



## REPORT TO COUNCIL AND HOUSING AUTHORITY

### City of Sacramento

915 I Street, Sacramento, CA 95814-2671

[www.CityofSacramento.org](http://www.CityofSacramento.org)

Public Hearing  
**August 9, 2011**

**Honorable Mayor and Members of the City Council**  
**Honorable Chair and Members of the Housing Authority**

**Title: Approval of Tax-Exempt Bonds, Disposition and Development Agreement,  
Agency Loan for Kelsey Village**

**Location/Council District:** 2830 Stockton Boulevard; Oak Park Redevelopment Area,  
Council District 5

**Recommendation:** Adopt 1) a **Housing Authority Resolution** a) indicating the willingness of the Housing Authority of the City of Sacramento to issue up to \$4,000,000 in tax-exempt mortgage revenue bonds to provide construction financing for the Kelsey Village (Project); b) authorizing an application to the California Debt Limit Allocation Committee (CDLAC) for authority to issue the bonds; c) authorizing the Executive Director or her designee to execute all necessary documents associated with the transaction; 2) a **Housing Authority Resolution** a) indicating the Housing Authority has conducted a public hearing related to the proposed disposition; b) authorizing the Executive Director or her designee to execute a Disposition and Development Agreement with Satellite Housing, Inc., or related entity; c) authorizing the Executive Director or her designee to execute a carry back acquisition loan in the amount of \$295,000 with Satellite Housing, Inc., or related entity; d) authorizing the Executive Director or her designee to execute all necessary documents associated with the transaction; 3) a **City Resolution** a) indicating that the City Council has conducted a Tax Equity and Fiscal Responsibility Act (TEFRA) public hearing related to the proposed construction financing of the project; and b) approving the issuance of tax-exempt obligations; 4) a **City Resolution** a) approving funding for an Agency loan to the project of up to \$2,100,000 comprised of up to \$1,600,000 City Home Investment Partnership (HOME) funds and up to \$500,000 City Housing Trust Fund (HTF) funds; and c) authorizing SHRA to execute a commitment letter with Satellite Housing Inc., or related entity.

**Contact:** Christine Weichert, Assistant Director, Development Finance, 440-1353;  
Jeree Glasser-Hedrick, Program Manager, Development Finance, 440-1302

**Presenters:** Steve Lierly, Housing Finance Analyst

**Department:** Sacramento Housing and Redevelopment Agency

**Description/Analysis**

**Issue:** The property is located at 2830 Stockton Boulevard in the Oak Park Redevelopment Project Area. On October 5, 2010 the Housing Authority approved an Exclusive Right to Negotiate agreement (ERN) with Satellite Housing, Inc. and Domus Development, LLC for construction of a multifamily development on the Housing Authority owned property to replace the currently shuttered San Carlos Motel previously operated as Halcyon Place. The proposed Kelsey Village project consists of one, two-story residential building containing 20 units. Proposed amenities include a community room, laundry facility, lounge, activities room, a management/leasing office, and an exterior maintenance shop. A vicinity map and site plan are provided as Attachments 1 and 2.

The purpose of this report is to recommend approval of the Disposition and Development Agreement (DDA) between the Housing Authority and Satellite Housing, Inc. or related entity (Developer) and the associated financing necessary for project viability. In addition to the DDA, staff recommends the approval of 1) an issuance of up to \$4,000,000 in tax-exempt mortgage revenue bonds for the Developer; (2) a Housing Authority seller carry back loan; (3) a Sacramento Housing and Redevelopment Agency (Agency) loan Commitment of up to \$2,100,000 consisting of up to \$1,600,000 in City HOME funds and \$500,000 of City HTF funds for the construction and permanent financing for the Project.

The project is proposed to be funded with tax-exempt mortgage revenue bonds, four percent Low Income Housing Tax Credit (LIHTC) equity, a US Department of Housing and Urban Development Section 811 Capital Advance (HUD 811 Funding), a seller carry back acquisition loan from the Housing Authority, a Sacramento Housing and Redevelopment Agency (Agency) loan, and a deferred developer fee. The bonds, tax credits, and Agency loan together will require the 20 units to be affordable to individuals earning 50 percent or less of the Area Median Income (AMI). The HUD 811 Funding will also provide the project with a rental assistance contract (PRAC) for 10 of the units for a term of five years coupled with the ability to renew in five year increments thereafter. The bond, tax credit, and Agency loan affordability restrictions would continue in effect for the remainder of their 55-year terms.

Further background on the project, developer and the property is included as Attachment 3. A project summary, including a proposed sources and uses of funds, is included as Attachment 4. A project cash flow pro-forma and a schedule of maximum rents are included as Attachments 5 and 6.

**Policy Considerations:** The recommended actions are consistent with the approved Agency tax exempt bond and multi-family loan policies. Regulatory restrictions on the property will be specified in bond and loan regulatory agreements with the Housing Authority and the Agency, respectively. Compliance with the regulatory agreements will be monitored by the Agency on a regular basis for 55 years.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** The project is categorically exempt per CEQA Guidelines section 15332 as an infill project because the site is not more than five acres, is substantially surrounded by urban uses, the project is consistent with the General Plan and will not result in any significant impacts of traffic, noise, air quality or water quality.

**Sustainability Considerations:** The Kelsey Village Project has been reviewed for consistency with the goals, policies, and targets of the Sustainability Master Plan and the 2030 General Plan. If approved, the contents of this report will advance the following goals, policies and targets: the project supports Goal number five – Public health and Nutrition, specifically Target number five which calls for the redevelopment or rehabilitation of areas within the city or aged city facilities that were constructed based on old, wasteful, and/or dysfunctional designs to achieve better results for people and the environment.

**Other:** The specific actions herein are exempt under National Environmental Policy Act (NEPA) regulations at 24 CFR Section 58.34(a)(2) and (3), which exempt information and financial services, and administrative and management activities respectively. Environmental review for the Kelsey Village project pursuant to NEPA is currently underway. The availability of federal funds for use in the Project is contingent upon the Federal Department of Housing and Urban Development's consent to the Agency's request for release of funds. Environmental review pursuant to NEPA will be completed for the project prior to any choice limiting action.

**Committee/Commission Action:** At its meeting of July 20, 2011, the Sacramento Housing and Redevelopment Commission considered the staff recommendation for this item. The votes were as follows:

AYES: Alcalay, Burruss, Chan, Fowler, Gore, Johnson, Morgan, Morton, Rosa, Stivers

NOES: None

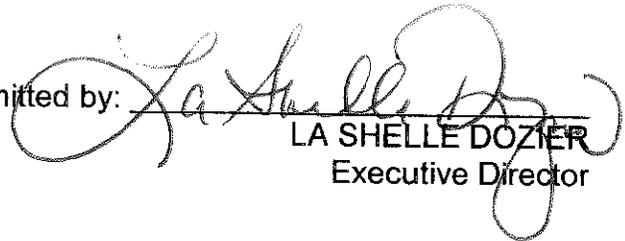
ABSENT: Shah

**Rationale for Recommendation:** The actions recommended in this report enable the Agency to continue to fulfill its mission to provide a range of affordable housing opportunities in the City and to eliminate blight in Redevelopment Areas.

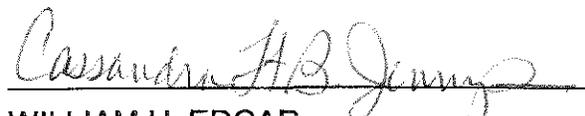
**Financial Considerations:** Staff recommends funding of \$2,100,000 for the project through an Agency loan comprised of \$1,600,000 of City HOME and \$500,000 of City Housing Trust Fund combined with a Housing Authority seller carry back loan in the amount of \$295,000. The mortgage revenue bond funding contemplated for this project is not an obligation of the Sacramento Housing and Redevelopment Agency or of the Housing Authority of the City of Sacramento. A loan commitment letter is included as Exhibit A of Attachment 7 and the Disposition and Development Agreement and Acquisition Loan Agreement are included as Exhibit A and B of Attachment 9.

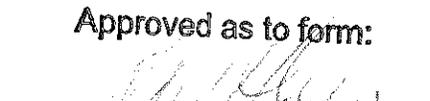
**M/WBE Considerations:** Minority and Women's Business Enterprise requirements will be applied to all activities to the extent required by federal funding to maintain that federal funding.

Respectfully Submitted by:

  
LA SHELLE DOZIER  
Executive Director

Recommendation Approved:

  
WILLIAM H. EDGAR  
Interim City Manager

Approved as to form:  
  
Agency Counsel

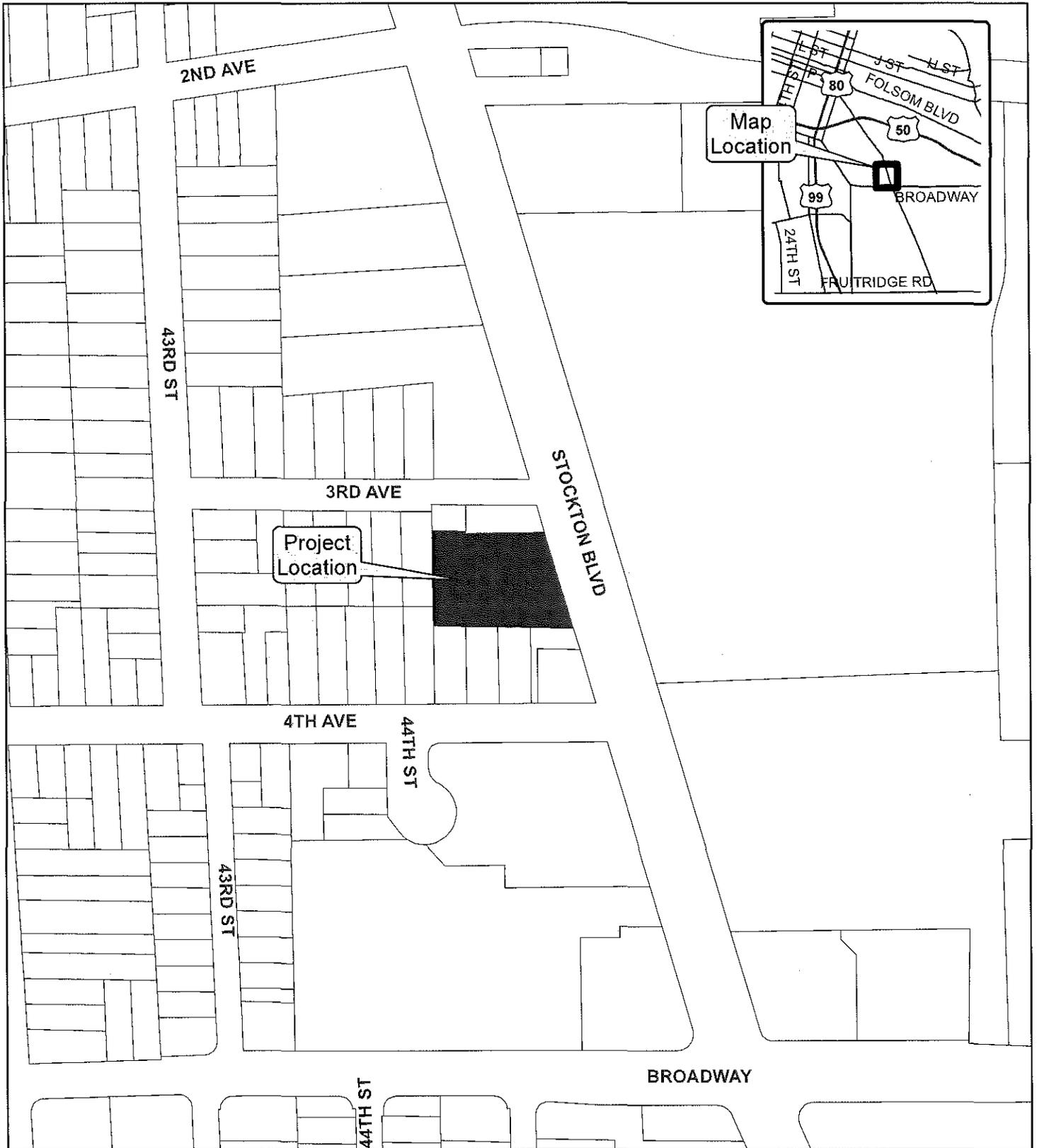
**APPROVED AS TO FORM:**  
  
CITY ATTORNEY

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# Kelsey Village



2830 Stockton Blvd

0

250

500 Feet



SHRA GIS  
August 9, 2011





## **Kelsey Village Background Information**

Description of Existing Development: The 22-unit Kelsey Village property, originally known as the San Carlos Motel, was purchased by the Housing Authority of the City of Sacramento in 1979 with Downtown Replacement Housing funds. The property was purchased by the Housing Authority of the City of Sacramento at the request of Sacramento County to provide an “independent living” facility for mentally disabled adults. The property was leased to the Sacramento County Division of Mental Health (DMH), and sub-let to various non-profit organizations such as the Volunteers of America (VOA) and Transitional Living and Community Support (TLCS).

In 2009, Kelsey Village was running an operating deficit of nearly \$32,000 per month. Rental income was inadequate for the high cost of maintaining a small, older property. Estimates for the cost of rehabilitation ran up to \$2.75 million depending on unit configurations. Major rehabilitation issues include the roof, HVAC units, sewer line repair, dry rot, termite repair, and lack of kitchens in the living units. In November 2009, due to the lack of funds available for continued operations of the property and need for rehabilitation, staff received approval to relocate the remaining tenants and pursue a new affordable housing project for the property.

After the successful relocation of the tenants in June 2010, the Housing Authority was approached by Domus Development, LLC (Domus) and Satellite Housing, Inc. (Satellite), affordable housing developers, with a proposal to demolish the existing structure and build a new affordable housing complex on the site. October 5, 2010 the Housing Authority entered in to an Exclusive Right to Negotiate agreement with Domus Development, LLC and Satellite Housing, Inc., to explore the possibility of redeveloping the site as a low-income residential project. This has afforded the developer the time necessary to secure the funding sources necessary to finance the project.

Description of Development: The property surrounding land uses include commercial buildings, a surface parking lot, and single family residential homes. The Kelsey Village proposed project consists of one, two-story residential building containing 20 units. Proposed amenities include a community room, laundry facility, lounge, activities room, a management/leasing office, and an exterior maintenance shop. Adjacent to the community room is a secured community garden; lawn area and terrace. There are 18 one-bedroom units and 2 two-bedroom units. One-bedroom units are 600 square feet, and two-bedroom units are 940 square feet. The entire site will be in compliance with the American with Disabilities Act (ADA). A vicinity map and site plan is included as Attachments 1 and 2

Developer: Domus Development, LLC is a developer of affordable rental housing focusing on the acquisition and rehabilitation of rental housing communities using tax-exempt bonds and low-income housing tax credits. The principals of Domus have completed the rehabilitation and construction of several affordable housing projects in northern California, including Northland Village, Southcrest Apartments and are currently constructing La Valentina in Sacramento. Domus will act as the Developer for Satellite Housing Inc.

Satellite Housing Inc. is a non-profit affordable housing developer that focuses on service enriched housing; currently they serve approximately 1,650 people in 1,550 units. Their geographic focus is the Bay Area and the Central Valley. Satellite will maintain ownership of the site and will oversee ongoing operations.

In 2007, Satellite Housing was awarded \$1,343,000 in HUD 811 capital advance funds and project rental assistance for a ten-unit supportive housing project in the City of Manteca. The original project did not proceed due to the economic downturn. HUD subsequently agreed to allow Satellite, working with Domus as their development partner, to utilize the 811 funds for the Kelsey Village project.

Property Management: Property management will be performed by Domus Management Company, LLC (DMC). DMC was established in 2007 by principals and executives who have extensive experience in affordable housing property management. The primary manager's experience includes supervision of over 5,500 units of affordable housing including both senior and multifamily projects. The principals have worked with projects financed through a variety of sources, including LIHTC's, the Multi Family Housing Program (MHP), the Home Investment Partnership Program (HOME), the California Department of Housing and Community Development (HCD), and the U.S. Department of Housing and Urban Development (HUD).

Agency staff has reviewed the management plan, including daily operations, leasing procedures, maintenance, and eviction procedures, and has found that the proposed management company meets the Agency's requirements for property management.

Social Services Plan: Social Services will be provided to the residents by Housing Now. People with developmental disabilities often require a full range of individualized supports to succeed at living independently in the community. Such supports include independent and supportive living services to address all aspects of daily living including; meal preparation, personal care, medication management, money management, travel training, accessing and managing personal attendant, and primary health services.

Kelsey Village will have a part-time service coordinator/tenant liaison provided by Housing Now and supported by funding from the Alta Regional Center. The coordinator will be available to tenants to assist them in connecting with additional service providers (if necessary) or maintaining their existing case management, support services in place. Satellite and Housing Now will work with the Alta Regional Center to ensure that various organizations will be available to offer specific services to meet the residents' needs.

Project Financing: The developer has proposed to finance the Kelsey Village project using tax exempt mortgage revenue bonds issued by the Housing Authority, Low income Housing Tax credits, a deferred developer fee, a seller carry back acquisition loan from the Housing Authority and a \$2,100,000 Agency loan using \$1,600,000 in City HOME funds and \$500,000 in City HTF funds. A Project Summary and Cashflow Proforma are included as Attachments 4 and 5.

Low-income Set-aside Requirements: As a condition of receiving the tax-exempt bond financing benefits of below-market rates, federal law requires that project units be set aside for targeted income groups. The following chart summarizes the proposed affordability restrictions for the project.

<b>Unit Type</b>	<b>% of Units</b>	<b>Affordability Restrictions</b>	<b>Units</b>	<b>Regulatory Requirements</b>
Agency Loan, Tax-exempt Bonds, LIHTC, HUD 811	100%	Very Low (50% AMI)	20	55 years
<b>Total</b>	<b>100%</b>		<b>20</b>	

The federal set-aside requirements are that either 20 percent of the project's units are rented to households at or below 50 percent of Area Income (AMI), or 40 percent of project units are rented to households at or below 60 percent of AMI. The Agency requires that the deeper affordability terms be required of projects in Sacramento. For this project, 100 percent of the units will be occupied by families at 50 percent or less AMI. The term of these affordability restrictions is 55 years or the life of the bonds, whichever is longer.

Security

The Agency requires installation of a web based security camera system approved by the Agency and lighting adequate to properly illuminate the parking area and all common spaces.



