CDBG PIGGYBACK PROGRAM
GAP FINANCING LOAN AGREEMENT

THIS GAP FINANCING LOAN AGREEMENT (this **"Agreement"**) is entered into on the _____ day of _____, 200___ (the **"Effective Date"**) by and between the **STATE OF LOUISIANA, DIVISION OF ADMINISTRATION, OFFICE OF COMMUNITY DEVELOPMENT,** its successors and assigns **("OCD")**, whose address is _____, Baton Rouge, Louisiana _____; and _____, a _____, (the "**Borrower"**), whose address is _____, _____, Louisiana _____.

PRELIMINARY RECITALS:

A. WHEREAS, OCD is providing funds from the United States of America, HUD Community Development Block Grant (**"CDBG"**) Program to qualified borrowers, in accordance with the CDBG Piggyback Program (the **"Program"**) under the Louisiana Recovery Authority (**"LRA"**) Action Plan known as "***The Road Home",*** to provide needed residential rental property assistance for qualified projects to remedy the loss of such residential rental property due to the damage caused by Hurricane Katrina and/or Hurricane Rita; and

B. WHEREAS, Louisiana Housing Finance Authority **("LHFA")** adopted that certain Qualified Allocation Plan on September 16, 2006, **(**the **"QAP"),** and OCD and LRA adopted that certain CDBG Piggyback Program description on September 28, 2006 **(**the **"Piggyback Program Description"),** allowing CDBG funds to be used for Gap Financing Loans, and project based rental assistance (**"PBRA"**) as described in the QAP and the Piggyback Program Description; and

C. WHEREAS, Borrower has submitted an application to LHFA, including, but not limited to, the completed printed application, any written responses to any deficiency letter issued by LHFA or OCD, and any written attachments, addenda, and amendments pertaining thereto (collectively, the **"Application")** to utilize CDBG funds for the development, rehabilitation, replacement, restoration, construction and/or operation of a multifamily residential rental project (the **"Project"**) located on certain immovable property more fully described on **Exhibit A-Property Description** attached hereto (the "**Land"**); and

D. WHEREAS, based on the Application, Borrower has been awarded a Gap Financing Loan by OCD as set forth in this Agreement (the **"Gap Financing Loan"**), the proceeds of which shall be used for the Project, as set forth in the Award Acceptance Agreement between the Borrower and OCD, dated _____, 200_ (the **"Award Agreement"**); and

E. WHEREAS, in order to secure the Gap Financing Loan awarded to the Borrower, the parties have entered into a certain Mortgage, Assignment of Leases and Rents and Security Agreement (the **"Mortgage")** securing the collateral described therein (the **"Mortgaged Property"**); and

F. WHEREAS, the parties desire to enter into this Agreement in order to: (i) evidence the terms and conditions of the Gap Financing Loan, and the security therefore; and (ii) ensure compliance by Borrower with the CDBG Program requirements, the QAP requirements, and the Piggyback Program Description requirements; and (iii) govern the disbursement of the Gap Financing Loan and the use of such funds by the Borrower.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, OCD and Borrower agree as follows:

SECTION 1
LOAN AMOUNT AND USE OF FUNDS

1.1 Recitals and Defined Terms. The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement. Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Mortgage, QAP, the Piggyback Program Description, or the Application, as applicable. Notwithstanding any definition to the contrary contained herein, the following additional terms shall have the following meanings:

(a) Affiliate: any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which has a Controlling Interest in, the Borrower.

(b) Award Agreement: the agreement between OCD and the Borrower rendering the terms and conditions of the Gap Financing Loan and/or PBRA Contract.

(c) Business Day: Any day other than a Saturday, Sunday or any other day on which Lender is not open for business.

(d) CDBG Regulatory Agreement: a regulatory agreement provided in favor of OCD that shall: (i) run with the land; (ii) have a term of thirty-five (35) years from the date of execution; (iii) survive (A) the expiration of any PBRA Contract, and (B) the repayment of any Gap Financing Loan; and (iv) contain the applicable terms, conditions, restrictions and regulations agreed to in the Application, and as required by the Piggyback Program Description.

(e) "Controlled by", **"under common control with"**, or **"controlling interest**": (i) the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of a company (or other entity) and includes the definition of "control" in 24 CFR 401.310(a)(2); or (ii) the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company; or (iii) the ability to direct in any manner the election of a majority of a company (or other entity's) directors, trustees or members; or (iv) the ability to exercise a controlling influence over the company or entity's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership, and a managing member of a limited liability company is presumed to be in control of that limited liability company.

(f) Debt Service Amounts: amounts payable under this Agreement, the Note, the Mortgage or any other Loan Document.

(g) Default Rate: a rate equal to the lesser of four (4) percentage points above the Interest Rate or the maximum interest rate which may be collected from Borrower under applicable law.

(h) Disbursement Date: the date of each disbursement of Loan proceeds hereunder.

(i) Gap Financing Loan: any loan to Borrower by OCD pursuant to the Award Agreement.

(j) Identity of Interest: an identity of interest relationship exists if any officer, director, board member, or authorized agent of any project team member (consultant, general contractor, supplier, vendor, vendee, attorney, management agent, seller of the land, etc.):

(i) is also an officer, director, board member or authorized agent of any other project team member;

(ii) has any control over or any financial interest in any other project team member's firm or corporation;

(iii) is a business partner of an officer, director, board member, or authorized agent of any other project team member;

(iv) has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any project team member; or

(v) advances any funds or items of value to the Borrower.

(k) Indebtedness: The principal of, interest on, or any other amounts due at any time under the Note, this Agreement, the Mortgage or any other Loan Document, including prepayment premiums, late charges, default interest, and advances to protect the security of the Mortgage under the terms of the Mortgage, reasonable attorney's fees and court costs, and other fees and costs due and payable under the Loan Documents.

(l) Key Principal: a person or entity acceptable to OCD, which may include the general partner of Borrower's limited partnership or the managing member of Borrower's limited liability company, or other Affiliate of Borrower, which has an economic interest in Borrower, or which will otherwise obtain a material financial benefit from the Gap Financing Loan and/or the PBRA Contract.

(m) Lender: the holder of the Note, including without limitation, OCD.

(n) Loan Documents: the Note; this Agreement; the Mortgage; UCC-Financing Statements covering the fixtures and personal property located at the Project; the Regulatory Agreements; the Operating Deficit Guaranty; the Completion Guaranty; the PBRA Contract, if applicable; and such other documents, agreements, instruments or certificates as OCD and its counsel may require, including such documents as OCD in its sole discretion deems necessary or appropriate to evidence or secure the Indebtedness.

(o) Mortgage: the Mortgage, Assignment of Leases and Rents, and Security Agreement, which shall (a) constitute a _____ [insert first or second] lien upon the Project, and (b) constitute a _____ [insert first or second] lien upon and security interest in all fixtures and personal property relating to or located in the Project, and (c) secures Borrower's obligations to OCD under the Loan Documents.

(p) Note: the Gap Financing Note by Borrower payable to OCD evidencing the Loan.

(q) Permanent Loan: any loan obtained by Borrower for the Project, and secured by a mortgage on the Project, other than a construction loan.

(r) Permanent Loan Mortgage: any mortgage, assignment of leases and rents and security agreement securing payment of a Permanent Loan, the lien of which on the Project is senior to the lien of the Mortgage.

(s) Property Jurisdiction: the jurisdiction in which the Project is located.

(t) Regulatory Agreements: the Tax Credit Regulatory Agreement and the CDBG Regulatory Agreement.

(u) State: the State of Louisiana.

(v) Tax Credit Regulatory Agreement: the regulatory agreement provided in favor of LHFA in connection with the issuance of the GO Zone Credits for the Project.

1.2 Gap Financing Loan. Under the terms and conditions of this Agreement, OCD agrees to make the Gap Financing Loan to Borrower, on the following terms and conditions:

(a) Principal Amount. The principal amount of the Gap Financing Loan is _____ and 00/100 ($_____.00) Dollars, bearing interest at the rate of _____%, computed on the basis of a 360-day year, consisting of twelve 30-day months, to be repaid in annual installments solely from Surplus Cash, to the extent Surplus Cash is generated from the operation of the Project, as follows:

(i) **Until the Borrower has received Surplus Cash in an amount equal to the Deferred Developer Fee**: the sum of $_____ (the "**Fixed Amount**"), plus one-third (1/3) of the first $1,000 per unit of Surplus Cash generated from the operation of the Project in excess of the Fixed Amount**;**

(ii) **After the Borrower has received Surplus Cash in an amount equal to the Deferred Developer Fee:** the sum of (A) the Fixed Amount; plus (B) one-third (1/3) of the first $1,000 per unit of Surplus Cash generated from the operation of the Project in excess of the Fixed Amount; plus (C) two-thirds (2/3) of Surplus Cash in excess of the sum of (A) and (B).

