender and the Governmental Lender of any other documents or opinions that the Funding Lender, the Governmental Lender or Tax Counsel may require.

## ARTICLE VII

### FUNDS AND ACCOUNTS

**Section 7.1. Authorization to Create Funds and Accounts.** Except as provided in Section 7.3 hereof, no funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender, the Fiscal Agent (as directed by the Funding Lender) and the Servicer, if any, and any designee of the Funding Lender or the Servicer, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender, the Fiscal Agent or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

**Section 7.2. Investment of Funds.** Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested in Permitted Investments at the written direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Certificate. Investment income earned on amounts on deposit in each such fund or account shall be retained in and credited to and become a part of the amounts on deposit in that fund or account.

The Fiscal Agent may make any and all investments permitted under this Funding Loan Agreement and applicable law through its own trust or banking department or any affiliate and may pay said department reasonable, customary fees for placing such investments. The Fiscal Agent and its affiliates may act as principal, agent, sponsor, advisor or depository with respect to Permitted Investments under this Funding Loan Agreement. The Fiscal Agent shall not be liable for any losses from investments made by the Fiscal Agent in accordance with this Funding Loan Agreement.

The Governmental Lender, the Funding Lender and the Borrower (by its execution of the Borrower Loan Agreement) acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Governmental Lender or the Funding Lender the right to receive brokerage confirmations of security transactions as they occur, the Governmental Lender and the Funding Lender will not receive such confirmations to the extent permitted by law. The Fiscal Agent shall furnish the Borrower, the Funding Lender and the Governmental Lender (to the extent requested by such parties) periodic cash transaction statements which shall include detail for all investment transactions, if any, made by the Fiscal Agent hereunder.

**Section 7.3. Establishment of Funds.** There are established with the Fiscal Agent the following funds and accounts (each of which fund name shall be prefaced by the title “Rhode Island Housing Multi-Family Revenue Notes (Braeburn Chatham Apartments Project), Series 2021”):

- (a) The Funding Loan Payment Fund;
- (b) The Project Fund (and within such fund a Note Proceeds Account and an Equity Account);
- (c) The Expense Fund;
- (d) The Closing Costs Fund; and
- (e) The Rebate Fund.

All money required to be deposited with or paid to the Fiscal Agent for the account of any of the funds or accounts created by this Funding Loan Agreement shall be held by the Fiscal Agent in trust for the benefit of the Funding Lender, and except for money held in the Expense Fund, the Rebate Fund and Closing Costs Fund, shall, while held by the Fiscal Agent, constitute part of the Pledged Revenues and be subject to the lien hereof.

All money to be deposited with or paid to the Fiscal Agent shall be wired to the Fiscal Agent pursuant to the wiring instructions contained in Exhibit E attached hereto. The Fiscal Agent shall provide Written Notice of any change to such wiring instructions to the Funding Lender and the Borrower no less than five (5) Business Days prior to the next payment date for which such revised instructions will be applicable.

**Section 7.4. Funding Loan Payment Fund.** The Governmental Lender and the Borrower shall have no interest in the Funding Loan Payment Fund or the moneys therein, which shall always be maintained by the Fiscal Agent completely separate and segregated from all other moneys held hereunder and from any other moneys of the Governmental Lender and the Borrower.

The Fiscal Agent shall deposit into the Funding Loan Payment Fund any amounts received from the Borrower as payments of principal of, premium, if any, or interest on the Borrower Loan and any other amounts received by the Fiscal Agent that are subject to the lien and pledge of this Funding Loan Agreement, including any Pledged Revenues not required to be deposited to the Expense Fund or not otherwise specifically directed in writing to be deposited into other funds created by this Funding Loan Agreement.

On each Borrower Loan Payment Date, the Fiscal Agent shall apply all amounts on deposit in the Funding Loan Payment Fund in the following order of priority:

*First*, to pay or provide for the payment of the interest then due on the Funding Loan;

*Second*, to pay or provide for the payment or the prepayment of principal (and premium, if any) on the Funding Loan, provided moneys have been transferred or deposited into the Funding Loan Payment Fund for such purpose; and

*Third*, to pay or provide for the payment of the Funding Loan on the Maturity Date.

**Section 7.5. Expense Fund.** The Fiscal Agent shall deposit into the Expense Fund the amounts required by the Regulatory Agreement or the Borrower Loan Agreement to be paid by the Borrower to the Governmental Lender or the Fiscal Agent. Amounts on deposit in the Expense Fund shall be used to pay the fees and expenses of the Governmental Lender and the Fiscal Agent, as and when the same become due. In that regard, moneys in the Expense Fund shall be withdrawn or maintained, as appropriate, by the Fiscal Agent to pay (i) the Ongoing Governmental Lender Fee to the Governmental Lender as and when due, (ii) the Fiscal Agent's Fees to the Fiscal Agent when due, (iii) upon receipt, to the Fiscal Agent, any amounts due to the Fiscal Agent which have not been paid, other than amounts paid in accordance with clause (ii) hereof, and (iv) upon receipt, to and at the written direction of the Governmental Lender, any amounts owing the Governmental Lender by the Borrower and then due and unpaid, other than amounts paid in accordance with clause (i) hereof.

In the event that the amounts on deposit in the Expense Fund are not equal to the amounts payable from the Expense Fund as provided in the preceding paragraph on any date on which such amounts are due and payable, the Fiscal Agent shall give notice to the Borrower of such deficiency and of the amount of such deficiency and request payment within two Business Days to the Fiscal Agent of the amount of such deficiency.

Written notice of any insufficiency, which would result in the Governmental Lender not receiving the Ongoing Governmental Lender Fee on the applicable due date, shall be provided by the Fiscal Agent to the Governmental Lender (with a copy to the Borrower and the Funding Lender) within 10 days of the respective due date.

Upon payment by the Borrower to the Fiscal Agent of such deficiency, the amounts for which such deficiency was requested shall be paid by the Fiscal Agent.

Notwithstanding anything herein to the contrary, the Fiscal Agent, on behalf of the Governmental Lender, shall prepare and submit a written invoice to the Borrower for payment of the Ongoing Governmental Lender Fee not later than 15 days prior to the due date for payment of such the Ongoing Governmental Lender Fee, and shall remit moneys received by the Borrower to the Governmental Lender for payment of such fee.

**Section 7.6. Closing Costs Fund.** On the Closing Date, the Borrower shall deposit or cause to be deposited with the Fiscal Agent, for deposit in the Closing Costs Fund, the amount of \$\_\_\_\_\_. Amounts in the Closing Costs Fund shall be disbursed by the Fiscal Agent to pay Closing Costs on the Closing Date or as soon as practicable after receipt of the written direction of the Authorized Borrower Representative, countersigned by the Funding Lender and the Governmental Lender, in the form attached hereto as Exhibit D. Any interest earnings on amounts on deposit in the Closing Costs Fund shall remain therein. Any moneys remaining in the Closing Costs Fund (including investment proceeds) after the earlier of (i) the payment of all costs of issuance as certified in writing to the Fiscal Agent by the Borrower, or (ii) a period of six (6) months after the Closing Date, shall be paid to or at the direction of the Borrower and the Closing Costs Fund shall be closed.

**Section 7.7. Project Fund.**

(a) The proceeds of the Funding Loan shall be deposited to the Note Proceeds Account of the Project Fund and disbursed as provided herein. All proceeds of the Borrower Deferred Equity, as well as any additional amounts delivered from time to time to the Fiscal Agent by or on behalf of the Borrower (excluding any proceeds of the Funding Loan) shall be deposited to the Equity Account of the Project Fund. The Fiscal Agent shall disburse moneys in the Project Fund for the acquisition, rehabilitation,

development and equipping of the Project, to pay other Qualified Project Costs and to pay other costs related to the Project as provided herein.

Not less than 95% of the moneys deposited in and credited to the Note Proceeds Account of the Project Fund, and taking into account proceeds of the Funding Loan (if any) deposited in the Closing Costs Fund representing proceeds of the Funding Loan, including Investment Income thereon, will be expended for Qualified Project Costs (the "95% Requirement"). The amounts on deposit in the Note Proceeds Account of the Project Fund shall not be applied to the payment of Closing Costs.