### Kelsey Village

<b>Address</b>	2830 Stockton Boulevard		
<b>Number of Units</b>	20		
<b>Year Built</b>	Proposed New Construction		
<b>Acreage</b>	0.7		
<b>Affordability</b>	19 units at or below 50% of Area Median Income (AMI) 1 Manager Unit at Market Rate		
<b>Unit Mix and Occupancy</b>	<u>50% AMI</u>		
One-Bedroom	18		
Two-Bedroom	2		
TOTAL	20		
<b>Unit Square Footage</b>	One-bedroom units are approximately 600 square feet Two-bedroom apartment is approximately 940 square feet		
<b>Resident Facilities</b>	The project includes a community room, staff office space, interview room, craft room, outside garden and terrace.		
<b>Permanent Sources</b>	<u>Total</u>	<u>Per Unit</u>	<u>Per Square Foot</u>
HUD Section 811 Capital Advance	\$ 1,329,500	\$ 66,475	\$ 85.77
SHRA - Construction Loan	\$ 2,100,000	\$ 105,000	\$ 135.48
SHRA - Land Loan	\$ 295,000	\$ 14,750	\$ 19.03
Tax Credit Equity	\$ 1,852,478	\$ 92,624	\$ 119.51
Deferred Developer Fee	\$ 127,308	\$ 6,365	\$ 8.21
<b>TOTAL SOURCES</b>	<b>\$ 5,704,286</b>	<b>\$ 285,214</b>	<b>\$ 368.02</b>
<b>Permanent Uses</b>			
Land	\$ 295,000	\$ 14,750	\$ 19.03
Construction Costs	\$ 2,696,627	\$ 134,831	\$ 173.98
Development Impact Fees/Permits	\$ 320,000	\$ 16,000	\$ 20.65
Architecture / Engineering	\$ 321,081	\$ 16,054	\$ 20.71
Cost of Finance	\$ 362,825	\$ 18,141	\$ 23.41
Contingency	\$ 506,392	\$ 25,320	\$ 32.67
Reserves / Escrow	\$ 207,870	\$ 10,394	\$ 13.41
Legal Fees	\$ 95,000	\$ 4,750	\$ 6.13
Insurance/Third Party/Marketing/Other	\$ 272,282	\$ 13,614	\$ 17.57
Developer Fee	\$ 627,209	\$ 31,360	\$ 40.47
<b>TOTAL USES</b>	<b>\$ 5,704,286</b>	<b>\$ 285,214</b>	<b>\$ 368.02</b>
<b>Management / Operations</b>			
Proposed Developer:	Satellite Housing Incorporated		
Property Management Company:	Domus Management Company		
Operations Budget:	\$103,164	\$5,158 per unit	
Replacement Reserves:	\$12,500	\$625 per unit	



**Kelsey Village**  
Project cash flow proforma

Unit Type	Number	Square Feet	Total Sq Feet	TCAC Rent	PRAC Rent	Utility Allowance	Actual Rent	Rent per Sq Foot	Total Mo. Rent	Annual Rent
1 BD / 1 BA @ 50% AMI	10	601	6,010	\$ 704	\$ -	\$ 68	\$ 636	\$ 1.06	\$ 6,360	\$ 76,320
1 BD / 1 BA @ 50% AMI	8	601	4,808	\$ 704	\$ 339	\$ 68	\$ 975	\$ 1.62	\$ 7,800	\$ 93,600
2 BD / 1 BA @ 50% AMI	2	939	1,878	\$ 845	\$ 210	\$ 80	\$ 975	\$ 1.04	\$ 1,950	\$ 23,400
<b>Totals</b>	<b>20</b>		<b>12,696</b>						<b>\$ 16,110</b>	<b>\$ 193,320</b>

Income	Rate	Annual Increase	Per Unit	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
Potential Gross Income	2.50%			193,320	198,153	203,107	208,184	213,389	218,724	224,192	229,797	235,542	241,430	273,156	309,051	395,611	506,416
Other Income	2.50%			1,200	1,230	1,261	1,292	1,325	1,358	1,392	1,426	1,462	1,499	1,696	1,918	2,456	3,143
Less Vacancy	5.00%			(9,726)	(9,969)	(10,218)	(10,474)	(10,736)	(11,004)	(11,279)	(11,561)	(11,850)	(12,146)	(13,743)	(15,548)	(15,923)	(18,854)
<b>Effective Gross Income</b>				<b>\$184,794</b>	<b>\$189,414</b>	<b>\$194,149</b>	<b>\$199,003</b>	<b>\$203,978</b>	<b>\$209,077</b>	<b>\$214,304</b>	<b>\$219,662</b>	<b>\$225,154</b>	<b>\$230,782</b>	<b>\$261,109</b>	<b>\$295,421</b>	<b>\$382,144</b>	<b>\$490,706</b>

Operating Expenses	Rate	Annual Increase	Per Unit	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
Operating Expenses	3.50%		\$ 5,248	104,984	108,638	112,440	116,375	120,449	124,664	129,028	133,544	138,218	143,055	169,905	201,793	284,650	401,526
Assessments	2.00%			0	0	0	0	0	0	0	0	0	0	0	0	0	0
Property Management	2.00%		\$ 500	10,000	10,200	10,404	10,612	10,824	11,041	11,262	11,487	11,717	11,951	13,195	14,568	17,758	21,647
Real Estate Assessments			\$ 100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100	1,100
Social Services	1%		\$ 2,000	40,000	40,204	40,409	40,615	40,822	41,030	41,240	41,450	41,661	41,874	42,953	44,059	46,358	48,778
Replacement Reserves			\$ 625	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500
Total Expenses			\$ 8,428	\$168,564	\$172,642	\$176,853	\$181,203	\$185,695	\$190,336	\$195,129	\$200,080	\$205,196	\$210,480	\$239,652	\$274,021	\$362,366	\$485,551
<b>Net Operating Income</b>				<b>\$16,230</b>	<b>\$16,772</b>	<b>\$17,296</b>	<b>\$17,800</b>	<b>\$18,283</b>	<b>\$18,742</b>	<b>\$19,175</b>	<b>\$19,582</b>	<b>\$19,958</b>	<b>\$20,302</b>	<b>\$21,457</b>	<b>\$21,400</b>	<b>\$19,778</b>	<b>\$5,154</b>

Debt Service	Amount	Rate	Amort	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
HA Monitoring Fee	\$3,250,000	0.15%		4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875	4,875
Debt Service Subtotal		0.15%		\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875	\$4,875
DCR on Senior Bonds				3.33	3.44	3.55	3.65	3.75	3.84	3.93	4.02	4.09	4.16	4.40	4.39	4.06	1.06

Other Operating Expenses	Rate	Annual Increase	Per Unit	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
PILOT Fee	0.2%	2.00%		0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Operating Expenses Subtotal				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Priority Distributions	Rate	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
HUD Reserve	37.68%											6,248	6,227	5,615	105

Deferred Developer Fee	Rate	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
Principal Balance	\$ 127,308	1.00%	127,308	127,308	116,684	105,430	93,559	81,087	68,031	54,410	40,248	25,567	0	0	0
Interest for Period			1,273	1,273	1,167	1,054	936	811	680	544	402	256	0	0	0
Accumulated Interest			1,273	1,273	1,167	1,054	936	811	680	544	402	256	0	0	0
Payment			11,355	11,897	12,421	12,925	13,408	13,867	14,300	14,707	15,083	15,427	0	0	0
Balance			127,308	\$117,226	\$116,684	\$105,430	\$93,559	\$81,087	\$68,031	\$54,410	\$40,248	\$25,567	\$0	\$0	\$0

SHRA Construction Loan	Rate	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
Principal Balance	\$2,100,000	1.00%	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000
Interest for Period			21,000	21,000	21,000	21,000	21,000	21,000	21,000	21,000	21,000	21,000	21,000	21,000	21,000
Accumulated Interest			21,000	42,000	63,000	84,000	105,000	126,000	147,000	168,000	189,000	210,000	315,000	420,000	630,000
Payment			0	0	0	0	0	0	0	0	0	0	0	0	0
Balance			\$2,121,000	\$2,142,000	\$2,163,000	\$2,184,000	\$2,205,000	\$2,226,000	\$2,247,000	\$2,268,000	\$2,289,000	\$2,310,000	\$2,415,000	\$2,520,000	\$2,730,000

Housing Authority Acquisition Loan	Rate	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2019 Year 7	2020 Year 8	2021 Year 9	2022 Year 10	2027 Year 15	2032 Year 20	2042 Year 30	2052 Year 40
Principal Balance	\$295,000	1.00%	295,000	295,000	295,000	295,000	295,000	295,000	295,000	295,000	295,000	295,000	295,000	295,000	295,000
Interest for Period			2,950	2,950	2,950	2,950	2,950	2,950	2,950	2,950	2,950	2,950	2,950	2,950	2,950
Accumulated Interest			2,950	5,900	8,850	11,800	14,750	17,700	20,650	23,600	26,550	29,500	44,250	59,000	88,500
Payment			0	0	0	0	0	0	0	0	0	0	0	0	0
Balance			\$297,950	\$300,900	\$303,850	\$306,800	\$309,750	\$312,700	\$315,650	\$318,600	\$321,550	\$324,500	\$339,250	\$354,000	\$383,500

Attachment 5



**MAXIMUM RENT AND INCOME LEVELS 2011**  
*(Rents @ 50% of AMI)*

Maximum Income Limits:	
Family Size	Max Income
1 person	\$26,300
2 person	\$30,050

Maximum Rent Limits: <b>Housing Trust Fund</b>	
Unit Size	Gross Rent
1 Bedroom	\$704.00
2 Bedroom	\$845.00

Maximum Rent Limits: <b>4% Low-Income Housing Tax Credit Program</b>	
Unit Size	Gross Rent
1 Bedroom	\$704.00
2 Bedroom	\$845.00

Maximum Rent Limits: <b>HOME Program</b>	
Unit Size	Gross Rent
1 Bedroom	\$704.00
2 Bedroom	\$845.00



## RESOLUTION NO. 2011 -

### Adopted by the Sacramento City Council

on date of

**KELSEY VILLAGE: APPROVAL OF A LOAN COMMITMENT UP TO \$2,100,000 (COMPRISED OF CITY HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS AND CITY HOUSING TRUST FUNDS); EXECUTION OF COMMITMENT LETTER AND RELATED DOCUMENTS WITH SATELLITE HOUSING, INC., OR RELATED ENTITY; RELATED BUDGET AMENDMENT**

#### BACKGROUND

- A. Satellite Housing, Inc. or related entity (Developer), desires to enter into a Disposition and Development Agreement to acquire land and buildings owned by the Housing Authority of the City of Sacramento (Housing Authority) to develop a 20-unit Kelsey Village Supportive Housing project (Project) at 2380 Stockton Boulevard in the City of Sacramento and within the Oak Park Redevelopment Project Area.
- B. Satellite Housing, Inc., has applied for a seller carry back loan from the Housing Authority in the amount of Two Hundred Ninety Five Thousand Dollars (\$295,000) to finance the acquisition of the Housing Authority property (Property).
- C. Satellite Housing, Inc. has applied for an allocation of up to One Million Six Hundred Thousand Dollars (\$1,600,000) in City Home Investment Partnership Program Funds (HOME) and Five Hundred Thousand Dollars (\$500,000) in City Housing Trust Funds (HTF) to assist in funding the construction and permanent financing of the Project.
- D. The Kelsey Village Apartments project qualifies for HOME and HTF funding under the Sacramento Housing and Redevelopment Agency guidelines.
- E. The project is categorically exempt per California Environmental Quality Act (CEQA) Guidelines Section 15332 as an infill project because the site is not more than five acres, is substantially surrounded by urban uses, the project is consistent with the General Plan and will not result in any significant impacts of traffic, noise, air quality or water quality.
- F. The specific actions herein are exempt under National Environmental Policy Act (NEPA) regulations at 24 CFR Section 58.34(a)(2) and (3), which exempt information and financial services, and administrative and management activities

respectively. In accordance with 24 CFR Part 58 Subpart E, environmental review for the Kelsey Village project is currently underway, and will be completed prior to any choice limiting action.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The above recitals are found to be true and correct and that the proposed Project is categorically exempt under CEQA Guidelines Section 15332, and exempt under NEPA pursuant to 24 CFR 58.34(a)(2) and (3).
  
- Section 2. The Loan in the Commitment Letter, attached to and incorporated in this resolution by this reference, for financing the Kelsey Village Apartments project with up to \$1,600,000 in HOME funds and up to \$500,000 in HTF funds for a construction and permanent loan of up to \$2,100,000 is approved and the Sacramento Housing and Redevelopment Agency (Agency) is authorized to execute and transmit the Commitment Letter to Satellite Housing Inc., or related entity.
  
- Section 3. The Agency is authorized to enter into and execute other documents and perform other actions necessary to fulfill the intent of the Commitment Letter that accompanies this resolution, in accordance with its terms, and to ensure proper repayment of the Agency funds including without limitation, subordination, a United States Department of Housing and Urban Development rider as may be required, extensions, and restructuring of such a loan.

**Table of Contents:**

Exhibit A: Commitment Letter



## Exhibit A-Commitment Letter

Date: August 9, 2011

Ryan Chao  
Executive Director  
Satellite Housing, Inc.  
1521 University Avenue, Berkeley, CA 94703

RE: Conditional funding commitment, Kelsey Village project

Dear Mr. Chao:

On behalf of the Sacramento Housing and Redevelopment Agency ("Agency"), we are pleased to advise you of its commitment of construction and permanent loan funds ("Loan") from the City Home Investment Partnership Program (HOME) funds and City Housing Trust Fund (HTF) for the purpose of financing the construction and permanent financing of that certain real property located at 2830 Stockton Boulevard, Sacramento, California ("Property"). Agency's decision is based on your application, and all representations and information supplied by you to it. If these representations and information change in a material manner without written approval of Agency, this commitment is void. Agency's obligation to make the Loan is subject to satisfaction of all the following terms and conditions and Borrower's execution of documentation that is in a form and in substance satisfactory to the Agency.

The Loan shall be made on standard Agency loan documents. No material loan terms not in this funding commitment and the attached loan document forms shall be included in the final loan documents without additional environmental review and governing board approval with the exception of changes the Agency is authorized to make in accordance with the City Council and Housing Authority resolutions approved on August 9, 2011. In the event of any discrepancies between terms stated in this commitment and the loan documents, the terms stated in the loan commitment letter shall be deemed to be terms of this commitment.

Unless otherwise agreed in writing by the Agency in exercise of its absolute discretion, the following shall be considered conditions to Agency approval of a financing commitment. The Agency may, in exercise of its absolute discretion, modify its requirements upon written notice to Borrower given at least sixty days prior to close of escrow for the Property.

This commitment will expire April 30, 2012.

## Exhibit A-Commitment Letter

1. PROJECT DESCRIPTION: The project includes the acquisition of land (Property) from the Housing Authority of the City of Sacramento (Housing Authority) and the new construction of an apartment complex consisting of 20 units of affordable housing of which 10 units will be supported by a U.S. Department of Housing and Urban Development (HUD) Section 811 contract at 2830 Stockton Boulevard, Sacramento, CA. Agency acknowledges the intent of the Housing Authority to enter into a Disposition and Development Agreement for the subject property together with a seller carry back loan agreement with Satellite Housing, Inc, or related entity (Borrower).
2. BORROWER: The name of the Borrower for the Loan is Satellite Housing, Inc. or related entity.
3. PURPOSE OF LOAN: The Loan is to be used by Borrower solely to pay the costs of predevelopment, construction and for such other purposes as Agency expressly agrees to in the loan agreement for the Loan, and such other agreements as may be generally required by the Agency for the use of the funding sources for the Loan.
4. PRINCIPAL AMOUNT, TERM OF LOAN, and INTEREST RATE: The principal amount of the Loan will be the lesser of (a) Two Million One Hundred Thousand Dollars (\$2,100,000), or (b) an amount to be determined prior to close of the Loan based on a project budget approved by Agency. However, the combined indebtedness of the Property must not exceed ninety percent (90%) of the appraised value as determined by the Agency. The loan will bear interest of 1% annually (interest shall be calculated on the basis of a 365-day year and actual days elapsed) and the term of the loan will be 504 months from the Effective Date of the loan. The principal and the accrued interest will be due and payable on the loan maturity date.
5. SOURCE OF LOAN FUNDS: The Construction Loan will be funded with the following sources of funds and is subject to all requirements related to the use of such, whether Agency requirements or otherwise: City HTF and City HOME funds, and proceeds from the sale of Agency-owned land. City HOME funds shall assist 11 or fewer units, and therefore the provisions of the Davis-Bacon Act (40 U.S.C. 276a-5) requiring the payment of not less than the wages prevailing in the locality for projects including 12 or more units assisted with HOME funds shall not apply. The HOME units at the project shall be "floating" such that the number of HOME units of an affordability level and bedroom type remains the same, but the actual designated unit may change from time to time. The Agency hereby acknowledges, agrees and represents that the Loan shall be a below market interest rate loan for purposes of Labor Code Section 1720(c)(6)(E), and that such Loan shall not trigger prevailing wage. This Loan is conditioned upon Borrower's acceptance of Agency's requirements and conditions related to such lending programs and funding sources, including among others, the required forms of agreements for the Loan; the requirements for covenants, conditions and restrictions upon the Property; and insurance and indemnity requirements, all as mutually agreed to by Agency and Borrower.

**Borrower acknowledges that, as a condition of the Agency's making of the Loan, the Property will be subject to restrictions on future sales and rentals which may result in less income to Borrower than could otherwise be realized, and that such restrictions run with the land, and during their operational term, will bind all successors in interest.**

\_\_\_\_\_ (Borrower Initial)

**Borrower acknowledges that every contract for new construction or rehabilitation construction of housing that includes 12 or more units assisted with HOME funds will contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); (24 C.F.R. 92.354). Borrower also acknowledges that any project containing a "subsidy" may be subject to state prevailing wages, which are the responsibility of the Borrower and Borrower's contractor.**

\_\_\_\_\_ (Borrower Initial)

6. ACCELERATION: Agency shall have the right to accelerate repayment of the Loan in the event of a default under any Loan document or upon sale, transfer or alienation of the Property except as specifically provided for in the Loan documents.
7. SECURITY: The Loan shall be evidenced by promissory note secured by a deed of trust with assignment of rents against the fee and/or leasehold interest in the Property and Improvements which shall be subject only to liens senior to Agency's lien and such other items as the Agency may approve in writing. The Loan may also be secured by additional security agreements. The Agency agrees to subordinate said deed of trust to the Section 811 Capital Advance upon Agency's review and approval of the Section 811 Capital Advance documents in order to accommodate completion of the construction of the Property.
8. LEASE AND RENTAL SCHEDULE: Upon request, Agency shall have the right to review all leases of the Property and Improvements prior to execution. Borrower shall not deviate from the rental schedule presented in the staff report accompanying approval of this Loan Commitment Letter for the Loan without Agency's prior written approval; provided, however, that such approval shall not be required for annual adjustments to rental rates as permitted by the California Tax Credit Allocation Committee.

## Exhibit A-Commitment Letter

9. PROOF OF EQUITY: Borrower shall provide proof of equity for the Property and Improvements in the amount of a minimum of \$1,800,000 in Low Income Housing Tax Credit equity.
10. OTHER FINANCING: Borrower, as a requirement of the Loan, shall procure and deliver to Agency evidence satisfactory to Agency that Borrower has obtained the following described financing which may be secured by a lien upon the Property and Improvements superior to Agency's liens, and which shall be otherwise on terms and conditions acceptable to Agency:

- (1) Construction financing from a private lender(s) in an amount(s) sufficient to complete construction of the Property according to a scope of work as approved by Agency and made for a term not less than that specified in the Schedule of Performances for completion of construction, and in any event not less than the time necessary to fulfill all conditions precedent to funding of the permanent financing.

Permanent financing in the form of a HUD 811 capital advance of not less than \$1,300,000.

Such commitments for financing shall not require modification of Agency loan documents, or any term of this commitment letter.

Such commitments shall not be based upon sources and uses of Project funds that are different from those approved by Agency for the project or be subject to conditions which require amendment of the DDA or other agreements.

11. EVIDENCE OF FUNDS: Prior to the first disbursement of the Loan, Borrower must demonstrate evidence of adequate and assured funding to complete the development of the Project in accordance with the Agency's requirements. Borrower's evidence of available funds must include only one or more of the following: a) Borrower equity (which may be evidenced by delivery to the Agency of a tax credit reservation letter for the project and an executed copy of the Partnership Agreement at close of Escrow); b) firm and binding commitments for the Project from financial institution(s) or from other lender(s) approved by Agency in its reasonable discretion; and c) Agency's contribution, provided, however, that Agency is not obligated by this letter to make any contribution not stated in the terms of the letter. The Lender shall be a federal or state chartered financial institution, a pension fund, an insurance company or such other lender which Agency may approve in writing in advance.
12. LOAN IN BALANCE: Borrower will be required to maintain the Loan "in balance". The Loan is "in balance" whenever the amount of the undisbursed funds, the remaining sums to be provided by the Borrower and the loan funds from other project lenders and equity investors and net operating income are sufficient, in the sole judgment of the Agency, to pay for the remainder of the work to be done on the project as required by

## Exhibit A-Commitment Letter

written agreement with the Agency. Should the Agency determine that the Loan is not "in balance" after the applicable cure period, the Agency may declare the Loan to be in default.

