

# OFFICIAL STATEMENT

NEW ISSUE/BOOK-ENTRY ONLY

**RATING: Moody's: "Aaa"**  
**(See "RATING" herein.)**

*In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"), except that no opinion is expressed as to the status of interest on any Bond during any period such Bond is held by a "substantial user" of the facilities financed or refinanced by the Bonds or is a "related person" within the meaning of Section 147(a) of the Code. In the further opinion of Bond Counsel, interest on the Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes, nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. Bond Counsel is also of the opinion that interest on the Bonds is exempt from taxation of the District of Columbia, except estate, inheritance and gift taxes. Bond Counsel expresses no opinion regarding other tax consequences relating to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "TAX EXEMPTION" herein.*

**\$47,700,000**

**District of Columbia Housing Finance Agency  
FHA-Insured Multifamily Housing Revenue Bonds  
(NIBP Program – Foundry Lofts Project)  
Series 2009A-6**



**Dated: Date of Delivery**

**Due: As shown on inside cover**

Pursuant to the provisions of the District of Columbia Housing Finance Agency Act (Chapter 27, Title 42 of the District of Columbia Code), as amended (the "Act") and the General Indenture dated as of December 1, 2009 (the "General Indenture"), as amended and supplemented by the First Supplemental Indenture dated as of December 1, 2009 (the "First Supplemental Indenture" and, together with the General Indenture, the "Original Indenture"), each between the District of Columbia Housing Finance Agency (the "Issuer") and U.S. Bank National Association, as trustee (the "Trustee"), the Issuer previously issued its Multifamily Housing Revenue Bonds (NIB Program), 2009 Series A (the "Program Bonds") in the original aggregate principal amount of \$168,100,000, to provide for the financing of multifamily rental housing developments through the New Issue Bond Program of the Housing Finance Agency Initiative announced by the United States Department of the Treasury on October 19, 2009 (the "Program").

The Issuer is using the proceeds derived from the sale of a portion of the Program Bonds (re-designated the FHA-Insured Multifamily Housing Revenue Bonds (NIB Program – Foundry Lofts Project), Series 2009A-6) in the principal amount of \$47,700,000 (the "Bonds") on August 19, 2010 (the "Release Date") pursuant to the Original Indenture and the Seventh Supplemental Indenture dated as of August 1, 2010 (the "Supplemental Indenture" and, together with the Original Indenture, the "Indenture"), each between the Issuer and the Trustee, to i) make a mortgage loan in the principal amount of \$46,100,000 (the "Mortgage Loan") to SEFC 160, LLC, a District of Columbia limited liability company (the "Borrower") to finance the acquisition, construction, rehabilitation and equipping by the Borrower of a rental housing development containing, after the completion of such acquisition, construction, rehabilitation and equipping, 170 units, to be located within the District of Columbia (the "Project"), (ii) fund the Debt Service Reserve Fund for the Bonds in an amount which will be at least equal to the Debt Service Reserve Fund Requirement for the Bonds, and (iii) make such other deposits as set forth in the Supplemental Indenture.

The Mortgage Loan is being made to the Borrower on the terms specified in the Financing Agreement dated as of August 1, 2010 (the "Financing Agreement") among the Issuer, the Trustee and the Borrower, and upon the satisfaction of various conditions contained therein and in the General Indenture, as amended and supplemented. The Borrower's repayment obligations in respect of the Mortgage Loan will be evidenced by a Mortgage Note dated August 19, 2010 (together with all riders and addenda thereto, the "Mortgage Note") delivered to the Issuer, which Mortgage Note will be endorsed by the Issuer to the Trustee.

**The Bonds will be secured by a pledge of (i) the loan payments made pursuant to the Mortgage Loan funded with the proceeds of the Bonds, (ii) the related loan documents executed in connection therewith, and (iii) amounts held by the Trustee in certain segregated accounts for the Bonds. The Bonds also will be secured by a first mortgage with respect to the Project. See "SECURITY FOR THE BONDS" herein. In addition, the Mortgage Loan will be insured by the Federal Housing Administration ("FHA") under Section 542(c) of the Housing and Community Development Act of 1992, as amended (the "Risk-Sharing Act") or other applicable authority as described herein. FHA is a part of the United States Department of Housing and Urban Development ("HUD"). References to FHA and HUD are used interchangeably herein. See "FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM" herein.**

THE BONDS, PRINCIPAL OF, PREMIUM, IF ANY, AND THE INTEREST THEREON, ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND ASSETS OF THE ISSUER PLEDGED TO SUCH PURPOSES IN THE MANNER AND TO THE EXTENT PROVIDED IN THE SUPPLEMENTAL INDENTURE AND NO OTHER REVENUES OR ASSETS OF THE ISSUER. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF THE DISTRICT OF COLUMBIA, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE DISTRICT OF COLUMBIA IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

The Bonds will bear interest from their dated date payable on the Permanent Rate Conversion Date (as defined herein) and semiannually on each June 1 and December 1 thereafter (each an "Interest Payment Date"), commencing December 1, 2010. The Bonds have been issued as fully registered bonds and are registered in the name of Cede & Co. as nominee for The Depository Trust Company ("DTC"), New York, New York. Individual purchases of the Bonds will be made in book-entry form only in principal amounts of \$10,000 and any integral multiple thereof within a maturity. Individual purchasers of the Bonds will not receive certificates evidencing their interest in the Bonds. So long as the Bonds are in book-entry form only, all payments of principal of, premium, if any, and interest on the Bonds will be made by the Trustee to DTC or its successors. Disbursements of such payments from DTC to the DTC Participants are the responsibility of DTC, and disbursement to the Beneficial Owners is the responsibility of the DTC Participants.

**The Bonds are subject to mandatory, optional and extraordinary redemption prior to maturity and are subject to purchase in lieu of optional redemption as described herein.**

The Bonds are subject to the approval of certain legal matters by Orrick, Herrington & Sutcliffe LLP, Washington, D.C., Bond Counsel, and certain other conditions. Certain legal matters will be passed upon for the Borrower by its counsel, Thompson Hine LLP and Lisa Hopps, Esq., its assistant General Counsel, and for the Issuer by its General Counsel, Maria Day-Marshall. The Bonds are expected to be available for delivery in New York, New York through the facilities of DTC on or about August 19, 2010.

Investors must read this Official Statement in its entirety to obtain information essential to the making of an informed investment decision.

August 18, 2010

## MATURITY SCHEDULE

<b>Maturity Date</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Price</b>	<b>CUSIP</b>
December 1, 2051	\$47,700,000	4.09%*	100%	25477P LB9

\* The Permanent Rate to be borne on the Bonds, from and including the Permanent Rate Conversion Date to maturity. From the Release Date to the Permanent Rate Conversion Date, the Bonds will bear interest at the Short-Term Rate.

This Official Statement, including the cover page hereof, is provided for the purpose of setting forth information in connection with the issuance and sale of the Bonds. No dealer, broker, salesperson or other person has been authorized by the Issuer or the Borrower to give any information or to make any representations with respect to the Bonds other than those contained in this Official Statement, and, if given or made, such information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy any securities other than the Bonds offered herein, nor shall there be any sale of the Bonds by any person in any jurisdiction in which such offer, solicitation or sale is not authorized or in which the person making such offer, solicitation or sale is not qualified to do so or to any person to whom it is unlawful to make such offer, solicitation or sale.

The information set forth herein has been furnished by the Issuer, the Borrower and other sources which are believed to be reliable, but has not been independently verified, and such information is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Issuer or the Borrower. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale hereunder shall create any implication that there has been no change in the financial condition or operations of the Issuer, the Borrower, or any other parties described herein since the date hereof. This Official Statement contains, in part, estimates and matters of opinion that are not intended as statements of fact, and no representation or warranty is made as to the correctness of such estimates and opinions or that they will be realized.

The Issuer has not approved any information in this Official Statement except information relating to the Issuer under the captions “THE ISSUER” and “LITIGATION” (as such information pertains to the Issuer), takes no responsibility for any other information contained in this Official Statement, and makes no representation as to the contents of this Official Statement other than with respect to the descriptions herein under the captions “THE ISSUER” and “LITIGATION” (as such information pertains to the Issuer).

**TABLE OF CONTENTS**

	Page
INTRODUCTION .....	4
THE ISSUER .....	6
THE PROJECT AND THE PRIVATE PARTICIPANTS.....	12
THE BONDS .....	15
SECURITY FOR THE BONDS .....	21
ESTIMATED SOURCES AND USES OF FUNDS .....	25
FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM .....	25
CERTAIN BONDHOLDERS’ RISKS.....	30
TAX EXEMPTION .....	31
SPECIAL ADVISOR.....	33
LEGAL MATTERS.....	33
LITIGATION.....	33
CONTINUING DISCLOSURE.....	33
RATING .....	34
OTHER MATTERS.....	35
APPENDIX A – CERTAIN DEFINITIONS	
APPENDIX B – FORM OF BOND COUNSEL OPINION	
APPENDIX C – CERTAIN DOCUMENT SUMMARIES	
APPENDIX D – FORM OF CONTINUING DISCLOSURE AGREEMENT	

## Official Statement

**\$47,700,000**

**District of Columbia Housing Finance Agency  
FHA-Insured Multifamily Housing Revenue Bonds  
(NIBP Program – Foundry Lofts Project)  
Series 2009A-6**

### INTRODUCTION

*The following is a summary of certain information contained in this Official Statement, to which reference should be made for a complete statement thereof. The Bonds are described to potential investors only by means of the entire Official Statement. The descriptions and summaries of the various documents referred to herein do not purport to be comprehensive or definitive, and all such descriptions or summaries are qualified in their entirety by reference to the complete documents. Capitalized terms used but not defined herein shall have the meanings ascribed to them as set forth under “Appendix A – Definitions of Certain Terms.”*

Pursuant to the provisions of the District of Columbia Housing Finance Agency Act (Chapter 27, Title 42 of the District of Columbia Code), as amended (the “Act”) and the General Indenture dated as of December 1, 2009 (the “General Indenture”), as amended and supplemented by the First Supplemental Indenture dated as of December 1, 2009 (the “First Supplemental Indenture” and, together with the General Indenture, the “Original Indenture”), each between the District of Columbia Housing Finance Agency (the “Issuer”) and U.S. Bank National Association, Richmond, Virginia, as trustee (the “Trustee”), the Issuer previously issued its Multifamily Housing Revenue Bonds (NIB Program), 2009 Series A (the “Program Bonds”) in the original aggregate principal amount of \$168,100,000, to provide for the financing of multifamily rental housing developments through the New Issue Bond Program of the Housing Finance Agency Initiative announced by the United States Department of the Treasury on October 19, 2009 (the “Program”).

The Issuer is using the proceeds derived from the sale of a portion of the Program Bonds (re-designated the FHA-Insured Multifamily Housing Revenue Bonds (NIB Program – Foundry Lofts Project), Series 2009A-6) in the principal amount of \$47,700,000 (the “Bonds”) on August 19, 2010 (the “Release Date”) pursuant to the Original Indenture and the Seventh Supplemental Indenture dated as of August 1, 2010 (the “Supplemental Indenture” and, together with the Original Indenture, the “Indenture”), each between the Issuer and the Trustee, to i) make a mortgage loan in the principal amount of \$46,100,000 (the “Mortgage Loan”) to SEFC 160, LLC, a District of Columbia limited liability company (the “Borrower”) to finance the acquisition, construction, rehabilitation and equipping by the Borrower of a rental housing development containing, after the completion of such acquisition, construction, rehabilitation and equipping, 170 units, to be located within the District of Columbia (the “Project”), (ii) fund the Debt Service Reserve Fund for the Bonds in an amount which will be at least equal to the Debt Service Reserve Fund Requirement for the Bonds, and (iii) make such other deposits as set forth in the Supplemental Indenture. See “THE PROJECT AND THE PRIVATE PARTICIPANTS” herein.

The Mortgage Loan is being made to the Borrower on the terms specified in the Financing Agreement dated as of August 1, 2010 (the “Financing Agreement”) among the Issuer, the Trustee and the Borrower, and upon the satisfaction of various conditions contained therein and in the General Indenture, as amended and supplemented. The Borrower’s repayment obligations in respect of the Mortgage Loan will be evidenced by a Mortgage Note dated August 19, 2010 (together with all riders and

addenda thereto, the “Mortgage Note”) delivered to the Issuer, which Mortgage Note will be endorsed by the Issuer to the Trustee.

### **Security for the Bonds**

The Bonds will be secured by a pledge of (i) the loan payments made pursuant to the Mortgage Loan funded with the proceeds of the Bonds, (ii) the related loan documents executed in connection therewith, and (iii) amounts held by the Trustee in certain segregated accounts for the Bonds. The Bonds also will be secured by a first mortgage with respect to the Project. See “SECURITY FOR THE BONDS” herein. In addition, the Mortgage Loan will be insured by the Federal Housing Administration (“FHA”) under Section 542(c) of the Housing and Community Development Act of 1992, as amended (the “Risk-Sharing Act”) or other applicable authority as described under the heading “FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM—FHA Mortgage Insurance” herein. FHA is a part of the United States Department of Housing and Urban Development (“HUD”). References to FHA and HUD are used interchangeably herein. See “FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM” herein.

The Project is required to be rented in compliance with certain sections of the Internal Revenue Code of 1986, as amended (the “1986 Code”). The Borrower has entered into the Land Use Restriction Agreement, dated as of August 1, 2010 (the “Tax Regulatory Agreement”), among the Issuer, the Trustee and the Borrower, pursuant to which the Borrower has agreed to comply with the requirements of the 1986 Code relating to the operation of the Project as a qualified residential rental project, including the requirement that at least 20% of the units be occupied by individuals or families whose income does not exceed 50% (adjusted for family size) of the median gross income for the area in which the Project is located. See “APPENDIX C – CERTAIN DOCUMENT SUMMARIES” hereto.

**THE BONDS, PRINCIPAL OF, PREMIUM, IF ANY, AND THE INTEREST THEREON, ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND ASSETS OF THE ISSUER PLEDGED TO SUCH PURPOSES IN THE MANNER AND TO THE EXTENT PROVIDED IN THE SUPPLEMENTAL INDENTURE AND NO OTHER REVENUES OR ASSETS OF THE ISSUER. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF THE DISTRICT OF COLUMBIA, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE DISTRICT OF COLUMBIA IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.**

No agreement or obligation contained in the Supplemental Indenture shall be deemed to be an agreement or obligation of any director, officer, employee, commissioner, servant or agent of the Issuer in his or her individual capacity, and neither the directors of the Issuer nor any officer thereof executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No director, officer, employee, commissioner, servant or agent of the Issuer shall incur any personal liability with respect to any other action taken by him or her pursuant to the Supplemental Indenture.

### **Additional Information**

Brief descriptions of the Issuer, the Bonds, the security for the Bonds, the Borrower, the Project, the Supplemental Indenture, the Financing and Regulatory Agreement, the Tax Regulatory Agreement, the Mortgage Loan and the Mortgage Note are included in this Official Statement. All references herein

to the Supplemental Indenture, the Financing and Regulatory Agreement, the Tax Regulatory Agreement, the Mortgage Loan, the Mortgage Note and other documents and agreements are qualified in their entirety by reference to such documents and agreements, copies of which are available for inspection at the offices of the Trustee.

## **THE ISSUER**

### **The Issuer**

The Issuer is a body corporate and an instrumentality of the District of Columbia (the “District”), created under the District of Columbia Housing Finance Agency Act, Chapter 27 of Title 42 of the District of Columbia Code, as amended (the “Act”). The Bonds do not constitute obligations of the District, but are special limited obligations of the Issuer payable solely from and secured by the revenues and properties of the Issuer pledged under the Indenture and not from any other revenues or property of the Issuer, and do not constitute an indebtedness or obligation (legal, general, moral, special or otherwise) of the District. Neither the full faith and credit nor the taxing power of the District is pledged for the payment of the principal of, premium, if any, or interest on, the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer, and none of the Bonds or any of the agreements or obligations of the Issuer shall be construed to constitute an indebtedness of the District within the meaning of any constitutional or statutory provision whatsoever. The Issuer has no taxing power. See “SECURITY FOR THE BONDS.”

### **General**

The Issuer was established in 1979 pursuant to the Act as a body corporate which has a legal existence separate from the government of the District but which is an instrumentality of the government of the District created to effectuate certain public purposes. The Act declares that there exists in the District a critical shortage of adequate housing for low and moderate income families, and empowers the Issuer to generate funds from private and public sources to increase the supply and lower the cost of funds available for residential mortgages and construction loans and thereby help alleviate the shortage of adequate housing. The principal office of the Issuer is located at 815 Florida Avenue, N.W., Washington, D.C., 20001; telephone (202) 777-1600.

From the Issuer’s inception to September 30, 1992, the Issuer’s operations were primarily funded by interest-bearing, unsecured advances appropriated by the District. The unsecured advances were to be repaid from income of the Issuer in excess of operating expenses in future years, to the extent such net income was available for such repayment. Pursuant to Public Law 104-194 (enacted September 9, 1996), the appropriated debt of the Issuer including interest thereon was eliminated. Since October 1, 1992, the Issuer’s operating expenses have been funded solely from income derived from certain multifamily financial activities, other financial activities of the Issuer and certain program income derived from its Single Family Mortgage Revenue Bond Programs.

### **Board of Directors**

The Act provides for the Issuer to be governed by a Board of Directors (the “Board”) consisting of five members appointed by the Mayor with the advice and consent of the Council of the District of Columbia (the “Council”). The current members of the Board are as follows:

*Chairperson – Michael L. Wheat*

Currently serving as Managing Director with Frasca and Associates, a leading independent financial advisor primarily to transportation clients, Mr. Michael L. Wheat has more than 22 years of

experience in the area of public finance. Mr. Wheat has participated as issuer, lawyer, financial advisor and investment banker, in the issuance of over \$10 billion of bonds during his career. Before joining Frasca and Associates, Mr. Wheat's vast array of experience includes: 4 years as Managing Director in the Public Finance Department of Merrill Lynch & Co; 11 years as Director in the Public Finance Department of Citigroup Global Markets, Inc., a New York based investment bank, formerly named Salomon Smith Barney; and several years as a Vice President with Lazard Freres and Co., where he was responsible for a number of that firm's financial advisory clients, including the District of Columbia and the Metropolitan Washington Airports Authority.

Prior to becoming an investment banker, Mr. Wheat was a lawyer and local government official in the District. During the period from 1981-1986, he was employed in the Office of the Deputy Mayor for Finance, where he worked on the District's reentry into the capital markets through the first sale of bonds by the City in the twentieth century. During his employment with the District, he was responsible for overseeing the issuance of over \$1 billion of general obligation and revenue bonds by the District. He has also been employed as an attorney by two national law firms engaged in the practice of municipal finance and state and local government law from 1979-1981 and from 1986-1988.

Mr. Wheat received his Juris Doctorate degree from the University of Pennsylvania Law School in 1979 and his A.B. degree from Harvard University in 1976.

*Vice Chairperson – Jacque D. Patterson*

As Project Director with the Federal City Council, Mr. Jacque D. Patterson focuses on affordable housing, libraries, government operations, education and public safety issues confronting the District of Columbia government. Before joining the Federal City Council, he served in the District of Columbia Executive Office of the Mayor's Office of Community Affairs as the Community Affairs Coordinator. Mr. Patterson's career in public service began when he was selected for the Capital City Fellows' Program. His assignments during the Fellowship were with the Deputy Chief Finance Officer, Office of Tax & Revenue and the DC Brownfields Program. He also served as a Policy Analyst in the Office of Policy, Planning, and Program Evaluation for the DC Department of Health.

In 2006, Mr. Patterson was selected as a Fannie Mae Fellow to receive additional housing policy training while attending the Harvard University John F. Kennedy School of Government's Senior Executives in State & Local Governments Program. Mr. Patterson received his Masters of Public Administration from Central Michigan University and a graduate certification as a Certified Public Manager from the George Washington University. He holds an undergraduate degree in Education from Southern Illinois University and is currently pursuing a doctorate in Law & Policy at Northeastern University. He brings to the DC Housing Finance Agency Board of Directors a deep knowledge of urban affairs, public policy, government operations and finance.

*Member – Derek Ford*

Mr. Derek Ford is currently a Consultant, with more than 14 years of progressive financial experience within the private, governmental and non-profit sectors. He has served in the positions of Chief Financial Officer (CFO), Treasurer, Senior Auditor, Tax Associate, Financial Analyst and Real Estate Agent. Previously Mr. Ford managed the finances of a local community development organization, and provided financial and compliance oversight of the District of Columbia governmental operations on behalf of the DC Office of the Inspector General. During that time, he identified over \$150 million of unsubstantiated monetary benefits from the implementation of procurement, payroll, property, personnel and budget systems.



His additional experience includes performing financial statement audits and consulting to numerous federal government departments and agencies in accordance with the CFO Audit Act of 1990. Mr. Ford was also an accountant and finance associate with Charles E. Smith, where he provided financial expertise to the commercial and residential sections of the organization.

As a Ward 7 resident of the District of Columbia, he served as Campaign Treasurer for both the Committee to Elect and Re-Elect, Ward 7 Councilmember Yvette Alexander (D). Also, Mr. Ford serves as Treasurer for the Ward 7 Democrats. Mr. Ford received a B.S. in Accounting from North Carolina A&T State University in 1996 and was a member of the US Army Reserves for 8 years.

*Member – Buwa Binitie*

Mr. Buwa Binitie has more than 7 years of experience in real estate development and advisory services. He is instrumental in assessing development opportunities, managing development teams, as well as planning and underwriting budgets for development projects. Mr. Binitie's development experience also extends to the creation and preservation of affordable housing. Currently, Mr. Binitie is a principal of Dantes Partners where his work focuses on the financing and development of affordable housing and charter school facilities.

Previously, Mr. Binitie, on behalf of the District, administered and managed the implementation of the New Communities Initiative for the Mayor of the District of Columbia. The New Communities Initiative is a billion dollar comprehensive partnership designed to improve the quality of life for families and individuals living in distressed neighborhoods in Washington, DC. The New Communities Initiative will fight these conditions by transforming highly concentrated low-income neighborhoods into healthy mixed-income neighborhoods.

Prior to serving the District, Mr. Binitie consulted with The Neighborhood Development Company to build a \$27 million, 100% affordable 72 unit apartment building along Georgia Ave, NW. Mr. Binitie has also been engaged by owners and tenant associations alike to guide them through the D.C Tenant's Rights Act which enables renters to acquire their units at below market rates. Mr. Binitie also served as the Director of Quality Control and Client Relations at Real Estate Resource Group ("RRG") where he realized over \$5 million in savings for Fortune 1000 clients during his first two years. At RRG, he was primarily responsible for managing the strategic and logistic aspect of every lease audit campaign.

In addition to the above, Mr. Binitie serves on the Board of Capital City Charter School and the Washington Area Community Investment Fund (WACIF). Mr. Binitie received a B.S. from New York University and is a graduate of Johns Hopkins University's Master in Real Estate Development Program.

*Member – Leila Batties*

Ms. Leila Batties is a partner in the real estate section at the law firm of Holland & Knight. Her practice focus is land use and zoning. In this capacity, she represents property owners, developers and investors in all aspects of the real estate development approval process. Ms. Batties works with governmental agencies and regularly appears before governmental boards in order to secure comprehensive plan amendments, rezonings, site plan approvals and legislation in support of residential, commercial, industrial and institutional projects. She regularly works with public agencies on a range of development-related matters, including, but not limited to, school, roadways and other infrastructure; negotiates and drafts land development agreements; conducts land use and zoning due diligence; and prepares zoning opinion letters.

Ms. Batties is admitted to practice law in the District of Columbia and Florida. She graduated cum laude from the University of Miami School of Law. She holds a B.A. in Mass Communications from the University of California at Berkeley, and an M.A. in Communications from the University of Miami.

*Secretary to the Board – Harry D. Sewell. See “Management” below.*

## **Management**

The Act authorizes the Board to appoint, with the advice and consent of the Council of the District of Columbia, an Executive Director who serves as Secretary to the Board. The Executive Director is the Chief Executive Officer of the Issuer and is responsible to the Issuer’s Board of Directors for the operation of the Issuer.

*Executive Director and Secretary to the Board – Harry D. Sewell*

On June 6, 2006, the Board of Directors selected Harry D. Sewell as its Executive Director. Mr. Sewell has more than 30 years of public and private sector housing experience. During his professional career, he has held many executive-level positions in housing agencies on the east coast as well as senior positions within private sector development companies. Within the public sector, Mr. Sewell has served as Executive Director of the Housing Authority of the City of Annapolis. As Assistant Secretary for the Maryland Department of Housing and Community Development, he managed the state’s Housing Finance Agency, increasing production in its single family and multifamily programs. Mr. Sewell also led the effort for the first in the nation HFA sponsored pooled Capital Fund securitization transaction, and as Director of the Department of Real Estate and Housing in Wilmington, Delaware, he was credited with the innovative reuse of vacant city-owned properties through the creation of several homeownership programs.

Mr. Sewell’s private sector experience also demonstrates his commitment to the production of affordable housing. Among the positions he has held are Program Manager for Mid-City Urban, LLC in Silver Spring, MD, Senior Vice President of A&R Management, Inc. and Vice President of ABG Financial Services in Baltimore, Maryland. At Mid-City, Mr. Sewell managed the Planned Unit Development approval process for the Arthur Capper HOPE VI project in SE, Washington. As Vice President at ABG Financial Services in Baltimore, Maryland, he was responsible for originating, underwriting and closing over \$75 million in multifamily loans using FHA Coinsurance and Ginnie Mae (“GNMA”) Mortgage Backed Securities.

Mr. Sewell received a B.A. in Labor Management Relations from Pennsylvania State University in State College, Pennsylvania. He has served on several boards and held key positions in numerous industry organizations including being a board member for the National Organization of African Americans in Housing and the Maryland Affordable Housing Coalition; Commissioner for the Philadelphia Housing Authority and President of the Quaker Hill Housing Corporation in Wilmington, Delaware.

*Deputy Executive Director – Fran D. Makle*

Ms. Makle has almost 30 years of housing finance experience, including 11 years of management with a nationally-recognized state housing finance agency. Ms. Makle has extensive experience in mortgage lending for both single-family and multifamily housing and has been instrumental in the development and implementation of three consecutive award-winning housing programs. In November 2006, Ms. Makle joined the Issuer and currently serves as its Deputy Executive Director. In this capacity, Ms. Makle serves as the Chief Operating Officer for the Issuer and manages the day to day operations.

Previously, Ms. Makle served as the Program Director for Arundel Community Development Services, Inc., the Acting Director and the Deputy Director of the Community Development Administration at the Maryland Department of Housing and Community Development (DHCD), and the Deputy Director of the Division of Development Finance, which includes the Community Development Administration at the Maryland Department of Housing and Community Development.