Before any payment shall be made from the Project Fund, the Regulatory Agreement shall have been executed and submitted to a title company for recordation in the official land evidence records of the City of Providence in Providence County, Rhode Island and there shall be filed with the Fiscal Agent:

(i) a Written Requisition of the Borrower substantially in the form attached hereto as Exhibit C and approved by (A) the Funding Lender pursuant to the terms, conditions and provisions of the Construction Funding Agreement, and (B) the Governmental Lender; *provided, however*, a Written Requisition will not be required for disbursement of funds in escrow on the Closing Date to the Title Company, and

(ii) a Certificate of an Authorized Borrower Representative (which may be included in the requisition described in item (i) above) that, as of the date of such Certificate (A) the Borrower has not been advised that the Tax Counsel Approving Opinion may no longer be relied upon, (B) to the knowledge of the Borrower, there has been no adverse change in pertinent existing law or regulations or interpretations thereof, including, but not limited to, regulations, rulings and interpretations of the Internal Revenue Service, subsequent to the date of issuance of the Tax Counsel Approving Opinion, (C) the representations, covenants, certifications and statements contained in the Borrower Tax Certification are true and accurate and are being complied with, and (D) to the knowledge of the Borrower, no litigation is pending affecting the issuance, legality or validity of the Governmental Lender Notes or the exclusion of interest on the Governmental Lender Notes from gross income for Federal income tax purposes.

The Governmental Lender agrees that if the Governmental Lender has not signed the Written Requisition or otherwise objected in writing to any disbursement from the Note Proceeds Account or Equity Account within five (5) days of receipt of a request for approval of such disbursement (a copy of which request and any written objection thereto shall be sent simultaneously to the Fiscal Agent by electronic means), the Governmental Lender shall be deemed to have approved such disbursement. Furthermore, if the Governmental Lender and the Funding Lender disagree as to whether a particular disbursement from the Note Proceeds Account or the Equity Account shall be approved or disapproved, they shall meet and confer in good faith, upon the request of either of them in an effort to resolve the matter, which meeting may be by telephonic or electronic means, or may be at a personal meeting. If they fail to agree upon the approval or disapproval of such a disbursement following such good faith efforts, the Funding Lender can approve the disbursement and the Fiscal Agent shall pay it from the Note Proceeds Account or sums held in the Equity Account, as applicable.

(b) Upon receipt of each Written Requisition submitted by the Borrower and approved in writing by the Funding Lender and, to the extent provided in subsection (a) of this Section 7.7, the Governmental Lender, the Fiscal Agent shall promptly, but in any case within two Business Days, make payment from the appropriate Account within the Project Fund in accordance with such Written Requisition. The Fiscal Agent shall have no duty to determine whether any requested disbursement from the Project Fund complies with the terms, conditions and provisions of the Funding Loan Documents, constitutes payment of Qualified Project Costs or complies with the 95% Requirement. The approval in

writing of a Written Requisition by the Funding Lender shall be deemed a certification and, insofar as the Fiscal Agent and the Governmental Lender are concerned, shall constitute conclusive evidence that all of the terms, conditions and requirements of the Funding Loan Documents applicable to such disbursement have been fully satisfied or waived and the Written Requisition from the Borrower shall, insofar as the Fiscal Agent and the Governmental Lender are concerned, constitute conclusive evidence that the costs described in the Written Requisition constitute Qualified Project Costs or other permitted Project costs. These documents shall be retained by the Fiscal Agent, subject at all reasonable times to examination by the Borrower, the Governmental Lender, the Funding Lender and the agents and representatives thereof upon reasonable notice to the Fiscal Agent. The Fiscal Agent is not required to inspect the Project or the rehabilitation work or to make any independent investigation with respect to the matters set forth in any Written Requisition or other statements, orders, certifications and approvals received by the Fiscal Agent. The Fiscal Agent is not required to obtain completion bonds, lien releases or otherwise supervise the acquisition, rehabilitation, renovation, equipping, improvement and installation of the Project.

Notwithstanding anything to the contrary contained in this Section 7.7, prior to the payment of:

(i) a Written Requisition of any portion of the final 10% of proceeds of the Funding Loan deposited in the Project Fund, the Governmental Lender and Tax Counsel shall have received (which receipt shall be confirmed in writing by the Governmental Lender at the Fiscal Agent's request) a Certificate of an Authorized Borrower Representative satisfactory to them that (i) the Borrower has complied with the Borrower Tax Certification delivered on or prior to the Closing Date, and (ii) the Borrower will be able to deliver or cause delivery of the Accountant's and Architect's Certificate for Final Draw-Down of Funds and the Borrower's Certificate as to Use of Loan Proceeds (each as set forth in the Borrower Tax Certification) at the time of final draw-down in form and substance substantially the same as the certificates specified in the Borrower Tax Certification and delivered on or prior to the Closing Date; and

(ii) the final Written Requisition of proceeds of the Funding Loan on deposit in the Project Fund, and provided the Funding Loan has been advanced in full, the Governmental Lender and Tax Counsel shall have received (which receipt shall be confirmed in writing by the Governmental Lender at the Fiscal Agent's request), the Accountant's and Architect's Certificate for Final Draw-Down of Funds and the Borrower's Certificate as to Use of Loan Proceeds (each as set forth in the Borrower Tax Certification) in form and substance satisfactory to the Governmental Lender and Tax Counsel.

Notwithstanding anything to the contrary contained herein, only the signatures of an authorized officer of the Funding Lender and the Governmental Lender (to the extent required by subsection (a) of this Section 7.7) shall be required on a Written Requisition during any period in which a default by the Borrower has occurred and is then continuing under the Borrower Loan (notice of which default has been given in writing by an authorized officer of the Funding Lender to the Fiscal Agent and the Governmental Lender, and the Fiscal Agent shall be entitled to conclusively rely on any such Written Notice as to the occurrence and continuation of such a default). Furthermore, the Fiscal Agent shall disburse amounts in the Project Fund for the payment of interest due on the Governmental Lender Notes upon receipt from the Funding Lender of a statement detailing the amount due (and without any need for a Written Requisition signed by the Funding Lender or any approval by an Authorized Representative of the Borrower) so long as the amounts to be disbursed do not exceed \$ \_\_\_\_\_ in the aggregate.

The Fiscal Agent shall immediately provide Written Notice to the Borrower, the Funding Lender and the Governmental Lender if there are not sufficient funds available to or on deposit with the Fiscal Agent to make the payments as and when required by this Section 7.7(b). Except as provided in the next sentence, all such payments shall be made by check or draft payable, or by wire transfer in accordance with

the payment instructions set forth in the Written Requisition, to the Borrower unless an Event of Default has occurred and is continuing, in which event such payments may be made either (i) directly to the person, firm or corporation to be paid, (ii) to the Borrower and such person, firm or corporation, or (iii) upon receipt by the Funding Lender and the Governmental Lender of evidence that the Borrower has previously paid such amount and Written Direction to the Fiscal Agent as to such as evidenced by the Funding Lender's approval of the Written Requisition, to the Borrower. The Fiscal Agent shall conclusively rely on the payment instructions provided in any Written Requisition or invoices provided in connection therewith, and the Fiscal Agent shall have no duty to authenticate or investigate such payment instructions or the authority under which they were given. Upon the occurrence of an Event of Default of the Borrower of which the Fiscal Agent has knowledge as provided herein, which is continuing under the Borrower Loan Documents, with the Written Consent of the Funding Lender, the Fiscal Agent may apply amounts on deposit in the Project Fund to the payment of principal of and interest on the Funding Loan.

(c) Immediately prior to any mandatory prepayment of the Funding Loan pursuant to the terms hereof, any amounts then remaining in the Project Fund shall, at the written direction of the Funding Lender, be transferred to the Funding Loan Payment Fund to be applied to the prepayment of the Funding Loan pursuant hereto.

#### **Section 7.8. Rebate Fund.**

(a) The Fiscal Agent shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Fiscal Agent by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(b) Within 5 days after each receipt or transfer of funds to the Rebate Fund, the Fiscal Agent shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(c) All payments to the United States of America pursuant to this Section shall be made by the Fiscal Agent for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal Revenue Service forms (such forms to be provided to the Fiscal Agent by the Borrower or the Rebate Analyst).