13. PLANS AND SPECIFICATION: Final plans and specifications for the project must be in accord with the proposal approved as part of the Loan application. Final plans and specifications will be subject to Agency's final approval prior to the disbursement of Agency funds. As provided in the DDA, Borrower must obtain Agency's prior written consent to any material change in the approved plans and specifications or any material deviation in construction of the project.
14. ARCHITECTURAL AGREEMENT: The architectural agreement ("Agreement") for the preparation of the plans and specifications and other services shall be subject to Agency's approval. Agency may require an assignment of Borrower's interest in and to the Agreement as security for the Loan.
15. CONSTRUCTION CONTRACT: The construction contract ("Contract"), and any change orders issued thereunder, and the contractor ("Contractor") to be retained by Borrower to construct the Improvements shall be subject to Agency's approval. Agency may require an assignment of Borrower's interest in and to the Contract as security for the Loan.
16. RETENTION AMOUNT: The Agency shall retain ten percent (10%) as retention from each construction related disbursement, not to exceed a total of ten percent (10%) of the total amount of the Loan.
17. COST BREAKDOWN: Borrower shall deliver to Agency for Agency's approval prior to commencement of work a detailed cost breakdown of the cost of constructing, financing and other costs of developing the Improvements, which breakdown conforms to the project plans and specification and the budget approved with this commitment. Borrower shall also deliver a list of all contractors and subcontractors to be employed in connection with the construction of the Improvements and the associated bid values received for each item of work to be performed.

All contracts and contractors shall be subject to Agency's approval prior to close of the Loan. Agency also reserves the right to require performance and material payment bonds on any or all contractors, or in lieu of bond a letter of credit acceptable to Agency.

Agency shall make disbursements of the Loan based on a cost breakdown that lists line items in cost categories. Agency shall require that Borrower provide documentation supporting all requests for disbursement of funds, including proof of work done and actual expenditure. Agency shall conduct inspections of the Property to assure that the work was done before making a disbursement.

## Exhibit A-Commitment Letter

18. COST SAVINGS: At completion of construction, Borrower shall submit to Agency a cost certification prepared by a qualified, independent auditor acceptable to Agency, which shall indicate the amounts actually spent for each item in the cost breakdown. If there is an aggregate savings in the total of all such cost breakdown items from the cost breakdown items in the original budget approved by the Agency, the Agency shall withhold for itself as loan repayment, one-half of such savings from the amount of retention then held by the Agency, and the Loan balance shall be reduced by the amount so withheld, provided that the HUD 811 capital advance funds secured are not negatively impacted. The Agency, in its sole discretion, shall determine any reduction and/or repayment of the Agency Loan based upon this cost certification and the original approved budget for the project.
19. START OF CONSTRUCTION: Borrower shall commence construction at the earliest possible date subject to the conditions of this Agency and other involved lenders, but no later than 30 days following the close of construction financing.
20. COMPLETION OF CONSTRUCTION: Borrower shall complete the construction of the Improvements no later than 18 months following the close of construction financing.
21. HAZARD INSURANCE: Borrower shall procure and maintain fire and extended coverage insurance, or in lieu such insurance, Builder's Risk completed value insurance, in a form and substance approved by Agency. Coverage shall be for protection against loss of, or damage to the Improvements or materials for their construction to their full insurable value. Borrower shall also procure and maintain insurance against specific hazards affecting Agency's security for the Loan as may be required by Agency, governmental regulations, or any permanent lender. All such policies shall contain a standard mortgagee loss payable clause in favor of Agency. The insurance required shall be written with a deductible of not more than TEN THOUSAND DOLLARS (\$10,000.00).
22. PUBLIC LIABILITY AND OTHER INSURANCE: Borrower must procure and maintain commercial general and property damage insurance (with Agency named as additional insured) in a form approved by Agency. Coverage must be approved by Agency and must be in at least the following limits of liability: (1) Commercial General Liability insurance in Insurance Services Office ("ISO") policy form CG 00 01 Commercial General Liability (Occurrence) or better with limits of liability, which are not less than \$1,000,000, per occurrence limit; \$5,000,000 general aggregate limit, and \$5,000,000 products and completed operations aggregate limit, all per location of the Project; (2) Property damage liability of \$1,000,000 each occurrence, \$1,000,000 single limit and \$1,000,000 aggregate; (3) Contractual liability for Bodily Injury of \$1,000,000 each occurrence, for Property Damage of \$1,000,000 each occurrence and \$1,000,000 aggregate, and Personal Injury with Employment Exclusion Deleted of \$1,000,000 aggregate; and (4) Comprehensive Automobile Liability for any vehicle used for or in connection with the Work of \$1,000,000. The insurance required shall be written with a

## Exhibit A-Commitment Letter

deductible of not more than TEN THOUSAND DOLLARS (\$10,000). Borrower must also procure and maintain workers' compensation and all other insurance required under applicable law, as required by law and as approved by Agency.

23. TITLE INSURANCE: Borrower must procure and deliver to Agency a 2006 ALTA LP-10 Lender's Policy of Title Insurance, together with such endorsements as Agency may require, including but not limited to CLTA endorsement nos. 100, 116, and 102.5/102.7 insuring Agency in an amount equal to the principal amount of the Loan, that Agency's Deeds of Trust constitutes a third lien or charge upon the Property and Improvements subject only to such items as shall have been approved by Agency. There must be no exceptions permitted for mechanics liens. Title insurance for the Loan must be issued by a title insurer approved by Agency.
24. ORGANIZATIONAL AGREEMENTS: Borrower must submit to Agency certified copies of all of Borrower's organizational documents, including all amendments, modifications or terminations: if a corporation, Borrower's Articles of Incorporation and By-Laws; if a partnership, its Partnership Agreement and, as applicable, Certificate of Limited Partnership or Statement of Partnership; if a Limited Liability Company, its Articles of Organization and its Operating Agreement; and in all cases with all exhibits and amendments to such documents, fictitious business name statements, other related filings or recorded documents and such related documents as Agency may request. If it is a corporation, Borrower must submit a corporate borrowing resolution referencing this Loan. If Borrower is other than a corporation, Borrower must submit such proof of authority to enter this Loan as may be required under the organizational documents.
25. FINANCIAL INFORMATION: During the term of the Loan, Borrower shall deliver to Agency within 120 days of the end of each fiscal year the following items with respect to Borrower: an audited income and expense statement, a balance sheet, and a statement of all changes in financial position signed by authorized officers of Borrower. Prior to close of the Loan and during its term, Borrower must deliver to Agency such additional financial information as may be requested by Agency. Agency reserves the right to review and approve financial statements and other credit information and references prior to closing. Upon Agency request, during the term of the Loan, Borrower must deliver to Agency a monthly rent-roll including household composition information, and operating statements with respect to the Property and Improvements.
26. LOW INCOME HOUSING TAX CREDITS("LIHTC"): Borrower represents that as a condition of closing this Loan it is applying for an allocation of LIHTCs and agrees to perform all actions and to meet all requirements to maintain the LIHTC allocation if granted.
27. HUD SECTION 811 CAPITAL ADVANCE: Borrower represents that as a condition of closing this Loan it is applying for a capital advance under the HUD Section 811

## Exhibit A-Commitment Letter

Program and will diligently pursue the award in connection with this Property as indicated in the financial information provided in Borrower's application.

28. MANAGEMENT AGREEMENT: Prior to execution, Borrower must submit to Agency any agreement providing for the management or operation of the Property or Improvements by a third party which agreement is subject to Agency Approval.
29. SECURITY AND LIGHTING: Project shall include a security camera system approved by the Agency and lighting adequate to properly illuminate all common spaces. In addition, project will include security patrol if necessary.
30. SOCIAL SERVICES PLAN: Borrower shall provide Agency with a detailed social services plan including, but not limited to, the following information: 1) identification of all entities responsible for providing social services to Project tenants and each entity's role in the provision of those services; 2) confirmation the services will be provided according to the Agency's minimum requirements as specified in the Multifamily Lending and Mortgage Revenue Bond Policies; 3) a description of the programs to be offered; and 4) a pro-forma social services budget.
31. DOCUMENTATION: This letter is not intended to describe all of the requirements, terms, conditions and documents for the Loan, which shall also include customary provisions and documents for an Agency transaction of this type. All documents to be delivered to or approved by Agency must be satisfactory to Agency and Borrower in all respects. Borrower must promptly deliver to Agency any further documentation that may be required by Agency.
32. CONSISTENCY OF DOCUMENTS: As a material obligation under this commitment letter, Borrower shall assure that the loan documents for the Project are consistent with lender's commitment approved by the Agency and comply, in all respects, with this commitment letter.
33. CHANGES OR AMENDMENTS: No documents or contracts which are to be delivered to Agency or are subject to Agency's review or approval shall be modified or terminated without the prior written approval of Agency.
34. ACCEPTANCE OF THIS COMMITMENT: Borrower's acceptance of this Commitment shall be evidenced by signing and delivering to Agency the enclosed copy of this letter. Until receipt of such acceptance by Agency, Agency shall have no obligation under this letter. Agency may withdraw this commitment at any time prior to Borrower's acceptance.

Yours truly,

Exhibit A-Commitment Letter

Sacramento Housing and Redevelopment Agency

\_\_\_\_\_  
La Shelle Dozier, Executive Director

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

The undersigned acknowledges and accepts the foregoing Commitment and its terms and conditions.

**BORROWER:**

Satellite Housing, Inc.  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Ryan Chao, President

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



## **RESOLUTION NO 2011 -**

**Adopted by the Sacramento City Council**

on date of

### **APPROVAL OF THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS AND DIRECTING CERTAIN ACTIONS**

#### **BACKGROUND**

- A. The Housing Authority of the City of Sacramento (the "Issuer") intends to issue tax-exempt obligations in a principal amount not to exceed \$4,000,000 (the "Obligations") for the purpose, among other things, of making a loan to Satellite Housing, Inc., a California nonprofit public benefit corporation, or a California limited liability company or limited partnership to be formed by Satellite Housing, Inc. ("Developer"), the proceeds of which shall be used by the Developer to finance the acquisition and construction of a 20-unit multifamily housing facility to be located at 2830 Stockton Boulevard, Sacramento, California (the "Project"); and
- B. The Issuer is authorized by Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California to issue and sell revenue bonds for the purpose of financing the acquisition, construction and development of multifamily rental housing facilities to be occupied in part by low and/or very low income tenants.
- C. In order for the Obligations to be considered "qualified exempt facility bonds" under Section 142(a) of the Internal Revenue Code of 1986, as amended (the "Code"), Section 147(f) of the Code requires that the "applicable elected representatives" of the area in which the Project is to be located hold a public hearing on and approve the issuance of the Obligations.
- D. This City Council is the elected legislative body of the City.
- E. A notice of public hearing in a newspaper of general circulation in the City has been published, to the effect that a public hearing would be held by this City Council regarding the issuance of the Obligations by the Issuer and the nature and location of the Project.
- F. This City Council held said public hearing on the published date, at which time an opportunity was provided to present arguments both for and against the issuance of such Bonds and the nature and location of the Project.

- G. It is in the public interest and for the public benefit that the City approve the issuance and delivery of the Obligations for the purpose of financing the acquisition and construction of the Project.
- H. The City shall not have any liability for the repayment of the Obligations or any responsibility for the Project.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- 1. The City hereby finds and determines that the foregoing recitals are true and correct.
- 2. Solely for the purpose of fulfilling the requirement of Section 147(f) of the Code, the City hereby approves the issuance and delivery of the Obligations.
- 3. This resolution shall take effect upon its adoption.

## **RESOLUTION NO. 2011 -**

**Adopted by the Housing Authority of the City of Sacramento**

on date of

### **KELSEY VILLAGE: AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT, SELLER CARRY BACK ACQUISITION LOAN WITH SATELLITE HOUSING, INC., OR RELATED ENTITY FOR HOUSING AUTHORITY OWNED PROPERTY LOCATED AT 2830 STOCKTON BOULEVARD**

#### **BACKGROUND.**

- A. Housing Authority owns certain real property located at 2830 Stockton Boulevard, APN's 014-0123-032 ("Property"). The Property was originally named the San Carlos Motel and was purchased by the Housing Authority of the City of Sacramento in 1979. The Property was leased to the Sacramento County Division of Mental Health (DMH) shortly thereafter.
- B. In 1993 the Housing Authority received a \$10 million Shelter Plus Care (S+C) award including a \$1,045,440 Project Based Section 8 contract authority from HUD. The ten-year term of the HUD contract began about October 1996 when lease-up occurred. In 2006 the HUD contract was extended for another ten years.
- C. In addition to the operating assistance from HUD, the Sacramento Housing and Redevelopment Agency (Agency) provided \$470,000 in funding for rehabilitation in 1994 as indicated in Housing Authority of the City's Resolution 94-012 and the Redevelopment Agency of the City's Resolution 94-057. The Agency recorded a 30-year regulatory agreement on the property on October 12, 1995. Sale of the property by the Housing Authority is permissible so long as the transferee agrees to be bound by the terms of the regulatory agreement.
- D. In 2009, service funds were reduced by Sacramento County due to revenue shortfalls, and management of the property was temporarily taken over again by Transitional Living and Community Support (TLCS). The property was renamed Kelsey Village, and it was running an operating deficit of nearly \$32,000 per month.
- E. The Housing Authority has determined that the future disposition of the development to a nonprofit corporation would contribute to the stabilization of operations at the development and put the development in a more favorable position to be redeveloped using funds from the Sacramento Housing and Redevelopment Agency, HUD Section 811 funds, a project rental assistance

contract (PRAC), tax exempt mortgage revenue bond funds and low-income housing tax credits, after further conveyance to an entity that can take advantage of the tax credits.

- F. The Housing Authority and Satellite Housing, Inc., or related entity, desire to enter into a Disposition and Development Agreement (DDA), which DDA would convey fee interest in the Property to Satellite Housing, Inc., or related entity, as more specifically described in the DDA, and which would require the improvements upon the Property, as further described in the DDA (collectively "Project").
- G. The Project would provide 20 units of affordable housing with income restrictions to persons with very low and low incomes and will assist in promoting quality infill development in the Oak Park Redevelopment Project Area.
- H. Satellite Housing, Inc. has applied for seller carry back financing from the Housing Authority in the amount of Two Hundred Ninety Five Thousand Dollars (\$295,000) to finance the cost of the land acquisition. Together with loan of up to Two Million One Hundred Thousand Dollars (\$2,100,000) from the Agency to assist in funding the construction and permanent financing of the Project.
- I. The project is categorically exempt per California Environmental Quality Act (CEQA) Guidelines Section 15332 as an infill project as the site is not more than five acres, is substantially surrounded by urban uses, the project is consistent with the General Plan and will not result in any significant impacts of traffic, noise, air quality or water quality.
- J. The specific actions herein are exempt under National Environmental Policy Act (NEPA) regulations at 24 CFR Section 58.34(a)(2) and (3), which exempt information and financial services, and administrative and management activities respectively. Environmental review for the Kelsey Village project is currently underway, and will be completed prior to any choice limiting action.
- K. Proper notice of this action has been given and a public hearing has been held.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:**

- Section 1. After a properly noticed public hearing, the above statements are found to be true and correct and the proposed action is categorically exempt under CEQA Guidelines Section 15332, and exempt under NEPA pursuant to 24 CFR 58.34(a)(2) and (3).
- Section 2. The Executive Director, or her designee, is authorized to execute a DDA with Satellite Housing, Inc., or related entity attached hereto as Exhibit A in the name of the Housing Authority.

Section 3. The Executive Director, or her designee, is authorized to execute a seller carry back loan agreement in the amount of Two Hundred Ninety Five Thousand Dollars (\$295,000) with Satellite Housing, Inc., or related entity attached hereto as Exhibit B in the name of the Housing Authority.

Section 4. The Executive Director, or her designee, is authorized to enter into and execute other documents and perform other actions necessary to fulfill the intent of the DDA and the Loan Agreement that accompany this resolution, in accordance with their respective terms, and to ensure proper repayment of the Housing Authority funds including without limitation, subordination, a HUD rider as may be required, extensions, and restructuring of such a loan.

**Table of Contents:**

Exhibit A: Disposition and Development Agreement

Exhibit B: Loan Agreement



Exhibit A Disposition and Development Agreement

NO FEE DOCUMENT:

Entitled to free recording  
per Government Code 27383.

When recorded, return to:

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY  
801 12th Street  
Sacramento, CA 95814

**DISPOSITION AND DEVELOPMENT AGREEMENT**  
2830 STOCKTON BOULEVARD, SACRAMENTO, CALIFORNIA  
OAK PARK NEIGHBORHOOD **REDEVELOPMENT PROJECT AREA**

HOUSING AUTHORITY OF THE CITY OF SACRAMENTO

SATELLITE HOUSING, INC.,

\*\*\*Effective Date\*\*\*

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## **DISPOSITION AND DEVELOPMENT AGREEMENT**

2830 Stockton Boulevard, Sacramento, California  
Oak Park Neighborhood

THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO, and SATELLITE HOUSING, INC., also called Agency and Developer, respectively, enter into this Disposition and Development Agreement, also called DDA, as of \_\_\_\_\_, 2011. For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 15.

### **RECITALS**

- A. Agency is the owner of real property located at 2830 Stockton Boulevard, Sacramento, California in the City of Sacramento, State of California, more particularly described in the Property Description.
- B. The Property is located in the Oak Park Neighborhood Redevelopment Project Area and is subject to the redevelopment plan for the Project Area. Further, Developer acknowledges that Developer is purchasing the Property from the Agency which is a Housing Authority and is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Housing Authorities Law of the State of California (Health & Safety Code Section 34200 et seq.). Agency as used in this DDA includes the Housing Authority of the City of Sacramento and any assignee of or successor to its rights, powers and responsibilities. The Sacramento Housing and Redevelopment Agency is a joint powers agency which provides staffing for the operation of the Agency. This DDA is consistent with, and furthers, the Redevelopment Plan and the "Implementation Plan" adopted for the Project Area in that it meets the following implementation plan goals: affordable, supportive housing and elimination of conditions that cause blight.
- C. The primary purpose of this DDA is the elimination of the following blighting influences: low values and impaired investment, high vacancy rates and vacant parcels, low property values, deficient buildings and obsolete uses or parcels. In order to accomplish such purpose, the DDA provides that the Agency will transfer the Agency's interests in the Property to Developer upon the express condition that Developer will redevelop the Property for the uses described in this DDA. This DDA is intended to assure that the Developer will redevelop the Property and that the Developer is not merely speculating in land.
- D. Developer desires to purchase and develop the Property, and Agency desires to sell the Property for development, on the terms and conditions in this DDA.

### **AGREEMENT**

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**NOW THEREFORE**, the parties acknowledge that the foregoing Recitals are true and correct, and based upon such Recitals and in consideration of the following mutual covenants, obligations and agreements and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **PERFORMANCE.** The parties shall perform their obligations at the times and in the manner specified in this DDA. The time for performance is stated in this DDA and in the Schedule of Performances; provided, however that such times shall be extended for periods of Unavoidable Delay.

2. **PROJECT DESCRIPTION.** Agency is entering into this DDA and conveying the Property to Developer solely for the purposes of developing the Project. The Project shall be the following: new construction of a twenty unit apartment complex for special needs tenants including a Section 811 Project Rental Assistance Contract (PRAC) on ten of those units for developmentally disabled residents.

3. **PURCHASE AND SALE.** Agency agrees to sell and Developer agrees to purchase the Property subject to the terms and conditions in this DDA. This DDA, if executed by Developer only, constitutes Developer's offer to purchase the Property on the terms and conditions contained in this DDA and subject to the covenants, conditions and restrictions contained in the Regulatory Agreement to be executed by the Agency and Developer and recorded on the Property upon conveyance of the Property to Developer.

3.1. **PURCHASE PRICE.** The Purchase Price for the Property shall be Two Hundred Ninety Five Thousand Dollars (\$295,000) and shall be payable as follows: The unpaid portion of the Purchase Price shall be payable prior to the conveyance of the Property to Developer as a condition precedent to its conveyance. Within ten (10) days following the date of this DDA, Developer shall deposit with Agency the Deposit in the amount of Twelve Thousand Five Hundred Dollars and No Cents (\$ 12,500.00), which shall not be credited towards the Purchase Price but shall be held as the Deposit for Developer's performance of its obligations to purchase the Property and to develop the Project in a timely manner. The Deposit shall be held until it is either paid to Agency as liquidated damages or until issuance of tax exempt mortgage revenue bonds for the construction of the Project, at which time it shall be released in full to Agency.

3.2. **ESCROW.** Developer and Agency have opened, or within ten (10) days after the Effective Date, shall open, the Escrow account subject to the provisions of the Escrow Instructions. Agency and Developer shall execute and deliver the Escrow Instructions to Title Company within ten (10) days after the Effective Date.