In 1999, she completed a seven-month executive leadership program with the National Forum for Black Public Administrators. Ms. Makle also received her certification in Housing Finance Development from the University of Maryland School of Public Affairs, and studied Business and Public Administration at Charles Community College.

*Associate Executive Director – Allison Ladd*

Ms. Ladd has over 10 years of experience in housing finance, community development, and government affairs. Throughout her career, Ms. Ladd has served on the senior management teams in various housing finance entities - state, county and local.

Currently, Ms. Ladd serves as the Associate Executive Director of the Issuer. Ms. Ladd joined the Issuer in February 2007 and her primary responsibility is to manage the communications, marketing, and government affairs for the Issuer.

Previously, Ms. Ladd served as the Chief of Staff to the Maryland Department of Housing and Community Development. Prior to joining the Maryland state government, she served as the Special Assistant to the Director of the Prince George's County (MD) Department of Housing and Community Development. While in Prince George's County, Ms. Ladd provided technical oversight and counsel regarding the issuance of over \$75 million in tax exempt bonds for multifamily and single-family purposes.

Ms. Ladd received a Masters of Community Planning from the University of Maryland, College Park, Maryland and a Bachelor of Arts degree from the University of Rhode Island, Kingston, Rhode Island.

*General Counsel – Maria Day-Marshall*

Ms. Day-Marshall joined the District of Columbia Housing Finance Agency in November 2009, and serves as General Counsel to the Issuer. She is responsible for the overall supervision, coordination and management of all legal matters for the Issuer.

Prior to joining the Issuer, Ms. Day-Marshall was a Senior Business Development Manager in Fannie Mae's Community Lending Channel. Ms. Day-Marshall was responsible for business development, underwriting, legal documentation review, and transaction execution and closing related to two direct loan products that finance housing development and rehabilitation projects and are offered to governmental entities.

Ms. Day-Marshall has been involved in the municipal finance industry for over twenty years. Prior to joining Fannie Mae from 1982 to 1996, she served in financially and legally related positions in the District government. During her tenure, she served as Treasurer of the District of Columbia, Deputy Treasurer and Debt Manager. As Treasurer, she was responsible for the issuance of over \$6 billion of debt for the District and other D.C. government issuers. Subsequently, Ms. Day-Marshall served as a financial consultant to the D.C. Water and Sewer Authority. Ms. Day-Marshall joined Columbia Equity Financial Corp., an independent financial advisory firm, in 1999. While working at the firm, she was involved in an array of tax-exempt and taxable bond transactions totaling over \$3 billion, and served as financial advisor to, among others, Public Housing Authorities, Housing Finance Agencies and Redevelopment Authorities.

Ms. Day-Marshall currently serves as an adjunct professor in the University of Maryland's Colvin Institute of Real Estate Development. She is a member of the District of Columbia Bar, and other associations. She earned a Master of Laws in Taxation degree from Georgetown University Law Center, a Juris Doctorate degree from the Columbus School of Law, Catholic University of America, and her undergraduate degree from Fisk University.

*Deputy General Counsel – Michael Winter*

Mr. Winter is the Issuer's Deputy General Counsel. He provides legal assistance to the Issuer in structuring single-family bond transactions and has structured a variety of multifamily housing bond transactions. Mr. Winter has over 9 years of legal experience in the mortgage revenue bond and low income housing tax credit programs. He graduated from the Duke University School of Law and is a member of the District of Columbia Bar.

*Chief Financial Officer -- Sergei V. Kuzmenchuk*

Mr. Kuzmenchuk joined the Issuer as its Chief Financial Officer in October 2008. Mr. Kuzmenchuk has over 10 years of housing finance agency experience. Prior to joining the Issuer, he served as the Director of Finance and the Deputy Director of Finance for Community Development Administration (CDA), Maryland Department of Housing and Community Development. Mr. Kuzmenchuk led a team of financial analysts and accountants and managed a portfolio of more than \$3 billion of mortgage revenue bonds, mortgage loans and investments. Throughout his career, Mr. Kuzmenchuk has structured and managed tax-exempt/taxable bond transactions, including variable rate debt structures with swaps. Prior to his work at CDA, Mr. Kuzmenchuk worked in various financial management and international trade and banking capacities, domestically and overseas. Mr. Kuzmenchuk earned his M.B.A in Accounting from the Joseph A. Sellinger, S.J., School of Business and Management, Loyola University in Maryland in 2002. He was granted a M.P.M. degree in Public Sector Financial Management from the School of Public Policy, University of Maryland, College Park, in 1995. Mr. Kuzmenchuk received his B.A. and M.A. degrees in English and French Interpretation from the Minsk State Linguistic University, Minsk, Belarus in 1993.

*Director of Public Finance – Anthony L. Waddell*

Mr. Waddell has over 10 years of experience in complex mixed-use, mixed-income, mixed-finance (LIHTC, historic tax credits, taxable/tax-exempt bonds, conventional), urban development projects as both a lender and developer. Early in his career, Mr. Waddell served as the Executive Director of Coppin Heights CDC in Baltimore, and led the Commercial and Multifamily Lending Division of the public-private lending conduit, the Baltimore Community Development Financing Corporation (CDFC), to its highest annual production in its 10-year history, investing/leveraging over \$25 million in debt in

difficult to develop Baltimore neighborhoods. After CDFC, Mr. Waddell was hired by Mid-City Urban (MCU) of Washington (now Urban Atlantic) as a development manager and led its HOPE VI joint ventures with Integral Properties of Atlanta and Forest City of Washington. The two projects together consisted of the development of over 2,100 units of housing (for sale and rental) and over 800,000 square feet of office/retail/community space. During his 5-year stay with Mid-City, Mr. Waddell managed over \$700 million worth of development activity. Mr. Waddell joined the Issuer as its Director of Public Finance in July 2006. The Public Finance Department is primarily responsible for originating, underwriting, structuring and closing the issuance of multifamily tax exempt/taxable mortgage revenue bonds and 4% low income housing tax credit projects. Mr. Waddell is a graduate of The Johns Hopkins University School of Professional Studies, now The Carey Business School, where he earned a Masters of Science Degree in Real Estate with a concentration in Institutional Investment and Development.

*Director, Compliance and Asset Management – David L. Jefferson*

David L. Jefferson began his 15-year career in affordable housing in Washington, D.C. Originally from Cleveland, Ohio, Mr. Jefferson attended Howard University and currently serves as the Director of Compliance and Asset Management for the Issuer, where he provides Asset Management to over 80 Issuer financed projects.

Mr. Jefferson has served the public sector as the Executive Director of Rockville Housing Enterprises where he oversaw the development of a 60-unit homeownership community. He served as the Deputy Executive Director of the Housing Authority of the City of Annapolis, a mid-sized Housing Authority, where he managed operations. As Regional Director of the Housing Authority of Baltimore City, he directed operations for over 8,000 units of conventional public housing.

In the private sector, Mr. Jefferson served as a Vice President for A&R Management Inc. in Baltimore, MD where he oversaw operations of an over 3,000 unit mixed portfolio. He gained a strong background in asset management as a Property Manager for the Trammel Crow Company in Washington, DC.

Mr. Jefferson currently serves on the Board of Directors of the Community Housing Associates, a non-profit providing affordable housing for the mentally challenged in Baltimore City. The recipient of numerous awards, Mr. Jefferson has been traveling the country speaking on LIHTC development and inclusionary zoning.

## **THE PROJECT AND THE PRIVATE PARTICIPANTS**

*The following has been provided solely by the Borrower. Neither the Issuer, the Trustee, nor any of their counsel, officers or employees make any representations as to the accuracy or sufficiency of such information.*

### **The Project**

The Foundry Lofts Apartments (the “Project”) will include 170 rental units in a six-story loft apartment building. The property is located at 301 Tingey Street in the Southeast section of Washington, D.C. The Project will have a reinforced concrete footers and concrete slab foundation, and a concrete block with steel columns frame.

The unit mix is summarized as follows:

<u>Unit Type</u>	<u>Approximate Number of Units</u>	<u>Approximate Square Footage</u>
1 Bedroom / 1 Bath	105	672
2 Bedroom / 2 Bath	<u>65</u>	1,260
	170	

The existing improvements consist of a vacant four-story warehouse building in shell condition. The improvements were constructed circa 1917 for the manufacture of wooden armament models for the military. The former manufacturing building has brick and masonry exteriors with large windows on all elevations. The improvements will be completely rehabilitated, with an additional two floors constructed atop the existing structure recessed from the original building envelope. Upon completion, the building will contain 170 one-and two-bedroom apartment units, 10,133 sq. ft. of retail space, and 55 garage parking spaces on two floors. The majority of the units will have limited views of the Anacostia River.

The first floor will contain 14 two-bedroom, two-bathroom units, two of which are handicap accessible. The first floor units will each contain 932 sq. ft., and have 16 ft. ceiling heights. Mechanical/maintenance rooms also are located on the first floor, as well as an elevator lobby in the northeast portion of the building. The retail space will be located along the northern and southern elevations. Units on the second, third and fourth floors will be platform units, with the bedrooms located approximately three feet above the living area. Most of these units are one-bedroom, with two-bedroom units located at the building corners. The top two floors will contain 33, two-story, two-bedroom penthouse units. In addition, the building will contain a clubroom, lap-swimming pool and fitness center. The two-level parking garage will be directly accessible from the first floor, with a courtyard located above the garage on the second floor. The center of the building will be open from floors two through six above the courtyard.

### **Operating Restrictions on the Project**

In connection with the issuance of the Bonds, the Borrower will execute regulatory agreements that impose certain additional operating restrictions on the Project. The Project will be subject to a Risk-Sharing Regulatory Agreement for Multifamily Projects between the Borrower and the Issuer (the "FHA Regulatory Agreement"), as well as a Land Use Restriction Agreement and a Tax Regulatory Agreement, both among the Issuer, the Trustee and the Borrower (collectively, the "Tax Regulatory Agreement").

The Tax Regulatory Agreement imposes certain requirements on the Borrower designed to maintain the tax-exempt status of the Bonds under the Code, which include, among other requirements, a set aside of 20% of the units for rental to Families (as defined herein) having incomes at or below 50% of area median gross income, adjusted for family size and determined in accordance with Section 142(d) of the Code.

### **The Borrower**

The Borrower, SEFC 160, LLC (the "Borrower") is a for-profit District of Columbia limited liability company that was formed in February of 2008 for the specific purpose of developing and owning the Project. At present, FC 160, LLC, a for-profit District of Columbia limited liability company, is the managing member and majority owner of the Borrower (the "Managing Member"). The sole member of Managing Member is Forest City Residential Group, Inc., an Ohio corporation ("Forest City Residential

Group"). Forest City Residential Group is a subsidiary of Forest City Enterprises, Inc., an Ohio corporation ("Forest City Enterprises").

Forest City Enterprises is an owner, developer and manager of a diverse portfolio of premier real estate property located throughout the United States. Forest City has approximately \$11.5 billion in total assets (as of April 10, 2010) and operates under three strategic business units. The strategic business unit that the Project is a part of is the Residential Group which develops, owns and/or manages rental units in adaptive re-use projects, urban and suburban apartment communities, supported living properties and military housing. The Residential Group portfolio includes 117 apartment communities with over 33,420 units and eight military housing communities with more than 11,950 units.

The Borrower has no assets other than the Project and does not intend to acquire any other assets or to engage in any business activities other than those related to the ownership and operation of the Project.

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

### **The Contractor**

KBS Inc., a Virginia corporation (the "Contractor"), will serve as the general contractor for the construction of the Project. The Contractor has an extensive resume of multifamily projects including many FHA-insured projects and other work in the District. The Contractor, owned by William Paulette, Dennis Lynch, Rich Lee, Steve Satterfield, John Gillenwater and Samuel Stocks (its principals), was incorporated in Virginia in 1975. The principals have over 145 years of experience in the construction industry, with emphasis on multi-family housing.

### **The Architect**

The design architect for the Project is SK&I Architectural Design Group, LLC (the "Architect"), an architectural firm located in Bethesda, Maryland. The principal, Jon Wallenmeyer, has over 27 years of architectural and engineering services and an extensive background in multi-family and senior housing. Prior projects include The Grand, Lenox Park and Tobacco Row, located in North Bethesda, Maryland, Silver Spring, Maryland and Richmond, Virginia, respectively. In addition to design services, the Architect will provide supervision throughout the acquisition, construction, rehabilitation and equipping of the Project.

### **The Manager**

Forest City Residential Management, an Ohio corporation (the "Manager") will manage the Project. The Manager is a subsidiary of Forest City Enterprises and manages a diverse portfolio of properties located in the Greater Washington Metropolitan Area, as well as in many other areas in the United States.

## THE BONDS

### General

The Bonds will be dated, and will bear interest from, their date of delivery at the rates per annum, and mature in the principal amounts as set forth on the inside front cover of this Official Statement. Interest on the Bonds will be payable on the Permanent Rate Conversion Date and semiannually on each June 1 and December 1 thereafter, commencing December 1, 2010, until maturity or prior redemption thereof. If the date of payment of principal of, premium, if any, or interest on the Bonds is not a Business Day, then such payment may be made on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided for such payment.

The Bonds will be issued in book-entry form only in Authorized Denominations of \$10,000 and integral multiples in excess thereof and, when issued, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York (“DTC”). See “THE BONDS - Book-Entry Only System” below.

### Optional Redemption

(a) The Bonds are subject to optional redemption prior to maturity by the Issuer, at the request of the Borrower in the case of an optional prepayment of the Mortgage Note under the Financing Agreement, in whole, or in part, at any time on the first Business Day of any calendar month at a Redemption Price of 100%, plus accrued interest to the date of redemption.

(b) In the event that the Bonds are redeemed at the direction of the Issuer following written direction of the Borrower to the Issuer pursuant to paragraph (a) above prior to August 1, 2022, then the Borrower shall pay to the Issuer on or before the date of redemption, as a prepayment fee, an amount equal to the present value of the amount of the Issuer’s Fee which otherwise would have been payable from the date of redemption through August 1, 2022; provided, however, that if the Bonds are redeemed with the proceeds of a refunding issue of bonds issued by the Issuer then the prepayment fee referred to above relating to the Issuer’s Fee will not apply, but the Issuer’s administrative fee with respect to such refunding bonds will be calculated and payable in accordance with the documentation executed with respect to such refunding bonds; provided, further, however, that such fees and the fees and expenses of the Issuer’s counsel, including Bond Counsel, shall be no greater than the fees then customarily charged by the Issuer and such counsel for refunding bond issues. The Issuer and the Borrower agree that, the foregoing to the contrary notwithstanding, the Borrower may not pay any amounts under paragraph (a) above which would cause the “yield” to the Issuer to be “materially higher” than the “yield” on the Bonds, within the meaning of Treasury Regulations Section 1.14S-2(d), as determined by a verification agent or Bond Counsel selected by the Issuer, acceptable to the Trustee. The Borrower, and not the Issuer, is solely responsible for compliance with the foregoing provision and for the payment of all expenses associated therewith.

(c) In the event that the Bonds are redeemed at the direction of the Issuer following written direction of the Borrower to the Issuer pursuant to paragraph (a) above prior to the end of the Qualified Project Period (as defined in, and determined pursuant to, the Tax Regulatory Agreement), then the Borrower shall pay to the Issuer on or before the date of redemption, the Bond Monitoring Agent Fee (as defined in the Tax Regulatory Agreement) which otherwise would have been payable from the date of redemption through the end of the Qualified Project Period, provided, however, that such payment shall be subject to the same restrictions and limitations set forth in the immediately preceding paragraph.



### **Extraordinary Mandatory Redemption**

(a) The Bonds are subject to extraordinary redemption in whole or in part, by lot, at any time, at the price of 100% of the principal amount of the Bonds or portions thereof to be redeemed plus accrued interest to the date of redemption, as a result of (a) Recovery Payments received by the Trustee with respect to the Mortgage Loan and amounts transferred to the Redemption Account due to a reduction in the Debt Service Reserve Fund Requirement or (b) monies on deposit in the Bond Proceeds Fund or the Construction Financing Fund which are not utilized to make the Mortgage Loan or (c) HUD required prepayments by the Borrower not in default with respect to the Project.

(b) The Bonds also are subject to extraordinary redemption, in whole or in part, by lot, at any time, at the price of 100% of the principal amount of such Bonds or portions thereof to be redeemed plus accrued interest to the date of redemption, (a) as a result of a reduction in the amount of the Mortgage Loan that FHA is willing to insure upon final endorsement of the Mortgage Note, or (b) to the extent the Mortgage Loan is not fully disbursed, on or before December 1, 2011, as such date may be extended pursuant to the Supplemental Indenture.

### **Mandatory Sinking Fund Redemption**

(a) The Bonds are subject to mandatory redemption prior to maturity through Sinking Fund Payments, established by the Supplemental Indenture, upon notice as provided therein, on the dates set forth below and in the respective principal amounts set forth opposite each such date (the particular Bonds or portions thereof to be selected by the Trustee by lot), in each case at a Redemption Price of 100% of the principal amount of the Bonds or portions thereof to be redeemed, together with accrued interest to the redemption date:

## BONDS MATURING DECEMBER 1, 2051

Redemption Date	Principal Amount	Redemption Date	Principal Amount
December 1, 2014	\$1,470,000	December 1, 2033	\$550,000
June 1, 2015	260,000	June 1, 2034	550,000
December 1, 2015	260,000	December 1, 2034	560,000
June 1, 2016	250,000	June 1, 2035	580,000
December 1, 2016	250,000	December 1, 2035	590,000
June 1, 2017	270,000	June 1, 2036	600,000
December 1, 2017	270,000	December 1, 2036	620,000
June 1, 2018	290,000	June 1, 2037	630,000
December 1, 2018	280,000	December 1, 2037	640,000
June 1, 2019	290,000	June 1, 2038	660,000
December 1, 2019	290,000	December 1, 2038	680,000
June 1, 2020	300,000	June 1, 2039	690,000
December 1, 2020	310,000	December 1, 2039	710,000
June 1, 2021	310,000	June 1, 2040	730,000
December 1, 2021	320,000	December 1, 2040	750,000
June 1, 2022	330,000	June 1, 2041	760,000
December 1, 2022	330,000	December 1, 2041	770,000
June 1, 2023	350,000	June 1, 2042	790,000
December 1, 2023	350,000	December 1, 2042	810,000
June 1, 2024	360,000	June 1, 2043	830,000
December 1, 2024	370,000	December 1, 2043	850,000
June 1, 2025	370,000	June 1, 2044	860,000
December 1, 2025	390,000	December 1, 2044	890,000
June 1, 2026	390,000	June 1, 2045	910,000
December 1, 2026	400,000	December 1, 2045	930,000
June 1, 2027	410,000	June 1, 2046	950,000
December 1, 2027	420,000	December 1, 2046	970,000
June 1, 2028	440,000	June 1, 2047	990,000
December 1, 2028	440,000	December 1, 2047	1,010,000
June 1, 2029	450,000	June 1, 2048	1,040,000
December 1, 2029	460,000	December 1, 2048	1,060,000
June 1, 2030	470,000	June 1, 2049	1,080,000
December 1, 2030	480,000	December 1, 2049	1,110,000
June 1, 2031	500,000	June 1, 2050	1,130,000
December 1, 2031	500,000	December 1, 2050	1,160,000
June 1, 2032	520,000	June 1, 2051	1,190,000
December 1, 2032	530,000	December 1, 2051*	2,850,000
June 1, 2033	540,000		

---

\*Final Maturity

(b) The Trustee shall credit to future Sinking Fund Payments the principal amount of Bonds redeemed or purchased as described in the Supplemental Indenture, such crediting to be on a proportionate basis among all remaining Sinking Fund Payments unless otherwise directed by the Issuer, supported by cash flows reflecting that such other method of crediting shall not adversely affect the ability of the Issuer to pay the principal of and interest on the Bonds then remaining Outstanding.

(c) The principal amount of Bonds to be redeemed pursuant to the mandatory Sinking Fund Payments as set forth above may be reduced, at the option of the Issuer at the request of the Borrower in any year specified by the Issuer on behalf of the Borrower, by the principal amount of any such Bonds which, at least forty-five (45) days prior to such redemption, have been delivered by the Issuer on behalf of the Borrower to the Trustee for cancellation or have been purchased or redeemed (other than through operation of Sinking Fund Payments) and canceled by the Trustee and not theretofore applied as a credit against such mandatory redemption requirement.

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

Except for redemptions by operation of mandatory Sinking Fund Payments and except as may be expressly provided in the Supplemental Indenture, if less than all of the Bonds are to be redeemed pursuant to the provisions thereof, the Bonds to be redeemed shall be selected at the direction of the Issuer by lot, unless the Issuer has prepared cash flows reflecting that such other method of selection shall not adversely affect the ability of the Issuer to pay the principal of and interest on the Bonds then remaining Outstanding.

### **Notice of Redemption**

Notice of redemption of the Bonds being called for redemption shall be given by the Trustee, in the name of the Issuer. Each notice shall specify the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed and in the case of Bonds to be redeemed in part only, such notice also shall specify the respective portions of the principal amount of such Bonds to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed at the Redemption Price thereof, or at the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. The Trustee shall mail a copy of such notice, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the redemption date, to the registered owners of any Bonds or portions of Bonds which are to be redeemed at their last addresses, if any, appearing upon the registry books, but such mailing shall not be a condition precedent to such redemption and failure so to mail any such notice shall not affect the validity of the proceedings for the redemption of Bonds. Failure to receive such notice or any defect in such notice shall not affect the validity of such proceedings for the redemption of Bonds. Any notice of redemption may specify that such redemption is contingent upon receipt by the Trustee, on or before the date fixed for redemption, of amounts sufficient to pay the principal amount, premium if any, and interest on the Bonds to be so redeemed. If such notice so provides that redemption is contingent upon receipt of funds by the Trustee, such notice shall further state that it shall be of no force and effect if sufficient amounts are not received by the Trustee to so redeem Bonds and, in such case, the Trustee shall not be required to redeem the Bonds.

In the event of an extraordinary redemption pursuant to the heading "Extraordinary Redemption" above, notice given by the Trustee of such redemption, shall be the maximum notice possible (which may be no notice, but in no event more than 30 days' notice). The Bonds subject to redemption as provided in the Supplemental Indenture shall be so called for redemption on the earliest date for which notice can be given pursuant to this heading.

## **Purchase in Lieu of Redemption**

On any date upon which the Bonds are subject to and have been called for optional redemption, the Issuer or the Borrower, with the prior written consent of the Issuer (which consent shall not be unreasonably withheld), may, at their respective option, purchase or cause to be purchased the Bonds subject to redemption on such date (at a purchase price equal to what would have been the redemption price thereof) in lieu of such redemption. To exercise such option, the Issuer on its own behalf or, at the request of the Borrower, on behalf of the Borrower, shall deliver written notice thereof to the Trustee (and to the Issuer in the case of notice provided by the Borrower) no later than 12:00 Noon, Eastern Time, on the Purchase Date, together with a Favorable Tax Opinion, and the Issuer on its behalf or on behalf of the Borrower shall transfer or cause to be transferred to the Trustee the moneys required to purchase the Bonds no later than 12:00 Noon, Eastern Time, on such Purchase Date. No notice to the Bondholders shall be required of the exercise by the Issuer, on its behalf or on behalf of the Borrower, of the option to purchase Bonds pursuant to this heading. The Bondholders shall not have the right to receive any other notice with respect to such purchase. No Bondholder shall have the right to elect to retain Bonds in the event of a purchase in lieu of redemption. All Bonds shall be deemed to have been purchased on the Purchase Date provided funds sufficient to purchase the Bonds on the Purchase Date have been deposited with the Trustee on the Purchase Date, and from and after such Purchase Date interest shall cease to accrue on such Bonds to the prior Bondholders, and the prior owners thereof shall have no rights with respect to such Bonds except to receive payment of the purchase price thereof, premium, if any, and accrued interest to the Purchase Date. Notwithstanding such purchase, the Bonds shall remain Outstanding for all purposes under the Supplemental Indenture. Failure to mail the related notice of redemption or any defect therein shall not affect the validity of the purchase of the Bonds. The Issuer's notice of purchase in lieu of redemption may be conditioned upon receipt of funds by the Trustee or may be withdrawn at any time as specified therein. The Issuer's notice may be given in conjunction with a notice of redemption given pursuant the Supplemental Indenture, in which case it shall so state and shall provide that a withdrawal of the purchase notices will not constitute a withdrawal of the redemption notice unless otherwise specified therein.

## **Book-Entry Only System**

The Bonds will be available in book entry form only in Authorized Denominations. Purchasers of the Bonds will not receive certificates representing their interests in the Bonds purchased.

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each maturity of each Series of Bonds, each in the aggregate principal amount of that maturity of Bonds, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of

securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). and [www.dtc.org](http://www.dtc.org).

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

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

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

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

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail

information from the Issuer or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

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

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

With regard to Bonds registered in the name of Cede & Co., as nominee of DTC, the Issuer, the Borrower, and the Trustee will have no responsibility or obligation to any Direct Participant or to any Indirect Participant. Without limiting the preceding sentence, the Issuer, the Borrower and the Trustee will have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any Direct Participant or Indirect Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Direct Participant or Indirect Participant or any other person, other than Cede & Co., as nominee of DTC, of any notice with respect to the Bonds, including any notice of redemption, (iii) the payment to any Direct Participant or Indirect Participant or any person, other than Cede & Co., as nominee of DTC, of any amount with respect to principal of, premium, if any, or interest on, the Bonds or (iv) any consent given by Cede & Co., as nominee of DTC, as registered owner of the Bonds.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Borrower believes to be reliable, but neither the Issuer nor the Borrower take responsibility for the accuracy thereof.

## **SECURITY FOR THE BONDS**

### **General**

The Bonds will be secured by a pledge of (i) the loan payments made pursuant to the Mortgage Loan funded with the proceeds of the Bonds, (ii) the related loan documents executed in connection therewith, and (iii) amounts held by the Trustee in certain segregated accounts for the Bonds including a Debt Service Reserve Fund, but excluding certain funds and accounts as specified in the Supplemental Indenture. Funds and accounts not considered part of the security for the Bonds include the Rebate Fund, the Operating Reserve Account, the Borrower Funds Account and the Costs of Issuance Account. The Bonds will also be secured by a first mortgage with respect to the Project and by a Debt Service Reserve Fund for the Bonds. In addition, the Mortgage Loan will be insured by the FHA under Section 542(c) of the Risk-Sharing Act and the regulations for the Housing Finance Agency Risk-Sharing Program promulgated thereunder.