(d) The Fiscal Agent shall preserve all statements, forms and explanations received from the Borrower and delivered to the Fiscal Agent and all records of transactions in the Rebate Fund until six years after the retirement of the Governmental Lender Notes.

(e) The Fiscal Agent may conclusively rely on the instructions of the Borrower (based upon the report of the Rebate Analyst) with regard to any actions to be taken by it pursuant to this Section and shall have no liability for any consequences of any failure of the Borrower or the Rebate Analyst to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided in Subsection (b) above, the Fiscal Agent shall have no duty or responsibility with respect to the Rebate Fund or the Borrower's duties and responsibilities with respect thereto except to follow the Borrower's specific written instruction related thereto.

(f) If at any time during the term of this Funding Loan Agreement, the Governmental Lender, the Fiscal Agent or the Borrower desires to take any action that would otherwise be prohibited by the terms of this Section, such person shall be permitted to take such action if it shall first obtain and provide to the other persons named herein, a Tax Counsel No Adverse Effect Opinion and an opinion of Tax Counsel that such action shall be in compliance with the laws of the State and the terms of this Funding Loan Agreement.

(g) Moneys and securities held by the Fiscal Agent in the Rebate Fund shall not be deemed funds of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Owners to secure the Governmental Lender Notes or any other obligations.

(h) Moneys in the Rebate Fund may be separately invested and reinvested by the Fiscal Agent, at the request of and as directed in writing by the Borrower, in Permitted Investments, subject to the Code. The Fiscal Agent shall sell and reduce to cash a sufficient amount of such Permitted Investments, as directed in writing by the Borrower, whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(i) Notwithstanding anything to the contrary in this Funding Loan Agreement, no payment shall be made by the Fiscal Agent to the United States if the Borrower shall furnish to the Governmental Lender and the Fiscal Agent an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Fiscal Agent with respect to such withdrawal.

(j) The Fiscal Agent shall keep and make available to the Governmental Lender and the Borrower records concerning the investments of all funds held by the Fiscal Agent pursuant to the Funding Loan Agreement including date bought and sold, price and commission paid, and bids taken, if any, and shall keep all such records until six years after the date on which no portion of the Governmental Lender Notes is Outstanding in order to enable the Borrower to make the computations required under Section 148(f) of the Code.

(k) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 7.8 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Fiscal Agent.

## ARTICLE VIII

### REPRESENTATIONS AND COVENANTS

**Section 8.1. General Representations of Governmental Lender.** The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a public corporation and instrumentality and agency of the State, organized and existing under the Act and laws of the State of Rhode Island, has the power and authority to (i) enter into the Funding Loan Documents to which it is a party and the transactions contemplated thereby, (ii) incur the limited obligation represented by the Governmental Lender Notes and the Funding Loan and apply the proceeds of such obligation or loan to finance the Project and (iii) carry out its other obligations under this Funding Loan Agreement and the Governmental Lender Notes, and by proper action has duly authorized the Governmental Lender's execution and delivery of, and its performance under, such Funding Loan Documents and all other agreements and instruments relating thereto.

(b) The Governmental Lender is not in default under or in violation of, and the execution and delivery of the Funding Loan Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and

instruments to which the Governmental Lender is a party, a default under or violation of which would prevent it from entering into this Funding Loan Agreement, executing and delivering the Governmental Lender Notes, financing the Project, executing and delivering the other Funding Loan Documents to which it is a party or consummating the transactions contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Governmental Lender is making no representations as to the necessity of registering the Borrower Notes pursuant to any securities laws or complying with any other requirements of securities laws).

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the knowledge of the Governmental Lender, threatened against the Governmental Lender with respect to (i) the organization and existence of the Governmental Lender, (ii) its authority to execute or deliver the Funding Loan Documents to which it is a party, (iii) the validity or enforceability of any such Funding Loan Documents or the transactions contemplated thereby, (iv) the title of any officer of the Governmental Lender who executed such Funding Loan Documents or (v) any authority or proceedings relating to the execution and delivery of such Funding Loan Documents on behalf of the Governmental Lender, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Notes and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than this Funding Loan Agreement as evidenced by the Governmental Lender Notes.

(e) The Rhode Island Public Finance Management Board has provided an allocation of the State's private activity bond volume cap under section 146 of the Code to the Governmental Lender for the Governmental Lender Notes, the Governmental Lender has timely made any required carry forward election with respect to such allocation. The Governmental Lender hereby elects to apply the alternative option under clause (2) of the first paragraph of Section 3.01 of IRS Notice 2011-63 with respect to the issue date of the Governmental Lender Notes; and, in connection therewith, has directed Tax Counsel to include the information on Form 8038 filed for the Governmental Lender Notes that is required by section 3.03 of said Notice.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

**Section 8.2. No Encumbrance on Security.** The Governmental Lender will not knowingly create or knowingly permit the creation of any mortgage, pledge, lien, charge or encumbrance of any kind on the Security or any part thereof prior to or on a parity with the lien of this Funding Loan Agreement, except as expressly permitted or contemplated by the Funding Loan Documents.

**Section 8.3. Repayment of Funding Loan.** Subject to the provisions of Article III hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, solely from the sources provided herein and only to the extent that moneys are available from Pledged Revenues, the Funding Loan, as evidenced by the Governmental Lender Notes, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Notes and this Funding Loan Agreement.

**Section 8.4. Servicer.** The Funding Lender may appoint a Servicer to service and administer the Governmental Loan and/or the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement.

**Section 8.5. Borrower Loan Agreement Performance.**

(a) The Funding Lender, the Fiscal Agent and the Servicer, if any, on behalf of the Governmental Lender, may (but shall not be required to nor obligated to) perform and observe any agreement or covenant of the Governmental Lender under the Borrower Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify or cause to be notified the Borrower, the Fiscal Agent, the Servicer, if any, and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice or otherwise has knowledge of such event.

**Section 8.6. Maintenance of Records; Inspection of Records.**

(a) The Fiscal Agent shall keep and maintain adequate records pertaining to any funds and accounts established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Governmental Lender Notes and interests therein. The Fiscal Agent shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and premium paid on the Funding Loan, subject to the inspection of the Funding Lender and the Governmental Lender and their representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender and the Funding Lender will at any and all times, upon the reasonable request of the Servicer, if any, the Borrower, the Fiscal Agent, the Governmental Lender or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender or the Funding Lender, as appropriate, relating to the Project and the Funding Loan, if any, and to make copies thereof.

**Section 8.7. Tax Covenants.** The Governmental Lender covenants to and for the benefit of the Fiscal Agent and the Funding Lender that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

(a) Enforce or cause to be enforced all obligations of the Borrower under the Regulatory Agreement in accordance with its terms and seek to cause the Borrower to correct any violation of the Regulatory Agreement within a reasonable period after any such violation is first discovered;

(b) Not take or cause to be taken any other action or actions, or fail to take any action or actions, which would cause the interest payable on the Governmental Lender Notes to be includable in gross income for federal income tax purposes;

(c) At all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Governmental Lender on the Governmental Lender Notes will be excluded from the gross income of the holders of the Governmental Lender Notes, for federal income tax purposes, pursuant to Section 103 of the Code, except in the event where any holder of the Governmental Lender Notes or a portion thereof is a “substantial user” of the facilities financed with the Governmental Lender Notes or a “related person” within the meaning of Section 147(a) of the Code;

(d) Not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Funding Loan to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Regulations; and

(e) Require the Borrower to agree, pursuant to the terms and provisions of the Borrower Loan Agreement, not to commit any act and not to make any use of the proceeds of the Funding Loan, or any other moneys which may be deemed to be proceeds of the Funding Loan pursuant to the Code, which would cause the Governmental Lender Notes to be “arbitrage bonds” within the meaning of Sections 103(b) and 148 the Code, and to comply with the requirements of the Code throughout the term of the Funding Loan; and

(f) Require the Borrower to take all steps necessary to compute and pay any rebatable arbitrage in accordance with Section 148(f) of the Code.