For the purposes of this Agreement, "**Deferred Developer Fee"** is the lesser of (1) the amount of the deferred developer fee listed in the Application; or (2) the amount of the actual deferred developer fee for the Project, excluding interest paid on the Deferred Developer Fee. "**Surplus Cash"** means any cash (excluding tenant security deposits) remaining at the end of each fiscal year of the Borrower after: (A) payment of all operating expenses for the Project for such fiscal year; (B) payment of all sums due or currently required to be paid under the terms of any Permanent Loan Mortgage encumbering the Project and the promissory note secured by such Permanent Loan Mortgage; and (C) payment of all amounts required to be deposited into any reserve fund for the payment of operating expenses, any reserve for replacements to the Project, or any other special reserve funds required to be maintained by the Project under the Permanent Loan Mortgage or the Loan Documents. OCD's right to be paid from Surplus Cash shall terminate at such time as the principal and interest amounts due on the Note are paid in full. Notwithstanding the requirement of repayment from Surplus Cash, the Gap Financing Loan shall not be construed as a joint venture, partnership or other association between Borrower and OCD, other than a debtor/creditor relationship.

(b) Maturity. The Gap Financing Loan shall mature on the earliest to occur of (i) sale or refinancing of the Project; (ii) acceleration following an Event of Default under the Loan Documents that is not cured within any applicable grace or cure period; or (iii) _____ (the "**Maturity Date**").

(c) Security. Payment of the Gap Financing Loan shall be secured by the Mortgaged Property described in the Mortgage and shall be evidenced by the Loan Documents.

(d) Gap Financing Note. The Gap Financing Loan shall be evidenced by the Note, in substantially the form of the promissory note attached hereto as **Exhibit B-1-Gap Financing Note**.

(e) Negative Surplus Cash. If Surplus Cash is negative in any year during the Term of the Gap Financing Loan, no annual payment shall be due for that year, but interest shall continue to accrue on the principal balance of the Note.

(f) Cost Certification. Borrower acknowledges and agrees that the principal amounts of the Indebtedness were calculated based upon estimated costs for the development, restoration, replacement, rehabilitation, and/or construction of the Project provided by the Borrower. Borrower agrees to provide OCD with a cost certification audit acceptable to OCD (the **"Cost Certification Audit"**), prepared by an independent third party consulting or accounting firm acceptable to OCD, certifying the actual costs incurred and paid by Borrower in the development, restoration, rehabilitation, replacement and/or construction of the Project, and including such other information as OCD may require, within thirty (30) days of submitting a Cost Certification Audit to LHFA. Borrower agrees to cooperate with OCD and to provide any documentation deemed necessary by OCD for a complete audit. OCD agrees that any accounting firm providing the Low Income Housing Tax Credit Cost Certification acceptable to LHFA is an acceptable accounting firm under this Section 1.2(f).

(g) Reduction of Gap Financing Loan. Notwithstanding anything to the contrary contained herein or in the Award Agreement, OCD may reduce the principal amounts of the Indebtedness in the event the Cost Certification Audit or the final subsidy layering analysis of the Project completed by OCD discloses that the actual costs incurred by Borrower in the development, restoration, replacement, rehabilitation, and/or construction of the Project were less than the estimated costs for the development, restoration, replacements, rehabilitation, and/or construction of the Project upon which the calculation of the principal amount of the Indebtedness as set forth in the Award Agreement were based. The principal amounts of the Gap Financing Loan may be reduced based on the actual Project costs incurred by Borrower, the amount of GO Zone Tax Credits awarded to the Project, and the final amount, terms and conditions of the Borrower's Permanent Loan, if any. If the amount of Gap Financing Loan proceeds advanced to Borrower prior to completion of the Cost Certification Audit and final subsidy layering analysis, exceeds the principal amount of the Gap Financing Loan supported by the Cost Certification Audit and final subsidy layering analysis **("Excess Proceeds"),** OCD may reduce the amount of the final disbursement, and Borrower shall pay OCD the amount of any remaining Excess Proceeds in one lump sum payment within thirty (30) days of receiving written notice from OCD that the Excess Proceeds are due and payable.

(h) Restrictions On Identity-of-Interest Relationships. In order to protect OCD's interest in future Surplus Cash, the Borrower must notify OCD in writing prior to contracting with any Identity of Interest entity, and the Borrower must include in its audited annual financial statements a disclosure of all amounts paid to Identity of Interest entities. In addition, OCD will have the right, in its sole and absolute discretion, during the term hereof, to require the cancellation of any contract between the Borrower and any Identity of Interest entity, and all Identity of Interest contracts must permit such cancellation. If OCD approves any existing contract that does not provide for subsequent cancellation, Borrower agrees, upon

OCD's request, to cause the contract to be modified to provide for cancellation. All current contracts with Identity of Interest entities are identified on **Schedule 1.2(h)**, attached hereto.

1.3 Loan Documents. The Indebtedness shall be evidenced and secured by the following documents, collectively referred to herein as the **"Loan Documents"**:

(a) The Note;

(b) This Agreement;

(c) The Mortgage, in substantially the form of the mortgage attached hereto as **Exhibit B-2-Mortgage**;

(d) UCC-Financing Statements covering the fixtures and personal property located at the Project;

(e) The Regulatory Agreements;

(f) The Operating Deficit Guaranty;

(g) The Completion Guaranty;

(h) The PBRA Contract, if applicable;

(i) Such other documents, agreements, instruments or certificates as OCD and its counsel may require, including such documents as OCD in its sole discretion deems necessary or appropriate to effectuate the terms and conditions of the Award Agreement, and to comply with the requirements of the QAP, the Piggyback Program Description, and the laws of the State.

Any of the Loan Documents may be recorded at the option of OCD in the appropriate office for recordation in the parish in which the Project is located.

1.4 Nonrecourse Loan.

(a) Notwithstanding anything to the contrary contained in the Loan Documents, except as set forth in this Section 1.4, Borrower shall have no personal liability under the Loan Documents for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Loan Documents, and OCD's only recourse for the satisfaction of the Indebtedness, and the performance of such obligations shall be to exercise its rights and remedies with respect to the Mortgaged Property and any other collateral held by OCD as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair OCD's enforcement of its rights against any Key Principal guaranteeing any indebtedness or obligations of Borrower.

(b) Borrower shall become personally liable to OCD for the repayment of any portion of the Indebtedness equal to any loss or damage suffered by OCD as a result of:

(i) failure of Borrower to pay to OCD upon demand after an Event of Default, all rents, revenues and profits from the operation of the Project to which OCD is entitled under the Mortgage, and the amount of all security deposits collected by Borrower from tenants then in residence;

(ii) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Mortgage;

(iii) failure of Borrower to comply with the requirements in the Mortgage relating to the delivery of books and records, statements, schedules and reports;

(iv) fraud or any written material misrepresentation by Borrower or any officer, agent, director, partner, member or employee of Borrower in connection with the Application, the Loan Documents, or any request by OCD;

(v) failure to apply rents, revenues and profits, first, to the payment of reasonable operating expenses (other than Property management fees that are not currently payable) and then to Debt Service Amounts due, except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of a Permanent Loan Mortgage encumbering the Project, or bankruptcy, receivership or similar judicial proceedings, or (ii) with respect to Surplus Cash distributed in any calendar year if Borrower has paid all operating expenses and Debt Service Amounts due for that calendar year; or

(vi) failure of Borrower to pay all deductibles required under any of the insurance policies required to be maintained under Section 6.3 of this Agreement.

(c) Borrower shall become personally liable to OCD for the repayment of all of the Indebtedness due upon the occurrence of any of the following Events of Default:

(i) Borrower's acquisition of any property or operation of any business not permitted by the Mortgage; or

(ii) a Transfer that is an Event of Default under the Mortgage.

(d) To the extent that Borrower has personal liability under this Section 1.4, OCD may exercise its rights against Borrower personally without regard to whether OCD has exercised any rights against the Mortaged Property or any other security, or pursued any rights against any Key Principal, or pursued any other rights available to OCD under the Loan Documents or applicable law.