The Borrower's obligation to repay the Mortgage Loan will be evidenced by a Mortgage Note from the Borrower to the Issuer. HUD has issued a firm approval letter indicating its commitment to provide Federal mortgage insurance for the Project. In order to secure its obligations under the Mortgage Note, the Borrower will grant to the Issuer the Mortgage, which the Issuer will assign together with the Mortgage Note to the Trustee for the benefit of the Bondholders. The Mortgage Loan will be made, and such Mortgage and Mortgage Note will be executed for endorsement upon satisfaction of certain Issuer requirements and the issuance of the Federal mortgage insurance, as evidenced by the endorsement of the Mortgage Note by HUD, as hereinafter described. Only an initial endorsement by FHA will be obtained on the date of delivery of the Bonds, representing FHA's obligation to insure advances during the period of construction and equipping of the Project. Final endorsement of the Mortgage Note reflecting FHA's obligation to insure the Mortgage Loan through the maturity thereof will only occur upon successful completion of such construction and equipping of the Project, acceptable certifications by the Borrower and the Issuer, and other FHA requirements. The Borrower will covenant under the Financing and Regulatory Agreement to obtain final endorsement of the Mortgage Note by FHA on or before November 1, 2011, unless such date is extended by the Issuer. Initial endorsement of the Mortgage Note by the FHA is required to be obtained at the closing of the Mortgage Loan. The Mortgage and the Mortgage Note will, pursuant to the provisions of the Supplemental Indenture, be pledged to the payment of the Bonds. Upon initial endorsement of such Mortgage Note, the Issuer will fund the Mortgage Loan through the application of the proceeds of the Bonds on deposit in the Construction Financing Fund.

## **Federal Insurance**

No Bonds issued under the Supplemental Indenture will constitute an obligation of the United States of America or any other governmental agency, and payment of the Bonds is not guaranteed by the full faith and credit of the United States of America or any agency thereof. However, the Mortgage Loan made pursuant to the Supplemental Indenture must be insured by the FHA under the Risk-Sharing Act or under any section of the National Housing Act, as amended, which provides for payment of insurance claims in cash in an amount at least equal to the benefits provided under the Risk-Sharing Act.

Under the Supplemental Indenture, the Issuer has covenanted, among other things, that it will do all that is necessary to enforce its rights under the Federal Insurance and to receive payment of any claims thereon in cash. Such actions include, among other things, in the case of failure by the Borrower to make a Mortgage Loan payment on a timely basis, upon expiration of the applicable 30-day grace period, immediate notification to HUD as required by the National Housing Act or the Housing and Community Development Act of 1992 and the regulations promulgated thereunder, and to the Rating Agency, of a default within 10 calendar days after the expiration of such grace period. Unless an extension is granted by HUD, not later than 75 calendar days after failure by the Borrower to make any payment due under the Mortgage Note, the Issuer shall request payment of Federal Insurance benefits in cash by filing an application of initial claim payment in accordance with HUD regulations, and inform HUD that the Mortgage was financed by rated bonds and request expedited claims processing, and the Issuer shall notify the Rating Agency, in writing of its intention to file a claim for Federal Insurance or a request for a partial payment under the Federal Insurance with respect to such Mortgage Loan.

*The Issuer cannot determine the time that it would take to file and process a claim with FHA and to receive the proceeds of insurance from FHA. Additionally, the Issuer cannot determine what, if any, delay may ensue in receiving the proceeds of insurance from FHA, in the event a court issues a temporary restraining order or injunction. However, without having undertaken any independent inquiry, the Issuer knows of no instance where a court has permanently enjoined such processing of such claim or the receipt of the insurance proceeds. While the Issuer has established a Debt Service Reserve Fund under the Supplemental Indenture to secure the Project and to meet debt service payments on the Bonds pending*

*the filing, processing and receipt of insurance proceeds from FHA, a failure to receive such insurance proceeds on a timely basis could have an adverse effect on the ability of the Issuer to meet the debt service payments on the Bonds. (See “FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM - FHA Mortgage Insurance”).*

### **Capitalized Interest Account**

There has been established in connection with the Bonds a “Capitalized Interest Account”. Moneys in the Capitalized Interest Account will be transferred to a segregated account of the Revenue Fund relating to the Bonds on each interest payment date occurring during the period from and including October 19, 2010, to and including the interest payment date upon which all funds are exhausted, for the payment of (i) the interest then due on the Bonds and (ii) the Issuer Fee, the Servicer Fee, the Trustee Fee, the Rebate Analyst Fee and the Dissemination Agent Fee then due and payable as described in the Supplemental Indenture.

### **Debt Service Reserve Fund**

The Supplemental Indenture establishes a Debt Service Reserve Fund to be held by the Trustee. The Issuer is irrevocably obligated to pay or cause to be paid for deposit with the Trustee an amount equal to the Debt Service Reserve Fund Requirement established in connection with the issuance of the Bonds. Deposits will be made with the Trustee to satisfy the Debt Service Reserve Fund Requirement with respect to the Bonds pursuant to the Supplemental Indenture.

The Debt Service Reserve Requirement established in connection with the Bonds is \$1,600,000. Such amount will be invested in Permitted Investments.

Moneys and securities held for the credit of the Debt Service Reserve Fund shall be transferred by the Trustee to the Debt Service Fund at the times and in the amounts required to comply with the provisions of the Supplemental Indenture. Whenever a transfer of moneys to the Redemption Account is made requiring or permitting the purchase or redemption of the Bonds which would result in the reduction of the Debt Service Reserve Fund Requirement upon the purchase or redemption of such Bonds, including the purchase or redemption of all Bonds of a Series other than Bonds issued for the purpose of making a deposit to the Debt Service Reserve Fund, the Trustee, upon the written request of the Issuer, shall, in connection with each such purchase or redemption, withdraw from the Debt Service Reserve Fund and deposit in the Redemption Account an amount equal to the reduction of the Debt Service Reserve Fund Requirement which is to result from the purchase or the redemption of such Bonds. The amount to be withdrawn from the Debt Service Reserve Fund in each instance pursuant to the provisions of this paragraph shall be determined by the Issuer and the amount thereof certified to the Trustee in writing, and the Trustee shall include such amount in determining the principal amount of the Bonds purchased or redeemed, as the case may be.

Any income or interest earned by, or increment to, the Debt Service Reserve Fund due to the investment thereof, shall be transferred as earned by the Trustee to the Revenue Fund, unless otherwise directed in writing by the Issuer.

The Supplemental Indenture also provides that, with respect to any Series of the Bonds, in lieu of a deposit to the Debt Service Reserve Fund of an amount of funds equal to the Debt Service Reserve Fund Requirement, with respect to all or a portion of such Debt Service Reserve Fund Requirement, a letter of credit or a surety agreement, insurance agreement or other type of agreement or arrangement with an



entity satisfying the provisions of the Supplemental Indenture may be used which provides for the availability, at the time required thereunder, of an amount at least equal to such portion of the Debt Service Reserve Fund Requirement being so funded, and such method of funding shall be deemed to satisfy all provisions of the Supplemental Indenture with respect to the Debt Service Reserve Fund Requirement and the amounts required to be on deposit in the Debt Service Reserve Fund.

### **Nonrecourse Liability of Borrower**

The Financing and Regulatory Agreement establishes that from and after the date of such agreement, (i) the liability of the Borrower and the Managing Member under the Financing and Regulatory Agreement shall be limited to the Borrower's and the Managing Member's interest in the Project and the insurance thereon, and the Issuer and the Trustee shall look exclusively thereto, or to such other security as may from time to time be given or have been given for payment of the obligations thereunder, and any judgment rendered against the Borrower or the Managing Member under the Financing and Regulatory Agreement shall be limited to the Project and insurance thereon, and any other security so given for satisfaction thereof; and (ii) no deficiency or other personal judgment shall be sought or rendered against the Borrower, its Managing Member or their respective successors, transferees or assigns, in any action or proceeding arising out of the Financing and Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding; provided, however, that nothing therein or in the Mortgage shall limit the Issuer's ability to exercise any right or remedy that it may have with respect to any property pledged or granted to the Issuer or any trustee under the Financing and Regulatory Agreement, or both of them, or to exercise any right against the Borrower or the Managing Member on account of any claim for fraud or deceit and against any other person or entity on account of any claim for fraud or deceit. Notwithstanding anything therein to the contrary, nothing therein shall limit the rights of indemnification against the Borrower pursuant to certain provisions of the Financing and Regulatory Agreement. Furthermore, notwithstanding anything to the contrary, the Borrower and the Managing Member shall be fully liable for: (1) amounts payable to the Issuer constituting Unassigned Rights of the Issuer, (2) any amount due and owing as a result of any calculation or determination which may be required in connection with the Bonds for the purpose of complying with Section 148 of the Code (including rebate liability) or any applicable Treasury regulation, (3) the indemnification and payment obligations to the Issuer under the Financing and Regulatory Agreement, and (4) the misapplication of (i) proceeds paid prior to any foreclosure under any and all insurance policies, under which the Issuer or the Borrower or both are named as insured, by reason of damage, loss or destruction to any portion of the Project, to the full extent of such proceeds, (ii) proceeds or awards resulting from the condemnation, or other taking in lieu of condemnation, prior to any foreclosure of any portion of the Project, to the full extent of such proceeds and awards, (iii) rents, issues, profits and revenues received or applicable to a period subsequent to the occurrence of an Event of Default under the Financing and Regulatory Agreement but prior to foreclosure, and (iv) proceeds from the sale of all or any part of the Project.

### **Limited Obligations of the Issuer**

THE BONDS, PRINCIPAL OF, PREMIUM, IF ANY, AND THE INTEREST THEREON, ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND ASSETS OF THE ISSUER PLEDGED TO SUCH PURPOSES IN THE MANNER AND TO THE EXTENT PROVIDED IN THE SUPPLEMENTAL INDENTURE AND NO OTHER REVENUES OR ASSETS OF THE ISSUER. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF THE DISTRICT OF COLUMBIA, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE DISTRICT OF COLUMBIA IS

PLEGGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

### ESTIMATED SOURCES AND USES OF FUNDS

The estimated total sources and the uses of funds for the Project are set forth below:

<b>Sources of Funds</b>	
Bond Proceeds	\$47,700,000
Developer Equity Contribution	<u>12,318,111</u>
<b>Total</b>	<b><u>\$60,018,111</u></b>
<b>Uses of Funds</b>	
Acquisition Costs	\$15,563,000
Construction Costs	28,067,212
Soft Costs	5,627,224
Financing Costs	5,997,385
Developer Fee	2,500,000
Reserves and Escrows	<u>2,263,290</u>
<b>Total</b>	<b><u>\$60,018,111</u></b>

### FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM

*The following summary is not intended to be comprehensive or definitive and is qualified in its entirety by reference to the statutes, regulations and documents implementing the program referenced below.*

#### **Risk-Sharing Program**

The Risk-Sharing Act authorizes the Secretary of HUD to enter into risk-sharing agreements with qualified state or local housing finance agencies (“HFAs”) to enable those HFAs to underwrite and process loans for which HUD will provide full mortgage insurance for eligible projects. HUD has promulgated regulations at 24 C.F.R. Parts 246 and 266 (the “Regulations”) pursuant to the Risk-Sharing Act. The program (the “Risk-Sharing Program”) established by the Risk-Sharing Act allows HFAs to carry out certain HUD functions, including the assumption of underwriting, loan management and property disposition functions and responsibility for defaulted loans, including reimbursement of HUD for a portion of the loss from any defaults that occur while the HUD contract of mortgage insurance is in effect.

This mortgage insurance program requires that an interested HFA first be approved as a qualified housing finance agency. Upon notification of approval as a qualified HFA, the HFA must execute a risk-sharing agreement with HUD. This risk-sharing agreement must state the agreed upon risk apportionment between HUD and the HFA, a description of the HFA’s standards and procedures for underwriting and servicing loans and a list of HFA certifications designed to assure its proper performance.

Projects eligible to be insured under the Risk-Sharing Program include projects receiving Section 8 or other rental subsidies that provide affordable housing, as well as single room occupancy projects, board and care/assisted living facilities and elderly projects. Transient housing or hotels, projects in military impact areas, retirement service centers, and nursing homes or intermediate care facilities are specifically excluded from eligibility for insurance under the Risk-Sharing Program.

The Issuer has been designated by HUD as a “qualified HFA” under the Risk-Sharing Act. The Issuer entered into a risk-sharing agreement with HUD dated July 3, 1995 (the “Risk-Sharing Agreement”), as amended. The Issuer has a “Level II” approval, and it is assuming 10% of any losses on the Mortgage Loan. The Issuer has agreed to use HUD approved underwriting standards and loan terms and conditions for Level II loans.

The Regulations require HFAs with Level II approval to maintain a specially designated account consisting entirely of liquid assets in a financial institution acceptable to HUD. The Issuer has established such accounts and initially deposited \$500,000 therein. The Issuer has made and will make additional deposits to such account necessary to comply with the Regulations.

During its participation in the Risk Sharing Program, the HFA must take responsibility for certain functions, including those relating to the Affirmative Fair Housing Marketing Plan, labor standards, insurance of advances, cost certification and lead-based paint requirements. A mortgagor must certify to the HFA that it is in compliance with certain enumerated discrimination and civil rights statutes and executive orders. HUD will monitor the HFA’s compliance with requirements concerning subsidy layering, the Davis-Bacon Act and other program criteria. Certain HUD requirements may only be applicable when construction financing is utilized.

Information on project management and servicing will be required after endorsement. Additionally, the HFA must submit semiannual reports and must maintain its eligibility by continued compliance with the Risk-Sharing Agreement, the related regulatory agreement, and all the requirements for initial program eligibility.

### **FHA Mortgage Insurance**

The Supplemental Indenture requires that the Mortgage Loan, in order to qualify for financing, be insured under the Risk-Sharing Act or any section of the National Housing Act, as amended, providing insurance benefits at least equal to the insurance benefits provided under the Risk-Sharing Act. The Mortgage Loan will be insured by FHA under the Risk-Sharing Act. Pursuant to the Supplemental Indenture, the Issuer may issue Bonds from time to time and use the proceeds of such Bonds to finance projects during construction (“construction financing”) and/or subsequent to the completion of construction (“permanent financing”). If construction financing is being provided, as in the case of the Mortgage Loan, Federal mortgage insurance will be used to insure advances. Such insurance of advances is evidenced by an initial endorsement of the mortgage note by HUD. There is no initial endorsement of projects utilizing only permanent financing. In both construction financing and permanent financing, upon completion of construction, Federal mortgage insurance of the final mortgage amount will be evidenced by final endorsement of the mortgage note.

Construction advances ordinarily occur upon the commencement of construction at initial endorsement although construction may begin using a mortgagor’s own funds with the Issuer’s consent prior to initial endorsement. Upon completion of construction, presentation of a closing docket and certifications required by the Regulations, HUD issues a final endorsement of the mortgage note for the costs related to the project which have been certified by an independent certified public accountant and have been approved by the Issuer. Although the Issuer has been given authority to approve cost certifications by a mortgagor, such certifications are contestable by HUD, up to and during final endorsement of the applicable mortgage. In the event of a reduction by FHA in the principal amount to be insured from initial endorsement to final endorsement, the Bonds will be subject to extraordinary redemption pursuant to the Supplemental Indenture. See “THE BONDS—Extraordinary Redemption”

herein. All advances for construction items will be made as authorized by the Issuer pursuant to the requirements of HUD.

The Regulations define an event of default under a HUD-insured mortgage as (i) a failure to make any payment due under the mortgage or (ii) a failure to perform any other mortgage covenant (which includes covenants in the regulatory agreement, which is incorporated by reference in the applicable mortgage) if the Issuer, because of such failure, has accelerated the debt. An Issuer is entitled to receive the benefits of insurance after the mortgagor has defaulted and such default continues for a period of 30 days. If the default continues to exist at the end of the 30-day grace period, the Issuer is required to give HUD written notice of the default within 10 days after such grace period and monthly thereafter, unless waived by HUD, until such default has been cured or the Issuer has filed an application for an initial claim payment. Unless a written extension is granted by HUD, the Issuer must file an application for initial claim payment (or, if appropriate, for partial claim payment) within 75 days from the date of default. Such claim may be made as early as the first day of the month following the month for which a payment was missed. Upon request of the Issuer, HUD may extend, up to 180 days from the date of default, the deadline for filing a claim. In those cases where the Issuer certifies that the project owner is in the process of transacting a bond refunding, refinancing the mortgage, or changing the ownership for the purpose of curing the default and bringing the mortgage current, HUD may extend the deadline for filing a claim beyond 180 days.

The initial claim amount is based on the unpaid principal balance of the Mortgage Note as of the date of default, plus interest on the Mortgage Note from the date of default to the date of initial claim payment. The Mortgage Note interest component of the initial claim amount is subject to limitation as described below. HUD must make all claim payments in cash. The initial claim payment to the Issuer is equal to the initial claim amount, less any delinquent mortgage insurance premiums, late charges and interest assessment under the Regulations. The Issuer must use the proceeds of the initial claim payment to retire any Bonds or any other financing mechanisms securing the Mortgage within 30 days of the initial claim payment. Any excess funds resulting from such retirement or repayment shall be returned to HUD within 30 days of the retirement. Within 30 days of the initial claim payment, the Issuer must also issue to HUD a debenture (the "HFA Debenture"), payable in five years unless extended, in an amount equal to the amount of the initial claim payment, representing the Issuer's obligation to HUD under its Risk-Sharing Agreement.

In determining the Mortgage Note interest component of the initial claim amount, if the Issuer fails to meet any of the requirements of the Regulations within the specified time (including any granted extension of time), HUD shall curtail the accrual of mortgage note interest by the number of days by which the required action was late. Losses sustained as a consequence of the sole negligence of the Issuer will be the sole obligation of the Issuer, notwithstanding the risk apportionment otherwise agreed to by HUD and the Issuer.

### **Final Claim Settlement and HFA Debenture Redemption**

After payment of the initial claim, the HFA is responsible for disposing of the Project. After disposition of the Project or five years, whichever is earlier, the HFA must apply for final claim settlement. The "loss" to be shared by the HFA and HUD shall be calculated based on the disposition value or appraised value, as determined by the Regulations.

(a) ***Final Claim Payment.*** If the initial claim amount, as determined above, is less than HUD's share of the loss, HUD shall make a final claim payment to the HFA that is equal to the difference

between HUD's share of the loss and the initial claim amount and shall return the HFA Debenture to the HFA for cancellation.

(b) ***HFA Reimbursement Payment.*** If the initial claim amount, as determined above, is more than HUD's share of the loss, the HFA shall, within 30 days of notification by HUD of the amount due, remit to HUD an amount that is equal to the difference between the initial claim amount and HUD's share of the loss. The funds must be remitted in a manner prescribed in the administrative procedures of the Commissioner of the Federal Housing Administration (the "Commissioner"). The HFA Debenture will be considered redeemed upon HUD's receipt of the HFA's cash payment.

(c) ***Losses.*** Losses sustained as a consequence of the (sole) negligence of an HFA (e.g., failure to acquire adequate hazard insurance where such insurance is available) shall be the sole obligation of the HFA, notwithstanding the risk apportionment otherwise agreed to by HUD and the HFA.

HUD will monitor the performance of the HFA for compliance with the provisions of the Regulations.

### **Partial Payment of Claim**

In the event of a Mortgage default beyond the control of the Borrower where the related project is still financially viable, the HFA may apply for a partial payment of insurance benefits in an amount necessary to cure the default pursuant to the Regulations in lieu of filing a claim for full FHA insurance benefits. Only one partial payment of claim may be requested with regard to any insured Mortgage. In connection therewith, a modification to such Mortgage shall be prepared showing the reduction in the principal balance of the Mortgage (and deferral of interest, if applicable) corresponding to the partial payment of claim.

Upon HUD's approval of the HFA's partial payment of claim proposal, HUD will pay insurance benefits to the HFA equal to 100% of the claim amount. Pursuant to the Risk-Sharing Agreement, HFA will, thereupon, reimburse HUD 10% of the insurance benefits paid by HUD. These partial payments of claim proceeds shall be applied to an extraordinary mandatory redemption of the Bonds.

In such cases, the HFA shall take back a second note equal to the full amount of the partial payment of claim paid, and shall remit to HUD its share of payments received on account of such second note within 15 days of the HFA's receipt thereof.

### **Project Management and Servicing**

The Issuer will service the Mortgage Loan. The Regulations provide that the HFA will have full responsibility for administration of the provisions in the Regulations, relating to monitoring and determining compliance by the Borrower with HUD requirements.

### **The FHA Regulatory Agreement**

The Regulations require the HFA to execute a regulatory agreement (the "FHA Regulatory Agreement") in recordable form between the Borrower and the HFA. The FHA Regulatory Agreement must require the Borrower to comply with the provisions of the Regulations, among other things, and obligate the Borrower, among other things to:

- (1) make all payments due under the Mortgage and Mortgage Note;
- (2) if necessary, establish a sinking fund for future capital needs;
- (3) maintain the project as affordable housing, as defined in the Regulations, in which twenty percent (20%) or more of the units are both rent restricted and occupied by families whose income is fifty percent (50%) or less of the median income as determined by HUD, with adjustments for household size;
- (4) maintain use of the dwelling units in the Project for the purpose and use originally intended at the time of issuance of the Bonds; and
- (5) comply with such other requirements as may be established by the HFA and as set forth in the FHA Regulatory Agreement.

### **Sanctions**

HUD, under the Regulations, shall monitor the HFA's performance under, and compliance with, the Regulations. In the event that HUD finds such noncompliance, it may take action against the HFA. Depending on the nature and extent of such noncompliance, HUD, through a designated office, may take any of the following actions:

- (1) require that the HFA execute a trust agreement, establish a trust account in accordance with such agreement, and fund such account which may be drawn upon by HUD for purposes of meeting the HFA's risk-sharing obligations;
- (2) require the HFA to assume a higher portion of risk for the subject and future mortgages;
- (3) recommend to the Commissioner that the HFA be required to contract its loan servicing or property disposition functions to a third party;
- (4) recommend to the Commissioner that the mortgage insurance be terminated in cases of fraud or material misrepresentation by the HFA, or transfer of interest in an insured mortgage or assignment of the mortgage not in accordance with the requirements of this part;
- (5) recommend to the Commissioner that approval for the HFA to participate in the program be suspended or withdrawn;
- (6) recommend to the Commissioner that the HFA's mortgage approval be withdrawn pursuant to 24 CFR Part 25 or that penalties be imposed pursuant to 24 CFR Part 30; and
- (7) require additional financial or other reports as may be necessary to monitor the activities of the HFA more closely.

### **Termination of Contract of Insurance**

Pursuant to the Regulations, the contract relating to federal mortgage insurance shall terminate if any of the following occurs:

- (a) the Mortgage is paid in full;

- (b) the HFA acquires the mortgaged property and notifies the Commissioner that it will not file an insurance claim;
- (c) a party other than the HFA acquires the property at a foreclosure sale;
- (d) the HFA notifies the Commissioner of termination of insurance (voluntary termination);
- (e) the HFA or its successors commit fraud or make a material misrepresentation to the Commissioner with respect to information culminating in the Contract of Insurance on the mortgage or while the Contract of Insurance is in existence;
- (f) the receipt by the Commissioner of an application for final claims settlement; or
- (g) if the HFA acquires the mortgaged property and fails to make an initial claim for insurance benefits.

## **CERTAIN BONDHOLDERS' RISKS**

### **Limited Security**

The Bonds are special limited obligations of the Issuer payable solely from certain funds pledged to and held by the Trustee pursuant to the Supplemental Indenture. See “SECURITY FOR THE BONDS – Limited Obligations of the Issuer” and “SECURITY FOR THE BONDS – General” herein.

### **Taxability of the Bonds**

THE BONDS ARE NOT SUBJECT TO REDEMPTION, AND THE RATE OF INTEREST ON THE BONDS IS NOT SUBJECT TO ADJUSTMENT, BY REASON OF THE INTEREST ON THE BONDS BEING INCLUDED IN GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION. Such event could occur if the Borrower (or any subsequent owner of the Project) does not comply with the provisions of certain tax-related agreements executed in connection with the Bonds, the Regulatory Agreement and the Financing and Regulatory Agreement which are designed, if complied with, to satisfy the continuing compliance requirements of the Code in order for the interest on the Bonds to be excluded from gross income for federal income tax purposes.

### **Rental Market Conditions**

The economic feasibility of the Project depends in large part upon the Project being substantially occupied. Although representatives of the Borrower believe, based on surveys of the area where the Project is located, that substantial demand exists for the Project, no assurance can be given that such occupancy levels will be sustained in the future. Occupancy of the Project may be affected by competition from existing housing facilities or from housing facilities which may be constructed in the area served by the Project, including new housing facilities which the Borrower, or its affiliates, may acquire.

### **Funding of the Equity Contribution**

The funding level and timing of the funding of deposits to the Borrower Funds Account are subject to numerous adjustments and conditions which could result in the amounts funded and/or the

timing or even occurrence of the funding thereof varying significantly from the estimates set forth above under the section titled “ESTIMATED SOURCES AND USES OF FUNDS” and the Issuer makes no representation as to the availability of such funds.

### **Termination of Contract of Federal Insurance**

The contract of Federal Insurance may be cancelled for various reasons, including fraud or a material misrepresentation by the Issuer or failure of the Issuer to make an initial claim for insurance benefits. See “FHA-INSURED MULTIFAMILY HOUSING REVENUE BOND PROGRAM - Termination of Contract of Insurance.”

### **Limitations on Borrower’s Ability to Make Payments**

The Borrower’s ability to make payment under the Mortgage Note is and will be affected by a variety of factors, including the maintenance of a sufficient level of occupancy, the level of operating expenses, management of the Project, the ability to achieve and maintain rents to cover payments under the Mortgage Loan and operating expenses, and changes in applicable laws and governmental regulations. In addition, the continued feasibility of the Project may depend in part on general economic conditions and other factors in the surrounding metropolitan area of the Project. In addition to these factors, other adverse events may occur from time to time which may have a negative impact on the occupancy level and rental income of the Project.

### **TAX EXEMPTION**

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”), except that no opinion is expressed as to the status of interest on any Bond for any period that such Bond is held by a “substantial user” of the facilities financed or refinanced by the Bonds or by a “related person” within the meaning of Section 147(a) of the Code. In the further opinion of Bond Counsel, interest on the Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes, nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. Bond Counsel is also of the opinion that interest on the Bonds is exempt from taxation of the District of Columbia, except estate, inheritance and gift taxes. A complete copy of the proposed form of opinion of Bond Counsel is set forth in Appendix B hereto.

Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier call date) (“Premium Bonds”) will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt interest received, and a Beneficial Owner’s basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such Beneficial Owner. Beneficial Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The Issuer and the Borrower have made certain representations and covenanted to comply with certain restrictions,



conditions and requirements designed to ensure that interest on the Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken), or events occurring (or not occurring), or any other matters coming to Bond Counsel's attention after the date of issuance of the Bonds may adversely affect the value of, or the tax status of interest on, the Bonds. Accordingly, the opinion of Bond Counsel is not intended to, and may not, be relied upon in connection with any such actions, events or matters.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and is exempt from District of Columbia, except estate, inheritance and gift taxes, the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may otherwise affect a Beneficial Owner's federal, state, District or local tax liability. The nature and extent of these other tax consequences depends upon the particular tax status of the Beneficial Owner or the Beneficial Owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Future legislation, if enacted into law, or clarification of the Code may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation, or otherwise prevent Beneficial Owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislation or clarification of the Code may also affect the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisers regarding any pending or proposed federal tax legislation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Pursuant to the design of and the accompanying commentary about the New Issue Bond Program by the United States Treasury, Bond Counsel has assumed that the Bonds are treated as reissued for federal income tax purposes on the Release Date. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Issuer or the Borrower, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The Issuer and the Borrower have covenanted, however, to comply with the requirements of the Code.