In furtherance of the covenants in this Section 8.7, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate, which are by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full.

For purposes of this Section 8.7 the Governmental Lender’s compliance shall be based solely on matters within the Governmental Lender’s control and no acts, omissions or directions of the Borrower, the Fiscal Agent, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

**Section 8.8. Performance by the Borrower.** Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender, may perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under the Borrower Loan Agreement exists.

**Section 8.9. Maintenance of Records.** The Funding Lender shall keep and maintain adequate records pertaining to funds and accounts relative to the Borrower Loan established with the Fiscal Agent, if any, including all deposits to and disbursements from said funds and accounts and will provide information and records relating thereto to the Fiscal Agent or the Governmental Lender upon request.

## ARTICLE IX

### DEFAULT; REMEDIES

**Section 9.1. Events of Default.** Any one or more of the following shall constitute an event of default (an “Event of Default”) under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or Governmental Authority):

(a) A default in the payment of any interest upon the Governmental Lender Notes when such interest becomes due and payable; or

(b) A default in the payment of principal of, or premium on, the Governmental Lender Notes when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise; or

(c) Subject to Section 8.8 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 11.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” under this Funding Loan Agreement; provided that, so long as the Governmental Lender has commenced to cure such failure to observe or perform within the thirty (30) day cure period and the subject matter of the default is not capable of cure within said thirty (30) day period and the Governmental Lender is diligently pursuing such cure to the Funding Lender’s satisfaction, with the Funding Lender’s Written Direction or Written Consent, then the Governmental Lender shall have an additional period of time as reasonably necessary (not to exceed 60 days unless extended in writing by the Funding Lender) within which to cure such default.

### **Section 9.2. Acceleration of Maturity; Rescission and Annulment.**

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Notes and the interest accrued thereon to be immediately due and payable, by notice to the Governmental Lender and the Borrower, and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Notes shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section 9.2, the Funding Lender may by Written Notice to the Governmental Lender and the Borrower, rescind and annul such declaration and its consequences if:

(i) There has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Funding Loan, (2) the principal of and Prepayment Premium on the Funding Loan that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Funding Loan, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Funding Loan, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender,

its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

(ii) All Events of Default, other than the non-payment of the principal of the Funding Loan which have become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

(c) Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower or the Project if no Borrower Loan Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default.

### **Section 9.3. Additional Remedies; Funding Lender Enforcement.**

(a) Upon the occurrence and continuance of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Notes, this Funding Loan Agreement or the other Funding Loan

Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

(c) Whether or not an Event of Default has occurred, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Notes or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax exempt status of the interest on the Governmental Lender Notes, and provided that the Governmental Lender may enforce specific performance with respect to the Unassigned Rights; **provided, however**, that any such forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(d) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after the Borrower, the Equity Investor and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder; **provided, however**, that any forbearance by the Funding Lender in the exercise of its remedies under the Funding Loan Documents shall not be construed as a waiver by the Funding Lender of any Conditions to Conversion.

(e) If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.5, 5.14 or 5.15 of the Borrower Loan Agreement (subject to all applicable notice and cure periods) for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14 hereof).

**Section 9.4. Application of Money Collected.** Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan, including, without limitation, any amounts due to the Governmental Lender, the Funding Lender, the Servicer and the Rebate Analyst;

(b) Second: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Notes, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Funding Loan) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Funding Loan; **provided, however**, that partial interests in any portion of the Funding Loan shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(c) Third: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

**Section 9.5. Remedies Vested in Funding Lender.** To the extent permitted by applicable law, all rights of action and claims under this Funding Loan Agreement or the Governmental Lender Notes may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Notes or the production thereof in any proceeding relating thereto.

**Section 9.6. Restoration of Positions.** If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Funding Lender, without prejudice to the Funding Lender to bring a subsequent action, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

**Section 9.7. Rights and Remedies Cumulative.** No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Section 9.8. Delay or Omission Not Waiver.** No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein absent a written agreement of the Funding Lender providing for such a waiver. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

**Section 9.9. Waiver of Past Defaults.** Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Notes.** As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Notes, whether or not the Governmental Lender Notes have been accelerated or declared due and payable by reason of an Event of Default.

**Section 9.11. Waiver of Appraisalment and Other Laws.**

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisalment, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in Section 9.11(a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

**Section 9.12. Suits to Protect the Security.** The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any Governmental Authority enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

**Section 9.13. Remedies Subject to Applicable Law.** All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

**Section 9.14. Assumption of Obligations.** In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Notes, the Regulatory Agreement and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents.

## ARTICLE X

### AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT AND OTHER DOCUMENTS

**Section 10.1. Amendment of Funding Loan Agreement.** Any of the terms of this Funding Loan Agreement and the Governmental Lender Notes may be amended or waived only by an instrument signed by the Funding Lender, the Fiscal Agent and the Governmental Lender, *provided, however*, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the written consent of the Borrower, and, *provided further*, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

**Section 10.2. Amendments Require Funding Lender Consent.** The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document without the prior Written Consent of the Funding Lender.

**Section 10.3. Consents and Opinions.** No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations.

## ARTICLE XI

### THE FISCAL AGENT

**Section 11.1. Appointment of Fiscal Agent; Acceptance.** The Governmental Lender hereby appoints The Bank of New York Mellon Trust Company, N.A. as Fiscal Agent hereunder. The Fiscal Agent shall signify its acceptance of the duties and obligations imposed upon it by this Funding Loan Agreement by executing this Funding Loan Agreement.

**Section 11.2. Certain Duties and Responsibilities of Fiscal Agent.**

(a) The Fiscal Agent undertakes to perform such duties and only such duties as are specifically set forth in this Funding Loan Agreement, and no implied covenants or obligations shall be read into this Funding Loan Agreement against the Fiscal Agent.

(b) If an event of default exists hereunder or under any Borrower Loan Document, the Fiscal Agent shall exercise such of the rights and powers vested in it by this Funding Loan Agreement, and exercise any rights or duties or remedies solely at the written direction of the Funding Lender.

(c) No provision of this Funding Loan Agreement shall be construed to relieve the Fiscal Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, in each case, as finally adjudicated by a court of law, except that:

(i) This subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Fiscal Agent shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

(iii) The Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Funding Lender relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any trust or power conferred upon the Fiscal Agent under this Funding Loan Agreement; and

(iv) No provision of this Funding Loan Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it in its sole discretion.

Subject to its rights to indemnification pursuant to Section 11.4 hereof, the Fiscal Agent is directed to enter into the Borrower Loan Documents to which it is a party and other related documents, solely in its capacity as Fiscal Agent.

(d) Whether or not therein expressly so provided, every provision of this Funding Loan Agreement and the other Funding Loan Documents relating to the conduct or affecting the liability of or affording protection to the Fiscal Agent shall be subject to the provisions of this Section.

(e) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the legal opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Funding Loan Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Funding Loan Agreement.

(f) The permissive rights of the Fiscal Agent to do things enumerated in this Funding Loan Agreement shall not be construed as a duty.

(g) Except as provided in this Funding Loan Agreement and in any certificates executed by the Fiscal Agent and delivered in connection with the issuance of the Governmental Lender Notes, the Fiscal Agent shall not be responsible for the use and application of the proceeds of the Governmental Lender Notes.

**Section 11.3. Notice of Defaults.** Upon the occurrence of any default hereunder or under any Borrower Loan Document and provided that a Responsible Officer of the Fiscal Agent is aware of or has received Written Notice of the existence of such default, promptly, and in any event within 15 days, the Fiscal Agent shall transmit to the Governmental Lender, the Borrower, the Equity Investor, the Servicer, if any, and the Funding Lender, in the manner and at the addresses for notices set forth in Section 12.1 hereof, notice of such default hereunder known to the Fiscal Agent pursuant to Section 11.4(g) hereof, unless such default shall have been cured or waived.