(e) Notwithstanding the foregoing provisions, one or more Key Principals shall be personally liable to OCD upon the occurrence of an Event of Default by Borrower, and shall agree to pay to OCD, or its assigns, on demand, all amounts for which Borrower is personally liable under the Loan Documents, including without limitation Section 1.4(b) and (c). The obligations of each Key Principal shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Mortgage. OCD may pursue its remedies against any Key Principal without first exhausting its remedies against the Borrower or the Project.

1.5 Expenditure of Funds. Proceeds from the Gap Financing Loan are to be used solely to support the development, rehabilitation, replacement, restoration, construction and/or operation of the Project as set forth in the Application, and as required by the QAP, the Piggyback Program Description and the Loan Documents. Borrower shall use the proceeds of the Gap Financing Loan only for the payment of eligible expenses permitted under the CDBG regulations as set forth in 24 CFR Part 570. Borrower shall not use any proceeds from the Gap Financing Loan for prohibited activities as set forth in 24 CFR Section 570.207. Borrower acknowledges that OCD must comply with the provisions of 24 CFR

Part 85 as modified by 24 CFR Section 510.502, and OMB Circular A-87, which allow only costs that are necessary, reasonable, and adequately supported to be charged to the Program. Thus, Borrower acknowledges and agrees that any funds not used in accordance with this standard or applicable CDBG regulations must be repaid to OCD by Borrower upon written demand.

1.6 Due on Sale or Transfer Restrictions.

(a) Subject to the terms of this Section 1.6, 100% of the Indebtedness, including without limitation, payment of all principal and accrued and unpaid interest, is due upon sale or refinancing of the Project, absent OCD's written waiver. OCD may, in its sole discretion, accept less than 100% of the amounts then due, but such waiver will not constitute forgiveness of any Indebtedness.

(b) Notwithstanding the foregoing to the contrary, in the case of a transfer of the Project, The Owner hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof, without obtaining the prior written consent of OCD, which consent shall be in OCD's sole discretion. OCD may, in its sole discretion, allow the transferee to assume the remaining Indebtedness.

(c) Notwithstanding the foregoing to the contrary,

(i) the pledge to a limited partner by a general partner of the general partner's interest in a partnership agreement as security for the performance of all of the general partner's obligations under the partnership agreement shall not constitute a refinancing for purposes of this Agreement or the Loan Documents;

(ii) a sale, transfer, pledge, encumbrance or other disposition of any investor limited partner/investor member interests in Borrower shall not require OCD's consent nor constitute a sale of the Project for the purposes of this Section 1.6, unless such transaction results in a sale of more than 51% of the investor limited partner/investor member interests in Borrower; and

(iii) the change in the general partner/managing member of Borrower as general partner/managing member of Borrower in accordance with the terms of the limited partnership agreement/operating agreement of Borrower shall not require OCD consent nor constitute a sale of the Project for the purposes of this Section 1.6;

provided, however that (A) Borrower shall provide OCD with notice of any such change; and (B) any entity replacing the general partner/managing member of the Borrower is under direct or indirect common control or management, or has a Controlling Interest in, the investor limited partner/investor member.

1.7 Operating Deficit Guaranty. Borrower and a Key Principal acceptable to OCD will be required to guarantee annual operating deficits until the Project has generated positive Surplus Cash for two (2) consecutive fiscal years. Provided, however, if a Key Principal is an organization exempt from payment of federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended (**"Code"**), as an entity organized under Section 501(c)(3) of the Code, the Key Principal's obligations under any Operating Deficit Guaranty shall (i) not extend more than five (5) years from the date that the Project first achieves "break-even operations", and (ii) be capped at an amount equal to "six (6) months" of operating expenses. For purposes of this section, "break-even operations" mean the date upon which (i) the Project achieves 95 percent occupancy, and (ii) the revenues received from the normal operation of the Project equal all accumulated operational costs of the Project for a period of three (3) consecutive months after completion of construction computed on a cash basis and in

accordance with the Project and Loan Documents. The Operation Deficit Guaranty shall become effective on the first day of the first full fiscal year for the Borrower following completion of construction of the Project. Annual operating deficits shall be funded by the Key Principals under the Operating Deficit Guaranty on or before the date on which annual audited financial statements for the Project are due to OCD under Section 8.9 of this Agreement. The form of the Operating Deficit Guaranty is attached hereto as **Exhibit B-3-Operating Deficit Guaranty.**

1.8 Completion Guaranty. Borrower and Key Principal acceptable to OCD have agreed or will agree to be bound by that guarantee of completion of the Project under the terms and conditions contained in the executed Completion Guaranty dated as of _____, and attached hereto as **Exhibit B-4-Completion Guaranty**.

1.9 Regulatory Agreements.

(a) Tax Credit Regulatory Agreement. Borrower shall be required to comply with the terms and conditions of the Tax Credit Regulatory Agreement for the duration of its term. OCD will be considered a third party beneficiary of the Tax Credit Regulatory Agreement and shall be entitled to enforce its terms against the Borrower to the fullest extent as if a party thereto.

(b) CDBG Regulatory Agreement. As a condition to disbursement of proceeds under the Gap Financing Loan and any PBRA Contract, Borrower will be required to execute and deliver to OCD the CDBG Regulatory Agreement attached hereto as **Exhibit C - CDBG Regulatory Agreement**. The CDGB Regulatory Agreement shall be recorded in the real estate records in the Parish where the Project is located, and shall be subordinate only to those liens and encumbrances agreed to by OCD, in its sole discretion.

1.10 Term. The term of this Agreement shall commence upon the Effective Date and terminate upon payment in full of the Indebtedness according to the terms set forth above.

SECTION 2
CLOSING AND CONDITIONS TO DISBURSEMENT

2.1 Closing. As used herein, **"Closing"** shall mean that day on which all of the Loan Documents are executed and delivered by Borrower, and all of the conditions to funding the Gap Financing Loan have been satisfied, and the Mortgage is filed for record with the appropriate clerk and recorder of the parish where the Project is located.

2.2 Disbursement of Funds. The proceeds of the Gap Financing Loan shall be disbursed at the direction of OCD, in one single disbursement to Borrower, or in an amount or amounts disbursed on Borrower's behalf, upon occurrence and satisfaction of all of the following conditions; provided, however, subject to the provisions contained in Section 4 of this Agreement, OCD may withhold from disbursement any amounts required to fund any reserve required by the terms of the Loan Documents:

(a) Execution and delivery of all of the Loan Documents to OCD (including a Gap Financing Loan disbursement statement), in the form provided for in this Agreement, or in form and substance otherwise acceptable to OCD.

(b) Lien-free completion of the Project (as evidenced by final lien waivers from the general contractor and all major subcontractors, and expiration of the lien periods provided by applicable Louisiana law, with no liens being filed against the Project).

(c) Receipt by OCD of (i) certificates of occupancy for each building in the Project, or its equivalent from the applicable governmental authorities for the State or the Parish in which the Project is located; and (ii) a certificate from the Borrower's architect or engineering firm that the Project has been completed in substantial compliance with the plans and specifications for the Project, and with the Architectural Barriers Act of 1968 (42 U.S.C. §§4151-4157); the Uniform Federal Accessibility Standards, as set forth in 24 CFR Section 570.614; the Americans with Disabilities Act of 1990; for existing properties build prior to 1978, the Lead-Based Paint Poisoning Protection Act (42 U.S.C. §4831(b)) and the Residential Lead based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856) and implementing regulations at 24 CFR Part 35; and Section 504 of the Rehabilitation Act of 1973; and (iii) an acceptable environmental assessment of the Project that complies with the CDBG regulations and requirements.

(d) Receipt by OCD of Borrower's tax identification number, and evidence that Borrower has been awarded GO Zone Tax Credits for the Project from the LHFA in the amount requested in the Application.

(e) Receipt by OCD of an "as-built" ALTA survey of the Project certified to OCD, and a mortgagee's policy of title insurance from a title insurance company or agent acceptable to OCD, insuring OCD's Mortgage lien on the Project and the subordination of any Permanent Loan Mortgage to the terms and conditions of the CDBG Regulatory Agreement, with the standard "preprinted" exceptions deleted, and containing only those exceptions acceptable to OCD, in its sole discretion.

(f) Satisfaction and compliance with all of the terms, covenants and conditions contained in the Award Agreement, the Application, the QAP, and the Piggyback Program Description.

(g) Compliance with all laws, rules, regulations, ordinances and codes applicable to the Project, including without limitation CDBG regulations, to the extent not waived in writing, applicable to the Project.