3.3. **CONDITIONS TO AGENCY'S PERFORMANCE.** Agency's obligation to perform under this DDA is subject to all of the following conditions:

3.3.1. Developer has performed all of the obligations that it is required to perform pursuant to this DDA, including without limitation, obtaining all required approvals of the Plans; obtaining building permits sufficient to commence Project construction; providing all required

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budgets, reports and evidence of funding and insurance; and providing required construction contracts.

3.3.2. The closing conditions as defined in the Escrow Instructions are fulfilled as of Close of Escrow.

3.3.3. Developer's representations and warranties in this DDA are true and correct as of the date of this DDA and as of the Close of Escrow.

3.3.4. The DDA is in full force and effect, no default on the part of Developer having occurred under the DDA, and no event having occurred, which, with the giving of notice or the passage of time, will constitute default by Developer under the DDA.

**3.4. CONDITIONS TO DEVELOPER'S PERFORMANCE.** Developer's obligation to perform under this DDA is subject to satisfaction of all of the following conditions:

3.4.1. Agency has performed all of the obligations that it is required to perform pursuant to this DDA.

3.4.2. The closing conditions as defined in the Escrow Instructions are fulfilled as of Close of Escrow.

3.4.3. Agency's representations and warranties in this DDA are true and correct as of the date of this DDA and as of the Close of Escrow.

3.4.4. The DDA is in full force and effect, no default on the part of Agency having occurred under the DDA, and no event having occurred, which, with the giving of notice or the passage of time, will constitute default by Agency under the DDA.

**3.5. GENERAL COVENANTS AND REPRESENTATIONS AND WARRANTIES.** The parties make the following covenants, representations and warranties regarding the Property and the Project.

**3.5.1. AGENCY'S REPRESENTATIONS AND WARRANTIES.** Agency represents and warrants to Developer that as of the date of this DDA and as of the Close of Escrow, the date for which is set forth on the Schedule of Performances, to the knowledge of Agency's legal department, its Executive Director, and its staff with responsibility for development of the Property:

a) Agency has received no notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property are in violation of any applicable laws regarding Hazardous Substances, or informing Agency that the Property is subject to investigation or inquiry regarding Hazardous Substances on the Property.

Agency has caused a Phase I environmental study to be performed for Property. Agency has provided Developer with a copy of said study and Developer agrees that as to this study,

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Developer acquires no rights against either the Agency or those individuals or firms who prepared the study. To the extent, if any, that Developer relies on the study, Developer does so at Developer's own risk.

To the best of Agency's knowledge, there is no pending or threatened litigation, administrative proceeding, or other legal or governmental action with respect to the Property or with respect to Agency that would affect the Property.

b) This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Agency; are binding obligations of Agency; and do not violate the provisions of any agreements to which Agency is a party.

**3.5.2. AGENCY'S COVENANTS.** Commencing with the full execution of this DDA by both parties and until the Close of Escrow:

a) Agency shall promptly notify Developer of any facts that would cause any of the representations contained in this DDA to be untrue as of the Close of Escrow.

b) Agency shall not permit any liens, encumbrances, or easements to be placed on the Property, other than the approved exceptions named as acceptable in the Escrow Instructions or as identified and approved in this DDA.

c) Agency shall not, without Developer's written consent, enter into any agreement regarding the sale, rental, management, repair, improvement, or any other matter affecting the Property that would be binding on Developer or the Property after the Close of Escrow without the prior written consent of Developer, except as otherwise agreed in this DDA.

d) Agency shall not permit any act of waste or act that would tend to diminish the value of the Property for any reason, other than ordinary wear and tear.

Agency shall convey the Property to Developer pursuant to the terms and conditions contained in this DDA.

**3.5.3. DEVELOPER'S REPRESENTATIONS AND WARRANTIES.** Developer, for itself and its principals, represents and warrants to Agency that as of the date of this DDA and as of the Close of Escrow:

a) Developer has reviewed the condition of the Property, including without limitation, the physical condition of the Property (above and below the surface) and issues regarding land use and development of the Property, and if Developer closes Escrow for the acquisition of the Property, Developer shall be deemed to be satisfied that the Property is suitable in all respects for its intended development and uses.

b) Developer's agreement to close the Escrow for the acquisition of the Property serves as Developer's representation that Developer has obtained all additional information regarding the Property that Developer considers necessary for its due diligence in acquiring the Property.

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c) To the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other legal or governmental action with respect to Developer which would affect its ability to fulfill its obligations under this DDA and acquire the Property or which may constitute a lien against Developer's equity or Developer's interests in the Property, now or in the future.

d) Any information that Developer has delivered to Agency, either directly or through Developer's agents, is, to the best of Developer's knowledge, accurate, and Developer has disclosed all material facts concerning the operation, development, or condition of the Property.

e) Developer has the financial capacity, the equity and the financing necessary to fulfill its obligations under this DDA and acquire the Property. Developer represents that any equity and funding commitments represented by Developer to Agency as available to the Project are unencumbered and that Developer has not represented to any other party that it will use such funds for any purpose other than the Project (and covenants that it will not use them for any other purpose) without prior written Agency consent.

f) This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Developer; are binding obligations of Developer; and do not violate the provisions of any agreements to which Developer is a party.

**3.5.4. DEVELOPER'S COVENANTS.** Commencing with the full execution of this DDA by both parties and until the Close of Escrow:

a) Developer covenants by and for itself and assigns, and all persons claiming under or through it, that it shall not discriminate on the basis of race, color, ancestry, religion, creed, sex, marital status, or national origin in the sale, lease or rental or in the use or occupancy of the Property and the Project.

b) Developer shall promptly notify Agency of any facts that would cause any of the representations contained in this DDA to be untrue as of the Close of Escrow.

c) Developer shall not cause any liens, encumbrances, or easements to be placed on the Property prior to Close of Escrow, except as otherwise permitted by this DDA or approved in writing by Agency.

d) Developer shall not cause any act of waste or act that would tend to diminish the value of the Property for any reason, except that caused by ordinary wear and tear.

e) Developer shall be solely responsible for the cost and acquisition of the remaining parcels of the Project Site.

f) Developer shall complete the development of the Project at Developer's cost and without requesting or receiving additional Agency or City contributions to the Project other than as provided in this DDA.

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g) Developer shall comply with all provisions of the Regulatory Agreement, and cause any subsequent purchaser of the property to so comply.

**3.8.5. CLOSE OF ESCROW.** The Escrow shall not close, and the Property shall not be conveyed to Developer unless the preceding conditions have been satisfied together with all other conditions stated in the Escrow Instructions for Close of Escrow. The Escrow shall close on or about the date shown on the Schedule of Performances.

**3.6. DAMAGE, DESTRUCTION AND CONDEMNATION BEFORE CLOSE OF ESCROW.** If, prior to the Close of Escrow: (a) damage occurs to any portion of the Property by earthquake, mudslide, fire, release of or exposure to any Hazardous Substances, or any other casualty (other than any damage caused by Developer or its employees, agents, Contractor or subcontractors) resulting in repairs or remediation costs that will exceed twenty percent (20%) of the Purchase Price; or (b) any portion of the Property is taken by eminent domain or otherwise, or is the subject of a threatened or pending taking action resulting in a twenty percent (20%) or more decrease in the after-taking value of the Property, Agency shall notify Developer in writing of the damage, destruction or condemnation. Developer may, within fifteen (15) days after such notice, elect to terminate this DDA by written notice to Agency.

**3.6.1. COMMISSIONS.** Agency is not responsible, by this DDA or otherwise, to pay commissions on this transaction or any related transaction.

**4. AGENCY FUNDING.** The Housing Authority of the City of Sacramento shall provide a “seller carry-back” loan for funding for the Purchase Price of the Property. Project funding will be provided by the Sacramento Housing and Redevelopment Agency, (“Agency Funding”) and will be provided in a separate Funding Agreement. All terms regarding Agency funding are in the Funding Agreements, including without limitation, the source and use of funds.

**5. PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS.** The Agency shall have the right, but not the obligation, to review Plans to assure their conformity with the provisions of this DDA. Based upon such review the Agency shall have the right to approve or reject the Plans for reasonable cause.

**5.1. EXTENT AND CHARACTER OF PLAN REVIEW.** Agency's right of review includes, without limitation, the right to review architectural and engineering plans and specifications, off-site plans and specifications, and landscaping designs and specifications. Agency's approval of Plans is neither a representation of nor an assurance of their adequacy or correctness. Agency has reserved approval rights solely (a) to assure that the Plans further the Redevelopment Plan; (b) to assure that the Final Plans conform to the Plans; and (c) to assure that Agency's purposes are fulfilled and any Agency funds which may be obligated under this DDA are used as intended by the Agency. This DDA is a financing document and not a land use or planning document. Approval of the Project and Plans under this DDA is only an approval by Agency of the Project design “concept” as presented in this DDA. Such approval by Agency is not and shall not be considered an approval of land use entitlements, structural design of the Project, or the aesthetic

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design of the Project. Developer shall comply with all applicable land use, planning and design laws, rules and regulations of each governmental agency acting in proper exercise of its respective jurisdiction, including without limitation, departments, staff, boards and commissions of the City.

5.2. **CONCURRENT REVIEW.** Agency agrees that its review of the Final Plans shall occur before or concurrently with City's review of such plans, so as not to delay the commencement and progress of Project development.

5.3. **PLANS.** Developer has provided Agency with Plans, and the Agency has approved the Plans concurrently with this DDA. The Agency has been induced to undertake its obligations under this DDA by Developer's promise to develop the Project in accordance with the Plans, the Scope of Development and the provisions of this DDA.

5.4. **PREPARATION OF FINAL PLANS AND RELATED DOCUMENTS.** Developer shall prepare the Final Plans that shall include all construction plans, drawings, specifications and other documents necessary to obtain all required building permits for the construction of the Project. Developer shall submit the Final Plans to the Agency for Agency's review. The Final Plans shall conform in all material respects to this DDA, including without limitation, Plans and the Scope of Development. To the extent that the DDA has insufficient detail or is unclear, the DDA shall be deemed to provide that the Project shall contain high-quality materials, and shall conform to all applicable laws, regulations, zoning, design and usage guidelines. The Final Plans shall be considered to include all changes or corrections approved as provided in this DDA. The Final Plans shall incorporate all related mitigation measures required for compliance with approvals under CEQA and any conditions of City approval of the project, unless otherwise fulfilled. Developer agrees that it will comply with the requirements of the City of Sacramento Design Review/Preservation Board to the extent of its jurisdiction.

5.5. **DELIVERY.** Developer shall deliver the Final Plans or changes to the Final Plans for Agency review as soon as available. Said delivery shall be made to the office of the Agency Clerk at the address for notices and shall have clearly marked on its exterior "URGENT: Kelsey Village PROJECT PLAN REVIEW" or the equivalent.

5.5.1. **DEEMED APPROVAL.** If duly marked and delivered, the Final Plans or changes to the Final Plans shall be deemed approved unless disapproved in whole or in part, in writing, within thirty (30) days after their proper delivery to Agency.

5.5.2. **AGENCY DISAPPROVAL.** If Agency disapproves, in whole or in part, the Final Plans or any change to the Final Plans, Agency shall state, specifically and in writing, at the time of disapproval, the reasons for disapproval and the changes that the Agency requests to be made. Agency's reasons for disapproval and such Agency-requested changes shall be consistent with this DDA, including without limitation, the Plans, the Final Plans, the Scope of Development and with any items previously approved in accordance with this DDA. If the Agency rejects the proposed Final Plans, Developer shall obtain no rights to develop the Property under this DDA and Agency shall have no obligations regarding the Project until such time as Developer has

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modified the proposed Final Plans and received the Agency's approval of the Final Plans as modified.

**5.6. GOVERNMENTAL CHANGES.** If any revisions or corrections of the Final Plans shall be required by any government official, agency, department or bureau in exercise of its proper jurisdiction, the Developer shall inform the Agency. If Agency and Developer concur in writing with the required change, Developer shall incorporate the change and it shall be deemed approved by Agency. If Agency or Developer reasonably disagrees with the required change, they shall reasonably cooperate with the agency requiring the change in efforts to develop a mutually acceptable alternative.

**5.7. APPROVAL OF SUBSTANTIAL CHANGES TO FINAL PLANS.** If the Developer desires to make any substantial changes in the Final Plans, Developer shall submit such proposed changes, in writing, to the Agency for its approval. The Agency shall approve or disapprove the proposed change as soon as practicable. The Final Plans shall be construed to include any changes approved in the same manner as for approval of the original Final Plans under this section. The Final Plans shall be construed to include any such changes. Nothing in this Section shall be construed to relieve Developer of its obligations under all applicable laws regarding such changes.

**5.7.1. SUBSTANTIAL CHANGE.** A substantial change in the Final Plans shall include, without limitation, the following changes, excluding those items generally considered to be tenant improvements:

- a) Material changes in the layout, elevation design, functional utility or square footage.
- b) Material changes in use of exterior finishing materials substantially affecting architectural appearance or functional use and operation.
- c) Any change that reduces the effectiveness of any mitigation measure required for CEQA approval of the Project.
- d) Material changes in site development items for the Property that are specified in the Final Plans.

Material changes in the type, location, visibility, accessibility, size, design or artist for any artwork shown in the Final Plans or otherwise accepted by the Agency under the Art in Public Places Program.

- e) Material changes in quality of project or landscaping materials.
- f) Any change in public amenities specified in the Final Plans.
- g) Any changes requiring approval of, or any change required by, any city, county or state board, body, commission or officer.

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h) Any change that would preclude or materially reduce the ability to use the Project as intended by this DDA.

5.7.2. **MISREPRESENTATION.** If the Agency's approval of the Final Plans is reasonably based upon a material misrepresentation to Agency by Developer or by anyone on Developer's behalf, the Agency may, within a reasonable time after discovery of the misrepresentation, take any action permitted by law with regard to any such misrepresentation, notwithstanding Agency's prior approval, including without limitation, rescission of the approval or such other equitable remedies as may then be appropriate to such rescission.

6. **DEVELOPMENT PROVISIONS.** As stated in detail in this Section 6, Developer shall construct and manage the Project according to the requirements established in this DDA, which includes, without limitation, the Scope of Development, the Schedule of Performances and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this DDA, the provisions that specifically enforce the Redevelopment Plan and the applicable provisions of the California Redevelopment Law (commencing at Health and Safety Code Section 33000) shall control.

6.1. **DEVELOPMENT IMPLEMENTATION.** Development Implementation will be performed by Domus Development, LLC, Meea Kang, Member.

6.2. **NOTICE TO PROCEED.** Developer shall not enter the Property or begin work on the Project until the Agency has issued to Developer a written notice to proceed with the work. Agency will issue a notice to proceed after Agency approval of the Final Plans, City's issuance of a building permit for substantially more than the Project foundations, Developer's compliance with all governmental requirements for start of construction, Developer's provision of required policies of insurance, and Developer's provision of proof of construction financing in an amount adequate to begin the Project work.

6.3. **CONSTRUCTION CONTRACTS.** Developer shall submit to Agency the construction contract or contracts for the Project. Agency's review of the construction contract shall be only for determining its compliance with this DDA. If the cost of construction of the Project or any part of the Project exceeds the costs projected by Developer, Developer shall, nevertheless, bear the responsibility to complete, at Developer's cost, the construction of the Project in accordance with this DDA. If the property is revested in the Agency pursuant to Section 11.1, Developer shall assign all rights under the construction contracts to Agency.

6.4. **GOVERNMENTAL REVIEW PROCESS.** Notwithstanding any other provision of this DDA, Developer is subject to all building, planning, design and other plan review requirements that are otherwise applicable to the project, including without limitation those of the City of Sacramento. To assure proper review by the City, Developer shall, within thirty (30) days of the date of this DDA, make an initial deposit toward "plan check fees" with the City's Planning Department. In addition, Developer shall, as applicable, take designs before the City's Design Review/Preservation Board or its appropriate subcommittee for comment as soon as practicable. Conditions to the project imposed by the City shall be considered obligations of the Developer under this DDA. If a dispute with City staff arises regarding such City conditions, Developer

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shall accept the decision of the City's Planning Commission interpreting, imposing and enforcing such City conditions, subject to any applicable appeals process of the Planning Commission.

**6.5. ART IN PUBLIC PLACES EXEMPTION.** The Project improves and increases the stock of affordable housing in the community. Imposition of the Art in Public Places Program would increase the cost of the Project substantially and reduce either the number of affordable units available in the Project or the affordability of those units. Therefore, the Aesthetic Improvement Policy requirements are not applicable.

**6.6. SUBSTANTIAL CHANGES.** Developer covenants and agrees that Developer shall not make or permit to be made any construction of the Project which incorporates a substantial change in the Final Plans, as described in Section 5.7, without Agency approval of such changes as provided in Section 5.7.

**6.7. LOCAL, STATE AND FEDERAL LAWS.** The Developer shall assure that the construction of the Project is carried out in conformity with all applicable laws and regulations, including all applicable federal and state labor standards. Before commencement of construction or development of any buildings, structures or other work of improvement upon the Property, Developer shall at its own expense secure any and all certifications and permits which may be required by any governmental agency having jurisdiction over such construction, development or work. Agency shall cooperate in securing certifications and permits which require consent of the owner of the property. Developer shall permit only persons or entities which are duly licensed in the State of California, County of Sacramento and City of Sacramento, as applicable, to perform work on or for the Project.

**6.8. PREVAILING WAGES.** In accordance with Labor Code Section 1720(c)(6)(E), so long as the public subsidy for the Project consists of below market rate loans, and the Project restricts occupancy on at least 40% of the units for at least 20 years to individuals or families earning no more than 80% of the area median income, the Project is not subject to prevailing wages. Developer represents to the Agency that Developer has obtained no public subsidy for the Project that does not meet such criteria. If more than eleven (11) units are assisted with HOME funds as the Funding Source (as indicated in the Regulatory Agreement), Borrower shall comply with Davis-Bacon prevailing wage requirements as described in the Federal Requirements. If Developer obtains another non-qualifying public subsidy, Developer shall pay prevailing wages for the Project. Therefore, Developer indemnifies, holds harmless and defends the Agency from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from the improper application of California prevailing wage laws to the Project by Developer or Contractor or both of them.

**6.9. PUBLIC SAFETY PROTECTIONS.** Developer shall assure that all necessary steps are taken (including the erection of fences, barricades and warning devices) to protect private contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property, including without limitation, fire, or the failure, collapse or deterioration of any improvements or buildings.

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**6.10. NO DISCRIMINATION DURING CONSTRUCTION.** Developer for itself, the general contractor and their respective successors and assigns, agrees that the following provisions shall apply to, and be contained in all contracts and sub-contracts for the construction of the Project.

**6.10.1. EMPLOYMENT.** Developer shall not discriminate against any employee or applicant for employment because of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

**6.10.2. ADVERTISING.** Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability.

**6.10.3. MONITORING PROVISIONS.** Developer, Contractor and subcontractors shall comply with the requirements of the Agency for monitoring the anti-discrimination and all applicable labor requirements.

**6.11. PUBLIC IMPROVEMENTS.** Developer shall, at Developer's expense, undertake and complete any modification, construction, relocation or improvement of public facilities, improvements and utilities for the development of the Property.

**6.12. AGENCY ACCESS TO THE PROPERTY.** Developer shall permit Agency representatives access, without charge, to the entire Property at any time and for any purpose which Agency reasonably considers necessary to carry out its obligations and protect its interests under the DDA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

**6.13. PROJECT SIGN.** If Developer places a sign on the Property during construction stating the names of the Project participants, it shall also name "Housing Authority of the City of Sacramento" as a participant in the Project. The Agency name on the sign shall be in letters not less than the size of letters used to name any of the other participants.

**6.14. CERTIFICATE OF COMPLETION.** After the Agency has determined that Developer has completed the construction of the Project in accordance with the Final Plans and Developer's obligations under this DDA, the Agency will furnish the Developer with the Certificate of Completion certifying such completion. The Agency's issuance of the Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and

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covenants in the DDA with respect to the obligations of the Developer to construct the Project as of the Completion Date specified in the Schedules of Performances, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute the Certificate of Completion in a form suitable for recording in the Official Records of Sacramento County.