**Section 11.4. Certain Rights of Fiscal Agent.** Except as otherwise provided in Section 11.1 hereof:

(a) The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, legal opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request or direction of the Governmental Lender mentioned herein shall be sufficiently evidenced by a certificate or order executed by an Authorized Governmental Lender Representative;

(c) Whenever in the administration of this Funding Loan Agreement or any Borrower Loan Document the Fiscal Agent shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Fiscal Agent (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Written Certificate of the Governmental Lender, the Funding Lender, the Servicer or the Borrower, as appropriate;

(d) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Funding Loan Agreement or any Borrower Loan Document at the request or direction of the Funding Lender, pursuant to this Funding Loan Agreement, unless the Funding Lender shall have offered to the Fiscal Agent in writing security or indemnity reasonably satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction, except costs, expenses and liabilities which are adjudicated to have resulted from its own negligence or willful misconduct, provided, that nothing contained in this subparagraph (d) shall be construed to require such security or indemnity for the performance by the Fiscal Agent of its obligations under Article VIII hereof;

(e) The Fiscal Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, debenture, coupon or other paper or document but the Fiscal Agent, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Fiscal Agent shall determine to make such further inquiry or investigation, it shall be entitled to examine the books and records of the Governmental Lender, if any, and of the Borrower, in either case personally or by agent or attorney after reasonable notice and during normal business hours;

(f) The Fiscal Agent may execute any of its powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and pay reasonable compensation thereto and the Fiscal Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder. The Fiscal Agent may act upon the advice of counsel of its choice concerning all matters hereof and the Fiscal Agent shall not be responsible for any loss or damage resulting from any action or inaction taken in good faith reliance upon said advice;

(g) The Fiscal Agent shall not be required to take notice or be deemed to have notice of any default hereunder or under any Borrower Loan Document except for failure by the Borrower to make payments of principal, interest, premium, if any, or Ongoing Governmental Lender Fee when due, unless a Responsible Officer of the Fiscal Agent shall be specifically notified by a Written Notice of such default by the Governmental Lender, the Servicer, the Borrower or the Funding Lender, and all notices or other instruments required by this Funding Loan Agreement or under any Borrower Loan Document to be delivered to the Fiscal Agent, must, in order to be effective, be delivered in writing to a Responsible Officer

of the Fiscal Agent at the Office of the Fiscal Agent, and in the absence of such Written Notice so delivered the Fiscal Agent may conclusively assume there is no default as aforesaid; and

(h) Pursuant to Section 5.15 of the Borrower Loan Agreement, the Borrower has undertaken all obligation to indemnify and save the Fiscal Agent harmless against any expenses or liabilities it may incur in the exercise and performances of its powers and duties under this Funding Loan Agreement which are not due to the Fiscal Agent's negligence or willful misconduct.

**Section 11.5. Not Responsible for Recitals.** The recitals contained herein and in the Governmental Lender Notes shall be taken as the statements of the Governmental Lender, and the Fiscal Agent assumes no responsibility for their correctness. The Fiscal Agent makes no representations as to the value or condition of the Pledged Revenues, the Security or any part thereof, or as to the title of the Governmental Lender thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Funding Loan Agreement or of the Funding Loan.

The Fiscal Agent shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the funding of the Funding Loan.

The Fiscal Agent shall not be required to monitor the financial condition of the Borrower or the physical condition of the Project. Unless otherwise expressly provided, the Fiscal Agent shall be under no obligation to analyze, review or make any credit decisions with respect to any financial statements, reports, notices, certificates or documents received hereunder but shall hold such financial statements reports, notices, certificates and documents solely for the benefit of, and review by, the Funding Lender and such other parties to whom the Fiscal Agent may provide such information pursuant to this Funding Loan Agreement.

The Fiscal Agent makes no representations as to and shall have no responsibility for the sufficiency of the insurance required under any of the Borrower Loan Documents.

**Section 11.6. May Hold Funding Loan.** The Fiscal Agent in its individual or any other capacity may become the owner or pledgee of the Funding Loan and may otherwise deal with the Governmental Lender, the Funding Lender and the Borrower with the same rights it would have if it were not Fiscal Agent.

**Section 11.7. Moneys Held Hereunder.** Moneys held by the Fiscal Agent hereunder need not be segregated from other funds except to the extent required by law. The Fiscal Agent shall be under no liability for interest on any moneys received by it hereunder except as otherwise provided herein.

**Section 11.8. Compensation and Reimbursement.** Under the Borrower Loan Agreement, the Borrower has agreed to, except as otherwise expressly provided herein, reimburse the Fiscal Agent as provided in this Funding Loan Agreement or the Borrower Loan Agreement, upon its request for all reasonable expenses, disbursements and advances incurred or made by the Fiscal Agent in accordance with any provision of this Funding Loan Agreement (including the reasonable fees, expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Fiscal Agent's negligence or willful misconduct, both as finally adjudicated by a court of law.

When the Fiscal Agent incurs expenses or renders service in connection with any bankruptcy or insolvency proceeding, such expenses (including the fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any bankruptcy law or law relating to creditors rights generally.

- (a) The Governmental Lender has no obligation to pay the Fiscal Agent for services rendered.
- (b) As security for the performance of the obligations of the Borrower under this Section and for the payment of such compensation, expenses, reimbursements and indemnity, the Fiscal Agent shall have the right to use and apply any moneys held by it as Pledged Revenues.
- (c) The Fiscal Agent's rights to compensation and reimbursement shall survive its resignation or removal, the payment of the Funding Loan or the Borrower Loan or the release of this Funding Loan Agreement.

**Section 11.9. Required Eligibility of Fiscal Agent.** Any successor Fiscal Agent shall at all times be a trust company, a state banking corporation or a national banking association with the authority to accept trusts in the State approved in writing by the Governmental Lender and either (a) have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, (b) be a wholly owned subsidiary of a bank holding company, or a wholly owned subsidiary of a company that is a wholly owned subsidiary of a bank holding company, having a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition, have at least \$500,000,000 of trust assets under management and have a combined capital and surplus of at least \$2,000,000 as set forth in its most recent published annual report of condition, or (c) be otherwise acceptable to the Funding Lender in its sole and absolute discretion.

**Section 11.10. Resignation and Removal; Appointment of Successor.**

(a) No resignation or removal of the Fiscal Agent hereunder and no appointment of a successor Fiscal Agent pursuant to this Article shall become effective until the written acceptance by the successor Fiscal Agent of such appointment.

(b) The Fiscal Agent may resign at any time by giving 60 days' Written Notice thereof to the Governmental Lender, the Borrower, the Servicer, if any, and the Funding Lender. If an instrument of acceptance by a successor Fiscal Agent shall not have been delivered to the Fiscal Agent within 30 days after the giving of such notice of resignation, the resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(c) The Fiscal Agent may be removed at any time with 30 days' notice by (i) the Governmental Lender, with the Written Consent of the Funding Lender (which consent of the Funding Lender shall not be unreasonably withheld), (ii) the Borrower (unless the Borrower is in default under any of the Borrower Loan Documents, subject to applicable notice and cure periods), with the Written Consent of the Funding Lender and the Governmental Lender, or (iii) the Funding Lender with the Written Consent of the Governmental Lender and Written Notice delivered to the Fiscal Agent and the Borrower.

(d) If the Fiscal Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the Office of the Fiscal Agent for any cause, the Governmental Lender shall promptly appoint a successor Fiscal Agent, with the consent of the Funding Lender. In case all or substantially all of the Pledged Revenues and Security shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee may similarly appoint a successor to fill such vacancy until a new Fiscal Agent shall be so appointed by the Governmental Lender. If, within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, the Governmental Lender has failed to so appoint a successor Fiscal Agent, then a successor Fiscal Agent shall be appointed by the Funding Lender (from any of the institutions approved by the Governmental Lender to serve as a fiscal agent or trustee) with Written Notice thereof delivered to the Governmental Lender, the Borrower, the Servicer, if any, and the retiring Fiscal Agent, and the successor Fiscal Agent so appointed shall, forthwith upon its acceptance of such

appointment, become the successor Fiscal Agent and supersede the successor Fiscal Agent appointed by such receiver or Fiscal Agent. If no successor Fiscal Agent shall have been appointed by the Governmental Lender or the Funding Lender and accepted appointment in the manner hereinafter provided, the Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent.

(e) The retiring Fiscal Agent shall cause Written Notice of each resignation and each removal of the Fiscal Agent and each appointment of a successor Fiscal Agent to be provided to the Funding Lender, the Governmental Lender, the Borrower and the Servicer. Each notice shall include the name of the successor Fiscal Agent and the address of the office of the successor Fiscal Agent.