Bond Counsel's engagement with respect to the Bonds ends with the issuance of the Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the Issuer, the Borrower or the Beneficial Owners regarding the tax-exempt status of the Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the Issuer, the Borrower and their appointed counsel, including the Beneficial Owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Issuer or the Borrower legitimately disagree, may not be practicable. Any action of the IRS, including but not limited to selection of the Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Bonds, and may cause the Issuer, the Borrower or the Beneficial Owners to incur significant expense.

## **SPECIAL ADVISOR**

RBC Capital Markets Corporation is acting as special advisor to the Borrower in connection with certain administrative duties associated with the delivery of the Bonds. RBC Capital Markets Corporation does not have a financial advisory relationship with the Borrower or the Issuer with respect to the Bonds and, in its capacity as special advisor, has no fiduciary obligations to either the Borrower or the Issuer.

## **LEGAL MATTERS**

The legality of the Bonds will be passed upon by Orrick, Herrington & Sutcliffe LLP, Washington, D.C., whose approving opinions will be delivered with the Bonds. See the proposed forms of such opinions at Appendix B hereto. Certain legal matters will be passed upon for the Borrower by its counsel, Thompson Hine LLP and Lisa Hopps, Esq., its assistant General Counsel, and for the Issuer by its General Counsel, Maria Day-Marshall.

## **LITIGATION**

There is not now pending or, to the Issuer's actual knowledge, threatened any proceeding or litigation seeking to restrain or enjoin the issuance or delivery of the Bonds or questioning or affecting the validity of the Bonds or the proceedings and authority under which they are to be issued. Neither the creation, organization or existence, nor the title of the present members or other officers of the Issuer to their respective offices is being contested.

There is not now pending or, to the Borrower's knowledge, threatened any proceeding or litigation seeking to restrain or enjoin the issuance or delivery of the Bonds or questioning or affecting the validity of the Bonds or the proceedings and authority under which they are to be issued, or any actions of the Borrower taken with respect to the Bonds or the existence or powers of the Borrower which would adversely affect the obligations of the Borrower with respect to the Bonds or the Project.

## **CONTINUING DISCLOSURE**

The Issuer has determined that no financial or operating data concerning the Issuer is material to an evaluation of the offering of the Bonds or to any decision to purchase, hold or sell the Bonds and the Issuer will not provide any such information. The Borrower has undertaken all responsibilities for any continuing disclosure to the Beneficial Owners and Holders, each as defined in Appendix D, of any of the Bonds as described below, and the Issuer shall have no liability to the Beneficial Owners or Holders of any of the Bonds or any other person with respect to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "Rule").

The Borrower has entered into the Disclosure Agreement (as defined in Appendix D) with the Trustee and Digital Assurance Certification, LLC, as dissemination agent, obligating the Borrower to send, or cause to be sent, certain financial information with respect to the Project to certain information repositories annually and to provide notice, or cause notice to be provided, to the Municipal Securities Rulemaking Board and a state information repository, if any, upon the occurrence of certain enumerated events for the benefit of the Beneficial Owners and Holders of any of the Bonds, pursuant to the requirements of Section (b)(5)(i) of the Rule. See "APPENDIX D—FORM OF CONTINUING DISCLOSURE AGREEMENT" attached hereto. The Borrower has not entered into any other such undertaking with respect to the Rule.

A failure by the Borrower to comply with the provisions of the Disclosure Agreement will not constitute a default under the Supplemental Indenture or the Financing and Regulatory Agreement

(although Bondholders will have any available remedy at law or in equity). Nevertheless, such a failure to comply must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds.

### **RATING**

The Bonds are rated “Aaa” by Moody’s Investors Service, Inc. Such rating reflects only the views of such Rating Agency at the time such ratings is issued and an explanation of the significance of such rating may be obtained only from such Rating Agency.

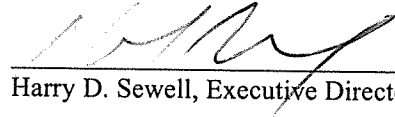
There is no assurance that such rating will continue for any given period of time or that such rating will not be revised downward or withdrawn entirely by such Rating Agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal can be expected to have an adverse effect on the market price of the affected Bonds.

## OTHER MATTERS

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

### DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY

By:

  
\_\_\_\_\_  
Harry D. Sewell, Executive Director

[Signatures continued on next page]

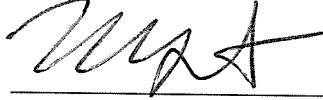
[Counterpart signature page to Official Statement]

SEFC 160, LLC, a District of Columbia limited liability company

By: FC 160, LLC, a District of Columbia limited liability company, its managing member

By: Forest City Residential Group, Inc., an Ohio corporation, its sole member

By:

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

Title: Vice President

## APPENDIX A

### CERTAIN DEFINITIONS

“Act” means the District of Columbia Housing Finance Agency Act, Chapter 27, Title 42 of the District of Columbia Code, as amended.

“Act of Bankruptcy” means the filing of a petition in bankruptcy (or other commencement of a bankruptcy or similar proceeding) by or against the Borrower or the managing member of the Borrower, as applicable, under any applicable bankruptcy, insolvency or similar law as now or hereafter in effect.

“Amortized Value” means, when used with respect to securities purchased at a premium above or a discount below par, the value as of any given date obtained by dividing the total amount of the premium or discount at which such securities were purchased by the number of days remaining to maturity on such securities at the time of such purchase and by multiplying the amount so calculated by the number of days having passed since the date of such purchase; and (a) in the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and (b) in the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

“Authorized Denominations” means with respect to the Bonds, \$10,000 and any integral multiple thereof within a maturity.

“Authorized Officer” means the Chairman, Vice Chairman, Executive Director or any other officer of the Issuer as designated by resolution or the bylaws of the Issuer to act under the Supplemental Indenture on behalf of the Issuer.

“Bank Holding Company” means a corporation which is subject to registration with the Board of Governors of the Federal Reserve System pursuant to the requirements of the Bank Holding Company Act of 1956 (12 U.S.C. §§ 1841 et seq.).

“Bond Counsel’s Opinion” means an opinion signed by an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal, state and public agency financing, selected by the Issuer.

“Bondholder”, “Registered Holder”, “Holder” or “Holder of Bonds” or any similar term means any person or party who shall be the registered owner of any Outstanding Bond.

“Bond Proceeds Subaccount” means the Bond Proceeds Subaccount of the Capitalized Interest Account in the Construction Financing Fund established pursuant to the Supplemental Indenture.

“Bond Resolutions” means, collectively, Resolution No. 2009-09 adopted by the Issuer on December 17, 2009, and Resolution 2008-06 adopted by the Issuer on July 8, 2008, as superseded by Resolution No. 2010-07, adopted by the Issuer on July 23, 2010.

“Business Day” means any day other than (a) a Saturday or Sunday or (b) a day on which (i) banking institutions in the City of New York or in the city in which the principal office of the Trustee is located are, or (ii) the New York Stock Exchange is, authorized or obligated by law or executive order to be closed.

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

“Bonds” means the Issuer’s FHA-Insured Multifamily Housing Revenue Bonds (NIB Program – Foundry Lofts Project) Series 2009A-6, authorized pursuant to the provisions of the Supplemental Indenture.

“Borrower” means SEFC 160, LLC, a District of Columbia limited liability company, its permitted successors and assigns as provided in the Financing Agreement.

“Borrower Fund” means the Borrower Fund established pursuant to the Supplemental Indenture.

“Capitalized Interest Account” means the Capitalized Interest Account in the Construction Financing Fund established pursuant to the Supplemental Indenture.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable final, temporary and proposed regulations and revenue rulings applicable thereto.

“Collateralization Requirements” means with respect to any agreement:

- (1) The Trustee or a third party acting solely as agent of the Trustee has possession of the applicable collateral;
- (2) The Trustee has a first perfected security interest in such collateral;
- (3) The market value (excluding accrued interest) of the applicable collateral is maintained at collateralization levels acceptable to the Rating Agency;
- (4) Failure to maintain the requisite collateral levels will require the Trustee to immediately liquidate the applicable collateral;
- (5) The applicable collateral is free and clear of any lien or claim of any third party; and
- (6) With respect to repurchase agreements, the term is one year or less or due on demand.

“Completion Date” has the meaning provided in the Financing Agreement.

“Construction Financing Account” means the account by that name established by the General  
“Construction Financing Fund” means the Construction Financing Fund established pursuant to the Supplemental Indenture.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement of the Issuer dated August 19, 2010.

“Conversion Date” means December 1, 2011.

“Cost of Issuance” means the items of expense to be paid or reimbursed directly or indirectly by the Issuer and related to the authorization, sale and issuance of Bonds, which items of expense shall include, but not be limited to, printing costs, costs of reproducing documents, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges; professional consultants’ fees, costs of credit ratings, fees and charges for execution, transportation and safe-keeping of Bonds, and other costs, charges and fees in connection with the foregoing.

“Cost of Issuance Fund” means the Cost of Issuance Fund established pursuant to the Supplemental Indenture.

“Cost of the Project” means costs and expenses approved by the Issuer to be necessary in connection with the Project, including without limitation, any administrative fees of the Trustee, the Servicer or the Issuer.

“Debt Service Fund” means the Debt Service Fund established pursuant to the Supplemental Indenture.

“Debt Service Reserve Fund” means the Debt Service Reserve Fund established pursuant to the Supplemental Indenture.

“Debt Service Reserve Fund Requirement” means \$1,600,000.

“Debt Service Reserve Interest Account” means the Debt Service Reserve Interest Account within the Debt Service Reserve Fund established pursuant to the Supplemental Indenture.

“Delivery Date” means August 19, 2010, which is the Release Date with respect to the Bonds.

“District” means the District of Columbia.

“Dissemination Agent” means Digital Assurance Certification LLC, its successors and assigns.

“Dissemination Agent Fee” means the annual fee of the Dissemination Agent, equal to the amount and payable as set forth in the Supplemental Indenture.

“Environmental Insurance” means the policy of insurance that guarantees the environmental obligations of the Borrower and names the Issuer as an additional insured.

“Equity Account” means the Equity Account established within the Borrower Fund pursuant to the Supplemental Indenture.

“Event of Default” shall mean any of the events enumerated in the Supplemental Indenture.

“Favorable Tax Opinion” means a Bond Counsel’s Opinion stating in effect that the proposed action, together with any other changes with respect to the Bonds made or to be made in connection with such action, waiver or failure to act, will not cause the interest on the Bonds to become includable for federal income tax purposes in the gross income of the recipients thereof.

“Federal Insurance” means insurance of a Mortgage Loan by HUD under Section 542(c) of the Housing and Community Development Act of 1992, as amended and the regulations promulgated thereunder, or under any section of the National Housing Act, as amended, that provides for payment of insurance claims in cash at least equal to the amounts permitted under the above referred to section of the Housing and Community Development Act.

“Financing Agreement” means the Financing and Regulatory Agreement, dated as of August 1, 2010, by and between the Issuer and the Borrower.

“Financing Documents” has the meaning as set forth in the Financing Agreement.

“First Supplemental Indenture” means the First Supplemental Indenture to the General Indenture dated as of December 1, 2009, between the Issuer and the Trustee, as same may be amended or modified from time to time.



“Four Week T-Bill Rate” means the interest rate for the Four Week Treasury Bills (secondary market) as reported by the Federal Reserve on its website at the following internet address – <http://www.federalreserve.gov/releases/h15/update/h15upd.htm>.

“General Indenture” means the Multifamily Housing Revenue Bonds (NIB Program) General Indenture dated as of December 1, 2009, by and between the Issuer and the Trustee, as the same may be amended or modified from time to time.

“General Reserve Fund” means the General Reserve Fund established pursuant to the Supplemental Indenture.

“Government Obligations” means (a) direct obligations of the United States of America, (b) obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (c) municipal obligations the payment of principal, redemption price, if any, and interest on which is irrevocably secured by obligations of the type referred to in (a) and (b) and which obligations have been deposited in an escrow arrangement which is irrevocably pledged to the credit of such municipal obligations and which municipal obligations are rated at least as high as the rating on the Bonds.

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

“Interest Account” means the Interest Account in the Debt Service Fund established pursuant to the Supplemental Indenture.

“Interest Payment Date” means, with respect to the Bonds, (i) following the payment of interest due on the Release Date, if any, the Permanent Rate Conversion Date and thereafter June 1 and December 1 of each year, commencing December 1, 2010 and (ii) for Bonds subject to redemption but only with respect to such Bonds, the date of redemption (or purchase in lieu of redemption).

“Investment Obligations” means the obligations of the type listed in the Supplemental Indenture.

“Issuer Fee” means the annual fee of the Issuer, equal to 0.2% of the aggregate principal amount of the Bonds Outstanding, payable semiannually in arrears on each Interest Payment Date, commencing June 1, 2011; subject, however, to a minimum of \$5,000 annually, proportionately reduced in the event of an unscheduled prepayment of any portion of the Mortgage Loan.

“Land Use Restriction Agreement” means the Land Use Restriction Agreement, by and among the Issuer, the Borrower and the Trustee, dated as of August 1, 2010.

“Loan Documents” means the Financing Agreement, the Mortgage, the Mortgage Note, the Risk-Sharing Regulatory Agreement and any other Financing Documents required to be executed in connection with the Mortgage Loan.

“Maturity Date” means December 1, 2051.

“Mortgage” means the first lien leasehold deed of trust executed by the Borrower to secure its payment obligation under the Mortgage Loan.

“Mortgage Advance Amortization Payment” means the payment made by the Borrower with respect to the Project in full or partial satisfaction of its Mortgage Loan in advance of the due date or

dates thereof in accordance with the provisions of the Mortgage.

“Mortgage Loan” means the loan made by the Issuer to the Borrower from the proceeds of the Bonds.

“Mortgage Note” means the deed of trust promissory note from the Borrower to the Issuer evidencing the obligation of the Borrower to repay the Mortgage Loan.

“Mortgage Repayments” means the amounts paid or required to be paid from time to time for principal and interest by or on behalf of the Borrower on the Mortgage Loan for the Project pursuant to the Mortgage Note.

“Net Operating Income” means, for any period, the amount, if any, by which (a) gross revenues generated by the Project during such period exceed (b) operating expenses related to the Project for such period.

“NIBP Reservation Fee” means the fee payable by the Issuer in connection with the New Issue Bond Program.

“Operating Reserve Fund” means the Operating Reserve Fund established pursuant to the Supplemental Indenture.

“Outstanding”, when used with reference to Bonds, means, as of any date, Bonds which have been delivered under the provisions of the Supplemental Indenture, except: (i) any Bonds cancelled by the Trustee at or prior to such date, (ii) Bonds for the payment or redemption of which monies equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held by the Trustee or the Paying Agent in trust (whether at or prior to the maturity or redemption date), provided that if such Bonds are to be redeemed, notice of such redemption shall have been given as in Article III provided or provision satisfactory to the Trustee shall have been made for the giving of such notice, (iii) Bonds in lieu of or in substitution for which other Bonds shall have been delivered pursuant and (iv) Bonds or portions of Bonds deemed to have been paid as provided in the Supplemental Indenture.

“Paying Agent” means any paying agent for the Bonds, and its successor or successors appointed pursuant to the provisions of the Supplemental Indenture.

“Period of Construction” means that period in which the Project is being constructed and terminating with the date of commencement of principal amortization on the Mortgage Loan pursuant to the Mortgage.

“Permanent Rate” means, with respect to the Bonds, 4.09% per annum (the sum of 3.49% per annum, plus the Spread).

“Permanent Rate Conversion Date” means, with respect to the Bonds, October 19, 2010.

“Person” or “person” means any natural person, firm, association, partnership, corporation, limited liability company, trust, public body or other entity.

“Principal Account” means the Principal Account in the Debt Service Fund established pursuant to the Supplemental Indenture.

“Project” means the project being financed for the benefit of the Borrower, as more particularly described on Exhibit A attached to the Supplemental Indenture.

“Project Budget” means the Project Budget attached to the Financing Agreement.

“Purchase Date” means any date on which the Bonds are subject to purchase in lieu of a redemption in accordance with the provisions of the Supplemental Indenture.

“Rating Agency” means Moody’s Investor Services.

“Rebate Amount” means the amount, if any, which is to be paid to the United States of America pursuant to Section 148(f) of the Code, and as described in the Tax Regulatory Agreement and the Supplemental Indenture.

“Rebate Analyst” means Dobbs, Ram & Company or a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and selected by the Issuer, at the expense of the Borrower, to calculate the Rebate Amount or, in the event that the Issuer fails to so retain a Rebate Analyst one month prior to any date on which calculations are required to be made under the Tax Regulatory Agreement, any qualified person selected by the Trustee, at the expense of the Borrower, to calculate the Rebate Amount.

“Rebate Analyst Fee” means the annual fee of the Rebate Analyst, equal to the amount and payable as set forth in the Supplemental Indenture.

“Rebate Fund” means the Rebate Fund established pursuant to the Supplemental Indenture.

“Record Date” means the 15th day of the month preceding the date on which interest is due and payable on the Bonds.

“Recovery Payments” means monies received by the Issuer with respect to the Mortgage Loan from (i) proceedings taken by the Issuer in the event of the default by the Borrower, including the sale, assignment or other disposition of the Mortgage Loan or the Project in accordance with the terms of the Federal Insurance, (ii) the prepayment or refunding, undertaken at the direction of HUD or at the direction of the Issuer, of or with respect to the Mortgage Loan in default or (iii) the condemnation of the Project or any part thereof or from hazard insurance payable with respect to the damage or destruction of the Project and which are not applied to the repair or reconstruction of such Project.

“Redemption Account” means the Redemption Account in the Debt Service Fund established pursuant to the Supplemental Indenture.

“Redemption Price” means, with respect to any Bond, the principal amount thereof, plus the applicable premium, if any, payable upon redemption thereof pursuant to the Supplemental Indenture.

“Release Date” means, with respect to the Bonds, August 19, 2010.

“Replacement Reserve Account” means the Replacement Reserve Account established pursuant to the Financing Agreement.

“Requisition” means a requisition in the form attached to the Supplemental Indenture, together with all invoices, bills of sale, schedules and other submissions required to make an advance from the

Construction Financing Fund, the Borrower Fund, Operating Reserve Fund and the Cost of Issuance Fund.

“Revenue Fund” means the fund by that name established pursuant to the Supplemental Indenture.

“Revenues” means all payments under the Mortgage Note and all investment earnings derived or to be derived on any monies and investments held by the Trustee under the Supplemental Indenture, but excluding (1) amounts paid as fees, reimbursements for expenses or for indemnification of the Issuer and the Trustee, (ii) amounts paid to or collected by the Issuer in connection with any Unassigned Rights of the Issuer, and (iii) any Rebate Amount.

“Risk-Sharing Regulatory Agreement” means the Risk-Sharing Regulatory Agreement for Multifamily Housing Project, by and between the Issuer and the Borrower, dated as of August 1, 2010.

“Seasoned Funds” means (i) moneys deposited with the Trustee and so designated by the Trustee, which moneys shall have been held by the Trustee for at least 123 days prior to the date such moneys are to be used to make payments on the Bonds, provided that no Act of Bankruptcy shall have occurred during such 123-day period after such moneys were deposited with the Trustee (as evidenced by a certificate of the Borrower or the Managing Member of the Borrower, as applicable, to the effect that no Act of Bankruptcy has occurred during such period); (ii) moneys with respect to which there has been delivered to the Trustee an opinion of nationally recognized bankruptcy counsel to the effect that payment of such moneys to the bondholders in payment of principal of, premium, if any, or interest on the Bonds will not constitute a preferential payment recoverable under Section 547 of the United States Bankruptcy Code and will not be subject to, or will promptly be released from, the automatic stay or transfer provisions provided for in Sections 362(a) and 550(a), respectively, of the United States Bankruptcy Code in the event of the bankruptcy of the Borrower, the Managing Member of the Borrower, the guarantors of the Borrower, as applicable, or the Issuer; (iii) moneys derived from a draw on a letter of credit issued by a national banking institution; or (iv) other moneys approved by the Rating Agency.

“Seasoned Funds Subaccount” means the Seasoned Funds Subaccount of the Capitalized Interest Account in the Construction Financing Fund established pursuant to the Supplemental Indenture.

“Serial Bonds” means Bonds which mature in semi-annual or annual installments of principal as authorized by the Supplemental Indenture, which need not be equal.

“Servicer” means the District of Columbia Housing Finance Agency, its successors and assigns.

“Short-Term Rate” means, with respect to the Bonds, the interest rate equal to the sum of 0.60% plus the lesser of (i) Four Week T-Bill Rate as of the second Business Day prior to the Release Date or (ii) the Permanent Rate less the Spread.

“Sinking Fund Payment” means, with respect to the Bonds, the payments for Term Bonds established pursuant to the Supplemental Indenture.

“Special Issuer Fee” means, with respect to the Bonds, an amount equal to the difference between interest calculated on the Bonds at the Short-Term Rate and interest calculated on the Mortgage Loan at the Permanent Rate for the period from and including the Release Date to, but not including, the Permanent Rate Conversion Date, which amount shall be payable to the Issuer on the Permanent Rate Conversion Date pursuant to the provisions of Section 4.09(c).

“Spread” means 0.60%.

“Stabilization” means the point at which (i) the Project has been ninety percent (90%) occupied by tenants meeting the requirements of the Financing Documents in each of four (4) consecutive months; and (ii) the ratio of Net Operating Income to maximum principal and interest payable on the amount of Bonds Outstanding in each of the prior four (4) months equals or exceeds 1.10 to 1.0 in any month.

“Supplemental Indenture” means the Seventh Supplemental Indenture authorizing the issuance of the Bonds.

“Tax Certificate” means the Tax Certificate dated as of August 19, 2010, by and between the Issuer and the Borrower, relating to the Bonds.

“Tax Regulatory Agreement” means the Tax Regulatory Agreement dated as of August 1, 2010, by and between the Issuer and the Borrower and accepted by the Trustee, relating to the Bonds.

“Term Bonds” means Bonds not constituting Serial Bonds.

“Transfer Date” has the meaning set forth in the Supplemental Indenture.

“Trustee” means U.S. Bank National Association, with corporate trust offices in Richmond, Virginia, a national banking association, its successors and assigns.

“Trustee Fee” means the annual fees and expenses of the Trustee with respect to the Bonds, payable in advance, on the Delivery Date and each August 1 thereafter, in an amount equal to \$2,875 annually.

“Unassigned Rights of the Issuer” means (a) all rights which the Issuer or its past, present and future officers, members, directors, officials, employees or agents may have under the Financing Documents (as defined in the Financing Agreement) to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its officers, members, directors, officials, employees or agents; (b) the right of the Issuer to receive notices, reports or other information, make determinations and grant consents and approvals under the Financing Agreement and under the other Financing Documents; (c) the right of the Issuer to receive its fee pursuant to the Financing Agreement; (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or any requirements imposed by the Issuer with respect to the Project, or necessary to assure that interest on the Bonds is excluded from gross income for federal income tax purposes, as are set forth in any of the Financing Documents or in any other certificate or agreement executed by the Borrower; (e) all rights of the Issuer in connection with any amendment to or modification of the Financing Documents; and (f) all enforcement remedies with respect to the foregoing.

## **APPENDIX B**

### **FORM OF BOND COUNSEL OPINION**

August 19, 2010

District of Columbia Housing Finance Agency  
815 Florida Avenue, N.W.  
Washington, D.C. 20001

**District of Columbia Housing Finance Agency  
FHA-Insured Multifamily Housing Revenue Bonds  
(NIB Program – Foundry Lofts Project)  
Series 2009A-6**

Ladies and Gentlemen:

As bond counsel to the District of Columbia Housing Finance Agency (the “Agency”), we have examined the applicable law, including the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, D.C. Code §§ 42-2701.01 et seq., as amended (the “Act”), and certified proceedings and documents relating to the organization of the Agency and the issuance and delivery on December 30, 2009, of its Multifamily Housing Revenue Bonds (NIB Program), 2009 Series A in the original aggregate principal amount of \$168,100,000 (the “Program Bonds”). The Program Bonds were authorized pursuant to the Act and Resolution No. 2009-09 adopted by the Agency on December 17, 2009, and issued pursuant to the General Indenture dated as of December 1, 2009, as amended and supplemented by the First Supplemental Indenture dated as of December 1, 2009 (collectively, the “Original Indenture”), each by and between the Agency and U.S. Bank National Association, as trustee (the “Trustee”).

On the date hereof, \$47,700,000 principal amount of the Program Bonds (the “Series 2009A-6 Released Bonds”) will be released from the escrow and delivered to the Trustee pursuant to the Act, Resolution No. 2007-17, adopted on November 20, 2007, Resolution No. 2010-07, adopted by the Agency on July 23, 2010, the Original Indenture and a Seventh Supplemental Indenture, dated as of August 1, 2010, by and between the Agency and the Trustee (the “Seventh Supplemental Indenture” and, together with the Original Indenture, the “Indenture”). The Seventh Supplemental Indenture provides that the Series 2009A-6 Released Bonds are issued for the purpose of making a loan to SEFC 160, LLC, a District of Columbia limited liability company (the “Borrower”), pursuant to a Financing and Regulatory Agreement, dated as of August 1, 2010, by and between the Agency and the Borrower (the “Financing Agreement”). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

In such connection, we have reviewed the Indenture, the Financing Agreement, the Tax Regulatory Agreement, the Land Use Restriction Agreement, the HUD Regulatory Agreement, the Tax Certificate and Agreement, opinions of counsel to the Agency, the Borrower and the Trustee, certificates of the Agency, the Trustee, and others as to certain factual matters, and such other documents, opinions and matters to the extent we have deemed necessary to render the opinions set forth herein.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Accordingly, this opinion speaks only as of its date and is not intended to, and may not, be relied upon in connection with any such actions, events or matters. Our engagement with respect to the Series 2009A-6 Released Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. We have assumed the genuineness of documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Agency. Pursuant to the design of and the accompanying commentary about the New Issue Bond Program by the United States Treasury, we also have assumed that the Series 2009A-6 Released Bonds are treated as reissued on the date hereof. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the second paragraph hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture, the Financing Agreement, the Tax Regulatory Agreement, the Land Use Restriction Agreement, HUD Regulatory Agreement and the Tax Certificate, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Series 2009A-6 Released Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Series 2009A-6 Released Bonds, the Indenture, the Financing Agreement, the Tax Regulatory Agreement, the Land Use Restriction Agreement, the HUD Regulatory Agreement and the Tax Certificate and Agreement, and their enforceability, may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against the Agency. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the real or personal property described in or as subject to the lien of the Indenture or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such property. No opinion is expressed with respect to any Program Bonds that are not Series 2009A-6 Released Bonds. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement, dated August 18, 2010, relating to the Series 2009A-6 Released Bonds or any other offering materials relating to the Series 2009A-6 Released Bonds and express herein no opinion with respect thereto.