6.14.1. The Certificate of Completion shall not constitute evidence of compliance with any governmental requirements regarding the Project other than those of Agency or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance all or any part of the Project. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any provision of this DDA that is not related to construction of the Project.

6.14.2. If the Agency fails to provide a Certificate of Completion within fifteen (15) days after written request by Developer, the Agency shall, within an additional fifteen (15) days after a second written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of the DDA, or is otherwise in default, and what measure or acts it will be necessary, in the opinion of the Agency, for the Developer to take or perform in order to obtain such certification.

**6.15. CONSTRUCTION PERIOD EXTENSION FEE.** If Developer does not complete the construction of the Project on or before the completion date set forth in the Schedule of Performances, Developer shall pay to Agency, monthly, in advance, on the first day of each month beginning the calendar month following said completion date, a construction period extension fee of Twenty-Five Dollars and No Cents (\$ 25.00) for each day by which the completion of construction is delayed beyond said completion date. Such construction period extension fee due for days of delay occurring prior to the first payment date shall be paid in arrears at the time of the first payment under this Section. The number of days used in computation of the construction period extension fee shall be reduced by the number of days of Unavoidable Delay. Failure to pay such construction period extension fee when due is a material default of this DDA. Any unearned portion of an advance payment of any such extension fee shall be refunded by the Agency within thirty (30) days of completion of construction, or of termination of the DDA. Agency shall have the option to terminate, upon ten (10) days prior written notice, Developer's rights to such unpaid construction extension fee and to declare Developer in material default of this DDA. In any event, such construction extension fees shall not be accepted for a time period greater than six (6) months excluding any period of Unavoidable Delay, at which time Developer shall be deemed in material default of this DDA.

**6.16. REPORTS.** During the period of construction, the Developer shall submit to the Agency a written report of the progress of the work as and when reasonably requested by the Agency, but not more often than once each month.

**6.17. NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS.** Developer shall assure notification of the Project contractors, architects and engineers for the Project of the requirements of this DDA. Developer shall include, where applicable, the

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provisions of this DDA in construction contracts, subcontracts, materials and supplies contracts and services and consulting contracts for the Project, and Developer shall undertake the enforcement of such provisions.

6.18. **PROPERTY CONDITION.** Developer, at Developer's expense, shall conduct any Property investigation beyond those provided by Agency under this DDA and which Developer may consider necessary to determine the condition of the Property for the development of the Project. As between the Agency and Developer, Developer shall be solely responsible for the adequacy of such investigations. Except as provided in this DDA, if the condition of the Property is not in all respects entirely suitable for the use or uses to which the Property will be put, it is the sole responsibility and obligation of the Developer to take such reasonable actions as may be necessary to place the condition of the Property in a condition which is entirely suitable for its development in accordance with the construction plans and drawings approved by Agency. Agency shall not be responsible for removing any surface or subsurface obstructions, or structures of any kind on or under the Property.

6.19. **ZONING OF THE PROPERTY.** Agency exercises no authority with regard to zoning of the Property. Developer shall assure that zoning of the Property at the time of development shall be such as to permit the development and construction, use, operation and maintenance of the Project in accordance with the provisions of this DDA.

6.20. **HAZARDOUS SUBSTANCES.** Agency has obtained a Phase I assessment, and has delivered them to Developer. In any event, Developer shall obtain such Hazardous Substances assessments as Developer deems reasonably necessary to assure the development of the Project in accordance with all applicable laws, rules and regulations; provided, however that such assessments are prepared by a qualified environmental specialist in accordance with nationally recognized standards to determine the existence of and to quantify the extent of Hazardous Substances on the Property. As between the Agency and Developer, Developer shall be solely responsible for the adequacy of any Hazardous Substances investigations obtained by Developer. If Hazardous Substances are known to be on the Property, Developer shall remediate such Hazardous Substances on the Property as and to the extent required by any federal, state or local agency having jurisdiction regarding Hazardous Substances standards or remediation and as may be necessary to avoid incurring liability or further liability under any federal, State and local law or regulation. If Hazardous Substances are discovered on the Property after conveyance to Developer and have not been released on the Property after conveyance to Developer, Developer shall remediate all Hazardous Substances on the Property as and to the extent required by any federal, state or local agency having jurisdiction regarding Hazardous Substances standards or remediation and as may be necessary to avoid incurring liability or further liability under any federal, State and local law or regulation. If Hazardous Substances are discovered on the Property after conveyance to Developer and have not been released on the Property after conveyance to Developer and the cost to remediate such Hazardous Substances is reasonably estimated to exceed Ten Thousand Dollars (\$10,000), Developer may elect to terminate this DDA, upon reconveyance of the Property to Agency and return of all monies and properties delivered pursuant to or in furtherance of this DDA. Developer shall bear Fifty percent of the costs related to such remediation and Agency shall bear the remainder of the costs.

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**6.21. DEVELOPER ACCESS TO PROPERTY.** Prior to the conveyance of the Property by Agency to Developer, the Agency shall permit representatives of Developer to have access, without charge, to the Property, at all reasonable times for the purpose of obtaining data and making various tests necessary to carry out Developer's obligations under the DDA; provided, however, that Developer shall not enter the Property except (a) after execution by Developer and Agency of Agency's standard "Permit for Entry" and (b) after Developer has obtained insurance coverage then required by Agency. No work shall be performed on the Property until a "Notice of Non-responsibility" has been recorded and posted in accordance with applicable laws, assuring that Agency interest in the Property shall not be subject to mechanic's liens related to such work. Developer shall not commence any work on the Property without Agency's written approval of the work to be done, and in any event, Developer shall not commence any work which might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

**7. DEVELOPMENT FINANCING.** Except as specifically provided in this DDA, Developer shall be responsible for and shall pay all costs of developing the Project in accordance with this DDA. As a condition precedent to Agency's conveyance of the site to Developer, Developer shall provide the Agency with a complete and firm Project budget including all proposed sources and uses of funds, all "hard" and "soft" costs and contingencies and reflecting, as possible, firm bids or accepted contracts and with evidence of sufficient funds to meet all budget requirements. To the extent that funds specified in this DDA for the Project are insufficient to fully fund the Project, the Developer shall provide evidence, satisfactory to the Agency, of the additional required construction and permanent financing. Except as expressly provided in this DDA, no party shall have the right of reimbursement for any funds expended by them for the Project, whether prior to execution of this DDA or otherwise. Agency is not obligated by this DDA or otherwise to make any contribution beyond its obligations stated in this DDA.

**7.1. EVIDENCE OF AVAILABLE FUNDS.** Unless otherwise approved by the Agency, Developer's evidence of available funds, as required in the preceding section, must include only the following: (a) Developer equity (as provided in Section 7.3); (b) firm and binding loan commitments (as provided in Section 7.2) from each Lender, in form and content acceptable to Agency; and (c) Agency contribution, if any, as specified in this DDA. Within ten (10) days after Agency's request, Developer shall provide all additional information requested by the Agency for evaluation of the actual availability of funds included in such evidence, including without limitation, requests for clarification, further evidence or audited financial reports.

**7.2. COMMITMENT AND LOAN REQUIREMENTS.** As a material obligation under this DDA, Developer shall assure that the loan documents for the Project are consistent with the Lender's commitment approved by the Agency and comply, in all respects, with this DDA. The Agency may reject a loan commitment unless such commitment: (a) is subject only to Lender's reasonable conditions of title and Developer's execution of standard loan documents (copies of which have been previously provided to and approved by the Agency); (b) contains only usual, customary, and commercially reasonable loan terms; (c) continues in effect until a time when subject financing is reasonably expected to be required; and (d) for construction financing, provides for a construction loan term not less than that specified in the Schedule of Performances

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for completion of construction and any additional time necessary to fulfill all conditions precedent to funding of permanent financing. The Agency may also reject any commitment if it is based upon sources and uses of Project funds that are different from those approved by Agency for the Project. The Agency may also reject any commitment that requires changes to the Project which conflict with this DDA, that require amendment of this DDA or that require the Agency to enter into agreements with any Lender, guarantor, equity partner or any other third-party.

**7.3. EVIDENCE OF DEVELOPER EQUITY.** Unless otherwise agreed in writing by the Agency, Developer may provide evidence of equity in the amount of One Million Eight Hundred Thousand Dollars (\$1,800,000) by any one of the following actions: (a) deposit of the required equity in a joint account with the Agency, which funds shall be released only upon the joint signatures of the Agency and the Developer; (b) delivery to Agency of an unconditional, irrevocable letter of credit in the amount of the required equity, in form and content as provided by the Agency, which letter of credit shall provide that the Agency may draw to fulfill any Developer obligation related to the development of the Project and necessary to assure its timely and proper completion; or (c) Developer's provision of financial statements prepared by a certified public accountant which show liquid assets available to the Project (and not subject to other existing or contingent claims) in the amount of One Hundred and Fifty Percent (150%) of the amount of the required equity ; (d) delivery to the Agency of a tax credit reservation letter for the project in the amount of required equity and an executed Partnership Agreement at close of Escrow. Developer shall not provide evidence of equity that includes funds not available at the commencement of construction or that claims as equity any funds to be generated by development of the Project, including without limitation, anticipated Developer profit or fees or Developer contribution of services to the Project. The Agency may reject any submitted evidence of equity if the Agency has any reason to believe that such funds may not be available to the Project.

**8. INDEMNIFICATION FOR HAZARDOUS SUBSTANCES.** Developer shall indemnify, protect and defend Agency, its officers, directors, council members and supervisors, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees, fines, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to the existence of Hazardous Substances on the Property that were not on the Property prior to Agency's transfer of possession of the Property to Developer or that were related to the removal or discharge of Hazardous Substances by Developer, or its employees, agents or contractors, during Developer's remediation of the Property pursuant to this Section.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to Hazardous Substances discharged on the Property during Agency's ownership of the Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

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**9. INDEMNIFICATION.** Developer shall indemnify, protect, defend and hold harmless Agency, its officers, directors, commission members, employees, advisory committee members, and agents from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Developer, its officers, employees, agents or independent contractors and for any and all costs incurred by Agency in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Agency.

Agency shall indemnify, protect, defend and hold Developer harmless from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Agency, its officers, commission members, employees, advisory committee members or agents and for any and all costs incurred by Developer in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Developer.

This indemnification provision shall survive the termination of this Agreement.

**10. LIABILITY INSURANCE.** With regard to this DDA, the Developer shall obtain and maintain for the life of the Regulatory Agreements, and require the Contractor and subcontractors for the Project to obtain and maintain for the term of the development of the Project, such insurance as will protect them, respectively, from the following claims which may result from the operations of the Developer, Contractor, subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation benefit acts; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of its employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Developer, or (2) by any other person, claims for damages, other than to the construction itself, because of injury to or destruction of tangible property, including resulting loss of use; (e) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and (f) claims for contractual liability arising from the Developer's obligations under this DDA.

**10.1. LIABILITY INSURANCE POLICY LIMITS.** Developer shall obtain all insurance under this Section 10 written with a deductible of not more than ONE HUNDRED THOUSAND DOLLARS (\$100,000) or an amount approved by Agency, and for limits of liability which shall not be less than the following:

**10.2. WORKER'S COMPENSATION.** Developer shall obtain and maintain worker's compensation coverage shall be written for the statutory limits as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the California Labor Code (as it may, from time to time, be amended) and having an employer's liability of not less than \$1,000,000, or statutory limits, whichever are greater.

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**10.3. COMMERCIAL GENERAL LIABILITY.** Developer shall obtain and maintain Commercial General Liability insurance in Insurance Services Office (“ISO”) policy form CG 00 01 Commercial General Liability (Occurrence) or better. Such insurance shall have limits of liability, which are not less than \$1,000,000, per occurrence limit; \$5,000,000 general aggregate limit, and \$5,000,000 products and completed operations aggregate limit, all per location of the Project.

**10.4. COMPREHENSIVE AUTOMOBILE LIABILITY.** Developer shall obtain and maintain comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, non-owned, hired, leased) having a combined single limit of not less than \$1,000,000.

**10.5. PROPERTY INSURANCE.** For the duration of the Regulatory Agreements, Developer shall obtain and maintain property insurance in ISO policy form CP 10 30 - Building and Personal Property Coverage - Causes of Loss - Special Form, to the full insurable value of the Property with no coinsurance penalty (and with endorsements of Builder’s Risk until completion of construction of the Project), Boiler and Machine to the extent necessary to obtain full insurance coverage, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Project and the Property. In the event of damage to the Project and subject to the requirements of Lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

**10.6. INSURANCE PROVISIONS.** Each policy of insurance required under this DDA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating of B++ VII , which rating has been substantially the same or increasing for the last five (5) years, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable, unless otherwise approved by Agency's legal counsel in writing in advance:

**10.6.1. ADDITIONAL INSURED.** Developer shall obtain a policy in ISO form CG 20 33 or better, naming Agency as additional insured under the Commercial General Liability Policy.

**10.6.2. SINGLE PROJECT INSURANCE.** It is the intent of the parties that the Project have available all the specified insurance coverages. Developer shall not provide insurance coverages that are considered in aggregate with other Projects which Developer or its Contractor might have concurrently under construction. The Agency may at its discretion permit an aggregate policy if and only if Developer or the respective Contractor or subcontractor has fully disclosed to Agency other projects which will or may be considered in aggregate with the Project, and thereafter, Developer shall immediately inform Agency of the change in or addition to any such projects. Nevertheless, Agency may at any time require that the insurance coverage be provided solely for the Project.

**10.6.3. CERTIFIED POLICY COPY.** Developer shall provide Agency with a certified copy of each required policy of insurance. Pending delivery of the certified policy, Developer shall provide Agency with a Certificate of Insurance for each policy on the applicable ACORD form. The ACORD form shall not substitute for the policy. ACORD 25-S “Certificate of Liability

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Insurance shall be used for liability insurance deleting the sentence in the top right-hand block immediately below the title (commencing “This certificate is issued as a matter of information . . .”) and in the bottom right-hand box above the authorized representative signature, deleting the words “endeavor to” and “but failure to do so shall impose not obligation or liability of any kind upon the insurer, its agents or representatives.”

**10.6.4. CANCELLATION.** Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Agency has been given written notice of such intended action at least thirty (30) days prior to its effective date.

**10.6.5. FAILURE TO MAINTAIN.** If Developer fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this DDA, the Agency shall have the right, but not the obligation, to purchase the insurance on Developer’s behalf, and Developer shall promptly reimburse the full cost of such insurance to the Agency. If Developer fails to reimburse the Agency for insurance, the amount of unpaid reimbursement shall bear interest at the maximum rate permissible under the law until paid. Failure to maintain the insurance required by this Section 10 shall be a default under this DDA (see Section 11.3, below).

**10.6.6. BLANKET COVERAGE.** Developer’s obligation to carry insurance as required under this Section 10 may be satisfied by coverage under a “blanket” policy or policies of insurance (as the term is customarily used in the insurance industry); provided, however, that the Agency shall nevertheless be named as an additional insured under such blanket policy or policies to the extent required by this Section, the coverage afforded the Agency will not be reduced or diminished thereby, and all of the other requirements of this Section 10 with respect to such insurance shall otherwise be satisfied by such blanket policy.

**11. DEFAULTS AND REMEDIES.** Except as otherwise provided in the DDA, if either party defaults in its obligations under this DDA, the defaulting party shall immediately commence and diligently proceed to cure the default within thirty (30) days after written notice of default from the other party or, if reasonable, such longer time as is reasonably necessary to remedy such default if such default cannot reasonably be cured within thirty (30) days for reasons beyond the control of the defaulting party, provided that the defaulting party shall promptly begin and diligently pursue such cure to completion. If the defaulting party does not promptly begin and diligently cure the default within a reasonable time, the other party may institute proceedings to cure the default, including without limitation, proceedings to compel specific performance by the defaulting party. Subject to any extension of time permitted by this DDA, a failure or delay by a party to perform any term or provision of this DDA constitutes a default of this DDA. As a condition precedent to termination of the DDA under this Section, each party shall first tender the return of all property or funds received from or on behalf of the other party, other than funds properly retained as liquidated damages. After such return of property and funds and termination of the DDA, neither Agency nor Developer shall have any further rights against or liability to the other under the DDA except as expressly set forth in this DDA to the contrary.

**11.1. REVESTING TITLE IN AGENCY.** Notwithstanding any other provisions of this DDA and in addition to any other rights and remedies of the Agency, after conveyance of any part of the Property to Developer and prior to issuance of Certificate of Completion, if Developer defaults

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in its obligations related to the Project development, abandons or unreasonably suspends Project construction work, permits any unauthorized encumbrance or lien (including tax liens) and fails to discharge any such unauthorized lien or encumbrance, or permits any transfer of all or any part of the Property, then the Agency shall have, for a period of ten years following the Effective Date, the right to re-enter and take possession of the Property, or any part of the Property conveyed to Developer, and to terminate and re-vest in the Agency the estate so conveyed. It is the intent of this DDA that the conveyance of the Property to Developer shall be made upon, and that the Grant Deed shall contain, a condition subsequent to the effect that in the event of any default, failure, violation, or other action or inaction by the Developer specified in this Section, failure on the part of Developer to remedy, end, or abrogate such default, failure, violation, or other action or inaction, within the period and in the manner stated in the DDA, the Agency at its option may declare a termination in favor of the Agency of the title, and of all the rights and interest in the Property conveyed by the Grant Deed to Developer, and that such title and all rights and interests of Developer, and any assigns or successors in interest to and in the Property, shall revert to the Agency. Such condition subsequent and any such re-vesting of title in the Agency shall always be subject to and limited by the lien or security interest authorized by the DDA, and any rights or interests provided in the DDA for the protection of the Lenders; and shall not apply to individual parts or parcels of the Property on which the Project have been completed in accordance with the DDA and for which a Certificate of Completion issued as provided in the DDA. Such condition subsequent shall conform to the provisions of Civil Code Sections 885.010 through 885.070.

**11.1.1. RESALE OF REACQUIRED PROPERTY.** Upon the re-vesting of title of the Property in the Agency, Agency shall use its best efforts to resell the Property, as soon and in such manner as the Agency shall find feasible and consistent with the objectives of the Redevelopment Plan and the Community Redevelopment Law, to a qualified and responsible party, as determined by the Agency, who will assume the obligation of completing the Project or such other improvements in their stead as shall be satisfactory to the Agency. Upon such resale of the Property, the resale proceeds (after repayment of any liens and encumbrances which have previously been approved by Agency in writing) shall be applied as follows:

**11.1.2. AGENCY REIMBURSEMENT.** Said proceeds shall be paid first to Agency to reimburse Agency for all costs and expenses incurred by the Agency, including legal costs, attorney's fees and salaries of personnel, in connection with the recapture, management, and resale of the Property (but less any net income derived by Agency from the Property after such re-vesting); all taxes, assessments, and water and sewer charges with respect to the Property (or, in the event the Property is exempt from such taxation or assessment during Agency's ownership, an amount equal to such taxes, assessment, or charges (as determined by local assessing authorities) as would have been payable if the Property were not so exempt); any payments necessary to discharge any encumbrances or liens existing on the Property at the time of such re-vesting or to discharge or prevent any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer; any expenditures made or obligations incurred with respect to completion of the Project; and any amounts otherwise owing the Agency by the Developer.

**11.1.3. DEVELOPER REIMBURSEMENT.** After payment to Agency of the sum specified herein, said proceeds shall be paid to Developer to reimburse Developer in an amount not to

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exceed: (1) the sum of the purchase price paid by Developer for the Property and the cash actually expended by it in actual construction of any of the Project (including without limitation fees and expenses paid to any governmental agency on account of the Project, mitigation or development fees, the costs and expenses of all third-party architects, engineers, or similar design professionals, hard and soft costs of construction expended in construction of the Project, and Lender's interest, loan fees and other fees and charges on account of the Loan); less (2) any gains or income withdrawn or made by it from the DDA or the Property and any amounts, including interest on loans, then due from Developer to Agency.

11.1.4. **BALANCE TO AGENCY.** Any balance remaining after such reimbursements shall be retained by the Agency as its property.