(h) All of Borrower's representations, warranties and covenants contained in the Application and the Loan Documents shall be true and correct in all material respects as of the Disbursement Date, and Borrower shall have performed all of its obligations under the Award Agreement, and no Event of Default, or circumstance or event which with notice or the passage of time, or both would constitute an Event of Default under the Loan Documents shall exist as of the Disbursement Date.

(i) OCD shall have received an opinion of Borrower's counsel. OCD shall have received certified copies of Borrower's organizational documents, good standing certificates from the Secretary of State for the State of Louisiana, for Borrower's and Borrower's managing entities, and such resolutions, certificates, and consents as OCD deems necessary or proper to authorize the execution and delivery by Borrower of the Loan Documents.

(j) OCD shall have received federal and state tax lien, judgment, UCC and pending litigation searches for Borrower, and such other parties as OCD shall require for each state and parish (or county) in which such entity was formed, as well as the State and the parish in which the Project is located, in each case, dated not more than sixty (60) days prior to the Closing.

(k) OCD shall have approved the Cost Certification Audit from Borrower and shall have completed the final subsidy layering review of the Project costs.

SECTION 3
FINANCING GAP LOAN COMPLIANCE REQUIREMENTS

3.1 Applicable Laws. Borrower agrees to abide by any and all federal, state, parish and municipal laws, codes, ordinances, rules and regulations applicable to the Project, whether presently existing or hereafter promulgated, including without limitation environmental laws, building codes, land use, and zoning codes. Borrower agrees to comply with all Program requirements, HUD regulations and the provisions of 24 CFR Part 570, as amended from time to time, and all federal regulations and policies issued pursuant to these regulations. Borrower acknowledges the provisions of Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et seq., Code of Governmental Ethics), and agrees to immediately notify the State of Louisiana, Division of Administration, if potential violations of the Code of Governmental Ethics arise at any time during the term of this Agreement.

3.2 Uniform Administrative Requirements. Borrower acknowledges that OCD must comply with the Uniform Administrative requirements set forth in 24 CFR Section 570.502, and the Federal Office of Management and Budget "OMB" Circular A-87 and implementing regulations in 24 CFR Parts 85, A-128 and A-133 and implementing regulations contained in 24 CFR Part 44. Borrower agrees to supply OCD with documentation concerning the Project in order to ensure that OCD is in compliance with its responsibilities therein regarding source documentation for all costs incurred.

3.3 Records. Borrower shall comply with 24 CFR Section 570.506 and 24 CFR Section 85.42 regarding records that must be maintained for the Project. Borrower shall maintain all Project financial records, including source documentation to support how CDBG funds loaned to Borrower hereunder were expended, which includes, but is not limited to, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, and other documentation as may be required by OCD or HUD to support the expenditures for this Project. All supporting documents shall be maintained in accordance with the requirements of 24 CFR §85 or for such other period required by OCD or HUD. The records shall be made available to OCD, HUD, the Louisiana Legislative Auditor and/or any of their authorized representatives, who shall have access to and the right to examine any of the Project records during such period. All record keeping requirements set forth in this Agreement or any record keeping requirements mandated by CDBG regulations shall survive termination of this Agreement.

3.4 Monitoring. Borrower will allow on-site monitoring of the Project by OCD or an agent on its behalf, at such times as OCD or HUD deems necessary or required, and OCD and/or HUD shall have the right, but shall be under no obligation, to conduct any reasonable monitoring to determine compliance with the CDBG Regulatory Agreement and this Agreement, including but not limited to the right to enter the Project, to inspect the Project, to inspect the books and records kept regarding the Project, and the right to inquire and receive responses from Borrower regarding the Project and its operation at any time that may be required by OCD or HUD.

3.5 Religious and Political Activities. Borrower is prohibited from using funds provided by the Gap Financing Loan or personnel employed in the administration of the Program for sectarian or religious activities, lobbying, political patronage and/or nepotism activities. Borrower further agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code (Hatch Act), 24 CFR Section 570.207(a)(3), or 24 CFR Section 570.200(j).

3.6 Section 3 of the Housing and Urban Project Act of 1968. Borrower agrees to comply with the provisions of Section 3 of the Housing and Urban Project Act of 1968 (12 U.S.C. §1701u) and implementing regulations contained in 24 CFR Part 135 regarding economic opportunities for low and very low income persons**.** Borrower shall also keep records demonstrating compliance with the foregoing regulations, including without limitation the provisions of 24 CFR Section 570.506(g)(5).

3.7 Equal Employment Opportunity. Borrower agrees to comply with 24 CFR Section 570.607, Executive Order 11246, as amended by E.O. 11375, the implementing regulations in 41 CFR Part 60.

3.8 Non-Discrimination. Borrower shall not, on the grounds of race, color, religion, national origin, ethnicity, familial status, sexual orientation or gender, exclude any person from participation in, or deny any person the benefits of, or subject any person to discrimination with respect to, any part of the Project. Borrower shall at all times comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d, et seq.) and implementing regulations in 24 CFR Part 1. Borrower shall also not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §6101, et seq.) and the implementing regulations contained in 24 CFR Part 146, or on the basis of disability as provided in Section 504 of the Rehabilitation Act of 1973, and the implementing regulations contained in 24 CFR Part 8.

3.9 Fair Housing Act. Borrower shall comply with the Fair Housing Act (42 U.S.C. §§3601-3620) and Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing) and implementing regulations in 24 CFR Part 107 and keep all records demonstrating compliance with the foregoing.

3.10 Davis-Bacon Act. Borrower agrees to comply with 24 CFR Section 570.603, and the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. §276(a) to (a-7) as it applies to any construction work financed in whole or in part with CDBG funds. All contracts and subcontracts for construction shall include a provision for compliance with the Davis-Bacon Act and supporting Department of Labor regulations. Borrower shall maintain documentation and records which demonstrates compliance with hour and wage requirements, including contract provisions and payroll records.

3.11 Copeland "Anti-Kickback" Act. Borrower agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. §874) as supplemented by the Department of Labor regulations contained in 29 CFR Part 3.

3.12 Contract Work Hours and Safety Standards Act. Borrower agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §327-333), as supplemented by the Department of Labor regulations contained in 29 CFR Part 5.

3.13 Handicapped Accessibility Requirements. The Project shall be accessible to and usable by individuals with handicaps, in compliance with the Architectural Barriers Act of 1968 (42 U.S.C. §§4151-4157), the Uniform Federal Accessibility Standards, as set forth in 24 CFR Section 570.614, and the Americans with Disabilities Act of 1990.

3.14 Resident Aliens. Borrower agrees to comply with the requirements set forth in 24 CFR Section 570.613 regarding eligibility restrictions for certain resident aliens.

3.15 Debarment and Suspension. In connection with this Project, Borrower shall comply with the debarment and suspension requirements set forth in 24 CFR Part 5 and 24 CFR Part 24. Borrower shall not enter into a contract with any person, agency or entity that is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 or 12689. In the event that Borrower has entered into a contract or subcontract with a debarred or suspended party, no CDBG funds will be provided as reimbursement for the work done by that debarred or suspended contractor or subcontractor.

3.16 Environmental Review Requirements. In connection with any construction or improvements to the Project, Borrower must submit an environmental report in form and substance acceptable to OCD, which must provide an environmental assessment of such construction in accordance with 24 CFR Part 58, and be approved by OCD before commencing such work.

3.17 Lead Based Paint Prohibited. For existing properties built prior to 1978, Borrower agrees that it shall not use lead-based paint in the Project and shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §4831(b), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856) and implementing regulations at 24 CFR Part 35. Borrower shall maintain records demonstrating compliance with the foregoing lead based paint requirements. To the extent that lead-based paint is located in any existing buildings at the Project, Borrower shall provide OCD with a plan for handling such lead-based paint in a safe manner, and in accordance with the foregoing regulations, and comply with the plan during any construction at the Project.

3.18 Historic Preservation. To the extent applicable, Borrower agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the Project. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, State, or local historic property list.

3.19 Flood Disaster Protection. Borrower shall obtain a flood zone certificate certifying that the Project is not located in a special flood hazard area **("Flood Hazard Area")** as identified by Federal Emergency Management Agency **("FEMA"),** or if located in a Flood Hazard Area, the designation of the Flood Hazard Area in which the Project is located. Borrower shall comply with all requirements listed in the FEMA Special Flood Hazard Area Flood Maps. Borrower agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. §4106) and implementing regulations in 44 CFR Parts 59 through 79 in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.

3.20 Permits. Borrower agrees to obtain and maintain all necessary permits for intended improvements or activities for the Project, and for the operation of the Project.