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

1. The Agency is a corporate body and an instrumentality of the District of Columbia, duly organized and validly existing under the laws of the District of Columbia, and has lawful authority to perform its obligations in accordance with law and the terms and conditions of the Indenture.

2. The Series 2009A-6 Released Bonds have been duly authorized and constitute the valid and binding special limited obligations of the Agency, payable solely from the Revenues and other assets pledged therefor under the Indenture.

3. The Indenture has been duly authorized, executed and delivered by, and is a valid and binding obligation of, the Agency. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Series 2009A-6 Released Bonds and other obligations secured thereby, of the right, title and interest of the Agency in, to and under the Mortgage Loan, all of the Revenues, all

proceeds of the sale of the Series 2009A-6 Released Bonds, and all Funds and Accounts (other than the Cost of Issuance Fund, the Operating Reserve Fund, the Borrower Fund and the Rebate Fund) and the moneys and securities therein, in each case subject to the provisions of the Indenture permitting the use and application thereof for or to the purposes and on the terms and conditions set forth in the Indenture.

4. The Series 2009A-6 Released Bonds do not constitute an obligation of the District of Columbia, but are special limited obligations of the Agency payable solely from and secured by the Revenues and other assets pledged therefor under the Indenture. The Agency is not obligated to pay principal of, premium, if any, or interest on the Series 2009A-6 Released Bonds except from the Trust Estate. Neither the faith and credit nor the taxing power of the District of Columbia is pledged to the payment of principal of, premium, if any, and interest on the Series 2009A-6 Released Bonds. The Agency has no taxing power.

5. Interest on the Series 2009A-6 Released Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”), except that no opinion is expressed as to the exclusion from gross income of interest on any Series 2009A-6 Released Bond for any period during which such Series 2009A-6 Released Bond is held by a “substantial user” of the facilities financed with the proceeds of the Series 2009A-6 Released Bonds or is a “related person” within the meaning of Section 147(a) of the Code. Interest on the Series 2009A-6 Released Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes, nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. Interest on the Series 2009A-6 Released Bonds is exempt from all District of Columbia income taxes, except estate, inheritance and gift taxes. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Series 2009A-6 Released Bonds.

6. The Mortgage Loan complies with the covenants set forth in Section 7.08 of the Seventh Supplemental Indenture.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP



## APPENDIX C

### DOCUMENT SUMMARIES

#### SUPPLEMENTAL INDENTURE

*The following is a brief summary of certain provisions of the Supplemental Indenture. This summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Supplemental Indenture, copies of which are on file with the Trustee.*

#### **Funds and Accounts**

The Supplemental Indenture establishes, or provides for the establishment of, the following Funds and Accounts to be held by the Trustee:

- (a) Revenue Fund;
- (b) Debt Service Fund, and within it a Interest Account, a Principal Account and Redemption Account;
- (c) Debt Service Reserve Fund, and within it a Debt Service Reserve Interest Account;
- (d) Bond Proceeds Fund;
- (e) Construction Financing Fund, and within it a Capitalized Interest Account, and within it a Bond Proceeds Subaccount and a Seasoned Funds Subaccount;
- (f) General Reserve Fund;
- (g) Cost of Issuance Fund;
- (h) Rebate Fund;
- (i) Operating Reserve Fund; and
- (j) Borrower Fund, and within it an Equity Account.

The funds and accounts established pursuant to the Supplemental Indenture shall be maintained in the corporate trust department of the Trustee as segregated trust accounts, separate and identifiable from all other funds held by the Trustee. The funds and accounts established under the Supplemental Indenture shall bear a designation clearly indicating that the funds deposited therein are held for the benefit of (i) the Holders of the Bonds, respecting the Revenue Fund, the Debt Service Fund, the Debt Service Reserve Fund, the Bond Proceeds Fund, the General Reserve Fund, the Construction Financing Fund and the Capitalized Interest Account and (ii) the Borrower, respecting the Cost of Issuance Fund, the Borrower Fund and the Rebate Fund. The Trustee shall, at the written direction of an Authorized Officer of the Issuer, and may, in its discretion, establish such additional accounts within any Fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that Fund and its accounts, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the

establishment of any such account or subaccount shall not alter or modify any of the requirements of the Supplemental Indenture with respect to a deposit or use of money in the funds established thereunder, or result in commingling of funds not permitted thereunder.

### **Revenue Fund**

There shall be deposited to the Revenue Fund with respect to the Bonds and held by the Trustee (i) the amount specified in the Supplemental Indenture, (ii) interest income transferred from the Construction Financing Fund as provided thereunder, (iii) monthly Mortgage Repayments received by the Issuer or the Trustee with respect to the Mortgage Loan and (iv) the amounts transferred from the Capitalized Interest Account pursuant thereto on each Interest Payment Date. The Trustee is directed to invest such amounts so deposited in the Revenue Fund in the investments specified in the Supplemental Indenture. Investment earnings received on such amounts shall be retained in the Revenue Fund.

### **Revenue Fund Transfers**

(a) (i) On or before each Interest Payment Date on the Bonds, the Trustee shall withdraw from the Revenue Fund (first from amounts representing Mortgage Repayments) and deposit to the credit of the Interest Account in the Debt Service Fund an amount which, when added to the amount then on deposit in the Interest Account, will on such Interest Payment Date be equal to the installment of the interest on the Bonds then due.

(ii) On or before each principal payment date on the Bonds, the Trustee shall withdraw from the Revenue Fund and deposit to the credit of the Principal Account in the Debt Service Fund an amount which, when added to the amount then on deposit in the Principal Account, will on such date be equal to the amount of the principal of the Bonds then due and the unpaid Sinking Fund Payments then due.

(b) (i) On or before each Interest Payment Date, after providing for all payments into the Debt Service Fund pursuant to paragraph (a)(i) and (ii) above, the Trustee shall withdraw from the Revenue Fund and deposit in the Rebate Fund such amount, if any, (or the balance of the monies so remaining in the Revenue Fund if less than the required amount) as shall be required to be paid to the United States as required by Section 148(f) of the Code.

(ii) On or before each Interest Payment Date, after providing for all payments into the Debt Service Fund pursuant to paragraph (a) above and the Rebate Fund pursuant to paragraph (b)(i) above, the Trustee shall withdraw from the Revenue Fund and deposit in the Debt Service Reserve Fund such amount, if any, (or the balance of the monies so remaining in the Revenue Fund if less than the required amount) as shall be required to restore the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement.

(c) Following the transfers required to be made with respect to the Bonds from the Revenue Fund to the Debt Service Fund, the Rebate Fund and the Debt Service Reserve Fund, respectively, on or before each Interest Payment Date pursuant to paragraphs (a) and (b) above, the Trustee shall make the payments, in the order of priority set forth in the Supplemental Indenture, on each Interest Payment Date (or on such other date as indicated in the Supplemental Indenture).

(d) On the Business Day following each Interest Payment Date, commencing on the Business Day following the first Mandatory Sinking Fund Redemption pursuant to the Supplemental Indenture (or such earlier date approved by the Issuer and the Rating Agency), amounts remaining in the Revenue Fund in excess of \$220,000 (or such other amount approved by the Issuer and the Rating Agency) shall be transferred to the General Reserve Fund.

#### **Debt Service Fund**

(a) The amounts on deposit in the Debt Service Fund shall be held by the Trustee and used solely for the purpose of paying the principal and Redemption Price of and interest and Sinking Fund Payments on the Bonds and of retiring such Bonds at or prior to maturity in the manner provided in the Supplemental Indenture. All monies deposited in the Debt Service Fund shall be disbursed and applied by the Trustee at the times and in the manner provided under this heading.

(b) The Trustee shall, on or before each Interest Payment Date of the Bonds, pay out of the monies then held for the credit of the Interest Account, to itself and the Paying Agent, the amounts required for the payment by it and the Paying Agent of the interest becoming due on the Bonds on such Interest Payment Date, and such amounts so withdrawn are thereby irrevocably dedicated for and shall be applied to the payment of such interest.

(c) The Trustee shall, on or before each principal payment date of the Bonds, pay out of the monies then held for the credit of the Principal Account to itself and the Paying Agent, the amounts required for the payment by it and the Paying Agent of the principal becoming due on the Bonds on such principal payment date, and such amounts so withdrawn are thereby irrevocably dedicated for and shall be applied to the payment of such principal.

The Trustee shall, on or before each Sinking Fund Payment date of the Bonds, pay out of the monies then held for the credit of the Principal Account to itself and the Paying Agents, the amounts required for the payment by it and such Paying Agents of the Sinking Fund Payments then falling due, and such amounts so withdrawn are thereby irrevocably dedicated for and shall be applied to the payment of such Sinking Fund Payments.

At any time during the twelve month period preceding a Sinking Fund Payment date, the Issuer may direct the Trustee to purchase Term Bonds of the maturity with respect to which such Sinking Fund Payment was established, at a time not later than forty-five (45) days prior to such date and at a price not

exceeding par plus accrued interest, and to apply the Term Bonds so purchased as a credit against the next ensuing Sinking Fund Payment. The Trustee shall withdraw monies from the Revenue Fund to effectuate such purchase. All Term Bonds purchased as aforesaid shall, for the purposes of paragraph (a) under the heading "Revenue Fund Transfers" above, be deemed to be part of the Debt Service Fund.

(d) Any monies deposited into the Redemption Account by the Trustee or transferred into the Redemption Account pursuant to the provisions of the Supplemental Indenture shall be applied to the purchase or retirement of the Bonds, as designated by a certificate of an Authorized Officer.

The Trustee shall, to the extent provided in such certificate, promptly apply such monies to the purchase of Bonds of the maturities specified in a certificate of an Authorized Officer by the Trustee with reasonable diligence, whether or not such Bonds shall then be subject to redemption, such price, however, shall not exceed the Redemption Price which would be payable on the next ensuing date on which the Bonds so purchased are redeemable at the option of the Issuer according to their terms. To the extent specified in written directions from the Issuer, the Trustee shall pay the interest accrued on the Bonds so purchased to the settlement date thereof to the Trustee from the Revenue Fund. The balance of such purchase price shall be paid from the Redemption Account but no such purchase shall be made by the Trustee within the period of forty-five (45) days next preceding a date on which such Bonds are subject to redemption pursuant to the provisions of the Supplemental Indenture.

In the event the Trustee is unable to purchase Bonds, the Trustee shall, to the extent provided in such certificate, call for redemption pursuant to the provisions of the Supplemental Indenture on the next redemption date applicable to the redemption of Bonds such amount of Bonds of the maturities specified in a certificate of an Authorized Officer as will exhaust said amount as nearly as may be. To the extent specified in written directions from the Issuer, the Trustee shall pay the interest accrued on the Bonds so redeemed to the date of such redemption from the Revenue Fund. Such accrued interest, to the extent not paid from the Revenue Fund and the Redemption Price shall be paid from the Redemption Account.

In the event that monies in the Redemption Account are to be invested in Government Obligations pursuant to a certificate of an Authorized Officer prior to the application thereof, the Trustee shall transfer such portion of the maturing principal amount of such Government Obligations as represents the investment income earned on such Government Obligations to the Revenue Fund at the times and in the amounts specified in such certificate.

(e) In the event there shall be, on any Interest Payment Date a deficiency in the Interest Account, or, in the event there shall be, on any principal payment date or Sinking Fund Payment date, a deficiency in the Principal Account, the Trustee shall make up such deficiencies from the Revenue Fund, to the extent that monies therein are available for such purpose, the amounts refunded to be withdrawn therefrom for the purpose of making up any such deficiencies.

(f) Subject to the provisions of the Supplemental Indenture, in the event there shall be, on any Interest Payment Date, a deficiency in the Interest Account, or, in the event there shall be, on any principal payment date or Sinking Fund Payment date, a deficiency in the Principal Account not made up from the Revenue Fund pursuant to paragraph (c) above, the Trustee shall make up such deficiencies from the Debt Service Reserve Fund by the withdrawal of monies therefrom for that purpose and by the sale or redemption of securities held in the Debt Service Reserve Fund, if necessary. Moneys shall be transferred from the Debt Service Reserve Fund in such amount as will, at the respective times, provide monies in the Interest Account and the Principal Account sufficient to make up any such deficiency. The Trustee shall, in accordance with the provisions of paragraph (b) under the heading "Revenue Fund Transfers" above, pay into the Debt Service Reserve Fund from the Revenue Fund, to the extent that monies therein are available for such purpose, the amount withdrawn from the Debt Service Reserve Fund for the purpose of

making up any such deficiencies. Whenever the assets of the Debt Service Fund and the Debt Service Reserve Fund shall be sufficient in the aggregate to provide monies to pay, redeem or retire all Bonds then Outstanding, including such interest thereon as may thereafter become due and payable to maturity or date of redemption, no further payments need be made into the Debt Service Fund or Debt Service Reserve Fund.

(g) The Debt Service Fund shall be drawn upon for the sole purpose of paying the principal and Redemption Price of and interest and Sinking Fund Payments on the Bonds. Monies set aside from time to time with the Trustee and Paying Agents for the payment of such principal, Redemption Price, Sinking Fund Payments and interest shall be held in trust for the Holders of the Bonds in respect of which the same shall have been so set aside. Until so set aside for the payment of principal, Redemption Price, Sinking Fund Payments or interest, all monies in the Debt Service Fund shall be held in trust for the benefit of the Holders of all Bonds at the time Outstanding equally and ratably and without any preference or distinction as between Bonds.

### **Debt Service Reserve Fund**

(a) On the Delivery Date, the Trustee shall transfer \$1,600,000 from the Bond Proceeds Fund into the Debt Service Reserve Fund pursuant to the Supplemental Indenture, which deposit will at least equal the Debt Service Reserve Fund Requirement with respect to the Bonds. The Trustee is directed to invest amounts deposited as provided in the investments specified in the Supplemental Indenture.

(b) The Trustee shall deposit in and credit to the Debt Service Reserve Fund all monies transferred from the Revenue Fund pursuant to the provisions of the Supplemental Indenture.

(c) Monies and securities held for the credit of the Debt Service Reserve Fund shall be transferred by the Trustee to the Debt Service Fund at the times and in the amounts required to comply with the provisions of the Supplemental Indenture. All such transfers required by the Supplemental Indenture shall be made on a timely basis in order to meet the payment requirements set forth therein.

(d) The Trustee is directed to invest amounts in the Debt Service Reserve Fund in the investments specified in the Supplemental Indenture. Upon receipt, the Trustee shall deposit investment earnings received on such investment into the Debt Service Reserve Interest Account in the Debt Service Reserve Fund; provided that, commencing on November 1, 2011, and on the first Business Day of each November thereafter, the Trustee shall transfer all amounts on deposit in the Debt Service Reserve Interest Account to the Servicer. Any amounts received by the Servicer pursuant to the Supplemental Indenture shall be applied by the Servicer as credit toward future Mortgage Loan payments made by the Borrower.

### **Construction Financing Fund**

(a) The Trustee shall deposit moneys to the Construction Financing Fund as directed pursuant to the Supplemental Indenture.

(b) Upon the satisfaction of certain provisions set forth in the Supplemental Indenture, the Issuer shall cause the Trustee to make disbursements from the Construction Financing Fund to fund the Mortgage Loan to the Borrower, and such disbursements shall be applied to the payment of the Cost of

the Project. Each requisition submitted to the Trustee for the disbursement of moneys from the Construction Financing Fund must be approved in accordance with the provisions of the Supplemental Indenture.

(c) Of the amount deposited to the Construction Financing Fund pursuant to the Supplemental Indenture, the amounts that are expected to be requisitioned by the Borrower on the Delivery Date and applied to the payment of the Cost of the Project or transferred by the Trustee without need of requisition and deposited in the funds and accounts are set forth in the Supplemental Indenture.

(d) The Trustee shall from time to time pay out, or permit the withdrawal of, monies in the Construction Financing Fund upon receipt by the Trustee of a Requisition of the Issuer in the form attached as Exhibit C to the Supplemental Indenture, each signed by the Authorized Representative of the Borrower and an Authorized Officer of the Issuer.

There also shall be delivered to the Trustee in connection with the initial withdrawal of monies for the Mortgage Loan only, a Bond Counsel's Opinion to the effect that the Mortgage Loan complies with the covenants set forth in the Supplemental Indenture.

Upon receipt of each such Requisition (and the Bond Counsel's Opinion in connection with the initial withdrawal of moneys for the Mortgage Loan described above), the Trustee shall pay each such item from the Construction Financing Fund directly to the Borrower, or shall deliver to the Issuer or its duly authorized agent or at the Issuer's or its duly authorized agent's direction checks for the payment thereof, or shall make arrangements for the transfer and deposit of the amount for such payment, as the Issuer or its duly authorized agent shall request.

(e) In addition to the withdrawals permitted by the Supplemental Indenture, the Issuer may direct the Trustee to apply any amounts on deposit in the Construction Financing Fund to the payment of a portion of the purchase price of Government Obligations which Government Obligations are to be held by the Trustee pursuant to the provisions of the Supplemental Indenture.

(f) As a condition to payment of each Requisition, there shall be provided to the Issuer, evidence satisfactory to the Issuer, in its sole discretion, that the construction of the infrastructure improvements is progressing satisfactorily so as to permit the completion of the improvements for which amounts are then being requisitioned.

(g) The Trustee is directed to invest amounts in the Construction Financing Fund in the investments specified in the Supplemental Indenture. Investment earnings received on such amounts shall be transferred to the Revenue Fund upon receipt.

(h) If the Issuer does not fully disburse the Mortgage Loan on or before December 1, 2011 (as such date may be extended pursuant to subsection (i) below), the Trustee shall transfer to the Redemption Account all amounts then on deposit in the Construction Financing Fund for application to the extraordinary redemption of Bonds in accordance with the Supplemental Indenture.

(i) The transfer and redemption described in paragraph (h) above shall be delayed to such later Transfer Date with respect to which the Rating Agency will provide confirmation in writing of the rating on the Bonds.

### **Capitalized Interest Account**

(a) Pursuant to the Supplemental Indenture, the Trustee shall deposit (i) Seasoned Funds delivered by the Borrower into the Seasoned Funds Subaccount of the Capitalized Interest Account, and (ii) funds from the Construction Financing Fund into the Bond Proceeds Subaccount of the Capitalized Interest Account.

(b) The Trustee is directed to transfer amounts from the Bond Proceeds Subaccount of the Capitalized Interest Account to the Revenue Fund on a monthly basis pursuant to written notice of the Servicer reflecting the amount of interest due under the Mortgage Note, with such amount attributed to the Servicer Fee being sent directly to the Servicer. In addition, the Trustee is directed to transfer amounts in the Seasoned Funds Subaccount of the Capitalized Interest Account to the Revenue Fund on each Interest Payment Date occurring during the period from and including October 19, 2010, to and including the Interest Payment Date upon which all such funds are exhausted, for the payment of, in the following order of priority, (i) the interest then due on the Bonds and (ii) to the extent then due and payable in accordance with the Supplemental Indenture, the Issuer Fee, the Trustee Fee, the Rebate Analyst Fee and the Dissemination Agent Fee; provided, however, that amounts in the Seasoned Funds Subaccount of the Capitalized Interest Account shall only be so transferred to the extent amounts in the Revenue Fund are insufficient to pay the obligations specified in the Supplemental Indenture. On the Conversion Date, amounts remaining in the Bond Proceeds Subaccount of the Capitalized Interest Account shall be transferred first to the Revenue Fund, to the extent there is not then on deposit in the Revenue Fund an amount equal to 30 days' principal and interest on the outstanding Mortgage Loan and second, the balance, if any, to the Construction Financing Fund. On the Business Day immediately following the Interest Payment Date immediately following the Conversion Date, amounts remaining in the Seasoned Funds Subaccount of the Capitalized Interest Account shall be transferred to the Equity Account in the Borrower Fund.

(c) On the Permanent Rate Conversion Date, the Trustee shall withdraw from the Seasoned Funds Subaccount of the Capitalized Interest Account an amount equal to the Special Issuer Fee and shall transfer such amount to the Revenue Fund to pay the Issuer the Special Issuer Fee.

(d) Transfers by the Trustee from the Capitalized Interest Account, as needed, shall not require prior written requisition therefor.

(e) The Trustee is directed to invest amounts in the Capitalized Interest Account in the investments specified in the Supplemental Indenture, together with amounts so deposited in the Construction Financing Fund. Investment earnings received on such investment shall be retained in the Capitalized Interest Account upon receipt.

### **Cost of Issuance Fund**

On the Delivery Date, the Trustee shall deposit moneys into the Cost of Issuance Fund in accordance with the Supplemental Indenture. The Cost of Issuance Fund shall not be pledged to the payment of the Bonds and shall not be subject to the lien of the Seventh Supplemental Indenture.

The Trustee shall disburse funds from the Cost of Issuance Fund upon receipt of a Requisition in the form of exhibit attached to the Supplemental Indenture duly executed by the Borrower and the Issuer. Amounts in the Cost of Issuance Fund representing proceeds of the Bonds, if any, shall be applied to the payment of Costs of Issuance prior to the application of funds therein delivered by the Borrower. Any amounts remaining in the Cost of Issuance Fund one hundred and eighty (180) days after the Delivery Date and not being held for the payment of any Costs of Issuance shall be disbursed to the Borrower free and clear of the lien of the Indenture but only to the extent such amounts were contributed by the Borrower. If, following such 180-day period, any amounts remain in the Cost of Issuance Fund representing proceeds of the Bonds, then such amounts shall be transferred to the Construction Financing Fund for application to the Cost of the Project as provided in the Supplemental Indenture.

### **Borrower Fund**

(a) The Borrower Fund shall not be pledged to the payment of the Bonds and shall not be subject to the lien of the Indenture.

(b) The Trustee shall deposit \$4,017,305 into the Equity Account in the Borrower Fund on the Delivery Date in accordance with the Supplemental Indenture. Immediately after such deposit to the Equity Account, the Trustee shall make such transfers therefrom as provided in the Supplemental Indenture.

(c) Except as provided in the Supplemental Indenture, the Trustee is directed to disburse all amounts from the Equity Account for application to any Cost of the Project or for the funding of required reserves relating to the financing of the Project or other purposes relating to the Project as shall be approved by the Issuer upon receipt by the Trustee of a Requisition in the form attached to the Supplemental Indenture. Amounts deposited in the Equity Account shall be invested at the direction of the Issuer in any investment specified therein. Investment earnings received on such amounts shall be retained therein. Following the Completion Date, amounts remaining in the Equity Account and not being held for the payment of any Cost of the Project or other payment permitted hereunder shall be disbursed to the Borrower with written approval of the Issuer.

### **Operating Reserve Fund**

(a) There is established with the Trustee an account designated the "Operating Reserve Fund." The Operating Reserve Fund shall not be pledged to the payment of the Bonds and shall not be subject to the lien of the Supplemental Indenture.

(b) The Trustee shall deposit into the Operating Reserve Fund such amounts as are delivered on the Delivery Date by the Borrower for deposit to the Operating Reserve Fund pursuant to the Financing Agreement. The Trustee shall administer the Operating Reserve Fund in accordance with the provisions of the Financing Agreement. The Operating Reserve Fund shall be invested by the Trustee as directed by the Issuer. Interest earnings received on amounts deposited in the Operating Reserve Fund shall be retained therein. Following the date upon which the Project achieves Stabilization, as evidenced to the Trustee by an instrument in writing by the Issuer, the Trustee, upon receipt of written requisition therefor approved by the Issuer, shall transfer all amounts in the Operating Reserve Fund to the Equity Account in the Borrower Fund or otherwise in accordance with HUD requirements.



## **General Reserve Fund**

The Trustee shall deposit into the General Reserve Fund monies transferred from the Revenue Fund pursuant to the Supplemental Indenture. Moneys at any time held in the General Reserve Fund shall be applied to any lawful use by the Issuer. The application of amounts on deposit in the General Reserve Fund to any lawful use by the Issuer permitted by the second clause of the preceding sentence shall only be made if the amounts on deposit in the Debt Service Reserve Fund, when valued at market value, are at least equal to the Debt Service Reserve Fund Requirement. Amounts on deposit in the General Reserve Fund shall be transferred to the Debt Service Reserve Fund to the extent of such deficiency and thereafter shall be applied as provided above and maintained at the minimum level required by the Supplemental Indenture, if any. Any income or interest earned by, or increment to, the General Reserve Fund due to the investment thereof shall be retained in such Fund.

## **Investment of Funds and Accounts Held by the Trustee**

Upon direction of the Issuer confirmed in writing by an Authorized Officer, monies in the Funds and Accounts established pursuant to the Supplemental Indenture shall be invested by the Trustee in Government Obligations so that the maturity date or date of redemption at par at the option of the holder of such Government Obligations shall coincide, as nearly as practicable, with, but in no event later than, the times at which monies in such Funds or Accounts will be required for the purposes in the Supplemental Indenture.