11.2. **LIQUIDATED DAMAGES.** IF DEVELOPER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT BY REASON OF ANY DEFAULT OF DEVELOPER, AGENCY SHALL BE RELEASED FROM AGENCY'S OBLIGATION TO SELL THE PROPERTY TO DEVELOPER, AND AGENCY MAY ALSO PROCEED AGAINST DEVELOPER UPON ANY CLAIM OR REMEDY THAT AGENCY MAY HAVE IN LAW. IF THE PROPERTY HAS BEEN CONVEYED TO DEVELOPER, DEVELOPER HAS COMMITTED A DEFAULT SUFFICIENT FOR REVESTMENT OF THE PROPERTY UNDER SECTION 11.1, AND DEVELOPER HAS NOT VOLUNTARILY RECONVEYED THE PROPERTY TO AGENCY, AGENCY MAY REVEST THE PROPERTY OR TAKE ANY AVAILABLE ACTION TO RECONVEY THE PROPERTY TO THE AGENCY. IN SUCH EVENT, AGENCY MAY ALSO PROCEED AGAINST DEVELOPER UPON ANY CLAIM OR REMEDY THAT AGENCY MAY HAVE IN LAW OR EQUITY; PROVIDED, HOWEVER, THAT, BY INITIALING THIS SECTION, DEVELOPER AND AGENCY AGREE THAT IN THE EVENT THAT DEVELOPER FAILS TO PURCHASE THE PROPERTY: (A) IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL DAMAGES RELATED TO THE FAILURE TO PURCHASE THE PROPERTY; COSTS TO OBTAIN RECONVEYANCE OF THE PROPERTY TO AGENCY; (B) AN AMOUNT EQUAL TO THE DEPOSIT SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO AGENCY ON ACCOUNT OF THE FAILURE TO PURCHASE THE PROPERTY AND FOR AGENCY COSTS TO OBTAIN RECONVEYANCE OF THE PROPERTY (WITHOUT LIMITING AGENCY'S RIGHTS TO RECOVERY DAMAGES OR SEEK ANY OTHER REMEDY FOR ANY OTHER DEFAULT UNDER THIS DDA OR ITS CONSTITUENT DOCUMENTS); (C) THE PAYMENT OF THE LIQUIDATED DAMAGES TO AGENCY SHALL CONSTITUTE THE EXCLUSIVE REMEDY OF AGENCY FOR THE FAILURE OF DEVELOPER TO PURCHASE THE PROPERTY; (D) AGENCY MAY RETAIN THE DEPOSIT AS LIQUIDATED DAMAGES; AND (E) PAYMENT OF THOSE SUMS TO AGENCY AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO AGENCY PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE.

\_\_\_\_\_ Developer's Initials  
\_\_\_\_\_ Agency's Initials

11.3. **OTHER RIGHTS AND REMEDIES.** Upon the occurrence of any default not subject to the preceding liquidated damages provision, and the expiration of any applicable notice and cure period without a cure having occurred within the specified cure period, the non-defaulting party shall have the right to institute such actions as it may deem desirable to remedy a default of this DDA as allowed under this DDA, at law or in equity.

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**11.4. NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES.** No member, official or employee of Agency shall be personally liable under this DDA to Developer, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this DDA.

**11.5. FEES AND COSTS ARISING FROM DISPUTE.** If an action is commenced between the parties, the Prevailing Party in that action shall be entitled to recover from the nonprevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and arbitration costs. "Prevailing Party" shall include without limitation a party who dismisses an action in exchange for sums allegedly due; the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; the party who receives any award for relief through arbitration; or the party determined to be the prevailing party by a court of law.

**12. ENCUMBRANCE OF PROPERTY AND LENDER PROTECTIONS.** Before issuance of a Certificate of Completion, if Developer has obtained Agency's prior written approval, which approval Agency may withhold in exercise of its reasonable discretion and in consideration of the commercially reasonable protection of its interests under this DDA, the Developer may obtain a Loan and encumber the Property as security for the Loan, provided either that the proceeds of the Loan are used solely for construction of the Project improvements upon usual and customary and commercially reasonable terms or that the Loan is permanent project financing made upon usual and customary and commercially reasonable terms. Each lender shall be a federal or state chartered financial institution, a pension fund, an insurance company or such other lender which Agency may approve in writing in advance. After issuance of a Certificate of Completion, the Agency shall have no rights of approval regarding financing secured by the Property. As a condition to Agency's approval of a Loan, Developer shall provide the Agency with a conformed copy of all documents related to the Loan. Agency acknowledges that a Lender will rely upon this DDA in making the Loan and that Agency's obligations under this DDA are inducements to Lender's making of the Loan.

**12.1. NOTICES.** If the Agency gives any notice of default to Developer under this DDA, the Agency shall contemporaneously give a copy of such notice to each Lender who has requested such notice in the following form of request for notice at the address stated in such request for notice. Any such default notice that is not so delivered to Lender shall not be effective or binding with regard to Lender or otherwise affect Lender, but failure to deliver such default notice to Lender shall not affect its validity with respect to Developer. Lender shall use the following form for requesting notice:

[Date]

The undersigned, whose address for notices is stated immediately below its signature, does hereby certify that it is the Lender as such term is defined in that certain Disposition and Development Agreement dated \_\_\_\_\_ between the Housing Authority of the City of Sacramento and **Satellite Housing, Inc.**, ("DDA"). Lender requests, in accordance with the DDA, that if any default notice shall be given to Developer under the DDA, a copy of such default notice shall be given to Lender.

[Lender Name and Address for Notice]

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**12.2. ASSIGNMENTS AND TRANSFERS OF THE LOAN.** Agency shall not be bound to recognize any assignment of Lender's Loan or related encumbrance of the Property unless and until Lender has given Agency written notice of the name and address of the assignee (and if more than one person is an assignee, the designated name and address for notices) and such assignee qualifies as a Lender under this DDA. Thereafter, such assignee shall be considered a Lender with respect to the Loan and the related encumbrance on the Property.

**12.3. LENDER NOT OBLIGATED TO CONSTRUCT.** Notwithstanding any of the provisions of the DDA, Lender shall not be obligated by the provisions of the DDA to construct or complete the Project. Nothing in this Section or any other provision of the DDA shall be construed to permit or authorize Lender to devote the Property to any uses, or to construct any improvements on the Property, other than those uses or improvements provided or permitted in the DDA.

**12.4. LENDER'S OPTION TO CURE DEFAULTS.** After any default of Developer's obligations under the DDA, each Lender shall have the right, at its option, to cure or remedy such default, within the time for cure allowed to Developer, and to add the cost of such cure to the debt and the lien secured by the Property. The Agency shall accept such performance as if it had been performed by Developer; provided, however, that such Lender shall not be subrogated to the rights of the Agency by undertaking such performance. If the breach or default relates to construction of the Project, however, Lender shall not undertake or continue the construction of the Project (beyond the extent necessary to conserve or protect Project or construction already made) unless Lender assumes, in writing satisfactory to the Agency, Developer's obligations to complete the Project on the Property in the manner provided in the DDA. Any Lender who properly completes the Project as provided in the DDA shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency in a manner provided in the DDA. Such certification shall mean that any remedies or rights with respect to the Property that the Agency may have because of Developer's failure to cure any default with respect to the construction of the Project on other parts of the Property, or because of any other default of the DDA by the Developer shall not apply to the part of the Property to which such Certification relates. Nothing in this Section shall be deemed to limit, modify or release any claim or remedy that the Agency may have against the Developer for such default.

**12.5. DEFAULT BY DEVELOPER.** In the event of a default by Developer, Agency shall not terminate this DDA unless and until the Agency has given notice to Lender of such default, and Lender has failed to cure such default.

**12.5.1.** If such default cannot practicably be cured by the Lender without taking possession of the Property, then the Schedule of Performances (and, therefore, the Agency's right to terminate this DDA) shall be tolled if and so long as, all of the following are true: (a) Lender has delivered to the Agency, prior to the date on which Agency is entitled to give notice of termination of this DDA, a written instrument satisfactory to Agency in which Lender or its designee unconditionally agrees that it will commence the cure of such default immediately upon Lender or its designee taking possession of the Property and will thereafter diligently pursue such cure to completion; provided, however, that neither the Lender nor its designee shall be obligated to pay damages to the Agency on account of such default, except to the extent of any monies due and unpaid from Developer; (b) Lender or its designee has rights to obtain

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possession of the Property (including possession by receiver) through foreclosure, deed in lieu of foreclosure or otherwise, and Lender or its designee promptly commences and diligently proceeds to obtain possession of the Property; (c) if Lender is prevented by court action or by any statutory stay from prosecuting foreclosure proceedings, that Lender is diligently seeking relief from such action or stay; and (d) upon receiving possession of the Property, Lender or its designee promptly commences and diligently proceeds to cure such default in accordance with this DDA.

12.5.2. From and after the cure of such Developer default, Lender or its designee is not required to obtain possession or to continue in possession of the Property. Nothing in this Section shall preclude the Agency from exercising any of its rights or remedies with respect to Developer during any period of such forbearance.

12.6. **FORECLOSURE.** Foreclosure of any encumbrance securing the loan of Lender, or any sale under such encumbrance, whether by judicial proceedings or by virtue of any power contained in such encumbrance, or any conveyance of the Property from the Developer to the Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature of foreclosure, shall not require the consent of the Agency. Upon such foreclosure, sale or conveyance, the Agency shall recognize the resulting purchaser or other transferee as the Developer under this DDA, provided that such purchaser or transferee expressly assumes each and every obligation of the Developer under this DDA (except for the obligation to pay damages except to the extent of any monies due and unpaid from Developer under this DDA) by assumption agreement satisfactory to the Agency. If any Lender or its designee acquires Developer's right, title and interest under this DDA as a result of a judicial or nonjudicial foreclosure under any power contained in such encumbrance, or any conveyance of the Property from the Developer to the Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature of foreclosure, such Lender or its designee shall have the right to assign or transfer Developer's right, title and interest under this DDA to an assignee; provided, however, that the assignee or transferee shall thereafter be subject to all of the terms and conditions of this DDA.

12.7. **MODIFICATIONS.** No modification or amendment to the DDA which materially and adversely affects the Lender's interest in the Property shall be valid and effective unless the Lender's written consent to such modification or amendment has first been obtained, which consent shall not be unreasonably withheld.

12.8. **FURTHER ASSURANCES TO LENDERS.** Agency and Developer shall in good faith consider making such reasonable modifications to this DDA and executing such further instruments and agreements between them as a Lender may reasonably request, provided such modifications, instruments and agreements do not materially, adversely affect any party's expectations or benefit, rights or obligations under this DDA and provided such modifications, instruments, and agreements serve a material economic purpose.

12.9. **ESTOPPEL CERTIFICATE.** Any party may, at any time, request in writing of any other party to certify in writing that, to the knowledge of the certifying party, (i) this DDA is in full force and effect and a binding obligation of the parties; (ii) this DDA has not been amended or

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modified, or, if so amended, identifying the amendments; and (iii) the requesting party is not in default in the performance of its obligations under this DDA, or, if in default, describing the nature and extent of any such defaults. A party receiving such a request shall execute and return such certificate to the requesting party, or give a detailed written response explaining why it will not do so, within ten (10) days following its receipt. The Agency's designee shall be authorized to execute any such certificate requested by Developer from the Agency.

**12.10. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER.** In reliance on the financial capability and experience of Developer, substantial public financing and other public aids have been made available by law and by the federal and local governments to make development of the Property possible. Developer shall not, prior to issuance of a Certificate of Completion, assign Developer's interests or obligations under this DDA or undertake any act or transaction resulting in a significant change in the interests of the principals of Developer or the degree of their control of Developer without the prior written consent of Agency. The transfer or assignment, pursuant to this Section, requires the transferee or assignee to execute and deliver to Agency a valid, binding, written assumption of all obligations of Developer. Such a transfer as permitted in this Section shall not relieve Developer, or any other party bound in any way by the DDA, from any of its obligations under the DDA. With respect to this provision, the Developer and the parties signing the DDA on behalf of the Developer represent that they have the authority of all of Developer's principals to agree to and bind them to this provision.

**13. CONCURRENT AGREEMENTS.** The following agreements are to be executed and delivered to each party at Close of Escrow:

**13.1. REGULATORY AGREEMENT-PROJECT.** Various sources of project funding will require a Regulatory Agreement setting out certain affordability and programmatic requirements, which shall survive the completion of the Improvements. A sample form of which is attached as Exhibit 4. The final forms shall include specific provisions as required by the actual funding used.

**14. DOCUMENT INTERPRETATION.** This DDA shall be interpreted in accordance with the following rules.

**14.1. ENTIRE DDA; SEVERABILITY.** This DDA integrates all of the terms and conditions related or incidental to its subject matter, and supersedes all negotiations or previous agreements between the parties with respect to its subject matter. If any term or provision of this DDA shall, to any extent, be held invalid or unenforceable, the remainder of this DDA shall not be affected; provided that the intent of the DDA may then be reasonably fulfilled.

**14.2. WAIVERS AND AMENDMENTS.** All waivers of the provisions of this DDA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this DDA must be in writing and signed by Agency and Developer. Any delay by Agency in asserting any rights under this Section shall not operate as a waiver of such rights or to deprive Agency of or limit such rights in any way. Any waiver in fact made by Agency with respect to any specific default by Developer under this Section shall not be considered as a waiver of the rights of Agency with respect to any other defaults by Developer under this Section or with respect to the particular default except to the extent specifically waived in writing.

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14.3. **CAPTIONS, GENDER AND NUMBER.** The section headings, captions and arrangement of this DDA are for the convenience of the parties to this DDA. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this DDA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

14.4. **DRAFTER.** This DDA shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this DDA. All exhibits referred to in this DDA are attached to it and incorporated in it by this reference.

14.5. **MERGER.** All of the terms, provisions, representations, warranties, and covenants of the parties under this DDA shall survive the Close of Escrow and shall not be merged in the Grant Deed or other documents.

14.6. **TIME FOR PERFORMANCE.** In determining time for performance, it shall be construed that Agency and Developer shall each do the actions required of them, promptly and when specified in this DDA, and that each action specified in the Schedule of Performances shall be performed by the responsible party on or before the date scheduled for its completion.

14.7. **GOVERNING LAW.** This DDA shall be governed and construed in accordance with California law.

14.8. **NO JOINT VENTURE, PARTNERSHIP, OR OTHER RELATIONSHIP.** Nothing contained in this DDA or in any other document executed in connection with this DDA shall be construed as creating a joint venture or partnership between Agency and Developer. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between Agency and Developer other than that of a governmental entity regulating the development of private property, and the owner of such private property.

14.9. **NO THIRD PARTIES BENEFITED.** This DDA is made and entered into for the sole protection and benefit of the parties and their permitted successors and assigns, and no other Person will have any right of action or any rights to any property, benefits or funds at any time on deposit in the Construction Account or the Impound Account, if established.

14.10. **INSPECTION OF BOOKS AND RECORDS.** Agency has the right, at all reasonable times, to inspect the books and records of Developer regarding the Property as reasonably necessary to carry out its purposes under this DDA.

14.11. **OWNERSHIP OF DATA.** If this DDA is terminated, for any reason, prior to the completion of the Project, Developer shall deliver to Agency any and all data acquired for development of the Property. Agency shall have full ownership and rights to use such data.

14.12. **NOTICES.** All notices to be given under this DDA shall be in writing and sent to the following addresses by one or more of the following methods:

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14.12.1. Addresses for notices are as follows:

a) Agency: Housing Authority of the City of Sacramento, 801 12th Street, Sacramento, California 95814, Attention: Steve Lierly.

b) Developer: Satellite Housing, Inc., 1521 University Avenue, Berkeley, CA 94703, Attention: Dori Kojima.

14.12.2. Notices may be delivered by one of the following methods:

a) Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;

b) A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

c) Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

d) Telecopy or facsimile, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party at the "Fax Number" given in the Escrow Attachment or to such other address as Developer or Agency may respectively designate by written notice to the other.

14.13. **SUCCESSORS.** This DDA shall inure to the benefit of and shall be binding upon the parties to this DDA and their respective successors, and assigns.

15. **DEFINITIONS.** The following definitions shall apply for the purposes of this DDA:

15.1. "Agency" is the Housing Authority of the City of Sacramento. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Housing Authorities Law of the State of California (Health & Safety Code Section 34200 et seq.). The principal office of the Agency is located at 801 12th Street, Sacramento, California 95814. Agency as used in this DDA includes the Housing Authority of the City of Sacramento and any assignee of or successor to its rights, powers and responsibilities. The Sacramento Housing and Redevelopment Agency is a joint powers agency which provides staffing for the operation of the Agency.

15.2. "Art in Public Places Program" is the commonly used name for the program implementing Agency's Aesthetic Improvement Policy. Aesthetic Improvement Policy is Agency's policy for the creation and display of artwork in public areas. The policy was adopted

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by Agency Resolution Number 2865, October 16, 1979. The policy as implemented is known as the Art in Public Places Program.

15.3. "Certificate of Completion" is the certificate issued by the Agency certifying Developer's completion of the Project and termination of the revestment provisions.

15.4. "City" is the City of Sacramento in the State of California.

15.5. "Close of Escrow" is the time for the close of the Escrow as provided in the Escrow Instructions.

15.6. "Contractor" is the contractor or contractors with whom Developer has contracted for the construction of the Project.

15.7. "Completion Date" is the date for completion of construction of the Project to the satisfaction of the Agency, which date shall be not sooner than the issuance of a certificate of occupancy for the entire Project. The Completion Date is stated in the Schedule of Performances.

15.8. "DDA" is this Disposition and Development Agreement including the attachments to this DDA consisting of the exhibits named in and attached to this DDA, the Preliminary Plans the Final Plans and any other item expressly incorporated in this DDA, all of which are incorporated in this DDA as if included in full as provisions in the body of this DDA. A default of any of the items incorporated in the DDA by reference is a default of this DDA.

15.9. "Developer" is Satellite Housing, Inc., nonprofit corporation. Satellite Housing is also the purchaser of the Property which is the subject of this DDA. Satellite Housing is responsible for is additionally responsible for operation and maintenance of the Project. The principal office of the Developer is located at 1521 University Avenue, Berkeley, CA 94703. The principals of Developer Ryan Chao.

15.9.1. Actual project development activities will be performed by Domus Development, LLC., Meea Kang, Member.

15.10. "Escrow" is the escrow for the transfer of the Property and for all requirements related to the transfer. The Title Company is the holder of the Escrow.

15.11. "Escrow Instructions" are the escrow instructions for the close of the Escrow for this DDA.

15.12. "Final Plans" are the full and final plans, drawings and specifications for the Project as described in, and approved by the Agency under this DDA. The Final Plans include all construction plans, drawings, specifications and other documents required to obtain all required building permits for the construction of the Project. The Final Plans may refer, as the context may indicate, to partial Final Plans prepared and submitted in accordance with this DDA. The Final Plans shall incorporate all applicable mitigation measures which may be required for

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compliance with approvals under the California Environmental Quality Act (commencing at Public Resources Code Section 21000) and the rules and regulations promulgated under such act. The Final Plans shall specifically include changes or corrections of the Final Plans approved as provided in this DDA. The Final Plans shall include all landscaping, on- and off-site work and artwork related to the Project. Except as approved by the Agency, the Final Plans shall conform in all material respects to all provisions of this DDA.

15.13. "Funding Agreements" are the document that states the terms of Agency Funding.

15.14. "Grant Deed" is the grant deed for the transfer of the Property to Developer under this DDA. The Grant Deed contains covenants that run with the land, easements and a reverter provision.

15.15. "Hazardous Substances" as used in this DDA shall include, without limitation to, all substances, wastes and materials designated or defined as hazardous or toxic pursuant to any of the following statutes, as they may be amended or superseded, from time to time: the Clean Water Act (33 U.S.C. '1321 et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. '9601 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. '6901 et seq.); the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101); the Environmental Protection Agency list of hazardous materials (40 CFR Part 302) and California Health and Safety Code Sections 25115, 25117, 25122.7, 25140 (Hazardous Waste Control Law), 25316 (Carpenter-Presley-Tanner Hazardous Substances Account Act), 25501 (Hazardous Materials Release Response Final Plans and Inventory) and 25281 (Underground Storage of Hazardous Substances); all applicable local regulations; and all rules and regulations promulgated pursuant to said laws.