3.21 Displacement, Relocation, Acquisition and Replacement of Housing. Borrower shall comply with 24 CFR Section 570.606 and shall keep all records demonstrating compliance with these requirements including, but not limited to, those records required in 24 CFR Section 570.506. Borrower must comply with applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (49 CFR Part 24) and Section 104(d) of the Housing and Community Project Act of 1974 as amended. These requirements are explained in HUD Handbook 1378 and specify the procedures for the acquisition of property and the treatment of tenants located in the Project.

3.22 Conflict of Interest. Borrower shall comply with the conflict of interest provisions contained in 24 CFR Section 570.611, Sections 84.42 and Section 85.36, as applicable.

3.23 Rehabilitation Act. Borrower shall comply with Section 504 of the Rehabilitation Act of 1973, and the implementing regulations contained in 24 CFR Part 8.

3.24 **Program Requirements**. Borrower and the Project shall comply with all rules and regulations set forth in the QAP and the Piggyback Program Description, or applicable to the use of CDBG funds applicable to the Project at all times during the terms of this Agreement.

SECTION 4
PERMANENT LOAN DOCUMENTS

THIS SECTION IS: **APPLICABLE** ☐ **NOT APPLICABLE** ☐

4.1 **Permanent Loan**. OCD acknowledges and agrees that Borrower has entered into a Permanent Loan affecting the Project, in the original principal sum of $_____, secured by a Permanent Loan Mortgage in favor of Permanent Lender, having a first priority mortgage lien on the Project, and evidenced by the Permanent Mortgage Loan Documents described on **Exhibit D – Permanent Mortgage Loan Documents**, and that the lien of OCD's Mortgage and the Loan Documents are subordinate to the Permanent Mortgage Loan Documents in all respects.

4.2 **Permanent Loan Covenants**. Borrower warrants, and represents and covenants as follows:

(a) Borrower shall comply with all of the terms, covenants and conditions contained in the Permanent Mortgage Loan Documents.

(b) Borrower shall obtain from the holder of the Permanent Loan Mortgage a subordination of the Permanent Loan Mortgage to the Regulatory Agreements, in substantially the form of the Subordination Agreement attached hereto as **Exhibit E - Subordination Agreement.**

(c) Borrower shall obtain an agreement from the holder of the Permanent Loan to give OCD written notice of any default by Borrower under the Permanent Mortgage Loan Documents, and an opportunity (but not the obligation) to cure such default on behalf of the Borrower before foreclosing on the Project under the Permanent Mortgage Loan Documents.

(d) To the extent the Permanent Mortgage Loan Documents require deposits by Borrower into a reserve account(s) for the payment of taxes and insurance, or for repair and replacement of the Project units, OCD acknowledges and agrees that Borrower's compliance with the reserve requirements under the Permanent Mortgage Loan Documents shall satisfy any similar reserve requirements contained in the Loan Documents.

SECTION 5
DEFAULTS AND REMEDIES

5.1 **Events of Default.** The following shall each constitute an event of default under this Agreement (each an "**Event of Default",** and, collectively, "**Events of Default")**:

(a) If Borrower fails to make any payments due to OCD under the Note, or the other Loan Documents as and when due, and such failure continues for a period of ten (10) days following written notice of such failure of payment to Borrower and any investor or Key Principal listed in Section 10.7 of this Agreement;

(b) If Borrower fails to comply with any regulations governing the award and use of CDBG funds, including, but not limited to, 24 CFR Part 570, or fails to comply with any of the terms and conditions or covenants contained this Agreement applicable to Borrower, and such failure continues for a period of thirty (30) days following written notice thereof to Borrower and any investor or Key Principal listed in Section 10.7 of this Agreement;

(c) If at any time any warranty or representation made by Borrower in any Loan Document, instrument, agreement, certification or communication submitted by Borrower to OCD is determined by OCD to be false, misleading, or incorrect in any manner;

(d) If any other default occurs under the Loan Documents, and such default is not cured within the applicable cure period set forth in such Loan Document, or if there is no cure period set forth therein, then within thirty (30) days following the date of written notice of such default to Borrower and any investor or Key Principal listed in Section 10.7 of this Agreement;

(e) If Borrower defaults under any of the Permanent Mortgage Loan Documents, if applicable, and fails to cure the same within the time periods granted in such Permanent Mortgage Loan Documents subject to the terms of the Subordination Agreement; or

(f) If Borrower defaults under any other loan, promissory note, project based rental assistance contract, loan agreement, mortgage, indenture, regulatory agreement, security agreement, assignment or other agreement between Borrower and OCD, and such failure is not cured within any grace or cure period granted therein.

5.2 Cure by Investor, Key Principal or OCD. OCD agrees to provide written notice of an Event of Default to any investor or Key Principal listed in Section 10.7 of this Agreement and to allow the investor or Key Principal the opportunity to cure any default of Borrower on behalf of Borrower and to the same extent as Borrower. Borrower agrees that OCD shall be entitled to rely upon and to accept any offer of cure made by any such investor or Key Principal.

5.3 No Waiver. Failure of OCD to declare an Event of Default under this Agreement shall not constitute a waiver of any rights by OCD. Furthermore, the waiver of any default by OCD or its election to cure any Borrower default shall in no event be construed as a waiver of rights with respect to any other default, past or present.

5.4 Remedies. Upon the occurrence of any uncured Event of Default, OCD shall be entitled to terminate this Agreement, enforce Borrower's obligations pursuant to specific performance or withhold any further funding and/or exercise all rights and remedies available to it under the terms of this Agreement, the other Loan Documents, and applicable state and federal law, including without limitation the right to accelerate the payment of the Note and the Indebtedness and any other sums secured by the Mortgage, and commence appropriate legal and equitable action to foreclose the Mortgage and collect all such amounts due OCD as a result of the default. OCD may also exercise any one or more of the actions contained in 24 CFR Parts 84.42(a)(1-5), 85.43 and 85.44. All remedies shall be deemed cumulative and, to the extent permitted by law, the election of one or more remedies shall not be construed as a waiver of any other remedy OCD may have available to it.

SECTION 6
INDEMNIFICATION AND INSURANCE

6.1 Environmental Indemnification. Borrower agrees to indemnify and to defend and hold OCD harmless against any claim arising from, or in any way related to, the environmental condition of

the Project, including, but not limited to, the cost of investigating, defending, and/or negotiating to a satisfactory conclusion claims made by environmental regulatory agencies, as well as all cleanup and property maintenance requirements imposed by any agency with lawful jurisdiction over the Project. This indemnification shall run from the time of initial discovery of any such adverse environmental condition and shall not be construed to commence only upon realization by OCD of an actual pecuniary loss as a result of such adverse environmental condition. The existence of this indemnification agreement shall not be construed as an indicia of ownership, management, or control of the Project by OCD and Borrower hereby recognizes and acknowledges that OCD is not an owner or manager of the Project and does not exert any control thereupon. Notwithstanding anything herein or in the other Loan Documents to the contrary, this indemnification provision shall survive closing.

6.2 Indemnification from Third Party Claims. Borrower shall indemnify and hold harmless OCD from any liability, claims or losses including attorney's fees and costs, resulting from the disbursement of the proceeds of the Gap Financing Loan to Borrower, whether related to the quality of construction or otherwise, and whether arising during or after the term of the Gap Financing Loan. This provision shall survive the repayment of the Gap Financing Loan and shall continue in full force and effect so long as the possibility of such liability, claims, or losses exists. The Borrower shall, on demand, pay or reimburse OCD and its assignees and agents for (a) all transfer, documentary, stamp and similar taxes, broker's fees and commissions, surveys, travel expenses, photocopying, secretarial overtime and long distance telephone charges (including but not limited to those imposed by OCD's counsel), abstracting charges, policies and all endorsements therefor, license and permit fees, fees and costs of OCD's inspector and disbursing agent(s), and all recording and filing fees, payable in connection with, arising out of or in any way related to the execution, delivery and performance of the Loan Documents or the making of the Gap Financing Loan, and (b) all of OCD's costs and expenses including fees and disbursements of legal counsel and other experts employed or retained by OCD incurred, and all payments made, and indemnify and hold OCD harmless from and against all losses suffered, by OCD in connection with, arising out of, or in any way related to (i) the negotiation, preparation, execution and delivery of (A) the Loan Documents (whether or not executed), (B) any waiver, amendment or consent thereunder or thereto, (ii) the administration of any operations under the Loan Documents, (iii) consulting with respect to any matter in any way arising out of, relating to, or connected with, the Loan Documents, including but not limited to the enforcement by OCD of any of its rights thereunder or the performance by OCD of any of its obligations thereunder, (iv) protecting, preserving, exercising or enforcing any of the rights of OCD under the Loan Documents, (v) any appraisals, (vi) any claim (whether asserted by OCD, the Borrower or any other person and whether asserted before or after the payment, performance and observance in full of the Borrower's obligations hereunder, under the Note, or the other Loan Documents) and the prosecution or defense thereof, in any way arising under, related to, or connected with, the Loan Documents or the relationship established hereunder and thereunder, (vii) any governmental investigation arising out of, relating to, or in any way connected with the Loan Documents, except that the foregoing indemnity shall not be applicable to any loss suffered by OCD to the extent such loss is determined by a judgment of a court that is binding on OCD, final and not subject to review on appeal, to be the result of acts or omissions on OCD's part constituting willful misconduct, knowing violations of law or, in the case only of claims by the Borrower against OCD, OCD's failure to observe any other standard applicable to OCD under any of the other provisions of this Agreement, or the Loan Documents or, but only to the extent not available thereunder, applicable law. Notwithstanding the foregoing, Borrower shall not be liable for any claims related to the intentional misconduct or willful negligence of OCD.