In lieu of the investment of monies in Government Obligations as authorized under this heading, the Trustee shall, upon direction of the Issuer confirmed in writing by an Authorized Officer, deposit monies held by it hereunder in the following investments:

(i) time deposits, certificates of deposit or any other deposit with itself or with any other domestic or foreign bank, trust company, national banking association, Bank Holding Company in the United States, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association or any other institution chartered, licensed or qualified to do business in the District or any state or chartered or licensed by the U.S. Comptroller of the Currency to accept deposits in the District or such state (as used herein, "deposits" shall mean obligations evidencing deposit liability which rank at least on a parity with the claims of general creditors in a liquidation proceeding), which are (a) fully secured, to the extent not insured by the Federal Deposit Insurance Corporation, by any Government Obligations and secured in compliance with the Collateralization Requirements, but only if such agreement provides that amounts must be withdrawn from such deposit thirty days prior to the date such amounts are needed for the purposes of the Supplemental Indenture and that the Trustee is given irrevocable instructions to make such withdrawals at such times, or (b)(1) unsecured or (2) secured to the extent, if any, required by the Issuer and made with an institution whose unsecured debt securities are assigned a rating at least equal or higher than the then-existing rating on the Bonds;

(ii) repurchase agreements backed by Government Obligations (A) with any institution whose unsecured debt securities are rated at least the then-existing rating on the Bonds by the Rating Agency or (B) with any corporation or other entity that falls under the jurisdiction of the Bankruptcy Code and which does not qualify under (A), if such repurchase agreement in compliance with the Collateralization Requirements, matures thirty days prior to the date the amounts invested thereunder are needed for the purpose of the Supplemental Indenture and complies with the then-existing Rating Agency criteria for such unrated entities, which compliance shall be evidenced by a letter from the Rating Agency to the Issuer and the Trustee;

(iii) investment agreements secured or unsecured as required by the Issuer, with any institution whose debt securities are rated at least the then-existing rating on the Bonds by the Rating Agency, but only if the provisions of such investment agreement are in accord with the structure of the Bonds, if applicable;

(iv) direct and general obligations of or obligations unconditionally guaranteed by the District, the payment of the principal of and interest on which the full faith and credit of the District is pledged and certificates of participation in obligations of the District which obligations may be subject to annual appropriations, which obligations are assigned a rating at least equal or higher than the then-existing rating on the Bonds by the Rating Agency;

(v) direct and general obligations of or obligations guaranteed by any state, municipality or political subdivision or agency thereof, which obligations are assigned a rating at least equal or higher than the then-existing rating on the Bonds by the Rating Agency;

(vi) bonds, debentures, or other obligations issued by itself or any other domestic or foreign bank, trust company, national banking association, Bank Holding Company in the United States, insurance company, corporation, government or governmental entity, provided that such bonds, debentures or other obligations are assigned a rating at least equal or higher than the then existing rating on the Bonds by the Rating Agency;

(vii) commercial paper (having original maturities of not more than 365 days) rated in the highest category of the Rating Agency for short-term obligations but only if such institution's unsecured debt securities are rated at least AA (or its equivalent) by the Rating Agency;

(viii) money market funds which invest in Government Obligations or in repurchase agreements backed by Government Obligations or in obligations described in Section 103 of the Code and which funds have been rated at least AAAM or AAAMg (or the equivalent by the Rating Agency); and

(ix) any investments otherwise authorized by the Rating Agency;

provided, however, that each of the investments described above (with the exception of the investment of the type described in (iii) above) shall mature on or before when needed and provided further that, no investment permitted hereunder shall have an "r" subscript. The Trustee shall notify the Rating Agency of any substitution or replacement of an investment agreement.

### **Issuance of Additional Obligations**

So long as any of the Bonds are Outstanding, the Issuer shall not create or permit the creation of or issue any obligations or create any additional indebtedness whatsoever which will be secured by a charge and lien on any Mortgage Repayments, Mortgage Advance Amortization Payments, Recovery Payments or which will be payable in any respect from the Revenue Fund, Debt Service Fund or Debt Service Reserve Fund.

The Issuer reserves the right to issue completion bonds or and any other obligations so long as the same meet the requirements of the General Indenture and are not a charge or lien on the Mortgage Repayments, Mortgage Advance Amortization Payments, Recovery Payments or payable from the Revenue Fund, Debt Service Fund or Debt Service Reserve Fund.

## **Mortgage Provisions**

No proceeds received in connection with the issuance of Bonds under the Supplemental Indenture shall be applied to the making or funding of the Mortgage Loan unless such Mortgage Loan and other related documents shall comply with the following terms, conditions, provisions and limitations, and shall have been approved by the Issuer:

(a) The Mortgagor must be eligible under the Act, as amended from time to time, and the Mortgage shall be executed and recorded in accordance with the requirements of existing laws;

(b) The Mortgage shall constitute and create a first mortgage lien on the real property of the Project and, so long as the Act shall so require, a security interest in the personal property attached to or used in connection with the operation of the Project;

(c) The amount of the Mortgage Loan shall not exceed the then estimated Cost of the Project or any other limitation prescribed by law or authorized regulation, whichever is less;

(d) The Borrower shall have provided, or will provide in a manner satisfactory to the Issuer, in payment of the Cost of the Project, an amount equal to the difference between the Cost of the Project and the Mortgage Loan of the Issuer;

(e) The Borrower shall be required to pay or cause to be paid, on a monthly basis, the moneys required for the Mortgage Repayments to be made by the Borrower under the Mortgage. The scheduled Mortgage Repayments shall be sufficient to produce moneys which the Issuer determines shall be sufficient in amount and time of payment, together with the other available moneys derived from such Mortgage Loan, moneys on deposit in the Capitalized Interest Account, interest income reasonably anticipated to be earned on the investment of undisbursed proceeds in the Bond Proceeds Fund, the Construction Financing Account and the Debt Service Reserve Fund, and the available principal from the Debt Service Reserve Fund, to permit the Issuer to pay Debt Service on the Bonds;

(f) The Borrower shall have acquired title to the site of the Project or an interest in real property sufficient for the location thereon of the Project, as evidenced by a title insurance policy, free and clear of all liens and encumbrances which in the opinion of the Issuer would materially affect the value or usefulness of such site or interest in real property for the intended use thereof;

(g) The Borrower shall have obtained all governmental approvals then required by law for the acquisition, construction, ownership and operation of the Project by the Borrower;

(h) In situations involving insurance of advances, the Mortgage Note shall have been initially endorsed for Federal Insurance under the applicable regulations relating thereto;

(i) In situations involving insurance upon completion, the permanent loan shall be insured and a single final endorsement shall be required after satisfactory completion of the construction, substantial rehabilitation or repairs under the applicable regulations relating thereto; and

(j) The Mortgage Loan shall not be accelerated for nonpayment prior to the expiration of a 30-day grace period or prior to the giving of notice to HUD as provided in the Supplemental Indenture.

*Modification of Mortgage Terms.* The Issuer shall not consent to the modification of, or modify, the rate of interest of, or the amount or time of payment of any installment of principal or interest of the Mortgage Loan, or the security for or any terms or provisions of the Mortgage Loan or the Mortgage in a

manner detrimental to Bondholders; provided, however, that the Issuer may consent to such modification of and modify the Mortgage Loan and the Mortgage so long as the Borrower shall remain obligated to pay Mortgage Repayments in sufficient amounts to comply with the provisions of the Supplemental Indenture. The Issuer shall not modify the Mortgage or the terms of the Mortgage Loan without the obtaining the approvals, if any, required by statute. The Issuer shall not consent to the extension or deferral of the commencement of principal payments of the Mortgage Loan without delivering a certification of an Authorized Officer to the Trustee that such deferral or extension will not adversely affect the Issuer's ability to pay the interest coming due and principal at maturity of the Bonds.

*Sale of Mortgage by the Issuer.* The Issuer shall not sell the Mortgage or other obligation securing the Mortgage Loan unless the sale price thereof received by the Issuer shall not be less than the aggregate of (i) the principal amount of the Mortgage Loan remaining unpaid, (ii) the Borrower's proportionate share of the principal amount of the Bonds issued for the Mortgage Loan issued for the purpose of paying any Bond discount and making any deposits in the Debt Service Reserve Fund, an escrow account for the defeasance of other obligations of the Issuer, the Cost of Issuance Fund or the Capitalized Interest Account and remaining unpaid, (iii) the interest to accrue on all Bonds to be redeemed by the Issuer upon the sale of the Mortgage to the next call date thereof not previously paid by the Borrower, (iv) the redemption premium on the Bonds so to be redeemed and (v) the cost and expenses of the Issuer in effecting the redemption of the Bonds so redeemed, less the amount of the moneys available in the Redemption Account and for withdrawal from the Debt Service Reserve Fund and application to the redemption of the Bonds in accordance with the terms and provisions of the Supplemental Indenture, as determined by the Issuer, and the amount of any other legally available funds of the Issuer transferred to the Redemption Account. The requirements of this paragraph shall be satisfied if the amount received by the Issuer, when aggregated with the moneys available as aforesaid, shall be an amount which, when invested pursuant to the provisions of the Supplemental Indenture, shall be sufficient to pay when due the principal, Redemption Price, if applicable, and interest due and to become due on the Bonds issued in connection with the Mortgage.

*Disposition of Mortgage Advance Amortization Payments, Proceeds of Sale of the Mortgage and Recovery Payments.* The proceeds received by the Issuer from the Mortgage Advance Amortization Payment or from the sale of the Mortgage or from Recovery Payments (including any accrued interest thereon), (after making any necessary reimbursements to the Debt Service Reserve Fund including the repurchase of Government Obligations credited thereto) shall be deposited in the Redemption Account and applied to the redemption of Bonds as soon as practically possible.

*Enforcement and Federal Insurance.* The Issuer shall diligently enforce, and take all reasonable steps, actions and proceedings necessary for the enforcement of all terms, covenants and conditions of the Mortgage, including the prompt collection of the Mortgage Repayments.

The Issuer shall do all that is necessary to obtain and maintain the Federal Insurance and shall not amend the Indenture in a manner that conflicts with FHA regulations or documents. Whenever it shall be necessary to protect and enforce the rights of the Issuer under the Mortgage and to protect and enforce the rights and interests of Bondholders under the Supplemental Indenture, the Issuer shall do all things necessary to enforce its rights under the Federal Insurance and to receive payment of any claims thereon in cash, including, in the case of failure to make the Mortgage Loan Payment on a timely basis, (i) upon expiration of the applicable 30-day grace period, immediate notification to HUD as required by the National Housing Act or the Housing and Community Development Act of 1992 and the regulations promulgated thereunder and of the tax-exempt nature of the Bonds (if such is the case) and to the Rating Agency, of a default within ten (10) calendar days after the expiration of such grace period; and, unless waived by HUD, the Issuer shall continue to submit such notices monthly, until the default has been cured or an initial claim payment has been filed pursuant to the HUD regulations; (ii) unless an extension is

granted by HUD, not later than seventy-five (75) calendar days after failure by the Borrower to make any payment due under the Mortgage Note, the Issuer shall request payment of Federal Insurance benefits in cash by filing an application of initial claim payment in accordance with HUD regulations, and inform HUD that the Mortgage was financed by rated bonds and request expedited claims processing, and the Issuer shall notify the Rating Agency, in writing of its intention to file a claim for Federal Insurance or a request for a partial payment under the Federal Insurance with respect to the Mortgage Loan; (iii) in compliance with the Issuer's agreement with HUD, it shall issue a debenture to HUD within the time period specified in the HUD regulations following the initial claim payment, or such later date as approved by HUD in writing; (iv) if the Issuer is attempting a workout with the Borrower in default, it may file a request for partial claim payment, but it shall simultaneously file a claim for full payment with HUD; (v) if the initial claim payment is less than HUD's share of the loss specified in the Issuer's agreement with HUD, the Issuer shall request a final claim for payment from HUD and HUD shall make a final claim payment to the Issuer and return the Issuer's debenture for cancellation or if the initial claim payment is more than HUD's share of the loss, as specified in the Issuer's agreement with HUD, the Issuer shall, within the specified period, remit to HUD an amount equal to the difference between the initial claim payment and HUD's share of loss. Upon receipt of the Issuer's cash payment, the Issuer's debenture will be considered redeemed; (vi) withdrawal of moneys in the Construction Financing Fund (excluding amounts credited to the Bond Proceeds Subaccount of the Capitalized Interest Account therein as certified by an Authorized Officer of the Issuer) and liquidation of any letters of credit held with respect to the Borrower's equity contribution to the Project, for transfer to HUD if and to the extent such transfer is necessary to secure payment of Federal Insurance benefits and (vii) if default on the Mortgage Loan occurred prior to final endorsement, the Issuer shall request an updated title insurance policy. Whenever it shall be necessary to withdraw moneys from the Debt Service Reserve Fund which causes the amount on deposit to be less than the requirements of such funds the Issuer shall prior to such withdrawal notify HUD. Notwithstanding the above, the Issuer shall not request any extension of the time for filing its election to assign the Mortgage beyond any extension period granted by HUD, without first notifying the Rating Agency, in writing of its intention to make such a request, and receiving confirmation from the Rating Agency that such a request would not adversely affect the rating on the Bonds. The Trustee shall, following written notice to the Issuer, have full power and authority to perform the Issuer's covenants contained in this paragraph to the extent the Issuer fails or threatens to fail to perform such covenants on a timely basis and shall, to the extent applicable, use best efforts to itself perform such covenant on a timely basis.

## **Events of Default**

The Supplemental Indenture declares each of the following events an "Event of Default":

(a) a default is made in the payment of the principal, Sinking Fund Payments, or interest on any Bond after the same shall become due, whether at maturity or upon call for redemption; or

(b) the Issuer shall fail or refuse to comply with the provisions of the Act, or shall default in the performance or observance of any other of the covenants, agreements or conditions on its part in the Supplemental Indenture, or any Supplemental Indenture, or in the Bonds contained, and continuance of such default for a period of ninety (90) days after written notice thereof requiring the same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Holders of not less than five per cent (5%) in principal amount of the Outstanding Bonds; or

(c) a decree or order for relief is entered by a court having jurisdiction in the premises in respect of the Issuer in an involuntary case under the federal bankruptcy laws, as now or hereafter

constituted, or any other applicable federal or District bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer or for any substantial part of its property or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for the period of sixty (60) consecutive days; or

(d) the Issuer commences a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or District bankruptcy, insolvency or other similar law, or the Issuer consents to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Issuer or for any substantial part of its property, action or the Issuer makes any assignment for the benefit of creditors, or the Issuer takes any action in furtherance of any of the foregoing; provided, however, that an Event of Default shall not be deemed to exist under the provisions of clause (b) above upon the failure of the Issuer to enforce any obligation undertaken by the Borrower pursuant to the provisions of the Mortgage Loan, including the making of the stipulated Mortgage Repayments, so long as the Issuer shall be provided with moneys sufficient in amount to pay the principal of, Sinking Fund Payments and interest on all Bonds as the same shall become due.

## **Remedies**

The Supplemental Indenture provides that upon the happening and continuance of any Event of Default, then, and in each such case, the Trustee may proceed, and upon the written request of the Holders of not less than twenty-five per cent (25%) in principal amount of the Outstanding Bonds shall proceed, in its own name, to protect and enforce its rights and the rights of the Bondholders by such remedies as provided in the Supplemental Indenture.

Among other remedies, the Trustee shall have the right to declare all Bonds due and payable. Notwithstanding the foregoing to the contrary, the Trustee shall not declare the Bonds to be due and payable following an Event of Default under paragraphs (b), (c) or (d) above unless the Trustee shall have received the prior written direction of the Holders of not less than one hundred per cent (100%) in principal amount of the Outstanding Bonds and shall have been properly indemnified by the Bondholders to the satisfaction of the Trustee.

The Trustee shall give to the Bondholders notice of each Event of Default known to the Trustee as soon as practicable but in no event later than ninety (90) days after knowledge of the occurrence thereof, unless such Event of Default shall have been remedied or cured before the giving of such notice. Each such notice of event of default shall be given by the Trustee by mailing written notice thereof to all registered Holders of the Bonds, as the names and addresses of such Holders appear upon the books for registration and transfer of the Bonds as kept by the Trustee.

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

The Issuer and the Trustee may from time to time and at any time, without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to the Supplemental Indenture for any one or more of the following purposes:

(1) to cure any formal defect, omission, inconsistency or ambiguity herein in a manner not materially adverse to the Holder of any Bond to be Outstanding after the effective date of the change;

(2) to grant to or confer upon the Trustee for the benefit of the Holders of the Bonds any additional rights, remedies, powers or authority that may lawfully be granted or conferred and that are not contrary to or inconsistent with the Supplemental Indenture or the rights of the Trustee thereunder as theretofore in effect;

(3) to subject to the lien and pledge of the Supplemental Indenture additional revenues, properties or collateral;

(4) to modify, amend or supplement the Supplemental Indenture or any indenture supplemental thereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under any state blue sky laws;

(5) to make such additions, deletions or modifications as may be, in the opinion of Bond Counsel delivered to the Issuer and the Trustee, necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds;

(6) to modify, amend or supplement the Supplemental Indenture as required by a Rating Agency to obtain or maintain a rating or ratings for the Bonds, except no change may be made that will materially adversely affect the interests of the Holders of the Bonds to be Outstanding after the effective date of the change;

(7) to implement or modify any secondary market disclosure requirements; and

(8) to modify, amend or supplement the Supplemental Indenture in any other respect which is not materially adverse to the Holders of the Bonds to be Outstanding after the effective date of the change and which does not involve a change described therein.

### **Supplemental Indentures Requiring Consent of Bondholders**

The Holders of more than 51% of the aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to consent to and approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental to the Supplemental Indenture as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained therein; provided, however, that nothing in the Supplemental Indenture contained shall permit, or be construed as permitting, (a) an extension of the time for payment of, or an extension of the stated maturity or reduction in the principal amount or reduction in the rate of interest on or extension of the time of payment, of interest on, or reduction of any premium payable on the redemption of, any Bonds, or a reduction in the Borrower's obligation on the Mortgage Note, without the consent of the Holders of all of the Bonds then Outstanding, (b) the creation of any lien prior to or on a parity with the lien of the Supplemental Indenture, (c) a reduction in the aforesaid percentage of the principal amount of Bonds which is required in connection with the giving of consent to any such supplemental indenture, without the consent of the Holders of all of the Bonds then Outstanding, (d) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, (e) a privilege or priority of any Bond over any other Bonds, or (f) any action that results in the interest on the Bonds becoming included in gross income for federal income tax purposes.

## **Defeasance**

If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Bonds then Outstanding, the principal, Sinking Fund Payment and interest and Redemption Price, if any, to become due thereon, at the times and in the manner stipulated therein and in the Supplemental Indenture, then and in that event the covenants, agreements and other obligations of the Issuer to the Bondholders shall be discharged and satisfied. In such event, the Trustee shall, upon request of the Issuer, execute and deliver to the Issuer all such instruments as may be desirable to evidence such release and discharge and the Trustee and Paying Agent shall pay over or deliver to the Issuer all monies or securities held by them pursuant to the Supplemental Indenture which are not required for the payment or redemption of Bonds not previously surrendered for such payment or redemption.

Bonds or interest installments for the payment or redemption of which moneys shall then be held by the Trustee or the Paying Agent (through deposit by the Issuer of funds for such payment or redemption or otherwise), whether at or prior to the maturity or the redemption date of such Bonds, shall be deemed to have been paid within the meaning expressed in the paragraph above.

All Outstanding Bonds, or a portion of all Outstanding Bonds, shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in the Supplemental Indenture if (a) in case such Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to mail as provided in the Supplemental Indenture notice of redemption on said date of such Bonds and (b) there shall have been deposited with the Trustee either monies in an amount which shall be sufficient, or Government Obligations, the principal of and interest on which when due will provide monies which, together with the monies, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal, Sinking Fund Payment or Redemption Price, if applicable, and interest due and to become due on the Bonds or portion of all Outstanding Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event such Bonds are not by their terms subject to redemption within the next succeeding 60 days, the Issuer shall have given the Trustee in form satisfactory to it irrevocable instructions to provide a notice to the Holders of such Bonds that the deposit required by (b) above has been made with the Trustee and that the Bonds are deemed to have been paid in accordance with the Supplemental Indenture and stating such maturity or redemption date upon which monies are to be available for the payment of the principal, Sinking Fund Payment or Redemption Price, if applicable, on the Bonds. Neither the obligations nor monies deposited with the Trustee pursuant to the Supplemental Indenture nor principal or interest payments on any such obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal, Sinking Fund Payment or Redemption Price, if any, and interest on the Bonds or a portion of the Bonds, as the case may be; provided that any cash received from such principal or interest payments on such obligations deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Government Obligations, maturing at times and in amounts sufficient to pay when due the principal, Sinking Fund Payment or Redemption Price, if any, and interest to become due on the Bonds on and prior to such redemption date or maturity date thereof, as the case may be.

Any income or interest earned by, or increment to, the investment of any such monies so deposited, shall, to the extent certified by the Trustee to be in excess of the amounts required in the Supplemental Indenture to pay the principal, Sinking Fund Payment, Redemption Price, if any, and interest on such Bonds, as realized, be transferred by the Trustee to the Issuer, and any such monies so paid by the Trustee to the Issuer shall be released of the lien and pledge created thereby.



## LAND USE RESTRICTION AGREEMENT

*The Land Use Restriction Agreement contains terms and conditions relating to the issuance and sale of the Bonds under it, including various covenants and security provisions, certain of which are summarized below. This summary does not purport to be comprehensive or definitive and is subject to all of the provisions of the Land Use Restriction Agreement which reference is made, copies of which are available from the Issuer or the Trustee. This summary uses various terms defined in the Land Use Restriction Agreement and such terms as used herein shall have the same meanings as so defined.*

The Project will be subject to a Land Use Restriction Agreement among the Issuer, the Trustee and the Borrower (the “Regulatory Agreement”). A summary of the Regulatory Agreement follows.

### **Qualified Residential Rental Project**

The Issuer and the Borrower under the Regulatory Agreement declare their understanding and intent that the Project is to be owned, managed and operated, as a “qualified residential rental project” as such phrase is utilized in Section 142(d) of the Code throughout the Term of the Regulatory Agreement (meaning the term determined pursuant to the Regulatory Agreement). To that end, the Borrower represents, covenants and agrees under the Regulatory Agreement as follows throughout the Term of the Regulatory Agreement:

(a) The Project is being constructed and equipped for the purpose of providing multifamily rental housing, and the Project shall be owned, managed and operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, the applicable Treasury Regulations as from time to time promulgated or amended, and the other Tax Requirements. At least 95% of the net proceeds of Bonds will be used to provide a “qualified residential rental project.” On the Closing Date, the Borrower will execute a project cost certificate in substantially the form provided in Exhibit D to the Regulatory Agreement, based on the amount of the Bonds issued on such date. Not later than 45 days following the Completion Date, the Borrower will execute a project cost certificate in substantially the form provided in Exhibit D to the Regulatory Agreement, based on the amount of proceeds of the Bonds actually expended in connection with the construction of the Project and submit the completed form to the Issuer.

(b) All of the Units in the Project will be similarly constructed, and each Unit will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family.

(c) (i) None of the Units in the Project shall at any time be utilized on a transient basis, provided that a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis; (ii) none of the Units in the Project shall ever be leased or rented for a period of less than thirty (30) days; and (iii) neither the Project nor any portion thereof shall ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, health club (which shall not be construed to include recreational facilities which are available only to all tenants and their guests), trailer court or park.

(d) (i) All Units in the Project shall be leased and rented or made available for rental on a continuous basis to members of the general public, and (ii) the Borrower shall not give preference in renting Units in the Project to any particular class or group of persons, other than Lower-Income Tenants and Deep Rent Skewed Unit Tenants as provided in the Regulatory Agreement; provided, however, an insubstantial number of Units in the Project (which number, if more than one (1) unit, shall have been

approved by Bond Counsel in writing) may be occupied by maintenance, security or managerial employees of the Borrower or its property manager, which employees must be reasonably necessary for operation of the Project.

(e) Except as permitted by the Financing Agreement, unless the Issuer and the Trustee receive an opinion of Bond Counsel to the effect that such a conversion will not adversely affect the exclusion from gross income of the interest on the Bonds (or any bonds issued to refund the Bonds) for purposes of federal income taxation, the Borrower will not convert the ownership of the Project into a condominium or a cooperative housing corporation form of ownership other than a limited equity cooperative that is a qualified cooperative housing corporation as defined in Section 143(k)(9) of the Code.

(f) The Project shall consist of one or more discrete edifices or other man-made construction, each consisting of an independent foundation, outer walls and roof, all of which will be (i) owned by the same "person" (as such term is used in the Code) for federal tax purposes, (ii) located on a common tract of land or two or more tracts of land which are contiguous except for being separated only by a road, street, stream or similar property, and (iii) financed by the Mortgage Loan or otherwise pursuant to a common plan of financing, and which will consist entirely of:

(1) Units which are similar in quality and type of construction and amenities;

(2) Facilities functionally related and subordinate in purpose and size to property described hereinabove in this paragraph (f), e.g., parking areas, laundries, swimming pools, tennis courts and other recreational facilities (none of which may be unavailable to any person because such person is a Lower-Income Tenant) and other facilities that are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment or Units for residential managers or maintenance personnel; and

(3) Such other facilities that do not represent more than an insubstantial portion of the cost of the Project financed by the Bonds as determined in the Regulatory Agreement.

(g) The Borrower may impose additional charges for the use of certain functionally related and subordinate facilities (e.g., recreational facilities) provided all such facilities are available to and affordable by all tenants in the Project on equal terms, no persons who are not tenants or guests of tenants will be permitted to use such facilities and the charges, if any, are reasonable in relation to the use of such facilities.

(h) The Project will not include a Unit in a building unless all Units in such building are also included in the Project.

(i) The Borrower shall not discriminate on the basis of race, creed, religion, color, sex, age (except as required by a designation plan approved by HUD in accordance with 42 USC §1437e in connection with the zoning for the Project) or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(j) The Borrower will not discriminate against prospective tenants on the basis of their receipt of, or eligibility for, housing assistance under any federal, State or local program, but the Borrower will not be required to permit more persons to occupy a Unit than may be allowed under local zoning laws, the Regulatory Agreement or HUD program standards.

(k) No Units in the Project shall be leased to persons other than individuals and families, unless the Issuer and the Trustee receive an opinion of Bond Counsel to the effect that such leases will not adversely affect the exclusion from gross income of the interest on the Bonds (or any bonds issued to refund the Bonds) for purposes of federal income taxation.

(l) The Borrower shall submit to the Secretary of the United States Treasury on or before March 31 of each year during the Qualified Project Period the annual certification of compliance in the form, time and manner required under Section 142(d)(7) of the Code (Internal Revenue Service Form 8703). The failure of the Borrower to submit the required annual compliance certification shall subject the Borrower to the penalty provided in Section 6652(j) of the Code. The Borrower acknowledges that a change in use of the Project within the meaning of Section 150 of the Code (i.e., the Project fails to comply with Section 142(d) of the Code) will cause the Borrower to lose a deduction for the interest on the Mortgage Loan that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet the requirements of Section 142(d) of the Code and ending on the date the Project meets such requirements. On or before each February 15, during the Qualified Project Period, the Borrower will submit to the Trustee, the Bond Monitoring Agent and the Issuer a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code.

(m) THE BORROWER AGREES TO NOTIFY THE TRUSTEE AND THE ISSUER IN WRITING OF ANY DEFAULT BY THE BORROWER IN THE PERFORMANCE OR OBSERVANCE OF ANY COVENANT, AGREEMENT, REPRESENTATION, WARRANTY OR OBLIGATION OF THE BORROWER KNOWN TO IT SET FORTH IN SECTIONS 6 OR 7 OF THE REGULATORY AGREEMENT, SUCH NOTICE TO BE DELIVERED WITHIN FIVE BUSINESS DAYS OF KNOWLEDGE OF SUCH DEFAULT UNLESS CURED BEFORE TERMINATION OF SUCH NOTICE PERIOD. THE BORROWER ALSO SHALL NOTIFY THE TRUSTEE AND THE ISSUER IN WRITING OF ANY EVENT OR CONDITION WHICH WITH THE LAPSE OF TIME OR THE GIVING OF NOTICE, OR BOTH, WOULD CONSTITUTE AN EVENT OF DEFAULT UNDER THE REGULATORY AGREEMENT, SUCH NOTICE TO BE DELIVERED WITHIN FIVE BUSINESS DAYS OF KNOWLEDGE OF SUCH DEFAULT UNLESS CURED BEFORE TERMINATION OF SUCH NOTICE PERIOD.