15.16. "Lender" shall mean all holders of any lien or encumbrance as security for a loan on all or any part of the Property which loan is made in accordance with this DDA or otherwise approved by Agency in writing.

15.17. "Plans" are the Project designs and elevations, prepared by the Project architect YHLA Architects and dated May 24, 2011, a portion of which (consisting of various elevations) is attached to the staff report for approval of this DDA. Agency has approved the Plans concurrently with the approval of this DDA.

15.18. "Project" is the development of the Property as described in this DDA for the uses stated in this DDA. The Project includes all improvements rehabilitated and constructed on the Property in accordance with this DDA.

15.19. "Project Area" is the Oak Park Neighborhood Area, as defined in the Redevelopment Plan.

15.20. "Property" is the real property to be developed under this DDA by Developer, as more particularly described in the Property Description. The Property includes all improvements contained within the Property.

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15.21. "Property Description" is the legal description of the various parcels of real property affected by this DDA. The Property Description is attached as **Exhibit 1: Property Description**.

15.22. "Purchase Price" is the purchase price for the Property as set out in Section 3.

15.23. "Redevelopment Plan" is the redevelopment plan for the Project Area (as it may be amended from time to time)

15.24. "Regulatory Agreement" is the agreement, which sets out the certain provisions of this DDA that shall survive the completion of the Project.

15.25. "Schedule of Performances" is the schedule that establishes the dates by which obligations of the parties under this DDA must be performed and on which conditions must be satisfied. The Schedule of Performances is attached as **Exhibit 2: Schedule of Performances**.

15.26. "Scope of Development" is the detailed description of the construction parameters for the Project. The Scope of Development is attached as **Exhibit 3: Scope of Development**.

15.27. "Title Company" is Old Republic Title. Title Company is the insurer of title under this DDA and the Escrow holder. The Title Company address is 555 12th street, Suite 2150, Oakland, CA 94607.

15.28. "Unavoidable Delay" is a delay in the performance by a party of any obligation which delay is unforeseeable and beyond the control of such party and without its fault or negligence. Unavoidable Delay shall include acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of the parties shall be extended for the period of the enforced delay, as determined by the Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after it has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

**THE PARTIES HAVE EXECUTED THIS DDA** in Sacramento, California, on the following dates, effective as of the date first written above.

**DEVELOPER : SATELLITE HOUSING, INC.**

**AGENCY: THE HOUSING AUTHORITY OF SACRAMENTO**

By:

By:

\_\_\_\_\_  
Ryan Chao, Executive Director

\_\_\_\_\_  
LaShelle Dozier, Executive Director

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Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Developer Counsel

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Agency Counsel

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**EXHIBIT 1**

**Property Description**

The land referred to is situated in the County of Sacramento, City of Sacramento, State of California, and is described as follows:

Lots 4406, 4407, 4408 and 4409, as shown on the "Plat of H.J. Goethe Company's Addition "G" to Sacramento", recorded in Book 6 of Maps, Map No. 16, records of said County.

EXCEPTING THEREFROM that portion of Lot 4406 described as follows:

Beginning at the Northeast corner of said Lot 4406 and running thence along the North line of the same, North 89° 43' 29" West 111.29 feet; thence South 00° 39' 02" East 0.60 feet; thence North 89° 58' 06" East 111.28 feet to the point of beginning.

APN: 014-0123-032

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**EXHIBIT 2**

**Schedule of Performances**

<b>Action</b>	<b>Deadline (no later than)</b>
CDLAC Bond Allocation Submitted	October 14, 2011
CDLAC Bond Allocation Received	December 14, 2011
Close of Escrow	December 31, 2011
Begin Project Construction	January 31, 2012
Complete Project Construction	May 31, 2013
Conversion to Permanent Financing	December 31, 2013

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## EXHIBIT 3

### Scope of Development

#### Demolition

The site is relatively flat and improved with a 22 unit Single Room Occupancy (SRO) facility this is currently vacant. The existing improvement will be demolished.

#### Environmental Mitigation

Due to the age of the existing structure, there is potential for Lead-Based Paint and Asbestos containing materials to be present on-site. If these hazardous materials are identified, they will be mitigated prior to demolition.

#### New Construction

This will be the new construction of 18 one-bedroom units (approximately 600 SF), 1 two-bedroom unit and 1 two-bedroom managers unit (940 SF). Project site is approximately 0.7 acres. Kelsey will be a two-story, wood frame, twenty-unit apartment complex featuring 18 one-bedroom and 2 two-bedroom units. 10 of the units will be located on the ground floor and 10 units will be located on the upper floor accessible by an elevator as well as stairs. The project's ground floor also has a large double height community room with a kitchenette, a unisex restroom, resident mailboxes, and an administrator's office. The second floor features a resident lounge, a conference/activity room, and a central laundry room. The project is fenced with a gated entry and has a terrace, a nicely landscaped lawn, community garden and a 9-car parking lot. Trash is located near parking lot. The unit features include a refrigerator, range, disposal, window coverings, wall-to-wall carpeting, air conditioning and a coat closet.

The ground floor exterior will be stucco but will consist of two neutral shades, creating variety and interest. The second floor exterior will be visually distinguished by neutrally painted fiber cement board. The roof will be Elk "weather wood" thirty-year dimensional composition shingle. Architectural details include painted wood trellises on the ground floor and stained wood knee braces creating visual interest and appeal. The parking lot entrance will be gated in wrought iron. Trash is located in an enclosed structure, which features the same architectural details as the main building. All planned colors are neutral and the style is in keeping with the surrounding neighborhood characteristics.

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## Project Amenities

### *Community rooms:*

- Administrative/ Leasing office
- Community room with fully equipped kitchenette
- Mail Center
- Conference/ Activity Room
- 2<sup>nd</sup> Floor Lounge
- On-site laundry facility
- Maintenance and storage room (separate from building)
- Elevator
- Terrace
- Community Garden

### *All Units:*

- Large one and two bedroom floor plans
- Electric PTAC wall units for heating & conditioning
- Gas water heater in each unit (gas is individually metered)
- Wall to wall carpeting
- Blinds
- Hall closets
- Cable TV available
- Fully equipped kitchens with
  - Stainless steel sinks
  - Laminated counter tops
  - Sheet vinyl flooring
  - Energy efficient appliances:
    - Refrigerator
    - Self cleaning oven range
    - Garbage disposal
    - Range hood exhausting to the outside
- Large bathrooms with
  - Shower/tub combos (or roll-in in accessible units)
  - Sheet vinyl flooring
  - Shower curtain pole

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**EXHIBIT 4**

**Regulatory Agreement**



**ACQUISITION LOAN AGREEMENT  
(SELLER CARRY-BACK LOAN)  
KELSEY VILLAGE**

**ARTICLE I TERMS AND DEFINITIONS:**

“EFFECTIVE DATE”	Which is the date as of which this Loan Agreement shall be effective.
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**LENDER AND BORROWER HAVE ENTERED THIS LOAN AGREEMENT AS OF THE EFFECTIVE DATE.** This Loan Agreement includes Article II Loan Provisions and the attachments and Exhibits listed below, all of which are incorporated in this Loan Agreement by this reference. The capitalized terms in this Loan Agreement shall have the meanings assigned in Article I Terms and Definitions and as defined in Article II Loan Provisions. (Terms being defined are indicated by quotation marks. If an item in this Article I table is marked “None, Not Applicable, N/A or equivalent or is left blank, that defined term is not applicable to this Loan or the referenced item is not required or is not included in this Loan, as the context may indicate.) The Lender is making the Loan pursuant to the terms and conditions of this Loan Agreement.

**NOW, THEREFORE,** in consideration of their mutual promises, the parties agree as follows:

<b>“LENDER”</b>		The following public agency that is making the Loan, and whose legal status and address are:	
Name	Housing Authority of the City of Sacramento		
Legal Status	A public body, corporate and politic		
Principal Address	801 12th Street, City of Sacramento, Sacramento County, California 95814		
<b>“BORROWER”</b>		The borrower of the Loan funds whose name, legal status and address are:	
Name	Satellite Housing, Inc.		
Legal Status	California nonprofit corporation		
Principal Address	1521 University Avenue, Berkeley, CA 94703		
<b>“LOAN”</b>		The Loan made by this Loan Agreement.	
“LOAN COMMITMENT”	Lender’s loan commitment, made by letter dated as of	August 9, 2011	
“LOAN PROGRAM”	Lender’s Loan Program, commonly known as	n/a as this is a “seller carry-back” loan	
“LOAN AMOUNT”	\$295,000		
“INTEREST RATE”	The interest rate is 1% per year, simple interest.		
“MATURITY DATE”	The first day of the 504 <sup>th</sup> calendar month following the Effective Date.		
“PAYMENT START DATE”	The payment shall be in lump sum on the Maturity Date.		
“PAYMENT SCHEDULE”	The unpaid balance of the Note is due and payable on the Maturity Date, including without limitation all unpaid principal, interest, fees and charges.		
“BORROWER EQUITY”	One Million Seven Hundred Thousand Dollars (\$1,800,000)	Which is the minimum amount of cash or cash equivalent (excluding land equity or other non-cash investment in the Project) that Borrower is investing in the Project.	
“SPECIAL TERMS”	Principal and interest due in full upon refinance, sale or end of Term.		

**B. “Collateral”** The Collateral securing repayment of the Loan, which Collateral consists of the following

<b>“PROPERTY”</b>		The following described real property, which is security for the Loan:	
Address	2830 Stockton boulevard, Sacramento, California		
Assessor’s Parcel Number	014-0123-032-0000		
“Legal Description”	The Property is situated in the State of California, County of Sacramento, and is more particularly described in <b>Exhibit: Legal Description</b> attached and incorporated by reference.		
Borrower’s Title Interest	Borrower has fee interest in the Property or, if the Additional Escrow Instructions so indicate, Borrower will acquire fee interest in the Property at Close of Escrow.		

Exhibit B- Acquisition Loan Agreement

<b>C. "ESCROW INFORMATION":</b>		
"Title Company" and "Escrow Agent"	Placer Title Company	Which is the title company that will issue the Title Policy and that will act as Escrow Agent for the Escrow
"Escrow"	The escrow with Escrow Agent	
"Closing Date"		Which is the date for close of the Escrow, as it may be extended

<b>D. "LIST OF EXHIBITS" (The following are attached and incorporated in this Loan Agreement):</b>	
EXHIBIT	DEFINED TERM
<u>Exhibit 1: Legal Description</u>	"Legal Description"
<u>Exhibit 2: Note Form</u>	"Note"
<u>Exhibit 3: Trust Deed Form</u>	"Trust Deed"
<u>Exhibit 4: Escrow Instructions</u>	"Escrow Instructions"

<b>D. "APPROVAL DOCUMENTS" Borrower shall submit the following documents for Lender approval</b>
Construction Agreements for the Project
Architectural Agreement for the Project
Borrower's organizational documents, such as partnership agreements or corporate articles and by-laws
Budget for the operation of the Property, including capital improvements and operating reserve account
Evidence of construction financing
HUD Section 811 financing agreement
Budget for the operation of the Property, including capital improvements and operating reserve account

<b>F. "ASSIGNED DOCUMENTS" BORROWER ASSIGNS THE FOLLOWING DOCUMENTS TO LENDER</b>
Construction Agreement
Architectural Agreement
Subject to the interests of any senior lender, any lease and rental agreements for the Property, or any part of it.

<b>G. "SPECIAL PROVISIONS" The following special provisions shall be in addition to the provisions of this Loan Agreement.</b>
This Loan is made pursuant to the DDA. This Loan Agreement is subject to the DDA including without limitation, conditions precedent to funding the Loan or making disbursements of the Loan Proceeds.
This loan is a seller carry back loan. Loan shall be used solely for Property acquisition costs.
Subject to Agency's written approval, Borrower shall obtain and maintain for the life of the Loan a property management agreement with a duly accredited real estate property management company for the management of the Property. Agency shall have the right to review and approve or reject any proposed changes to scope of said agreement and to changes in the real estate property management company prior to making such changes. Any such changes made without Agency approval shall be a default of the loan. The Agency hereby approves Domus Property Management Company as the Property's property manager.
Borrower may elect to close the Loan in advance of closing of the senior loan, provided that the senior loan meets all requirements of this Loan Agreement. Agency will subordinate this Loan to the senior loan, provided that the senior loan does not require modification of this Loan Agreement or Agency's entering into any agreements containing new or modified Loan terms.
The provisions of this Loan Agreement are subject to the terms of the HUD Rider attached to this Loan Agreement.

Exhibit B- Acquisition Loan Agreement

THE PARTIES HAVE EXECUTED THIS LOAN AGREEMENT in Sacramento, California as of the date first written above.

**BORROWER : SATELLITE HOUSING, INC.**

**AGENCY: HOUSING AUTHORITY OF THE COUNTY OF SACRAMENTO**

By: \_\_\_\_\_  
Ryan Chao  
Executive Director

By: \_\_\_\_\_  
LaShelle Dozier, Executive Director

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Borrower Counsel

\_\_\_\_\_  
Agency Counsel

**ARTICLE II LOAN PROVISIONS**

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**LENDER AND BORROWER HAVE ENTERED THIS LOAN AGREEMENT AS OF THE EFFECTIVE DATE.** The capitalized terms in this Loan Agreement shall have the meanings assigned in Article I General Terms and as defined in Section 1 of this Article II Loan Provisions. (Terms being defined are indicated by quotation marks.) The Lender is making the Loan pursuant to the Loan Commitment and the terms and conditions of this Loan Agreement.

**NOW, THEREFORE,** in consideration of their mutual promises, the parties agree as follows:

1. **DEFINITIONS.** Terms not defined in Article I and II of this Loan Agreement shall have the definitions assigned in the Trust Deed. If a definition in Article I refers to an Exhibit that is a document form, the attached document is a true and correct copy of the document referenced. As used in this Loan Agreement, the following terms shall have the following meanings:

1.1. "Business Day" means regularly scheduled business day of the Sacramento Housing and Redevelopment Agency. Whenever any payment to be made under this Loan Agreement is due on a day other than a Business Day, it may be made on the next succeeding Business Day, and the resulting extension of time will be included in the computation of payment of interest.

1.2. "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date.

1.3. "Default Rate" is the maximum legal interest rate.

1.4. "Escrow" is the escrow with Title Company for the closing of the Loan.

1.5. "Escrow Instructions" means the Escrow Instructions for the Escrow signed by each of the parties to this Loan Agreement.

1.6. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Trust Deed, the Note and any other instrument that is incorporated in this Loan Agreement or that otherwise secures the repayment of the Loan.

1.7. "Financial Statements" means the financial statements of Borrower (and any other persons on whose financial capacity the Lender has relied in making this Loan) as may be required by Lender from time to time, including operating statements, balance sheets, and any other financial reports and information that Lender may require.

1.8. "Fixtures" means all fixtures located on or within the Property or now or later installed in or used in connection with any of the Property, including, as applicable and without limitation, all partitions, screens, awnings, motors, engines, boilers, furnaces, pipes, plumbing, elevators, cleaning and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, heating, ventilating, air conditioning and air cooling equipment, built-in refrigerators, and gas and electric machinery, appurtenances, and equipment, whether or not permanently affixed to the Project.

1.9. "Governmental Authority" means the United States of America, the State of California, the County of Sacramento, the City of Sacramento or any other political subdivision, agency, department, commission, board, bureau, or instrumentality of any of them.

1.10. "Governmental Requirement" means any law, ordinance, order, rule, regulation, plan, ruling, determination or requirement of a Governmental Authority.

1.11. "Loan" is the loan from Lender to Borrower made pursuant to this Loan Agreement.

## Exhibit B- Acquisition Loan Agreement

1.12. "Loan Agreement" means this Loan Agreement including Article I and II, all Exhibits attached to this Loan Agreement (which are incorporated in this Loan Agreement by this reference) and the Loan Documents which are not otherwise included in this definition.

1.13. "Loan Documents" means the Note, this Loan Agreement, the Security Documents, and all other documents (including guaranties) evidencing, securing, or relating to the Loan.

1.14. "Loan Maturity Date" means the date on which the entire unpaid balance of the Loan, including principal and interest, is due and payable.

1.15. "Loan Proceeds" means funds disbursed by Lender on account of the Loan and pursuant to this Loan Agreement.

1.16. "Permanent Lender" is the lender for the Permanent Loan.

1.17. "Permanent Loan" means the permanent financing obtained by Borrower, which is to be made concurrently with the Loan and which is secured by a senior lien against the Property.

1.18. "Personalty" means, whether or not listed as Additional Collateral, all of Borrower's interest in all accounts, contract rights, and general intangibles (specifically including any insurance proceeds and condemnation awards) arising out of the ownership or operation of the Property, and all furniture, furnishings, equipment, machinery, materials and supplies, leasehold interests in personal property, and all other personal property (other than Fixtures) of Borrower now or later located about the Property, together with all present and future attachments, accessions, replacements, substitutions, and additions, and the cash and noncash proceeds.

1.19. "Potential Default" means an event that would constitute an Event of Default but for any requirement of notice to be given or period of grace or time to elapse.

1.20. "Security Documents" means the Trust Deed, together with all other documents entered into between Borrower and Lender or by Borrower in favor of, or for the benefit of, Lender that recite that they are to secure the Loan.

1.21. "Title Policy" means the title insurance policies to be issued in connection with this Loan, as further defined in the Escrow Instructions.

**2. BORROWER'S REPRESENTATIONS AND WARRANTIES.** As a material inducement to Lender to enter into this Loan Agreement and to make the Loan to Borrower, Borrower unconditionally, and each signatory who signs on its behalf, to the extent of their actual knowledge, represents and warrants to Lender, as of the Close of Escrow, as follows:

**2.1. BORROWER'S POWERS.** Borrower has full power and authority to execute this Loan Agreement, the Note, the Trust Deed, and all of the other Loan Documents, to undertake and consummate the contemplated transactions, and to pay, perform, and observe all of the conditions, covenants, agreements, and obligations.

**2.2. BINDING OBLIGATION.** This Loan Agreement, the Note, the Trust Deed, and each of the other Loan Documents constitutes a legal and binding obligation of, and are valid and enforceable against, each party other than Lender, in accordance with the terms of each.

**2.3. LITIGATION.** There are no actions, suits, or proceedings pending or, to the best knowledge of Borrower, threatened against or affecting Borrower, the Property, or any part of it, or involving the validity or enforceability of the Trust Deed, the priority of the lien, or the validity or enforceability of any of the other Loan Documents, at law or in equity, or before or by any Governmental Authority. Borrower is not in default with respect to any order, writ, injunction, decree, or demand of any court or other Governmental Authority.

**2.4. NO VIOLATION.** The consummation of the transactions covered by this Loan Agreement and the payment and performance of all of the obligations in the Loan Documents, will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, loan or credit agreement, corporate charter, bylaws, partnership agreement, trust agreement, or other instrument to which the Borrower or any of its general partners is a party or by which it or they or the Property may be bound or affected.

2.5. **NO DEFAULT.** There is no Event of Default or Potential Default on the part of Borrower.

2.6. **TITLE TO PROPERTY.** Borrower is the sole legal and beneficial owner of the Property, which is free of all claims, liens, and encumbrances other than those shown in the Title Policy.

2.7. **NO UNAPPROVED LOANS.** Borrower has not received financing for either the acquisition of the Property, the use and operation of the Property, or the permanent financing of the Property except as has been fully disclosed to and approved by Lender in writing.

2.8. **TITLE OF PERSONALTY.** All Personalty is vested solely in Borrower, free of all claims, liens, and encumbrances, and the security interest of Lender in the Personalty is a first lien.

2.9. **TAXES PAID.** Borrower has filed all required Federal, State, County, and City tax returns and has paid all taxes due and owing. Borrower knows of no basis for additional assessments with respect to any taxes, other than the lien of taxes not yet due.

2.10. **CONSTRUCTION QUALITY.** There are no structural defects in the Property that are known to or reasonably should be known to Borrower or its agents and employees, and to the best of Borrower's knowledge, no violation of any Governmental Requirement exists.