Borrower hereby authorizes OCD to pay any and all expenses or other amounts for which Borrower is obligated under this Section from the proceeds of disbursement under the Gap Financing Loan, and no further authorization for such disbursement and payment shall be required from Borrower or any guarantor, if any. In no event shall OCD be obligated to make any such disbursement or payment and Borrower shall in any event remain unconditionally obligated to pay any and all such amounts. All

obligations of Borrower under this Section shall be part of the obligations secured by the Project encumbered by the Mortgage and the other Loan Documents.

6.3 Insurance. Without limiting Borrower's indemnification, it is agreed that Borrower shall maintain in force at all times during the performance of this Agreement all appropriate policies of insurance hereinafter described concerning the Project and the Borrower's operations. Certificates with valid and authorized endorsements, evidencing the maintenance and renewal of such insurance coverage shall be delivered to OCD at the closing of the Gap Financing Loan. OCD shall be given notice in writing at least thirty (30) calendar days in advance of cancellation or modification of any policy of insurance. OCD shall be named as a "loss payee", or as an additional named insured on all policies of liability insurance. The amount of the deductible in each policy of insurance shall be for an amount acceptable to OCD.

(a) All policies of insurance shall be in a company or companies authorized by law to transact insurance business in the State of Louisiana, reasonably acceptable to OCD. In addition, such policies shall provide that the coverage shall be primary for losses arising out of Borrower's performance of the Agreement. Neither OCD nor any of its insurers shall be required to contribute to any such loss. All insurance policies shall include a standard mortgagee clause (without contribution) in favor of and acceptable to OCD, subject only to the claims of any Permanent Loan Mortgage holder.

(b) At least thirty (30) calendar days prior to the expiration of any of the insurance policies reference in this Section 6.3, Borrower shall provide OCD with evidence of the renewal of all such insurance policies in a form satisfactory to OCD.

(c) To the extent Borrower is required to maintain insurance under any Permanent Loan Mortgage, such insurance policies, to the extent Borrower complies with the provisions of Section 6.3 (a) and (b) above with respect to such policies, shall be deemed to have satisfied the following insurance obligations of Borrower under this Agreement.

(d) The policies of insurance which must be secured under this Agreement are as follows:

(i) **Public Liability Insurance.** Borrower must secure public liability insurance to include, but not be limited to, public liability and property damage coverage. The policy's limit liability amount shall not be less than Two Million and 00/100 ($2,000,000.00) Dollars per person/ per occurrence for bodily injury to, or death to, one or more than one person and not less than One Million and 00/100 ($1,000,000.00) Dollars per occurrence for property damage.

(ii) **Workers' Compensation Coverage**. All employees of Borrower must be included under such policy in an amount and with coverage to meet all requirements of Louisiana law.

(iii) **Flood Insurance**. If the Project is located in a Special Flood Hazard Area under the FEMA Flood Maps, any dwelling on any part of the Project shall be insured under a policy of flood insurance in the amount equal to the lesser of (a) 100% of the insurable value of the improvements as determined by the Project insurer, or (b) the maximum amount of flood insurance coverage available under the National Flood Insurance Program.

(iv) **All Risk Insurance**. Borrower shall obtain and maintain All Risk insurance coverage, which coverages and risks insured meet the standards established in

Part V, Section 106 of the Fannie Mae D.U.S. Guide, effective November 3, 2003, as amended from time to time, to the extent available at commercially reasonable rates and satisfactory to OCD, on the Project, and all movable and immovable property securing the Indebtedness.

(v) **Other Insurance.** Borrower shall maintain such other insurance as may be required by OCD from time to time, insuring such risks and in such amounts as determined by OCD in its sole discretion, to the extent available at commercially reasonable rates.

SECTION 7
BORROWER'S REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to OCD, as follows:

7.1 Organization and Standing. Borrower is a corporation/limited liability company/partnership/limited partnership duly organized and validly existing under the laws of the State of _____, and duly qualified to do business in Louisiana. Borrower has full corporate/limited liability company/partnership/limited partnership power and authority to conduct its business as presently conducted, and Borrower has the full power and authority to enter into and perform under the Loan Documents and to carry out the transactions contemplated hereby.

7.2 Authority. The execution, delivery and performance by Borrower of the Loan Documents, and the consummation by Borrower of the transactions contemplated by the Loan Documents, have been duly authorized by all necessary corporate/limited liability company/partnership/limited partnership action by Borrower and its directors/members/partners. The Loan Documents have been duly executed and delivered by, and constitute valid and binding obligations of Borrower enforceable against it in accordance with their respective terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting generally the enforcement of creditors' rights and subject to a court's discretionary authority with respect to the granting of a decree ordering specific performance or other equitable remedies.

7.3 Noncontravention. The execution of and performance of the transactions contemplated by the Loan Documents and compliance with the provisions hereof by Borrower will not (a) conflict with or violate any provision of the organizational documents of Borrower, (b) require on the part of Borrower any filing with, or any permit, authorization, consent or approval of, any court, arbitrational governmental authority, administrative agency or commission or other governmental authority, (c) conflict with, result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice, consent or waiver under, any contract, lease, sublease, license, sublicense, franchise, permit, indenture, agreement or mortgage for borrowed money, instrument of indebtedness, security interest or other arrangement to which Borrower is a party or by which Borrower is bound or to which its assets are subject, (d) result in the imposition of any mortgage, lien or security interest upon any assets of Borrower other than in favor of OCD or (e) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Borrower or any of its properties or assets.

7.4 Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any governmental authority is required on the part of Borrower in connection with the execution and delivery of the Loan Documents.

7.5 **Title to Project**. Subject to and except for the **"Permitted Exceptions"** described on **Exhibit F - Permitted Exceptions**, Borrower has good title to the Project, free and clear of any mortgages, liens, or other security interest other than those in favor of OCD.

7.6 **Compliance.** Borrower has, in all material respects, complied with all laws, regulations and orders applicable to its present and proposed business and has all material permits and licenses required thereby.

7.7 **Tax Returns, Payments and Elections**. Borrower has filed all tax returns and reports as required by law. These returns and reports are true and correct in all material respects.

7.8 **Disclosure.** Neither this Agreement nor any other statements, documents or certificates made or delivered in connection herewith or therewith contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

7.9 **Construction and Compliance with Laws**. To Borrower's knowledge there are no structural defects in the Project and no violation of any applicable zoning, building or any other local, state or federal laws, ordinances and regulations existing with respect to the use and construction thereof; and Borrower shall obtain all licenses, permits and approvals required by all local, state and federal agencies regulating such construction and use and such licenses, permits and approvals shall remain in good standing; and Borrower is and shall remain in compliance, in all material respects, with all laws, regulations, ordinances and orders of all governmental authorities.

7.10 **Financial Statements**. The financial statements of Borrower and any Key Principal delivered to OCD are true and correct in all material respects, and fairly present the respective financial conditions of the parties thereof as of the respective dates thereof, and no material adverse change has occurred in the financial conditions reflected therein since the respective dates thereof and no additional borrowings have been made by Borrower since the date thereof other than the borrowing contemplated hereby.

7.11 **Priority of Lien on Personality**. Except for lien rights of any Permanent Loan Mortgage holder, no chattel mortgage, bill of sale, security agreement, financing statement or other title retention agreement (except those executed in favor of OCD) has been or will be executed with respect to any personal property, chattel or fixture used in conjunction with the construction, operation, or maintenance of the Project as described.