#### **Section 11.11. Acceptance of Appointment by Successor.**

(a) Every successor Fiscal Agent appointed hereunder shall execute, acknowledge and deliver to the Governmental Lender and to the retiring Fiscal Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Fiscal Agent shall become effective and such successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Fiscal Agent; notwithstanding the foregoing, on request of the Governmental Lender or the successor Fiscal Agent, such retiring Fiscal Agent shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Fiscal Agent upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Fiscal Agent, and shall duly assign, transfer and deliver to such successor Fiscal Agent all property and money held by such retiring Fiscal Agent hereunder. Upon request of any such successor Fiscal Agent, the Governmental Lender shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Fiscal Agent all such estates, properties, rights, powers and trusts.

(b) No successor Fiscal Agent shall accept its appointment unless at the time of such acceptance such successor Fiscal Agent shall be qualified and eligible under this Article and applicable law, to the extent operative.

**Section 11.12. Merger, Conversion, Consolidation or Succession to Business.** Any corporation into which the Fiscal Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Fiscal Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Fiscal Agent, shall be the successor of the Fiscal Agent hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. Notwithstanding the foregoing, any such successor Fiscal Agent shall cause Written Notice of such succession to be delivered to the Governmental Lender, Funding Lender, the Borrower and the Servicer within 30 days of such succession.

**Section 11.13. Appointment of Co-Fiscal Agent.** It is the purpose of this Funding Loan Agreement that there shall be no violation of any laws of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Fiscal Agent in such jurisdiction. It is recognized that in case of litigation under this Funding Loan Agreement, the Borrower Loan Agreement, any other Borrower Loan Document or the Regulatory Agreement, and in particular in case of the enforcement of any of them on default, or in case the Fiscal Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Fiscal Agent or hold title to the properties, in trust, as herein provided, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Fiscal Agent appoint an additional individual or institution as a separate or co fiscal agent. The following provisions of this Section are adopted to these ends.

The Fiscal Agent is hereby authorized to appoint an additional individual or institution as a separate or co fiscal agent hereunder, upon Written Notice to the Governmental Lender, the Funding Lender and the Borrower, and with the consent of the Governmental Lender and the Funding Lender, but without the necessity of further authorization or consent, in which event each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Funding Loan Agreement, any Borrower Loan Document, the Regulatory Agreement or the Borrower Loan Agreement to be exercised by or vested in or conveyed to the Fiscal Agent with respect thereto shall be exercisable by and vest in such separate or co fiscal agent but only to the extent necessary to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co fiscal agent shall run to and be enforceable by either of them.

Should any instrument in writing from the Governmental Lender be required by the separate fiscal agent or co fiscal agent appointed by the Fiscal Agent for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request of the Fiscal Agent, be executed, acknowledged and delivered by the Governmental Lender. In case any separate fiscal agent or co fiscal agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate fiscal agent or co fiscal agent, so far as permitted by law, shall vest in and be exercised by the Fiscal Agent until the appointment of a successor to such separate fiscal agent or co fiscal agent.

**Section 11.14. Loan Servicing.** The Governmental Lender and the Fiscal Agent acknowledge that the Funding Lender shall have the right to appoint a Servicer to service and administer the Funding Loan and the Borrower Loan as set forth in a Servicing Agreement. The Governmental Lender and the Fiscal Agent shall not be responsible for monitoring the performance of any Servicer or for any acts or omissions of such Servicer. The Funding Lender may, in its sole discretion, terminate or replace the Servicer.

**Section 11.15. No Recourse Against Officers or Employees of Fiscal Agent.** No recourse with respect to any claim related to any obligation, duty or agreement contained in this Funding Loan Agreement or any other Funding Loan Document shall be had against any officer or employee, as such, of the Fiscal Agent, it being expressly understood that the obligations, duties and agreements of the Fiscal Agent contained in this Funding Loan Agreement and the other Funding Loan Documents are solely corporate in nature.

**Section 11.16. Instructions by Electronic Means.** The Fiscal Agent shall have the right to accept and act upon instructions, including funds transfer instructions (“*Instructions*”) given pursuant to this Funding Loan Agreement and delivered using Electronic Means (as defined below); *provided, however*, that the Governmental Lender and the Funding Lender (as applicable) shall provide to the Fiscal Agent an incumbency certificate listing officers or employees with the authority to provide such Instructions (“*Authorized Officers*”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Governmental Lender and the Funding Lender (as applicable) whenever a person is to be added or deleted from the listing. If the Governmental Lender or the Funding Lender (as applicable) elects to give the Fiscal Agent Instructions using Electronic Means and the Fiscal Agent in its discretion elects to act upon such Instructions, the Fiscal Agent’s understanding of such Instructions shall be deemed controlling. Each of the Governmental Lender and the Funding Lender understands and agrees that the Fiscal Agent cannot determine the identity of the actual sender of such Instructions and that the Fiscal Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Fiscal Agent have been sent by such Authorized Officer. The Governmental Lender and the Funding Lender (as applicable) shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Fiscal Agent and

that each of the Governmental Lender and the Funding Lender (as applicable) and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Governmental Lender and the Funding Lender (as applicable). The Fiscal Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Fiscal Agent's reasonable reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. Each of the Governmental Lender and the Funding Lender agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Fiscal Agent, including without limitation the risk of the Fiscal Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Fiscal Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Governmental Lender or the Funding Lender (as applicable); (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Fiscal Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

For purposes of this Section 11.16, "Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Fiscal Agent, or another method or system specified by the Fiscal Agent as available for use in connection with its services hereunder.

**Section 11.17. Examination, Inquiry or Related Action by Internal Revenue Service.** The Funding Lender and the Fiscal Agent acknowledge that in the event of an examination, inquiry or related action by the Internal Revenue Service with respect to the Borrower Loan or the Funding Loan or the exclusion of interest thereon from the gross income of the holders thereof for federal income tax purposes, the Governmental Lender may be treated as the responsible party. Each of the Funding Lender and the Fiscal Agent agrees to promptly give the Governmental Lender, the Borrower and Tax Counsel copies of all relevant documents that may be in its possession with respect to the Borrower Loan or the Funding Loan that may be requested in connection with such examination, inquiry or related action and otherwise cooperate, at the Borrower's expense, with the Governmental Lender, the Borrower and Tax Counsel with respect to such examination, inquiry or related action.

## ARTICLE XII

### MISCELLANEOUS

**Section 12.1. Notices.** All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows:

If to the Governmental Lender:

Rhode Island Housing and Mortgage Finance  
Corporation  
44 Washington Street  
Providence, Rhode Island 02903  
Attention: Executive Director  
Facsimile: (401) 457-1137

If to the Fiscal Agent: The Bank of New York Mellon Trust Company, N.A.  
4655 Salisbury Road, Suite 300  
Jacksonville, Florida 32256  
Attention: Corporate Trust  
Email: [caroline.cowart@bnymellon.com](mailto:caroline.cowart@bnymellon.com)  
Telephone: (904) 645-1919

If to Borrower: Braeburn Chatham, LP  
c/o BLVD Capital, LLC  
11911 San Vincente Boulevard #355  
Los Angeles, California 90049  
Attention: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
\_\_\_\_\_ [@blvdcapitalinvestment.com](mailto:@blvdcapitalinvestment.com)

and with a copy to: Cox Castle & Nicholson, LLP  
50 California Street, Suite 3200  
San Francisco, California 94111  
Attention: Ofer Elitzur  
Facsimile: \_\_\_\_\_  
[oeitzer@coxcastle.com](mailto:oeitzer@coxcastle.com)

and with a copy to: BF Santander 2021, Limited Partnership  
c/o Boston Financial Investment Management, LP  
101 Arch Street, 13<sup>th</sup> Floor  
Boston, Massachusetts 02110  
Attention: Asset Management – Braeburn & Chatham

And with a copy to: Holland & Knight LLP  
10 St. James Avenue, 11<sup>th</sup> Floor  
Boston, Massachusetts 02116  
Attention: Kristen M. Cassetta, Esq.