(n) The Borrower will not take any action or permit any action to be taken with respect to the Project or the proceeds of the Bonds which will result in the loss of the exclusion from gross income of interest on the Bonds for purposes of federal income taxation under Section 103 of the Code (except with respect to any Bond during any period while any such Bond is held by a “substantial user” of the Project or a “related person,” within the meaning of Section 147(a) of the Code).

(o) If all or any part of the Project is damaged or destroyed by any casualty or taken by or upon threat of condemnation or eminent domain, the Borrower shall promptly comply with the provisions of the Mortgage with respect to such damage, destruction, casualty or taking.

(p) Once available for occupancy, each dwelling Unit in the Project must be rented or available for rental on a continuous basis to persons referenced in (d) above for the Qualified Project Period in compliance with the Code and the Regulatory Agreement.

(q) Within 30 days after the date on which ten percent of the dwelling Units in the Project are first occupied, the Borrower shall prepare and mail to the Issuer and the Trustee, return receipt requested, a certificate substantially in the form provided in the Regulatory Agreement identifying such date. Within 30 days after the date on which 50% of the dwelling units in the Project are occupied, the Borrower shall

execute and deliver to the Trustee and the Issuer a copy of a certificate substantially in the form provided in the Regulatory Agreement identifying such date and the beginning date and earliest ending date of the Qualified Project Period.

### **Lower-Income Tenants and Deep Rent Skewed Unit Tenants**

In order to satisfy the requirements of the Act and Section 142(d) of the Code, the Borrower represents, covenants and agrees under the Regulatory Agreement that throughout the Term of the Regulatory Agreement:

(a) Commencing on the first day of the Qualified Project Period, not less than 20% of the Units in the Project at all times throughout the Qualified Project Period shall be Qualified Units as required by Section 142(d) of the Code and not less than 15% of the Qualified Units shall be Deep Rent Skewed Units. For purposes of satisfying the requirement that not less than 20% of the Units be Qualified Units and not less than 15% of the Qualified Units be Deep Rent Skewed Units, a Lower-Income Tenant shall continue to qualify as a Lower-Income Tenant and a Deep Rent Skewed Tenant shall continue to qualify as a Deep Rent Skewed Tenant if, after admission, the Lower-Income Tenant's Adjusted Household Income or Deep Rent Skewed Tenant's Adjusted Household Income exceeds the applicable qualifying income level set forth in the definition of "Lower-Income Tenant" or "Deep Rent Skewed Unit Tenant", as applicable, in the Regulatory Agreement so long as the Adjusted Household Income of such tenant does not exceed 170% of the then current maximum allowable Adjusted Household Income for Lower-Income Tenants or Deep Rent Skewed Unit Tenants, as applicable, of the same family size. If, as of the most recent annual Income Certification, it is determined that the Adjusted Household Income of a person or family occupying a Qualified Unit exceeds 170% of the then current maximum allowable Adjusted Household Income for Lower-Income Tenants or that the Adjusted Household Income of a person or family occupying a Deep Rent Skewed Unit exceeds 170% of the then current maximum allowable Adjusted Household Income for Deep Rent Skewed Unit Tenants, such person shall not be disqualified as a Lower Income Tenant or Deep Rent Skewed Unit Tenant, as applicable, provided that the next vacant Qualified Unit is rented to a person or family that qualifies as a Deep Rent Skewed Unit Tenant, and only at that time such person or family whose income increased above the 170% limit shall no longer qualify as a Lower-Income Tenant or a Deep Rent Skewed Unit Tenant. If necessary, the Borrower shall refrain from renting dwelling Units in the Project to persons other than Lower-Income Tenants or Deep Rent Skewed Unit Tenants in order to avoid violating the requirement that at all times during the Qualified Project Period not less than 20% of the completed dwelling Units in the Project shall be Qualified Units and not less than 15% of the Qualified Units shall be Deep Rent Skewed Units. If a Unit is vacated by an individual or family who qualified as a Lower-Income Tenant or a Deep Rent Skewed Unit Tenant, such Unit shall be treated as occupied by a Lower-Income Tenant or a Deep Rent Skewed Unit Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of the Unit shall be redetermined.

(b) The Borrower shall obtain and maintain on file with respect to each Lower-Income Tenant and Deep Rent Skewed Unit Tenant residing in the Project (i) a sworn and notarized Income Certification from each tenant dated immediately prior to the initial occupancy of such tenant in the Project (and, if the Income Certification was executed by such tenant more than 30 days prior to such tenant's initial occupancy in the Project, the Borrower shall require such tenant to recertify the accuracy of the information therein and to provide any updated information necessary in order for the Income Certification to be true and correct as of the date of initial occupancy), in the form and containing such information as may be required by Section 142(d) of the Code (substantially in the form provided in the Regulatory Agreement, as the same may be amended from time to time by the Issuer on the written advice of Bond Counsel), or in such other form and manner as may be required by the Tax Requirements,

and (ii) an annual Income Certification for each tenant for each year of such tenant's occupancy. Photocopies of each such initial and annual Income Certification obtained by the Borrower during the Term of the Regulatory Agreement shall be submitted to the Bond Monitoring Agent (1) within 15 days following the end of each such calendar month, which submission shall be together with the Compliance Certificate required under subsection (d) below, and (2) when otherwise requested by the Bond Monitoring Agent, which may be as often as may be necessary, in the written opinion of Bond Counsel, to comply with the provisions of Section 142(d) of the Code. The Borrower shall make a good-faith effort to (1) provide the Bond Monitoring Agent with all information required to comply with the provisions of Section 142(d) of the Code; and (2) determine that the income information provided by an applicant in an Income Certification is accurate, for example, by taking one or more of the following steps: (A) obtain a pay stub for the most recent pay period, (B) obtain an income tax return for the most recent tax year, (C) conduct a credit or other similar search, (D) contact the applicant's current employer, or (E) such other evidence as is acceptable to Bond Counsel.

The Issuer shall promptly notify the Borrower in writing if the Issuer at any time during the Qualified Project Period determines not to serve as Bond Monitoring Agent. Within ten (10) days of receipt of such notice, the Borrower shall (A) appoint a Bond Monitoring Agent, approved by the Issuer, for the purposes of performing the duties of Bond Monitoring Agent under the terms of the Regulatory Agreement, and (B) notify the Issuer and the Trustee in writing of the name and address of such Bond Monitoring Agent. The Bond Monitoring Agent shall promptly review all Compliance Certificates and Income Certifications filed with the Bond Monitoring Agent by the Borrower pursuant to the Regulatory Agreement, shall promptly notify the Borrower in writing demanding any such Compliance Certificates and Income Certifications not filed when due, and shall promptly notify the Borrower, the Issuer and the Trustee in writing of a noncompliance disclosed by any such Compliance Certificates and Income Certifications. The Issuer, or the Borrower with the consent of the Issuer, may replace any such Bond Monitoring Agent appointed under the Regulatory Agreement upon thirty (30) days prior notice to the Issuer, the Trustee and the Bond Monitoring Agent.

(c) The Borrower shall cause to be maintained complete and accurate records pertaining to the Units occupied or to be occupied by Lower-Income Tenants and Deep Rent Skewed Unit Tenants, and shall permit any duly authorized representative of the Trustee, the Issuer, the Bond Monitoring Agent, the Department of the Treasury, or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the incomes, the Income Certifications and income substantiation materials of Lower-Income Tenants and Deep Rent Skewed Unit Tenants of the Project upon reasonable notice and at reasonable times.

(d) The Borrower shall immediately notify the Issuer, the Bond Monitoring Agent, and the Trustee if at any time less than 20% of the Units in the Project are occupied or available for occupancy as provided in subparagraph (a) above. The Borrower shall prepare and submit to the Bond Monitoring Agent, not later than the 15th day of each month during the Term of the Regulatory Agreement, a Compliance Certificate executed by the Borrower or its management agent stating, among other matters, the number of Units of the Project which, as of the first day of such month, in each case, were occupied by Lower-Income Tenants, were occupied by Deep Rent Skewed Unit Tenants, were deemed to be occupied by Lower-Income Tenants as provided in subparagraph (a) above, were deemed to be occupied by Deep Rent Skewed Unit Tenants as provided in subparagraph (a) above, and stating that all Units in the Project are occupied or for rental, that not less than 20% of the Units in the Project are Qualified Units, and not less than 15% of the Qualified Units are Deep Rent Skewed Units.

(e) The Borrower shall prepare and submit to the Issuer, the Bond Monitoring Agent, and the Trustee within thirty (30) days after each anniversary of the date of completion of the construction of the Project a certificate executed by the Borrower stating: (i) the lowest percentage of the dwelling Units in

the Project that were Qualified Units during the preceding 12-month period, (ii) the lowest percentage of the Qualified Units that were Deep Rent Skewed Units during the preceding 12-month period and (iii) that to its knowledge either (A) no unremedied Event of Default has occurred under either the Tax Regulatory Agreement or the Regulatory Agreement, or (B) an Event of Default has occurred, in which event the certificate shall describe the nature of the default in detail and set forth the measures being taken by the Borrower to remedy such Event of Default, and (iii) that, to the knowledge of the Borrower, no Determination of Taxability has occurred, or if a Determination of Taxability has occurred, summarizing all material facts relating thereto.

(f) The form of lease to be used by the Borrower in renting any units in the Project to any Lower-Income Tenants or Deep Rent Skewed Unit Tenants shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Lower-Income Tenant or Deep Rent Skewed Unit Tenant, as applicable, as a result of any material misrepresentation (whether intentional or not) made by such person with respect to his or her income and income verification. Each such lease or rental agreement shall also provide that the tenant's income is subject to annual certification in accordance with the terms of the Regulatory Agreement and that if upon any such certification such tenant's and all occupants of the household's Adjusted Income exceeds 170% of the applicable income limit for a Lower-Income Tenant or Deep Rent Skewed Unit Tenant of the same family size, such tenant may cease to qualify as a Lower Income Tenant or Deep Rent Skewed Unit Tenant.

(g) The Borrower shall determine Lower-Income Tenant and Deep Rent Skewed Unit Tenant income in accordance with HUD Regulations at 24 C.F.R. Part 5.609 and in accordance with Regulations, Rulings or Procedures issued or adopted by the Department of the Treasury or the Internal Revenue Service with respect to projects financed pursuant to Section 142(d) of the Code and applicable to the Project financed with the proceeds.

(h) Under the Regulatory Agreement, the Issuer elects in accordance with Section 142(d)(1) of the Code to apply to the Project the occupancy requirements for Lower-Income Tenants and Deep Rent Skewed Unit Tenants set forth in paragraph (a) above, and the Borrower irrevocably consents to such election.

(i) If applicable, for purposes of the section of the Regulatory Agreement requiring that not less than forty (20%) of the Units be occupied by Lower-Income Tenants, each group of contiguous Units that are owned by the Borrower and financed by the Bonds shall be treated as separate projects (which collectively constitute the Project), each with its separate Lower Income Tenant and Deep Rent Skewed Unit Tenant occupancy requirement. The Borrower covenants that it will enter into a Tax Credit Monitoring Agreement with DHCD containing terms that are substantially the same as the Form of Tax Credit Monitoring Agreement attached to the Regulatory Agreement. The Tax Credit Monitoring Agreement shall be recorded or in a recordable form.

(j) Rent for each Qualified Unit that is not a Deep Rent Skewed Unit shall not exceed thirty percent (30%) of fifty percent (50%) of the then current Median Income (as determined by HUD) for the applicable family size.

(k) Rent for each Deep Rent Skewed Unit shall not exceed thirty percent (30%) of forty percent (40%) of the then current Median Income (as determined by HUD) for the applicable family size.

(l) Rent with respect to each Qualified Unit (including Deep Rent Skewed Units) will not exceed 1/2 of the average Gross Rent with respect to units of comparable size at the Project which are not Qualified Units.

## **Qualified Low Income Housing Project**

Under the Regulatory Agreement, the Issuer and the Borrower declare their understanding and intent that the Project is to be owned, managed and operated as a “qualified low-income housing project” as such phrase is utilized in Section 42(g)(1)(B) of the Code throughout the Extended Use Period (as defined in the Regulatory Agreement). To comply with the applicable provisions of Section 42, the Borrower has covenanted under the Regulatory Agreement as follows:

- (1) During the Compliance Period and the Extended Use Period, at least 20% of the Units shall be occupied by Lower Income Tenants; provided, however, notwithstanding such minimum Lower Income Tenant occupancy requirements, the Borrower covenants that at least 34 Units shall be occupied by Lower Income Tenants throughout the Compliance Period and the Extended Use Period;
- (2) Rent for each Qualified Unit and Unit qualifying for Tax Credits with one or more separate bedrooms (including efficiencies, if any) shall not exceed 30% of 50% of the then current Metropolitan Statistical Area (“MSA”) median income (as adopted by HUD) as adjusted for household size, which household size for any such Unit is determined by multiplying 1.5 by the number of separate bedrooms in such Unit;
- (3) Annual changes in monthly rents charged for Units shall be in accordance with the Regulatory Agreement and in accordance with the Financing Agreement;
- (4) Any and all rents received by the Borrower in excess of the rents permitted under this subsection (d) shall be paid by the Borrower to the tenant charged such excess rent immediately upon the Borrower becoming aware that such excess rent has been collected; and
- (5) Any holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 shall not be refused a lease of a Unit solely because of his status as such a holder.

## **Sale, Conveyance or Transfer of the Project**

(a) So long as no Event of Default shall have occurred and be continuing under the Regulatory Agreement, the Project may be conveyed or otherwise transferred and the transferring Borrower shall be released from its obligations under the Regulatory Agreement from and after the date of such transfer, but only following written notice to the Trustee, and upon the prior written consent of the Issuer, which consent shall be given upon the satisfaction of the following conditions: (i) the new Borrower shall unconditionally assume in writing in recordable form all obligations of the Borrower under the Regulatory Agreement from and after the date of such transfer, including, without limitation, an express unconditional covenant to fully comply with all provisions of the Regulatory Agreement concerning the operation of the Project and the leasing of Units to Lower-Income Tenants and Deep Rent Skewed Unit Tenants, which unconditional assumption shall be in form and substance reasonably satisfactory to Bond Counsel, and which unconditional assumption shall be recorded in the official land deed records of the State, (ii) an opinion of counsel of the transferee that the transferee has duly assumed the obligations of the Borrower under the Regulatory Agreement and that such obligations and the Regulatory Agreement are binding on the transferee, (iii) the requirements of the Mortgage and the Financing and Regulatory Agreement with respect to such transfer shall have been satisfied, and (iv) the Borrower shall, at least ten (10) days prior to any such assignment or transfer, provide the Issuer and the Trustee with written notice of such transfer accompanied by a copy of the assumption agreement and an

opinion of Bond Counsel to the effect that such transfer will not adversely affect the exemption of interest on the Bonds from inclusion in gross income for federal income tax purposes. The requirements in the section of the Regulatory Agreement will apply to any transfers of the Managing Member's interests in the Borrower. Notwithstanding the foregoing, during the Extended Use Period there may be no disposition to any person of any portion of the Project unless all of the Project is disposed of to such person.

(b) The restrictions contained in subsection (a) above shall not be applicable to any of the following exceptions: (i) grants of utility-related easements and service or concession related leases or easements, including, without limitation, laundry service leases and/or television cable easements, over portions of the Project, provided the same are granted in the ordinary course of business in connection with the operation of the Project as contemplated by the Regulatory Agreement, (ii) leases of Units to Lower-Income Tenants and Deep Rent Skewed Unit Tenants or other tenants, including commercial/retail tenants not inconsistent with the requirements of the Regulatory Agreement, (iii) any sale or conveyance to a condemning governmental agency as a direct result of a condemnation or a governmental taking or a threat thereof, (iv) the placing of the Mortgage or a subordinate mortgage lien, assignment of leases and/or rents or security interest on or pertaining to the Project, even if superior to the Regulatory Agreement, if permitted under the Mortgage, (v) any change in allocations of preferred return capital, depreciation, income or losses or any final adjustments in capital accounts of any Borrower that is a partnership (all of which may be freely transferred or adjusted by Borrower pursuant to Borrower's partnership agreement), or (vi) the exceptions set forth in the Financing and Regulatory Agreement.

(c) It is expressly stipulated and agreed that any sale, transfer or other disposition of the Project by the Borrower in violation of terms of the Regulatory Agreement shall be null, void and without effect, and shall be ineffective to relieve either the Borrower or the transferee entity of its obligations under the Regulatory Agreement.

(d) The Borrower shall include by incorporation the requirements and restrictions contained in the Regulatory Agreement in any deed or other documents transferring any interest in the Project to another person (other than transfers described in (b) above) to the end that such transferee has notice of and is bound by such restrictions, and shall obtain the express agreement from any transferee so to abide, as required in subsection (a) above. If the transferor Borrower and its transferee fully comply with all requirements of the Regulatory Agreement regarding sale, conveyance or transfer of the Project (including, without limitation, the written and recorded assumption by the transferee of all obligations of the Borrower under the Regulatory Agreement from and after the date of transfer), then upon the transfer and conveyance of the Project such transferor shall be relieved from its obligations under the Regulatory Agreement from and after the date of transfer, and all references to the "Borrower" shall be deemed to refer to such transferee.

### **Term of the Regulatory Agreement**

(a) The Regulatory Agreement shall become effective upon its execution and delivery and recordation in the land records of the State, and shall remain in full force and effect until the expiration of the Qualified Project Period, it being expressly agreed and understood, that other than the restrictions contained in the section of the Regulatory Agreement entitled "Qualified Low-Income Housing Project," the provisions of the Regulatory Agreement may survive the repayment in full of the Bonds if such repayment occurs prior to the expiration of the Qualified Project Period. The restrictions contained in the section of the Regulatory Agreement entitled "Qualified Low-Income Housing Project" shall remain in full force and effect until the termination of the Extended Use Period. Upon the termination of the Regulatory Agreement as aforesaid, upon request of any party hereto, the Issuer, the Trustee, the



Borrower and any successor party to the Regulatory Agreement shall execute a recordable document further evidencing and confirming such termination.

(b) Notwithstanding the foregoing provisions of paragraph (a) above, the restrictions contained in the Regulatory Agreement regarding the use and operation of the Project shall automatically terminate in the event of involuntary noncompliance caused by foreclosure or transfer of title by deed in lieu of foreclosure, fire, seizure, requisition, condemnation or similar governmental taking by eminent domain, change in a federal law or an action of a federal agency after the date the Bonds are issued which prevents compliance with the covenants expressed therein, BUT ONLY IF, either (i) all Bonds have been or within a reasonable period thereafter are redeemed and paid in full and all obligations under the Financing and Regulatory Agreement are paid in full, or (ii) within a reasonable period amounts received as a consequence of such event are used to provide a project which meets and is subject to the requirements of Section 142(d) of the Code and of Treasury Regulation Section 1.103-8(b) and there is an opinion of Bond Counsel that such use of the amounts received does not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes. In either event, upon the request of the Borrower and at the expense of the Borrower, the parties to the Regulatory Agreement shall execute an appropriate document in recordable form to evidence and confirm such automatic termination; provided, however, the restrictions contained in the Regulatory Agreement shall nevertheless apply to the Project if, at any time during that part of the Qualified Project Period subsequent to a foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or a related person (as that term is defined in Treasury Regulation 1.103-10(e)) obtains an ownership interest in the Project for tax purposes.

(c) Notwithstanding any other provisions of the Regulatory Agreement, the entire Regulatory Agreement, or any of the provisions thereof, may be terminated or modified upon agreement in writing by the Issuer, the Trustee and the Borrower if there shall have been received an opinion of Bond Counsel that such termination will not adversely affect the exemption from federal income taxation of the interest on the Bonds under the Code.

## **THE FINANCING AND REGULATORY AGREEMENT**

*The Financing and Regulatory Agreement contains terms and conditions relating to the issuance and sale of the Bonds, including various covenants and security provisions, certain of which are summarized below. This summary does not purport to be comprehensive or definitive and is subject to all of the provisions of the Financing and Regulatory Agreement to which reference is made, copies of which are available from the Issuer or the Trustee. This summary uses various terms defined in the Financing and Regulatory Agreement and such terms as used herein shall have the same meanings as so defined.*

### **Term of the Financing and Regulatory Agreement**

The Financing and Regulatory Agreement will remain in full force and effect from the date of delivery thereof until such time as all of the Bonds have been fully paid or provision is made for such payment pursuant to the Indenture and all reasonable and necessary fees and expenses of the Trustee accrued and to accrue through final payment of the Bonds, all fees and expenses of the Issuer accrued and to accrue through final payment of the Bonds, and all other liabilities of the Borrower accrued and to accrue through final payment of the Bonds under the Financing and Regulatory Agreement and the Indenture have been paid or provision is made for such payments pursuant to the Indenture; provided, that all representations and certifications by the Borrower and the Managing Member as to all matters affecting the tax-exempt status of the Bonds and certain provisions of the Financing and Regulatory Agreement will survive the termination of the Financing and Regulatory Agreement.

## **Mortgage Repayments**

The Borrower covenants and agrees to pay or cause to be paid to the Trustee all Mortgage Repayments, at the times, at the rate and in the amounts provided under the Mortgage Note in order to provide for the payment of the principal of, premium, if any, and interest on the Bonds in accordance with the Supplemental Indenture.

## **Certain Additional Payments**

With respect to the payments due under the Mortgage Loan, the Borrower further covenants and agrees to pay or cause to be paid the following amounts as certain Additional Payments on each Interest Payment Date (except as otherwise indicated) in the following priority (it being understood that the amounts described in clauses (a), (c), (d), (e), (f) and (g) below shall be included in the calculation of Mortgage Repayments due under the Mortgage Note):

(a) the amount necessary to pay debt service on the Bonds on such date but only if there are insufficient moneys held to the credit of the Debt Service Fund and the Revenue Fund established under the Supplemental Indenture for such purposes;

(b) the Rebate Amount (if any) for deposit to the Rebate Fund for application pursuant to the Tax Regulatory Agreement;

(c) to the extent amounts in the Revenue Fund are insufficient therefor, commencing August 1, 2011, and on the first Business Day of each August thereafter, an amount equal to the Trustee Fee with respect to the Bonds, proportionately reduced in the event of any unscheduled prepayment of the Mortgage Loan;

(d) commencing September 1, 2010, and on the first Business Day of each June thereafter, an amount equal to the Servicer Fee with respect to the Bonds, proportionately reduced in the event of any unscheduled prepayment of the Mortgage Loan;

(e) to the extent amounts in the Revenue Fund are insufficient therefor, commencing June 1, 2011, and on the first Business Day of each June and December thereafter, an amount equal to the Issuer Fee then due;

(f) to the extent amounts in the Revenue Fund are insufficient therefor, commencing June 1, 2011, and on the first Business Day of each June thereafter, and on the date(s) on which the Bonds are paid in full, the Rebate Analyst Fee in an amount equal to \$500, proportionately reduced in the event of an unscheduled prepayment of the Mortgage Loan;

(g) to the extent amounts in the Revenue Fund are insufficient therefor, commencing June 1, 2011, and on the first Business Day of each June thereafter, the annual Dissemination Agent Fee in the total amount equal to \$500, proportionately reduced in the event of an unscheduled prepayment of the Mortgage Loan;

(h) commencing December 1, 2011, and on the first Business Day of each month thereafter, one-twelfth (1/12) of the annual mortgage insurance premium required by HUD and the Issuer; such annual mortgage insurance premium being equal to .50% (90% to HUD and 10% to the Issuer) of the aggregate outstanding principal balance of the Mortgage Loan;

(i) all costs and expenses which may be incurred by the Trustee or the Issuer in connection with the registration, transfer, replacement, redemption or defeasance of the Bonds or otherwise under the Supplemental Indenture and in connection with any removal or substitution of the Trustee and the appointment of any successor thereto, all amounts required under the Financing and Regulatory Agreement and all other payments of whatever nature which the Borrower has agreed to pay or assume under this Agreement, and all expenses incurred in connection with the enforcement of any rights under the Financing and Regulatory Agreement, the General Indenture or the Supplemental Indenture by the Issuer, the Trustee or the Owners of the Bonds;

(j) on any date as requested by the Trustee, the amount necessary to make the amounts on deposit in the Debt Service Reserve Fund equal to the Debt Service Reserve Fund Requirement (as defined under the Supplemental Indenture); and

(k) commencing on the Conversion Date and on the first Business Day of each month thereafter, one-twelfth (1/12) of the Unit Reserve Amount for deposit to the Replacement Reserve Account in accordance with the Financing and Regulatory Agreement.

Subject to the provisions of the Financing and Regulatory Agreement, such Additional Payments (excluding the Additional Payments included in the calculation of amounts due under the Mortgage Note) may be billed to the Borrower by the Trustee or such other parties, as the case may be, from time to time, as applicable. Notwithstanding anything to the contrary contained in the Financing and Regulatory Agreement or the Mortgage Note, moneys in the Capitalized Interest Account, if any, shall, upon disbursement, be deemed to be payments received in satisfaction of the Borrower's obligations under the Mortgage Note until such moneys have been fully expended. Upon request of the Borrower, the Trustee shall certify that the amount billed has been incurred for one or more of the above items and shall specify such item or items.

### **Obligations of the Borrower**

The obligations of the Borrower to make the payments required under the Financing and Regulatory Agreement, to make all other payments provided for therein and to perform and observe the other agreements on its part contained therein shall be absolute and unconditional, irrespective of any defense or any right of notice, setoff, recoupment or counterclaim it might otherwise have against the Issuer, the Trustee or any other person. Subject to prepayment of the Mortgage Note in full and termination as provided in the Financing and Regulatory Agreement, the Borrower (i) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for under the Financing and Regulatory Agreement or otherwise required thereunder, (ii) will perform and observe all of its other agreements contained in the Financing and Regulatory Agreement and (iii) will not terminate the Financing and Regulatory Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, or change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the District of Columbia or any political subdivision of either, any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Financing and Regulatory Agreement, whether express or implied, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture, whether express or implied.

## **Assignment of Mortgage Note and Agreement to Trustee; Delivery of Mortgage Note**

It is understood and agreed that all right, title and interest of the Issuer in and to the Mortgage Note and all payments thereunder or in respect thereof and in and to the Financing and Regulatory Agreement (excepting the Unassigned Rights of the Issuer), are to be pledged and assigned by the Issuer to the Trustee as security for payment of the Bonds pursuant to the Supplemental Indenture.

The Borrower consents to such pledge and assignment as security for the payment of the Bonds. The Issuer directs the Borrower and the Borrower agrees, to pay or cause to be paid to the Issuer, as Servicer, for subsequent transfer to the Trustee at its principal corporate trust office, all payments on the Mortgage Note and to pay or cause to be paid to the party or parties to whom such payments are due and owing, all other payments pursuant to the Financing and Regulatory Agreement relating to the Mortgage Loan.