7.12 **Pending Litigation**. There are no actions, suits or proceedings pending against Borrower or the Project, or, to the knowledge of Borrower, circumstances which could lead to such action, suits or proceedings against or affecting Borrower or the Project, or involving the validity or enforceability of any of the Loan Documents, before or by any governmental authority, except actions, suits and proceedings which have been specifically disclosed to and approved by OCD; and to Borrower's knowledge it is not in default with respect to any order, writ, injunction, decree or demand of any court or any governmental authority.

7.13 **Hazardous Waste.** Borrower is in compliance, in all material respects, with all provisions of the Federal Water Pollution Control Act, Comprehensive Environmental Response, Compensation and Liability **("Superfund")** Act of 1980, the Environmental Protection Act, the Resource Conservation and Recovery Act **("RCRA"**) and Solid Waste Disposal Act, and other similar federal, state and local statutory schemes imposing liability on Borrower relating to underground tanks and other storage facilities, or the generation, storage, impoundment, disposal, discharge, treatment, release, seepage, emission, transportation or destruction of any sewage, garbage, effluent, asbestos or asbestos-

containing materials, polychlorinated biphenyls (PCBs), toxic, hazardous or radioactive materials, petroleum products, pesticides, smoke, dust, or any other form of pollution as such laws are in effect as of the date of this Agreement and with any rules, regulations and orders issued by any federal, state or local governmental body, agency or authority thereunder and with any orders or judgments of any courts of competent jurisdiction with respect thereto, and no assessment, notice of (primary or secondary) liability or notice of financial responsibility, or the amount thereof, or to impose civil penalties has been received by Borrower. Borrower has paid any environmental excise taxes imposed upon it with respect to the Project pursuant to Sections 4611, 4661 or 4681 of the Internal Revenue Code of 1986, as from time to time amended.

7.14 Other Financing. Other than as disclosed on **Schedule 7.14** attached hereto, the Borrower has not received any other financing for the construction and operation of the Project other than the Gap Financing Loan.

7.15 Use of the Project. To the best of Borrower's knowledge, there is no (a) plan, study or effort by any governmental authority or any non-governmental person or agency which may adversely affect the current or planned use of the Project, or (b) any intended or proposed governmental requirement (including, but not limited to, zoning changes) which may adversely affect the current or planned use of the Project. There is no moratorium or like governmental order or restriction now in effect with respect to the Project and, to the best of Borrower's knowledge, no moratorium or similar ordinance or restriction is now contemplated.

7.16 OSHA Matters. The Borrower has duly complied with, and its properties are in full compliance in all material respects with, the provisions of the Federal Occupational Safety and Health Act, and all rules and regulations thereunder and all similar state and local laws, rules and regulations, and there have been no outstanding citations, notices or orders of noncompliance issued to Borrower relating to its businesses or properties under any such laws, rules or regulations.

7.17 Availability of Utilities. All utility services necessary for the operation of the Project for its intended purpose are available at the boundaries of the Project, including water supply, storm and sanitary sewer facilities, and gas, electric and telephone facilities, and Borrower has obtained all necessary permits and permissions required from governmental authorities for unrestricted access to and use of such services in connection with the construction and use of the Project.

7.18 Availability of Roads. All roads necessary for the full utilization of the Project for its intended purposes have either been completed or the necessary rights of way therefor have either been acquired by the appropriate local authorities or have been dedicated to public use and accepted by such local authorities and all necessary steps have been taken by Borrower and such local authorities to assure the complete construction and installation thereof.

7.19 No Default. There is no default on the part of Borrower under this Agreement, the Loan Documents, or any Permanent Mortgage Loan Documents, and no event has occurred and is continuing which with notice, or the passage of time, or either, would constitute an Event of Default under any provision thereof.

7.20 Continuing Nature of Representations and Warranties. **Each of the representations and warranties of Borrower contained in this Loan Agreement shall survive the execution of the Agreement, and shall be continuing until such time as all amounts due OCD under the Loan Documents and the other obligations shall have been fully paid.**

SECTION 8
AFFIRMATIVE COVENANTS OF BORROWER

While this Agreement is in effect, Borrower covenants and agrees as follows:

8.1 Taxes. Borrower shall promptly pay, or cause to be paid, when due and payable, any and all taxes relating to all or any part of the Project or to Borrower, or which are or become payable by Borrower, except those taxes which it contests in good faith and for which adequate reserves have been established.

8.2 Changes in Facts or Circumstances. Borrower shall promptly notify OCD of any material change in any fact or circumstance represented or warranted by Borrower in this Agreement or any of the Loan Documents.

8.3 Notice of Default. Borrower shall promptly notify OCD in writing of any condition or event known to Borrower which constitutes an Event of Default under the Note, this Agreement, or any of the other Loan Documents or which, with or without the giving of notice or the lapse of time or both, would constitute any such Event of Default, and of any litigation or threatened litigation.

8.4 Performance. Borrower shall abide by, perform and be governed and restricted by, each and every one of the terms and provisions of (a) the Loan Documents and any supplement or amendment thereto or any instrument which may, at any time or from time to time, be executed by one or more of the parties hereto, and (b) any Permanent Mortgage Loan Documents, if applicable.

8.5 Insurance. Borrower shall obtain and maintain all insurance coverage described and required herein, as appropriate.

8.6 No Encumbrances. Borrower shall not create or suffer any lien, encumbrance, mortgage or security interest on the Property or the Project, except those created in favor of OCD or the Permitted Exceptions.

8.7 Title to Personality. Borrower will deliver to OCD on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower claims title to any materials, fixtures or articles incorporated in the Project or subject to the lien of the Mortgage.

8.8 Correction of Defects and Satisfaction of Conditions. Borrower will, upon demand of OCD, correct any structural defect in the Project, or perform any condition to OCD's obligations hereunder not satisfied or no longer satisfied. Funding the Gap Financing Loan shall not constitute a waiver of OCD's right to require substantial compliance with this covenant with respect to any such defects not theretofore discovered by, or called to the attention of OCD, or with respect to Borrower's failure to satisfy or continue to satisfy any condition under this Agreement, whether or not OCD required performance thereof.

8.9 Financial Statements.

(a) Borrower shall furnish to OCD the following:

(i) within one hundred and twenty (120) days after the end of each fiscal year of Borrower, and at any other time upon OCD's request, a rent schedule for the Project showing the name of each tenant, and for each tenant, the space occupied, the lease

expiration date, the rent payable for the current month, the date through which rent has been paid, and any related information requested by OCD;

(ii) within one hundred and twenty (120) days after the end of each fiscal year of Borrower, and at any other time upon OCD's request, an accounting of all security deposits held pursuant to all leases, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for OCD to access information regarding such accounts;

(iii) within one hundred and twenty (120) days after the end of each fiscal year of Borrower, and at any other time upon OCD's request, a statement that identifies all owners of any interest in Borrower and the interest held by each, if Borrower is a corporation, all officers and directors of Borrower, and if Borrower is a limited liability company, all managers who are not members;

(iv) within one hundred and twenty (120) days of the end of each fiscal year of Borrower, a calculation and certification of Surplus Cash for such fiscal year, in form and substance acceptable to OCD, and in accordance with OCD's and LHFA's requirements;

(v) within one hundred and twenty (120) days after the end of each fiscal year of Borrower, and at any other time upon OCD's request, a statement of income and expenses for Borrower's operation of the Project for that fiscal year, a statement of changes in financial position of Borrower relating to the Project for that fiscal year, and, when requested by OCD, a balance sheet showing all assets and liabilities of Borrower relating to the Project as of the end of that fiscal year, audited at Borrower's expense by independent certified public accountants acceptable to OCD;

(vi) if required by OCD, a statement of income and expense for the Project for the prior month or quarter;

(vii) upon OCD's request, a monthly property management report for the Project, showing the number of inquiries made and rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by OCD; and

(viii) such other financial information and schedules as may be requested by OCD from time to time pertaining to the Project, in its reasonable discretion.

(b) Each of the statements, schedules and reports required by Section 8.9 shall be certified to be complete and accurate by an individual having authority to bind Borrower, and shall be in such form and contain such detail as OCD may reasonably require. OCD also may require that any statements, schedules or reports be audited at Borrower's expense by independent certified public accountants acceptable to OCD.