If to the Funding Lender: Citibank, N.A.  
388 Greenwich Street, Trading 6th Floor  
New York, New York 10013  
Attention: Transaction and Asset Management Group  
Deal ID# 60000668  
Facsimile: (212) 723-8209

And to: Citibank, N.A.  
325 East Hillcrest Drive, Suite 160  
Thousand Oaks, California 91360  
Attention: Operations Manager/Asset Manager  
Deal ID# 60000668  
Facsimile: (805) 557-0924

And to: Citibank, N.A.  
388 Greenwich Street, Trading 6th Floor  
New York, New York 10013  
Attention: Account Specialist  
Deal ID# 60000668  
Facsimile: (212) 723-8209

And to: Citibank, N.A.  
c/o Berkadia Commercial Servicing Department  
323 Norristown Road, Suite 300  
Ambler, Pennsylvania 19002  
Attention: Client Relations Manager  
Deal ID# 60000668  
Facsimile: (215) 328-0305

And a copy of any notices of default to: Citibank, N.A.  
388 Greenwich Street, 17<sup>th</sup> Floor  
New York, New York 10013  
Attention: General Counsel's Office  
Deal ID # 60000668  
Facsimile: (646) 291-5754

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; *provided, however*, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day. To the extent permitted by law, any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

**Section 12.2. Term of Funding Loan Agreement.** This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for; except that on and after payment in full of the Governmental Lender Notes, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

**Section 12.3. Successors and Assigns.** All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

**Section 12.4. Payments Due on Non-Business Days.** In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period from and after such date and prior to the date of payment.

**Section 12.5. Governing Law.** This Funding Loan Agreement shall be governed by, construed and shall be enforceable in accordance with the laws of the State without regard to conflicts of law principles.

**Section 12.6. Severability.** If any provision of this Funding Loan Agreement shall be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Notes or in this Funding Loan Agreement shall for any reason be held by a court of competent jurisdiction to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law.

**Section 12.7. Execution in Several Counterparts.** This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

**Section 12.8. Nonrecourse Obligation of the Borrower.** Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's partners or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

**Section 12.9. Electronic Transactions.** The transactions described in this Funding Loan Agreement may be conducted and the related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 12.10. Reference Date.** This Funding Loan Agreement is dated for reference purposes only as of the first day of August, 2021.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Funding Lender, the Fiscal Agent, and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

**CITIBANK, N.A.**

By: \_\_\_\_\_  
Authorized Signatory

**RHODE ISLAND HOUSING AND MORTGAGE  
FINANCE CORPORATION**

By: \_\_\_\_\_  
Name: Kara L. Lachapelle  
Title: Chief Financial Officer

**THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.**

By: \_\_\_\_\_  
Name:  
Title: Vice President

*[Signature Page to Funding Loan Agreement]*

FORM OF GOVERNMENTAL LENDER NOTES

THIS GOVERNMENTAL LENDER NOTE MAY BE OWNED ONLY BY AN APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS GOVERNMENTAL LENDER NOTE (A) REPRESENTS THAT IT IS AN APPROVED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER APPROVED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.

RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION  
MULTI-FAMILY HOUSING REVENUE NOTE  
(BRAEBURN CHATHAM APARTMENTS PROJECT), SERIES 2021[A][B]

\$ \_\_\_\_\_

DATED August \_\_, 2021

FOR VALUE RECEIVED, the undersigned RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION (the "Governmental Lender") promises to pay to the order of CITIBANK, N.A. ("Holder") [such portion of] the maximum principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) [as shall have been advanced for the account of the Funding Lender as reflected by the schedule of principal advances maintained by the Fiscal Agent in accordance with the Funding Loan Agreement (as defined below),] on \_\_\_\_\_, 20\_\_, or earlier as provided herein, together with interest on such sum at the rates, at the times and in the amounts provided below.

Government Lender shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of August 1, 2021 (the "Funding Loan Agreement"), among Governmental Lender, Holder, and The Bank of New York Mellon Trust Company, N.A., as Fiscal Agent, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

Governmental Lender shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Government Lender Note are pass-through obligations relating to a construction and permanent loan (the "Borrower Loan") made by Governmental Lender from proceeds of the Funding Loan to Braeburn Chatham, LP, a California limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of August 1, 2021 (as the same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Governmental Lender and the Borrower, evidenced by the Borrower Notes (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Notes for complete payment and prepayment terms of the Borrower Notes, payments on which are passed-through under this Governmental Lender Note.

THIS GOVERNMENTAL LENDER NOTE IS A LIMITED OBLIGATION OF THE GOVERNMENT LENDER, PAYABLE SOLELY FROM THE PLEDGED REVENUES AND OTHER FUNDS AND MONEYS AND SECURITY PLEDGED AND ASSIGNED UNDER THE FUNDING LOAN AGREEMENT. NONE OF THE GOVERNMENTAL LENDER, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF (EXCEPT THE GOVERNMENTAL LENDER, TO THE LIMITED EXTENT SET FORTH HEREIN) NOR ANY PUBLIC AGENCY SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM (IF ANY) OR INTEREST ON THE FUNDING LOAN OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WITH RESPECT THERETO EXCEPT AS SET FORTH HEREIN AND IN THE FUNDING LOAN AGREEMENT, AND NONE OF THE FUNDING LOAN OR THIS GOVERNMENTAL LENDER NOTE OR ANY OF THE GOVERNMENTAL LENDER'S AGREEMENTS OR OBLIGATIONS WITH RESPECT TO THE FUNDING LOAN OR THIS GOVERNMENTAL LENDER NOTE SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF OR A PLEDGE OF THE FAITH AND CREDIT OF OR A LOAN OF THE CREDIT OF OR A MORAL OBLIGATION OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE GOVERNMENTAL LENDER HAS NO TAXING POWER.

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Governmental Lender shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Governmental Lender is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Governmental Lender shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Governmental Lender to pay the entire sum then due, and Governmental Lender's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Governmental Lender which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

No recourse shall be had for the payment of the principal or prepayment price of or interest on this Governmental Lender Note or for any claim based on this Governmental Lender Note against any officer or employee of Governmental Lender or any person executing the Governmental Lender Note.

IN WITNESS WHEREOF, RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION has caused this Governmental Lender Note to be executed in its name by the manual or facsimile signature of its Chief Financial Officer and its corporate seal (or facsimile thereof) to be affixed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of an Authorized Governmental Lender Representative.

**RHODE ISLAND HOUSING MORTGAGE  
AND FINANCE CORPORATION**

(SEAL)

By \_\_\_\_\_  
Name: Kara L Lachapelle  
Title: Director of Finance

ATTEST:

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

FISCAL AGENT'S CERTIFICATE OF AUTHENTICATION

This Governmental Lender Note is the Governmental Lender Note described in the within mentioned Funding Loan Agreement.

Date of Authentication: August \_\_, 2021

THE BANK OF NEW YORK TRUST  
COMPANY, N.A.,  
as Fiscal Agent

By: \_\_\_\_\_  
Authorized Officer

[FORM OF REQUIRED TRANSFEREE REPRESENTATIONS]

[Date of Purchase]

Rhode Island Housing and Mortgage  
Finance Corporation  
44 Washington Street  
Providence, Rhode Island 02903

Re: Rhode Island Housing and Mortgage Finance Corporation  
Multi-Family Housing Revenue Notes (Braeburn Chatham Apartments Project), [Series  
2021A] [and] [Series 2021B]

The undersigned, as holder (the “Holder”) of a loan (the “Funding Loan”) in the maximum amount of \$\_\_\_\_\_ from CITIBANK, N.A. (“Funding Lender”) to RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION (“Governmental Lender”) pursuant to a Funding Loan Agreement dated as of August 1, 2021 (the “Funding Loan Agreement”) among the Funding Lender, the BANK OF NEW YORK TRUST COMPANY, N.A. (the “Fiscal Agent”) and the Governmental Lender (the “Funding Loan”) evidenced by the above-referenced notes (the “Governmental Lender Notes”), or an interest therein, hereby represents that:

1. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project to be able to evaluate the risk and merits of the investment represented by the Funding Loan. We are able to bear the economic risks of such investment.

2. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Funding Loan and the Funding Loan and the security therefor so that, as a reasonable investor, the Holder has been able to make its decision to [extend/purchase] the Funding Loan [or an interest therein]. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder’s purchase of the Funding Loan [or an interest therein].

3. The Holder is an Approved Transferee.

4. The Holder acknowledges that it is purchasing [an interest in] the Funding Loan for investment for its own account and not with a present view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of all or any part of its interests in the Funding Loan; *provided, however*, that the Holder may sell or transfer the Governmental Lender Notes and the Funding Loan as provided in Section 2.4 of the Funding Loan Agreement.

5. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Funding Loan will disclose information with respect to the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and Borrower Loan and related documents, the Holder will provide the

Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

6. The Holder understands that the Funding Loan is a limited obligation of the Governmental Lender; payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Funding Loan are expressly limited as set forth in the Funding Loan Agreement and related documents.

7. The Holder agrees to indemnify and hold harmless the Fiscal Agent and the Governmental Lender, each member, officer, director, partner or employee of the Fiscal Agent or the Governmental Lender, and each person who controls the Fiscal Agent or the Governmental Lender within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (collectively called the “Indemnified Parties”), against any and all losses, claims, damages, liabilities or expenses (including any legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions) whatsoever arising out of any sale, transfer or other disposition of the Funding Loan, or any interest therein, by Holder in violation of the provisions hereof. No Indemnified Parties other than the Governmental Lender and its members, officers and employees shall be indemnified hereunder for any losses, claims, damages or liabilities resulting from the negligence of such Indemnified Parties. No Indemnified Party shall be indemnified hereunder for any losses, claims, damages or liabilities resulting from the willful misconduct of such parties.

8. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

[Remainder of page intentionally left blank.]

[ ], as Holder

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

Name:

Its:

[Signature Page to Required Transferee Representations]

FORM OF WRITTEN REQUISITION  
(Project Fund)

Draw # \_\_\_\_\_

The Bank of New York Mellon  
Trust Company, N.A.,  
Corporate Trust Department  
4655 Salisbury Road, Suite 300  
Jacksonville, Florida 32256

Re: Rhode Island Housing and Mortgage Finance Corporation  
Multi-Family Housing Revenue Notes (Braeburn Chatham Apartments Project), [Series  
2021A] [and] [Series 2021B]

This Requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of August 1, 2021 (the "Funding Loan Agreement") among Citibank, N.A. (the "Funding Lender"), Rhode Island Housing and Mortgage Finance Corporation (the "Governmental Lender") and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the "Fiscal Agent") pursuant to which the above-referenced notes (the "Governmental Lender Notes") were issued. Capitalized terms not defined herein shall have the meanings assigned thereto in the Funding Loan Agreement.

1. You are requested to disburse funds in the amount of \$ \_\_\_\_\_ from the [Note Proceeds][Equity] Account of the Project Fund as Draw # \_\_\_\_\_ pursuant to Section 7.7 of the Funding Loan Agreement in the amount(s) and to the person(s) as follows:

[Insert grid (see below) summarizing all funds, including amount, source and payee, which are being requisitioned from the Fiscal Agent pursuant to this requisition.]

<u>Amount</u>	<u>Funding Source</u>	<u>Payable To</u>

2. The undersigned certifies that:

(i) the obligation stated on this Requisition has been incurred in or about the acquisition, construction or equipping of the Project, each item is a proper charge against the Project Fund, and the obligation has not been the basis for a prior requisition that has been paid;

(ii) this Requisition contains no items representing any Closing Costs or any other amount constituting an issuance cost under Section 147(g) of the Code and payment of the costs referenced herein will not violate any representation, warranty or covenant of the Borrower in the Borrower Loan Agreement, the Regulatory Agreement or the Tax Certificate;

(iii) not less than 95% of the sum of: (a) the amounts requisitioned by this Requisition to be funded from the Note Proceeds Account of the Project Fund plus (b) all amounts previously disbursed from the Note Proceeds Account of the Project Fund have been or will be applied by the Borrower to pay Qualified Project Costs;

(iv) the Borrower acknowledges that fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a "related person" (within the meaning of Section 144(a)(3) of the Code) are not deemed to be Qualified Project Costs;

(v) as of the date hereof, no event or condition has happened or is happening or exists that constitutes, or that with notice or lapse of time or both, would constitute, an Event of Default under the Funding Loan Agreement or under the Borrower Loan Agreement; and

(vii) accompanying this Requisition is a fully completed Funding Certificate in the form annexed as Exhibit C to the Construction Funding Agreement with respect to the funding described herein.

3. You hereby authorize Funding Lender to use the wire instructions contained in Exhibit [ ] of the Funding Loan Agreement to wire the funds to, and Funding Lender may continue to rely on these instructions until it shall have received any written notice of modification or revocation from you.

Dated: [Date Submitted to Funding Lender and Governmental Lender]

**BRAEBURN CHATHAM, LP,**  
a California limited partnership, as Borrower

By: Braeburn Chatham GP, LLC,  
a California limited liability company,  
Its General Partner

By: BLVD Capital LLC,,  
a Delaware limited liability company,  
its Manager

By: \_\_\_\_\_  
Name:  
Title:

Approved by Funding Lender.

**CITIBANK, N.A.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved by Governmental Lender.

**RHODE ISLAND HOUSING AND MORTGAGE  
FINANCE CORPORATION**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM OF CLOSING COSTS REQUISITION**

The Bank of New York Mellon  
Trust Company, N.A.,  
Corporate Trust Department  
One Financial Plaza, Suite 2200  
Providence, Rhode Island 02903

Re: Rhode Island Housing and Mortgage Finance Corporation  
Multi-Family Housing Revenue Notes (Braeburn Chatham Apartments Project), [Series  
2021A] and [Series 2021B]

The undersigned, an Authorized Representative of Braeburn Chatham, LP (the “Borrower”), hereby certifies to you that he/she is authorized and empowered to submit this requisition to you and that attached hereto as Schedule “A” is a schedule of issuance costs incurred in connection with the closing of the funding loan evidenced by the above described Governmental Lender Notes (the “Governmental Lender Notes”), including the names and addresses of the payees and the specific amounts payable to each such payee, and that to the best of the undersigned’s information and belief, such amounts are true and correct.

This requisition is being delivered to you in accordance with the Funding Loan Agreement dated as of August 1, 2021 (the “Funding Loan Agreement”) among Citibank, N.A. (the “Funding Lender”), Rhode Island Housing and Mortgage Finance Corporation (the “Governmental Lender”) and The Bank of New York Mellon Trust Company, N.A., as Fiscal Agent pursuant to which the Governmental Lender Notes were issued and delivered. You are hereby instructed to withdraw from the Closing Costs Fund created under the Funding Loan Agreement the amounts shown across from each payee listed on Schedule “A” hereto and pay such amounts to each such payee by wire transfer or by such other means as is acceptable to you and any such payee.

Very truly yours,

**BRAEBURN CHATHAM, LP,**  
a California limited partnership, as Borrower

By: Braeburn Chatham GP, LLC,  
a California limited liability company,  
Its General Partner

By: BLVD Capital LLC,,  
a Delaware limited liability company,  
its Manager

By: \_\_\_\_\_  
Name:  
Title:

Approved by Funding Lender.

**CITIBANK, N.A.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved by Governmental Lender.

**RHODE ISLAND HOUSING AND MORTGAGE  
FINANCE CORPORATION**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE "A"**

Notes: \$ \_\_\_\_\_ Rhode Island Housing and Mortgage Finance Corporation  
Multi-Family Revenue Notes (Braeburn Chatham Apartments Project),  
[Series 2021A] [and] [Series 2021B]

Payee:

Amount:

Method of Payment:

Description of Expense:

**EXHIBIT E**

**FISCAL AGENT WIRING INSTRUCTIONS**

Bank Name: \_\_\_\_\_  
Bank City and State: \_\_\_\_\_  
ABA Number: \_\_\_\_\_  
Account Name: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
For Further Credit Account Name (if applicable): \_\_\_\_\_  
For Further Credit Account # (if applicable): \_\_\_\_\_  
Reference: \_\_\_\_\_