The Issuer and the Borrower agree that the Mortgage Note will, upon issuance and delivery to the Issuer, be pledged and assigned by the Issuer (exclusive of the Unassigned Rights of the Issuer), without any warranty whatsoever and without recourse against the Issuer to the Trustee, as provided in the Supplemental Indenture.

## **Operating Reserve Fund**

(a) Pursuant to the Supplemental Indenture, there has been established with the Trustee an Operating Reserve Fund which shall be held by the Trustee free and clear of the lien of the Supplemental Indenture and in which moneys shall be deposited on the Delivery Date. The Trustee shall have no obligation to monitor or verify the dates upon which any such deposits are to be made to the Operating Reserve Fund or to verify that the requirements of the Issuer with respect to whether such deposits have been satisfied. The Trustee shall only be obligated to deposit such amounts upon receipt thereof from or on behalf of the Borrower.

(b) The Trustee shall disburse amounts from the Operating Reserve Fund upon the written requisition of the Borrower in the form attached as an exhibit to the Supplemental Indenture or as otherwise authorized by the Issuer. Amounts disbursed from the Operating Reserve Fund shall be disbursed for and applied by the Borrower to the payment of operating deficits and the payment of debt service on the Mortgage Loan.

(c) The Borrower agrees to request approval by the Issuer in advance of releases of any funds from the Operating Reserve Fund by providing written notice to the Issuer together with appropriate back-up documentation. These provisions shall remain in effect until the date upon which the Project has achieved Stabilization, as evidenced to the Trustee by an instrument in writing by the Issuer, after which, the Trustee, upon receipt of written requisition therefor approved by the Issuer shall disburse all remaining amounts in the Operating Reserve Fund to the Replacement Reserve Account or otherwise in accordance with HUD requirements.

## **Establishment of Replacement Reserve Account**

The Borrower will establish with the Issuer, as Servicer, a Replacement Reserve Account. The Borrower shall deliver to the Servicer on the first day of each month, commencing on the Conversion Date, for deposit to the Replacement Reserve Account, one-twelfth (1/12) of the Unit Reserve Amount. Such amounts so deposited in the Replacement Reserve Account will be disbursed upon the request of the

Borrower with the prior written approval of the Issuer granted in accordance with the terms of the Financing and Regulatory Agreement.

Except as provided in the Financing and Regulatory Agreement, before the Issuer will authorize the disbursement of any amounts from the Replacement Reserve Account for costs of capital improvements to the Project, the Borrower will submit the following items to the Issuer for its review and approval: (i) a requisition from the Borrower stating that no Event of Default exists and requesting the Issuer to approve a disbursement; (ii) the identity of all general contractors, architects, engineers and other professionals, if any, engaged in connection with the proposed Capital Expenditures along with copies of the contracts, if any, entered into between the Borrower and such entities; (iii) copies of the specifications for the work to be done, if required or produced in connection with the work contemplated; (iv) evidence of compliance with all applicable Legal Requirements to perform the work; (v) if requested by the Issuer in connection with construction work in excess of \$50,000, evidence of builders' risk insurance along with workers' compensation and public liability insurance in such amounts and in such form as the Issuer may reasonably require; (vi) if requested by the Issuer in connection with construction work in excess of \$50,000, evidence that a consulting engineer designated by the Issuer will have inspected and approved of the work performed to date; (vii) copies of bills or invoices documenting the proposed expenditure (with paid receipts or other evidence of payment for such Capital Expenditures to be provided to the Issuer before the next requested requisition and in any event within ten (10) days of disbursement to the Borrower of the requested payment); and (viii) evidence that the General Contractor has delivered and filed effective mechanics lien waivers prior to the commencement of work or, if such waivers were not delivered and filed, a release of liens in connection with all work performed.

Within fourteen (14) Business Days after the conditions set forth in the preceding paragraph have been satisfied (or waived in writing by the Issuer), the Issuer will disburse from the Replacement Reserve Account the amount requested by the Borrower in its requisition, or such lesser amount approved by the consulting engineer, to the Borrower. It will be a condition to all withdrawals from the Replacement Reserve Account that (i) all work will be performed in a good and workmanlike manner and in compliance with all applicable Legal Requirements, (ii) the Issuer will have reviewed and approved each of the foregoing requirements, (iii) the work to be performed is consistent with the Approved Budget or the recommendations of the Issuer's consulting engineer, and (iv) sufficient amounts are on deposit in the Replacement Reserve Account to pay the amount requisitioned.

For any single Capital Expenditure (not part of, or related to, a sequence or a series of Capital Expenditures or a particular capital improvement plan or project) costing less than Twenty-Five Thousand Dollars (\$25,000.00) and whether or not described in the Approved Budget, the Borrower, upon completion of the work, will deliver to the Issuer evidence reasonably satisfactory to the Issuer of such completion and will deliver to the Issuer invoices for such work and, for all of such subsequent disbursements from the Replacement Reserve Account, the Borrower will deliver evidence of payment in full for all invoices pertaining to the previous disbursement from the Replacement Reserve Account, whereupon the Issuer will reimburse the cost of the Capital Expenditure from the Replacement Reserve Account to the Borrower or, at the Issuer's option, to the contractors to whom such funds are owed.

For any Capital Expenditure (not part of or related to a sequence or series of Capital Expenditures) costing Twenty-Five Thousand Dollars (\$25,000.00) or more which is to be paid from the Replacement Reserve Account, before entering into any contracts in connection with such Capital Expenditure (whether or not the Capital Expenditure was described in the Approved Budget), the Borrower will submit to the Issuer for its prior review and approval copies of the proposed contracts to be entered into with respect to such Capital Expenditure and copies of the proposed specifications for the Capital Expenditure. Once the Capital Expenditure is approved in advance by the Issuer, the provisions of the Financing and Regulatory Agreement will apply. Upon completion of such work, the Borrower

will deliver to the Issuer evidence reasonably satisfactory to the Issuer of such completion and will deliver to the Issuer invoices for such work and, for all of such subsequent disbursements from the Replacement Reserve Account, the Borrower will deliver evidence of payment in full for all invoices pertaining to the previous disbursement from the Replacement Reserve Account, whereupon the Issuer will reimburse the cost of the Capital Expenditure from the Replacement Reserve Account to the Borrower not later than 30 days after the receipt of written request therefor, or, at the Issuer's option, the contractors to whom such costs are owed.

### **Annual Adjustment of Rents**

The annual adjustment of Rents for Units qualifying for tax credits shall be calculated at no more than the then current MSA Median Family Income, as adjusted, as described in the Land Use Restriction Agreement, and the Borrower may not without the prior written approval of the Issuer implement changes in Rent charged for any Unit. The Borrower shall notify the Issuer in writing of any proposed Rent change for Units and the percentage increase in the monthly Rents prior to receiving the Issuer's written approval. No Rent increases shall be effective until the first day on which Rent is normally paid occurring more than 30 days after notice of such increase is given to a tenant.

### **Restriction on Transfer; Removal of Managing Member**

(a) Except for Permitted Encumbrances and as set forth in paragraphs (e), (f) and (g) below, in the event the Borrower intends to sell, lease (except to the tenants who will occupy units in the Project), sublease or otherwise materially encumber the whole of or any part of the Project or sell, assign or otherwise transfer any membership interest in the Borrower (a "transfer"), it will (i) apply to the Issuer for consent to transfer and (ii) comply with the provisions of the Land Use Restriction Agreement, the HUD Regulatory Agreement and the Mortgage, if any, restricting any such transfer.

(b) In addition, in connection with a proposed transfer, the Borrower and any transferee will comply with all applicable provisions of the laws and regulations of the District of Columbia in effect at that time regarding notice to tenants, and tenants' rights generally and, if applicable, the provisions of the District of Columbia Rental Housing Conversion and Sale Act (D.C. Code Section 42-3401.01 et seq.), including specifically the right of first refusal, or any successor legislation thereto. The transferee will expressly assume the Borrower's duties under the Financing and Regulatory Agreement, the Land Use Restriction Agreement and any other Financing Documents (as defined in the Financing and Regulatory Agreement) to which the Borrower is a party in writing simultaneously with any approved transfer as set forth in the Financing and Regulatory Agreement. The Borrower will make available to the Issuer copies of any documents reflecting an amendment to partnership interests in the Borrower or other organizational documents relating to the sale or other transfer of assets of the Borrower.

(c) Except for Permitted Encumbrances and as set forth in paragraphs (d), (f) and (g) below, the Borrower will not, directly or indirectly, by operation of law or otherwise, sell, assign, grant a deed of trust, pledge, hypothecate, transfer or otherwise dispose of the Project or any interest in the Project, and will not encumber, alienate, hypothecate, grant a security interest in or grant any other ownership or control interest whatsoever (whether superior or inferior to the lien of the Mortgage) in the Project, in the leases or in the Rents, issues and profits therefrom.

(d) Except in connection with the transactions contemplated by subsections (e), (f) and (g) below, no interest in the Borrower and no ownership interest in the Managing Member may be sold,

conveyed, transferred, assigned, pledged or otherwise transferred, in whole or in part, directly or indirectly, by operation of law or otherwise.

(e) Notwithstanding anything to the contrary in the Financing and Regulatory Agreement:

(i) the Issuer agrees that the Borrower may, at its option submit the Premises to a condominium regime (the "Condominium") creating two or more condominium units (each, a "Condominium Unit"), which may include: (1) a condominium unit containing all of the market-rate residential units located within the Premises (the "Market-Rate Condominium Unit"); (2) a condominium unit containing all of the low-income residential units located within the Premises (the "Low-Income Condominium Unit"); and/or (3) a condominium unit containing all of retail space located within the Premises. The Borrower covenants as follows: (A) to ensure that any submission of the Premises to the provisions of the Condominium Act (the "Condominium Documents") satisfies all the requirements thereof and any other applicable law, restriction, rule, or ordinance necessary to create a valid condominium with respect to such portions of the Premises, provided that the form of the Condominium Documents shall be subject to the written approval of the Issuer and an opinion of Bond Counsel that such arrangement will not adversely affect the exemption of interest on the Bonds from gross income for purposes of federal income taxation; (B) to duly perform or cause to be duly performed all of its obligations under the Condominium Documents, and to do or cause to be done all things necessary to operate and maintain the Condominium Units; and (C) to deliver to the Issuer a certified copy of the recorded Declaration of Condominium promptly upon its availability. Issuer acknowledges that such Declaration of Condominium will be recorded among the land records of the District of Columbia after its right to review and approve the same.

(ii) the Issuer shall, upon the Borrower's written request, timely consent to the subordination of the lien of the Mortgage to a Declaration of Condominium for the portions of the Premises specified above, and shall execute appropriate instruments (reasonably required) in recordable form to effect such subordination, upon the satisfaction of the following conditions: (1) the Issuer shall have received and approved the Condominium Documents; (2) the Issuer shall have received confirmation from the title insurance company satisfactory to the Borrower and HUD insuring the Issuer's interest in the Mortgage that it will issue a title policy or policies insuring that the Mortgage shall constitute a first priority lien on the Borrower's right, title and interest in and to each Condominium Unit; (3) the Borrower shall have duly executed and delivered, or caused to be duly executed and delivered, to the Issuer, in a form acceptable to the Issuer and HUD, (i) a collateral assignment of the Issuer's rights under the Condominium Documents, (ii) conditional resignations of the officers and members of the Board of Managers of the condominium association controlled by the Borrower or its affiliates, and (iii) such other documents or opinions relating to the Condominium as the Issuer and HUD may reasonably require to ensure that the Mortgage constitutes a first priority lien on the Borrower's right, title and interest in each Condominium Unit;

(iii) all of the Condominium Units shall be owned by the Borrower and be subject to a first lien for the benefit of the Issuer, provided, however, that the Borrower shall have the right to transfer all or any portion of its interest in the Low-Income Condominium Unit with the consent of the Issuer provided that (a) the managing member of the transferee is a wholly-owned subsidiary of the Borrower, (b) the non-managing member of the transferee is a tax credit investor, (c) both the Market-Rate Condominium Unit and the Low-Income Condominium Unit shall continue to be managed by, and all rents shall continue to be collected by the same management agent, (d) the transferee of the Low-Income Condominium Unit executes and delivers to the Issuer a copy of the HUD Regulatory Agreement and a Joinder to the Mortgage in

a form acceptable to the Issuer that acknowledges the Low-Income Condominium Unit is subject to the Mortgage and the HUD Regulatory Agreement and that the Mortgage shall continue to constitute a first priority lien on the Low-Income Condominium Unit, and (e) the owner of the Low-Income Condominium Unit and its owners have been approved under the HUD's 2530 Previous Participation requirements;

(iv) the Issuer agrees that the Borrower may, at its option and in lieu of submitting the Premises to a condominium regime, subject to the provisions herein, lease all of the low-income residential units located within the Premises (the "Low-Income Units") to or for the benefit of a tax credit investor in order to syndicate the tax credits with respect to the Premises under a structure that would be similar to the submission of the Low-Income Units to a condominium regime. Borrower covenants as follows: (a) such lease shall be subject to the written approval of the Issuer and an opinion of Bond Counsel that such arrangement will not adversely affect the exemption of interest on the Bonds from gross income for purposes of federal income taxation; (b) to duly perform or cause to be duly performed all of its obligations under such lease; (c) to deliver to the Issuer a certified copy of the recorded lease promptly upon its availability; and (d) the lease of the Low-Income Units shall be subject to the lien imposed by the Mortgage. The Issuer acknowledges that such lease will be recorded among the land records of the District of Columbia after its right to review and approve the same;

(v) the Borrower shall reimburse the Issuer for all reasonable expenses incurred by the Issuer in connection with any transactions contemplated under this paragraph (e);

(f) Except as permitted by the Financing and Regulatory Agreement, the Borrower will not become a party to any merger or consolidation, or agree to effect any asset acquisition or stock acquisition.

(g) Except as provided in paragraph (e) above, the Borrower will not convert the ownership of the Project into condominium or cooperative housing corporation form of ownership other than a limited equity cooperative that is a qualified cooperative housing corporation as defined in Section 143(k)(9) of the Code.

(h) The Borrower will not seek the dissolution or winding up, in whole or in part, of the Borrower or voluntarily file, or consent to the filing of, a petition for bankruptcy, reorganization, or assignment for the benefit of creditors or similar proceedings.

(i) The Borrower will not enter into any arrangement, directly or indirectly, whereby the Borrower shall sell or transfer any property owned by it in order then or thereafter to lease such property or lease other property that the Borrower intends to use for substantially the same purpose as the property being sold or transferred.

(j) The Borrower will not take any action that would adversely affect the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation nor omit or fail to take any action required to maintain the exclusion of interest on the Bonds from gross income, for purposes of federal income taxation.

(k) The Managing Member shall be subject to removal as the Managing Member of the Borrower at the request of the Issuer if: (i) the Managing Member has failed or refused to perform any of its obligations as set forth in the Financing and Regulatory Agreement or any of the Financing Documents, which failure or refusal has a material adverse impact on the Project and the Managing Member does not, within a period of thirty (30) calendar days following notice of such failure or refusal,



commence the performance of such obligation and cure, to the reasonable satisfaction of the Issuer, the adverse effects of such failure or refusal; provided, however, the Issuer shall simultaneously send notice of such failure to the managing transferee or other entity, and the managing transferee or other entity shall have the same opportunity to cure as the Managing Member; or (ii) the Managing Member has engaged or is engaging in an activity which has or may have an adverse impact on the Project or is intentionally injurious to the Project.

Written notice of this election of the Issuer to require the removal of the Managing Member (the "Removal Notice") shall be served upon such Managing Member and the managing transferee or other entity either by certified or by registered mail, return receipt requested, or by personal delivery at the notice address as provided in the Financing and Regulatory Agreement. Such notice shall set forth the date upon which the removal is to become effective (which date shall be not less than fourteen (14) calendar days following the transmittal of such Removal Notice). If the Managing Member shall object to the determination that any of the circumstances described in subparagraphs (i) and (ii) shall have occurred, such Managing Member shall notify the Issuer of its objection within seven (7) calendar days of its receipt of the Removal Notice, in which case such removal shall not become effective unless and until the preconditions therefor are confirmed by Arbitration, which shall be conducted as quickly as practicable. Any successor Managing Member shall be selected and approved in accordance with this Agreement and the Borrower's operating agreement.

## **Insurance**

The Borrower will obtain and keep in force such insurance coverage as may be required under the Mortgage or by the Issuer in its reasonable discretion from time to time. All insurance policies and renewals thereof relating to the Project will be in a form acceptable to the Issuer in its reasonable discretion and will designate the Issuer and the Trustee as loss payees and mortgagee and as additional insured for liability insurance. The Issuer will be furnished with full copies of all policies within 5 calendar days of receipt thereof and will have the right to receive duplicate copies of policies and renewals, and the Borrower will promptly furnish the Issuer with copies of all renewal notices and all receipts for paid premiums within 5 calendar days of receipt thereof. All policies will contain a specific endorsement under the terms of which the insurer is obligated to notify the Issuer at least 30 days in advance of an endorsement or of any change in the terms of coverage adverse to the Issuer. In the event of loss, the Borrower will give prompt notice to the insurance carrier and the Issuer.

With respect to any casualty insurance, it will (i) be in an amount equal to the greater of the actual cash value of the replacement cost of the insurable improvements and equipment in the Project or the amount equal to the sum of the amounts due under the Mortgage Note and (ii) will be provided by an insurance company with a claims paying ability rating of not less than "A" by the Rating Agency.

## APPENDIX D

### FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement dated as of August 1, 2010 (the “Disclosure Agreement”) is executed and delivered by SEFC 160, LLC (the “Borrower”), Digital Assurance Certification LLC, as Dissemination Agent (the “Dissemination Agent”), and U.S. Bank National Association, as trustee (the “Trustee”) in connection with the delivery by the District of Columbia Housing Finance Agency (the “Issuer”) of its \$47,700,000 aggregate principal amount of FHA-Insured Multifamily Housing Revenue Bonds (NIBP Program – Foundry Lofts Project) Series 2009A-6 (the “Bonds”). The Bonds were originally issued pursuant to the General Indenture dated as of December 1, 2009 (the “General Indenture”), as amended and supplemented by the First Supplemental Indenture dated as of December 1, 2009 (the “First Supplemental Indenture” and, together with the General Indenture, the “Original Indenture”), each between the Issuer and the Trustee. The Issuer issued its Multifamily Housing Revenue Bonds (NIB Program), Series 2009A (the “Program Bonds”) in the original aggregate principal amount of \$168,100,000 to provide for the financing of multifamily rental housing developments through the New Issue Bond Program of the Housing Finance Agency Initiative announced by the United States Treasury on October 19, 2009 (the “Program”). The Issuer has agreed to use the proceeds derived from the sale of a portion of the Program Bonds to make a mortgage loan (the “Mortgage Loan”) to the Borrower pursuant to a Financing and Regulatory Agreement, dated as of August 1, 2010, among the Issuer, the Borrower and the Trustee (the “Financing Agreement”) and the Seventh Supplemental Indenture dated as of August 1, 2010 (the “Supplemental Indenture” and, together with the Original Indenture, the “Indenture”). Pursuant to the Financing Agreement, the Borrower, the Dissemination Agent and the Trustee covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Borrower and the Dissemination Agent for the benefit of the Bondholders and in order to comply with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Agreement, and has no liability to any person, including any Holder of the Bonds, with respect to any such reports, notices or disclosures.

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

“Annual Report” shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Section 3 and 4 of this Disclosure Agreement.

“Business Day” shall mean any day which is not a Saturday, Sunday or other day on which commercial banks in New York are authorized or required by law to be closed.

“Disclosure Representative” shall mean the managing member of the Borrower or its designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

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

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934. All documents provided to the MSRB shall be in a word searchable electronic format and accompanied by identifying information, as prescribed by the

MSRB. Initially, all document submissions to the MSRB pursuant to this Continuing Disclosure Agreement shall use the MSRB's Electronic Municipal Market Access (EMMA) system at [www.emma.msrb.org](http://www.emma.msrb.org).

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

"Tax-Exempt" shall mean that interest on the Bonds is excluded from gross income for federal income tax purposes, whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating any other tax liability, including any alternative minimum tax or environmental tax.

Section 3. Provision of Annual Reports.

(a) The Borrower shall, or shall direct the Dissemination Agent to, not later than June 1 of each year, commencing in 2011, provide to the MSRB an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Not later than fifteen (15) Business Days prior to said date, the Borrower shall provide the Annual Report to the Dissemination Agent. In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Agreement.

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

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

(d) The Dissemination Agent shall:

(i) file a report with the Borrower and the Trustee certifying whether it has received and provided the Annual Report pursuant to this Disclosure Agreement, and if it has received the Annual Report from the Borrower, stating the date it was provided to the MSRB.

Section 4. Content of Annual Reports. The Borrower's Annual Report shall be in the form of Exhibit B hereto and contain or incorporate by reference the following:

1. Average annual occupancy of the Project for the preceding calendar year.
2. Operating data for the Project for the preceding calendar year, including total revenues, operating expenses, debt service on the Mortgage Loan, net operating income and net cash flow.
3. The foregoing data shall be based upon the audited financial statements to the extent the above information is covered in those audited financial statements, and otherwise may be unaudited.

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

from the MSRB. The Borrower shall clearly identify each such other document so incorporated by reference.

Section 5. Reporting of Significant Events.

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

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

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

(c) If the Borrower has determined that knowledge of the occurrence of a Listed Event would be material, the Borrower shall promptly notify the Dissemination Agent in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (e) and shall include sufficient information concerning the Listed Event to enable the Dissemination Agent to report the occurrence.

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

(e) If the Dissemination Agent has been instructed by the Borrower to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence reporting the information provided by the Borrower with the MSRB. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Indenture.

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

Section 7. Dissemination Agent. The Borrower may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such agent, or such Dissemination Agent may resign upon 30 days prior written notice to the Borrower, with or without the Borrower appointing a successor Dissemination Agent. The Dissemination Agent shall be entitled to reasonable compensation for its services hereunder and reimbursement of its out-of-pocket expenses (including fees and expenses of its counsel).

Section 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the Issuer, the Borrower and the Dissemination Agent to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

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

Section 10. Default. In the event of a failure of the Borrower to comply with any provision of this Disclosure Agreement, the Trustee, subject to prior receipt of indemnification reasonably satisfactory to it and payment of its reasonable fees and expenses, including fees and expenses of its counsel (whether incurred before trial, at trial, on appeal or in any bankruptcy or arbitration proceeding), at the written request of the Issuer or the holders of at least 25% aggregate principal amount of Outstanding Bonds, shall, or any Bondholder may take such actions as may be necessary and appropriate, including seeking mandamus of specific performance by court order, to cause the Borrower to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture or the Financing Agreement, and the sole remedy under this Disclosure Agreement in the event of any failure of the Borrower to comply with this Disclosure Agreement shall be an action to compel performance.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. In the event that the Trustee is acting as Dissemination Agent, Article VII of the Indenture is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Indenture and the Trustee and Dissemination Agent shall be entitled to the protections, limitations from liability and indemnities afforded the Trustee thereunder. The Dissemination Agent and the Trustee shall have only such duties as are specifically set forth in this Disclosure Agreement, and the Borrower agrees to indemnify and save the Dissemination Agent and the Trustee, their officers, directors, employees and

agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses including reasonable attorneys fees (whether incurred before trial, at trial, on appeal or in any bankruptcy or arbitration proceeding) incurred in performing its duties hereunder and in defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's or the Trustee's negligence or willful misconduct. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and the Trustee and payment of the Bonds. The Dissemination Agent shall have no obligation or liability for the accuracy or completeness of any Annual Report or report of Listed Event or Events provided in accordance with Sections 3 and 5 hereunder, and no obligation to review or make any determination of materiality made in accordance with Section 5 hereunder. The Dissemination Agent and the Trustee shall have no duty or obligation to review any information provided to them hereunder and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Borrower, the Bondholders, or any other party. Neither the Trustee nor the Dissemination Agent shall have any liability to the Bondholders or any other party for any monetary damages or financial liability of any kind whatsoever related to or arising from this Agreement.

Section 12. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Borrower, the Trustee, the Dissemination Agent, and holders from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 13. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

[Borrower's Signature Page to the Continuing Disclosure Agreement]

SEFC 160, LLC, a District of Columbia limited liability company

By: FC 160, LLC, a District of Columbia limited liability company, its managing member

By: Forest City Residential Group, Inc., an Ohio corporation, its sole member

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

[Signatures Continued on Next Page]

[Counterpart signature page to Continuing Disclosure Agreement]

**DIGITAL ASSURANCE CERTIFICATION LLC**, as  
Dissemination Agent

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

[Signatures continued on next page]



[Counterpart Signature Page to the Continuing Disclosure Agreement]

**U.S. BANK NATIONAL ASSOCIATION,**  
as Trustee

By: \_\_\_\_\_  
Name: M. Dorsel Robinson  
Title: Vice President

**EXHIBIT A**

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

Name of Issuer: District of Columbia Housing Finance Agency

Name of Bond Issue: \$47,700,000 FHA-Insured Multifamily Housing  
Revenue Bonds (NIBP Program – Foundry Lofts Project) Series 2009A-  
6

Name of Borrower: SEFC 160, LLC

Date of Issuance of  
Bonds: August 19, 2010

NOTICE IS HEREBY GIVEN that SEFC 160, LLC has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Agreement dated as of August 1, 2010, between SEFC 160, LLC, Digital Assurance Certification LLC and U.S. Bank National Association. [The Borrower has notified the Dissemination Agent and Trustee that the Borrower anticipates that the Annual Report will be filed by \_\_\_\_\_.]

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

**U.S. BANK NATIONAL ASSOCIATION,**  
as Dissemination Agent

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

cc: Borrower

**EXHIBIT B**

**ANNUAL FINANCIAL INFORMATION**

\$47,700,000

District of Columbia Housing Finance Agency  
FHA-Insured Multifamily Housing Revenue Bonds  
(NIBP Program – Foundry Lofts Project)  
Series 2009A-6

Report for Period Ending

**THE PROJECT**

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

Address: \_\_\_\_\_

Occupancy \_\_\_\_\_

Number of Units \_\_\_\_\_

Number of Units Occupied as of Report Date \_\_\_\_\_

**Operating History of the Project**

The following table sets forth a summary of the operating results of the Project for fiscal year ended \_\_\_\_\_, as derived from the Borrower's [un]audited financial statements.

Total Revenues

Operating Expenses<sup>1</sup>

Net Operating Income

Debt Service on the Mortgage Loan

Net Operating Income/(Loss)

After Debt Service

The average occupancy of the Project for the fiscal year ended [\_\_\_\_] was [\_\_\_\_]%.  
\_\_\_\_\_

<sup>1</sup>Excludes depreciation and other non-cash expenses, includes management fee.