(c) If Borrower fails to provide in a timely manner the statements, schedules and reports required by Section 8.9, OCD shall have the right to have Borrower's books and records audited, at Borrower's expense, by independent certified public accountants selected by OCD in order to obtain such statements, schedules and reports, and all related costs and expenses of OCD shall become immediately due and payable and shall become an additional part of the indebtedness due under this Agreement.

(d) If an Event of Default has occurred and is continuing, Borrower shall deliver to OCD upon written demand all books and records relating to the Project or its operation.

(e) Borrower authorizes OCD to obtain a credit report on Borrower at any time.

(f) If an Event of Default has occurred and OCD has not previously required Borrower to furnish a quarterly statement of income and expense for the Project, OCD may require Borrower to furnish such a statement within forty-five (45) days after the end of each fiscal quarter of Borrower following such Event of Default.

8.10 Borrower to Maintain Bookkeeping System. Borrower shall maintain a bookkeeping system for the Project in form and content sufficient for OCD to conduct reviews, inspections, certifications and reports required by this Agreement. OCD shall have full access during normal business hours to the books, records and contracts pertaining to the Project.

8.11 Further Assurances and Preservation of Security. Borrower will perform all acts and execute all documents for the better and more effective carrying out of the intent and purposes of this Agreement as OCD shall reasonably require from time to time, and will perform such other acts necessary or desirable to preserve and protect the collateral at any time securing or intending to secure the Note as OCD may reasonably require.

8.12 Utilization of Loan Proceeds. Borrower will utilize the proceeds of the Gap Financing Loan solely for the costs approved by OCD according to the provisions set forth in this Agreement.

SECTION 9
NEGATIVE COVENANTS OF BORROWER

9.1 Until the Indebtedness is paid in full, without the prior written consent of OCD, except for (i) trade debt and accounts payable incurred in the normal course of business, and (ii) indebtedness to OCD contemplated or permitted by this Agreement, and (iii) the Permanent Loan (if any), Borrower shall not create, effect, consent to, attempt, contract for, agree to make, suffer or permit:

(a) any conveyance (other than leases for portions of the Project in the ordinary course of business), sale, assignment, or transfer of all or any interest in the Project, unless the purchaser, transferee or assignee assumes all of Borrower's obligations under the Loan Documents, and is approved by OCD, or

(b) any lien, pledge, mortgage, security interest, encumbrance or alienation of, the Project, or any interest in or portion of the Project, or any interest in Borrower, or any partner, shareholder or member of Borrower, or any change of ownership or control of Borrower or any member, partner or shareholder of Borrower, which is effected directly, indirectly, voluntarily, involuntarily, or by operation of law or otherwise, other than Borrower's Permanent Mortgage Loan Documents encumbering the Project , if any, and the Permitted Exceptions, or

(c) any consolidation with or merger into any other partnership, limited partnership, corporation or limited liability company, or permit another partnership, limited partnership, corporation or limited liability company to merge into it, or voluntarily or involuntarily fail to maintain its current status, or

(d) any disposition of all or substantially all of its property, accounts, assets or business of Borrower or any Key Principal, or

(e) any change in Borrower's business as presently conducted, or

(f) (i) any change in the identity or ownership percentages of the owners of Borrower, (ii) any change in the identity of the Chief Executive Officer or Chief Financial Officer of Borrower, or (iii) any transfer, encumbrance or pledge of any interest in Borrower, or (iv) any **"change in control"** of Borrower or any subsidiary or Affiliate of Borrower. However, notwithstanding the foregoing, the removal of the general partner/managing member of Borrower as general partner/managing member of Borrower in accordance with the terms of the limited partnership agreement/operating agreement of Borrower without OCD consent shall be allowed provided that (1) Borrower shall provide OCD with written notice of any such change and (2) the entity replacing the general partner/managing member of Borrower is under direct or indirect common control or management, or has a Controlling Interest in, the investor limited partner/investor member; or

(g) any purchase, creation or acquisition any interest in any other enterprise or entity, or incur any obligation as surety or guarantor other than in the ordinary course of business.

SECTION 10
MISCELLANEOUS PROVISIONS

10.1 Assignment. Borrower shall not assign or transfer any interest in this Agreement without the prior written consent of OCD. Any attempt to do shall be deemed null and void.

10.2 No Grant of Vested Rights. This Agreement shall not be construed as granting or assuring or vesting any land use, zoning, development approvals, permission or rights with respect to property owned by Borrower.

10.3 No partnership or agency. Nothing in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of master/servant, principal/agent, employer/employee or joint venture partner between OCD and Borrower. Borrower agrees and acknowledges that it shall be responsible for and shall pay any and all applicable compensation, insurance and taxes, including but not limited to Federal income taxes and Social Security on the salary of any positions funded in whole or in part with the proceeds of the Gap Financing Loan.

10.4 Severability. This Agreement shall be construed in accordance with the laws of the State of Louisiana. It is agreed by and between the parties that if any covenant, condition, provision contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenants, conditions or provisions herein contained.

10.5 Joint and Several Liability. If Borrower consists of more than one natural persons and/or entities, the liability of each of them for Borrower's obligations under the Loan Documents shall be joint and several, and in solido.

10.6 Entire Agreement/Modification. This Agreement, all attachments and the Regulatory Agreements supersede all prior agreements between OCD and the Borrower with respect to the Indebtedness, any representations or statements heretofore made with respect to such subject matter, whether written or verbal, are merged herein. This Agreement may only be modified in writing, signed by both of the parties hereto.

10.7 Notices. All notices and other communications to be made or permitted to be made hereunder shall be in writing and shall be delivered to the addresses shown below or to such other addresses that the parties may provide to one another in accordance herewith. Such notices and other

communications shall be given by any of the following means: (a) personal service; (b) national express air courier, provided such courier maintains written verification of actual delivery; or (c) facsimile. Any notice or other communication given by the means described in subsection (a) or (b) above shall be deemed effective upon the date of receipt or the date of refusal to accept delivery by the party to whom such notice or other communication has been sent. Any notice or other communication given by the means described in subsection (c) above shall be deemed effective the date on which the facsimile transmission occurs or if such date is not a business day on the business day immediately following the date on which the facsimile transmission occurs.

OCD:

with a copy to:

Borrower:

with a copy to:

Permanent Loan Mortgagee:

Investor Limited Partner/Investor Member:

Key Principal:

Any addressee may change its address by giving the other parties hereto notice of such change of address in accordance with the foregoing provisions.

10.8 Performance on Legal Holidays. In any case where the date of maturity of interest on or principal of the Note shall not be a business day, then payment of such interest and principal, need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption or purchase, and no interest on such payment shall accrue for the period after such date.

10.9 JURY WAIVER. OCD AND THE BORROWER HEREBY WAIVE THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER THE OCD OR THE BORROWER AGAINST THE OTHER WHETHER RELATING OR ARISING OUT OF THIS AGREEMENT, THE LOAN DOCUMENTS, OR OTHERWISE.

10.10 Time is of the Essence. Time is of the Essence of this Agreement.

[Signatures on the following pages]

IN WITNESS WHEREOF, OCD has executed this GAP Financing Loan Agreement on this ____ day of _____, _____, at _____, Louisiana, in the presence of the undersigned witnesses and Notary Public after due reading of the whole.

WITNESSES:

State of Louisiana, Division of Administration, Office of Community Development

_____

Print Name:_____ By:_____

_____

Print Name:_____ Its:_____

_____

NOTARY PUBLIC

Print Name:_____
Bar Roll/Notary No.:_____
My Commission Expires:_____

IN WITNESS WHEREOF, Borrower has executed this Gap Financing Loan Agreement on this ____ day of _____, _____, at _____, Louisiana, in the presence of the undersigned witnesses and Notary Public after due reading of the whole.

WITNESSES: **_____**

_____

Print Name:_____ By:_____

_____

Print Name:_____ Its:_____

_____
NOTARY PUBLIC

Print Name:_____
Bar Roll/Notary No.:_____
My Commission Expires:_____

Schedule 1.2(h)
CURRENT CONTRACTS WITH IDENTITY OF INTEREST ENTITIES

Schedule 7.14
OTHER FINANCING

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B-1
GAP FINANCING NOTE

EXHIBIT B-2
MORTGAGE

EXHIBIT B-3
OPERATING DEFICIT GUARANTY

EXHIBIT B-4
COMPLETION GUARANTY

EXHIBIT C
CDBG REGULATORY AGREEMENT

EXHIBIT D
PERMANENT MORTGAGE LOAN DOCUMENTS

EXHIBIT E
SUBORDINATION AGREEMENT

EXHIBIT F
PERMITTED EXCEPTIONS