2.11. **ACCURACY.** All applications, financial statements, reports, documents, instruments, information, and forms of evidence delivered to Lender concerning the Loan or required by this Loan Agreement or any of the other Loan Documents are accurate, correct, and sufficiently complete to give Lender true and accurate knowledge of their subject matter, and do not contain any untrue statement of a material fact or omit any material fact necessary to make them not misleading.

3. **LOAN.** Lender agrees to lend to Borrower, and Borrower agrees to borrow from Lender, the Loan Amount, to finance the purposes and uses and subject to the terms, conditions, representations, warranties, and covenants, all as stated in this Loan Agreement.

3.1. **PRINCIPAL AMOUNT.** The principal amount of the Loan shall be the Loan Amount.

3.2. **USE OF LOAN FUNDS.** Loan funds shall be used only for permanent financing and for other purposes specified in the Loan Agreement.

3.3. **LOAN TERMS.** The Loan is made pursuant to the Loan Program and is subject to the laws, rules and regulations of the Loan Program. Lender agrees to disburse the Loan Proceeds in the manner and subject to the limitations stated in this Loan Agreement. Interest, at the Interest Rate, shall accrue on each disbursement of Loan Proceeds commencing on the date on which each such disbursement is made. Repayment of the loan shall be made, in payments of principal and interest, in lawful tender of the United States, in accordance with the Payment Schedule.

3.4. **NOTE AND SECURITY DOCUMENTS.** The Loan is evidenced by the Note executed by Borrower in favor of Lender and delivered to Lender upon Close of Escrow. Repayment of the Note is secured by the Trust Deed covering the Property. Borrower shall execute the Trust Deed in favor of the Title Company as Trustor in trust for the benefit of Lender and deliver it to Escrow for recordation. The Loan is also secured by the Additional Collateral, if any, as evidenced by the applicable Security Documents.

3.5. **REGULATORY AGREEMENT.** The Regulatory Agreement imposing covenants, conditions and restrictions running with the land is a material consideration for the making of the Loan. Borrower shall execute the Regulatory Agreement prior to Close of Escrow and deliver it to Escrow for recordation.

4. **PERFORMANCE CONDITIONS.** The following are conditions precedent to performance under this Loan Agreement:

4.1. **CONDITION OF TITLE.** Lender shall cause Escrow Agent to issue to Borrower (with a copy to Lender) the Preliminary Report, together with copies of all documents relating to title exceptions referred to in the Preliminary Report. At Close of Escrow, Lender's Trust Deed shall be a valid lien against the Property securing the Loan and subject to no

exceptions to title (of record or off record) other than the exceptions listed in the "Conditions of Title" in the Escrow Instructions.

**4.2. CONDITIONS TO LENDER'S PERFORMANCE.** Lender's obligation to perform under this Loan Agreement is subject to all of the following conditions: (a) Borrower has performed all of its obligations then to be performed pursuant to this Loan Agreement; (b) Borrower has met the Additional Conditions to Close of Escrow and applicable Special Provisions, if any (c) the closing conditions as defined in the Escrow Instructions have been fulfilled as of Close of Escrow; (d) Borrower's representations and warranties in this Loan Agreement are true and correct as of the Close of Escrow, (e) the Agreement continues to be in full force and effect, no default on the part of Borrower has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the Loan Agreement; and (e) Lender has approved the Approval Documents.

**4.3. CONDITIONS TO BORROWER'S PERFORMANCE.** Borrower's obligation to perform under this Loan Agreement is subject to satisfaction of all of the following conditions: (a) Lender has performed all of its obligations then to be performed pursuant to this Loan Agreement; (b) the closing conditions as defined in the Escrow Instructions have been fulfilled as of Close of Escrow; (c) Lender has met the Additional Conditions to Close of Escrow and applicable Special Provisions, if any. (d) Lender's representations and warranties in this Loan Agreement are correct as of the date of this Loan Agreement and as of the Close of Escrow; and (e) the Loan Agreement continues to be in full force and effect, no default on the part of Lender has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Lender under the Loan Agreement.

**4.4. ESCROW.** The parties shall open the Escrow promptly after the Effective Date. Escrow shall close as provided in the Escrow Instructions on or before the Closing Date.

**4.5. COMMISSIONS.** Lender is not responsible, by this Loan Agreement or otherwise, to pay commissions in relation to this transaction.

**5. RELOCATION.** Lender is required by law to provide relocation services and make relocation payments to eligible tenants displaced as a result of the Lender's involvement in the Property. Borrower shall comply fully with all relocation laws that are the obligation of Lender or are otherwise applicable to the Property. Borrower's compliance with the relocation requirements as stated in this Section 5 is a material element of this Loan. Borrower's failure to comply with the relocation requirements as stated in this Section 5 is an Event of Default.

**5.1. RELOCATION COSTS.** Unless otherwise stated in this Agreement, any amounts paid by Lender for relocation costs and services shall be considered advances under the Loan.

**5.2. COOPERATION AND ACCESS.** Borrower shall cooperate fully with Lender in complying with such relocation laws, including without limitation, providing Lender access to all tenants of the Property, to all books and records related to the tenants of the Property and to all properties offered for temporary or permanent relocation. Prior to taking any action with respect to relocation of tenants, Borrower shall meet with Lender to establish reasonable protections for tenants and related reporting requirements for Borrower.

**5.3. BORROWER AS RELOCATION AGENT.** With the approval of Lender, Borrower may act as Lender's agent in accomplishing such relocation. Lender and Borrower by memorandum in writing shall establish their respective duties related to such relocation. If Lender and Borrower agree that Borrower will act as Lender's agent for purposes of this Loan, Borrower may enter into agreements for the provision of relocation services, or Borrower may perform such services directly. Borrower shall, by provisions in its agreements or by direction to its staff, assure that the entity performing the relocation services (a) shall comply with all applicable law, (b) shall fully inform Lender of all relocation activities, (c) shall make all requests for direction or clarification to Lender, and (d) shall respond to and follow the Lender's instruction and direction.

**6. ADDITIONAL SECURITY INSTRUMENTS.** Upon request by Lender, Borrower shall execute and deliver to Lender a security instrument in favor of Lender naming as secured property all contracts related to the Property and all other property of any kind owned by Borrower and used primarily in connection with the Property. Lender may require such instrument at any time, and from time to time may require additions of new contracts and other property. Borrower irrevocably assigns to

## Exhibit B- Acquisition Loan Agreement

Lender, effective upon Lender's written demand, as security for the due performance of this Loan Agreement all of its right, title, and interest in the Assigned Documents.

**7. CONDITIONS PRECEDENT TO LOAN CLOSING.** The obligation of Lender to make any disbursements under this Loan Agreement shall be subject to the following conditions precedent (subject only to the rights of the Permanent Lender):

7.1. No Event of Default or Potential Default of Borrower has occurred and is continuing.

7.2. If requested by Lender, Borrower has furnished to Lender an endorsement to the Title Policy showing no intervening liens or encumbrances on the Property and insuring the full disbursement, together with a satisfactory report under the California Uniform Commercial Code showing no liens or interests in Personalty other than those of Lender.

7.3. The Property and all fixtures, and furnishings installed on or acquired for the Property are owned by Borrower free of any liens, encumbrance, or other interests of any kind other than Lender's lien or security interest.

7.4. The representations and warranties in the Loan Documents are correct as of the date of the requested disbursement.

7.5. Borrower has paid Lender all commitment, loan, and other fees then due, and Borrower has submitted to, and Lender has approved in writing, all documents, records, statements, certificates, reports, and other materials and information then required to be submitted to Lender for approval under this Loan Agreement.

7.6. Borrower has delivered to Lender all funds, documents, instruments, policies, evidence of satisfaction of conditions, and other materials then due or otherwise requested by Lender under the Loan Documents.

7.7. There is no legal action threatened or pending against Borrower or affecting the Property or any Additional Collateral.

7.8. All conditions to Close of Escrow have been satisfied in accordance with the Loan Agreement

7.8.1. Borrower has obtained and Lender has approved a loan approval from a financial institution (or other lender approved by Lender in its sole discretion) to make the Permanent Loan, which provides (a) that it is subject only to those conditions which are usual and customary in the industry and which can be satisfied by the proposed closing date of the Permanent Loan; (b) that it is in full force with no default by any party; and (c) that Lender will have notice of, and a reasonable opportunity to cure, any Borrower defaults.

7.8.2. The Permanent Lender's commitment to make the Permanent Loan is in full force, has not been modified and no event has occurred that with notice or the passage of time or both could result in the termination of it. Nothing in the Permanent Loan commitment, or submissions and approvals made under it, conflicts with this Loan agreement. Borrower has done all things necessary to keep unimpaired its rights under the Loan Commitment

7.8.3. Borrower has filed all tax returns required to be filed and paid all taxes due, which, if unfiled or unpaid, might adversely affect Lender's security under the Security Documents.

7.8.4. Borrower has provided proof of all insurance required by this Loan Agreement.

**8. REDUCTION FOR OTHER LOANS.** In the event that Borrower receives other financing in excess of the amounts shown in the Budget, the amount of the Loan shall be reduced by such excess amount, and Borrower shall immediately repay any Loan funds disbursed that are in excess of the resulting new Loan amount. If Borrower fails to make such repayment within ten (10) business days of Agency's demand, the Loan shall be considered to be in default.

**9. DEFAULTS**

9.1. **EVENTS OF DEFAULT.** At the option of Lender, each of the following events will constitute a default (each an "Event of Default"):

9.1.1. The occurrence of an Event of Default under the Trust Deed.

9.1.2. Borrower's failure to comply with any Governmental Requirements; provided, however that Borrower's right to challenge the Governmental Requirements is not abridged.

9.1.3. Borrower's failure to keep in full force any permit, license, consent, or approval with respect to the occupancy or use of the Property, unless Borrower has renewed the same or otherwise cured the lapse prior to Agency's issuance of a notice of the default.

9.1.4. The filing of any lien against the Property, if the claim of lien continues for thirty (30) days without discharge, satisfaction, or the making of provision for payment (including bonding) to the satisfaction of Lender.

9.1.5. The attachment, levy, execution, or other judicial seizure of any portion of the Property, or any substantial portion of the other assets of Borrower, that is not released, expunged, bonded, discharged, or dismissed within thirty (30) days after the attachment, levy, execution, or seizure.

## 10. REMEDIES

10.1. **OPTION TO ACT.** On the occurrence of any Event of Default, in addition to its other rights in this Loan Agreement or in any of the other Loan Documents, at law, or in equity, Lender may, without prior demand, exercise any one or more of the following rights and remedies:

10.1.1. Terminate its obligation to make disbursements.

10.1.2. Declare the Note and all other sums owing to Lender with respect to the other Loan Documents immediately due.

10.1.3. Make any disbursements after the happening of any one or more of the Events of Default, without waiving its right to demand payment of the Note and all other sums owing to Lender with respect to the other Loan Documents or any other rights or remedies and without liability to make any other or further disbursements, regardless of Lender's previous exercise of any rights and remedies.

10.1.4. Proceed as authorized at law or in equity with respect to the Event of Default, and in connection with that, remain entitled to exercise all other rights and remedies described in this Loan Agreement or the Trust Deed.

10.1.5. Make any unauthorized payment from Loan Proceeds or other funds of Lender.

10.1.6. Recover its funds expended in exercising or enforcing any of its rights or remedies under any of the Loan Documents, together with interest at the Default Rate from the date the funds were spent until repaid which amounts will be deemed secured by the Trust Deed.

10.2. **RIGHTS CUMULATIVE, NO WAIVER.** All of Lender's rights and remedies provided in this Loan Agreement or in any of the other Loan Documents are cumulative and may be exercised by Lender at any time. Lender's exercise of any right or remedy will not constitute a cure of any Event of Default unless all sums then due to Lender under the Loan Documents are repaid and Borrower has cured all other Events of Default. No waiver will be implied from Lender's failure to take, or delay in taking, any action concerning any Event of Default or from any previous waiver of any similar or unrelated Event of Default. Any waiver under any of the Loan Documents must be in writing and will be limited to its specific terms.

10.3. **DISCLAIMER.** Whether Lender elects to employ any of the remedies available to it in connection with an Event of Default, Lender will not be liable for the failure to protect the Property; the payment of any expense incurred in connection with the exercise of any remedy available to Lender; or the performance or nonperformance of any obligation of Borrower.

11. **FIRE, HAZARD AND EXTENDED COVERAGE INSURANCE.** For the duration of Loan Agreement, Borrower shall obtain and maintain fire and hazard insurance to the full insurable value of the Property with endorsements of extended coverage,

vandalism, and malicious mischief, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Property. In the event of damage to the Property and subject to the requirements of Lender, Borrower shall use the proceeds of such insurance to reconstruct the Property and the public improvements.

**11.1. INSURANCE PROVISIONS.** Each policy of insurance required under this Loan Agreement shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating of A-V or better, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Agency has been given written notice of such intended action at least thirty (30) days prior to its effective date.

**11.2. FAILURE TO MAINTAIN.** If Borrower fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this Loan Agreement, the Agency shall have the right to purchase the insurance on Borrower's behalf, and Borrower shall promptly reimburse the full cost of such insurance to the Agency. If Borrower fails to reimburse the Agency for insurance, the amount of unpaid reimbursement shall bear interest, at the maximum rate permissible under the law, until paid.

## **12. MISCELLANEOUS.**

**12.1. NONRECOURSE.** Notwithstanding any provision of this Loan Agreement or any document evidencing or securing this Loan, Borrower, an Borrower's principals, agent, officer, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

**12.2. FEDERAL REQUIREMENTS.** If any Loan Program is federally funded, Borrower shall comply with all laws, rules, regulations and funding requirements that govern the use of such funds. Lender shall fully cooperate with, and assist, Borrower in fulfillment of such obligations.

**12.3. NATURE OF REPRESENTATIONS AND WARRANTIES.** Borrower certifies to Lender that all representations and warranties made in this Loan Agreement and all other Loan Documents are true and correct in all material respects and do not contain any untrue statement of a material fact or omit any material fact necessary to make the representations and warranties not misleading. All representations and warranties will remain true and correct in all material respects and will survive so long as any of Borrower's obligations have not been satisfied or the Loan or any part of it remains outstanding, and for any applicable statute of limitations period. Each request by Borrower for a disbursement will constitute an affirmation that all representations and warranties remain true and correct as of the date of that request. Each representation and warranty made in this Loan Agreement, in any other Loan Documents, and in any other document delivered to Lender by Borrower, will be deemed to have been relied on by Lender, regardless of any investigation, inspection, or inquiry made by Lender or any related disbursement made by Lender. The representations and warranties that are made to the best knowledge of Borrower have been made after diligent inquiry calculated to ascertain the truth and accuracy of the subject matter of each representation and warranty.

**12.4. FINANCIAL STATEMENTS.** Borrower shall provide Financial Statements to Lenders, as and when reasonably requested to assure the good status of the Loan and the Property.

**12.5. NO WAIVER.** No failure or delay on the part of Lender in exercising any right or remedy under the Loan Documents will operate as a waiver nor will Lender be estopped to exercise any right or remedy at any future time because of any such failure or delay. No express waiver will affect any matter other than the matter expressly waived and that waiver will be operative only for the time and to the extent stated. Waivers of any covenant, term, or condition in this Loan Agreement will not be construed to waive any subsequent breach of the same covenant, term, or condition.

**12.6. NO THIRD PARTIES BENEFITED.** This Loan Agreement is made and entered into for the sole protection and benefit of the parties and their permitted successors and assigns, and no other Person will have any right of action or any rights to funds at any time on deposit in the Construction Account or the Impound Account, if established.

**12.7. NOTICES.** Borrower irrevocably appoints Lender as its agent (the agency being coupled with an interest) to file for record any notices of completion, cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interests under this Loan Agreement or under the Loan Documents. All notices to be given under this Loan Agreement shall be in writing and sent to the addresses stated above by one or more of the following methods.

(a) Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;

(b) A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

(c) Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

Telecopy, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party at the "Fax Number" given in the Escrow Attachment or to such other address as Developer or Agency may respectively designate by written notice to the other.

**12.8. ACTIONS.** Lender will have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties, or the disbursement of any funds under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses, and Lender is authorized to disburse funds from the Construction Account for that purpose. This Section does not apply to actions or proceedings between the parties.

**12.9. ASSIGNMENT.** The terms of this Loan Agreement will be binding on and inure to the benefit of successors and assigns of the parties. However, Borrower shall not assign this Loan Agreement or any interest it may have in the monies due or, except as otherwise provided, convey or encumber the Property or any Personalty or Fixtures now or later on the Property without the prior written consent of Lender. However, if there is an assignment, conveyance, or encumbrance, Lender may nevertheless at its option continue to make disbursements under this Loan Agreement to Borrower or to those who succeed to Borrower's title, and all sums so disbursed will be deemed to be disbursements under this Loan Agreement and not modifications, and will be secured by the Security Documents. Lender may at any time assign the Loan Documents to any affiliate of Lender or to a national bank or other equivalent lender, and the assignee will assume the obligations of Lender, and Lender will have no further obligation of any nature. In that case, the provisions of this Loan Agreement will continue to apply to the Loan, and the assignee will be substituted in the place and stead of Lender, with all rights, obligations, and remedies of Lender, including, without limitation, the right to further assign the Loan Documents. In addition, Lender may at any time assign a participation in the Loan to any other party, provided that Lender continues to be primarily obligated under this Loan Agreement.

**12.10. PREPAYMENT.** Borrower may prepay the Loan only on and subject to the terms and conditions in the Note. Borrower shall have no rights to receive, and under no circumstances will Borrower receive repayment of any fees previously paid to Lender.

**12.11. BORROWER, LENDER RELATIONSHIP.** The relationship between Borrower and Lender is, and will at all times remain, solely that of borrower and lender, and Lender neither undertakes nor assumes any responsibility for or duty to Borrower.

**12.12. CONTROLLING LAW; VENUE.** The Loan Documents will be governed by and construed in accordance with California law. The venue for any legal action or proceeding will be in the County of Sacramento, California

**12.13. CONSENTS AND APPROVALS.** All consents and approvals by Lender required or permitted by any provision of this Loan Agreement will be in writing. Lender's consent to or approval of any act by Borrower requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

**12.14. SURVIVAL OF WARRANTIES AND COVENANTS.** The warranties, representations, conditions, covenants, and agreements in this Loan Agreement and in the other Loan Documents will survive the making of the Loan and the execution and delivery of the Note and will continue in full force until the Indebtedness has been paid in full. Nothing in

this Section is intended to limit any other provision of the Loan Documents that by their stated terms survive the repayment of the Indebtedness or the termination of any Loan Document.

**12.15. RECORDING AND FILING.** Borrower, at its expense, will cause the Security Documents and all supplements to be recorded and filed and re-recorded and re-filed in any manner and in any places as Lender will reasonably request, and will pay all recording, filing, re-recording, and re-filing taxes, fees, and other charges.

**12.16. LOAN EXPENSES.** In making the first disbursement, Lender may, at its option, deduct from the proceeds of that disbursement a sum equal to the aggregate of the following, to the extent Lender has knowledge of it and demand has been made on Lender at the time of the deposit: all expenses specifically incurred in connection with the Loan or the preparation, execution, and delivery of the Loan Documents, including, but not limited to, recording costs and expenses, transfer and other taxes (if any), surveys, appraisal fees, title and hazard insurance premiums, recording, notary, and escrow charges, and all other similar, usual, or customary loan closing charges and expenses; and any other budgeted expenses that have been approved by Lender in writing; and Lender will, for the benefit of Borrower, pay those amounts over to the respective parties on whose behalf the demands will have been received by Lender. Borrower will pay directly any expenses in connection with the Loan not so paid by Lender, including, without limitation, any of the expenses specified above, and will hold Lender free from any cost, liability, or obligation of any nature in connection with it, including reasonable attorney fees incurred by Lender. Borrower further agrees to pay on demand all out-of-pocket costs and expenses reasonably incurred by Lender including, without limitation, the fees and disbursements of Lender's outside counsel, in connection with: (i) the administration of the Loan, including, without limitation, all approvals or consents given or contemplated to be given under the Loan Documents, all amendments to the Loan Documents entered into by Lender or requested by any Loan Party, and all title insurance policies and endorsements required by Lender, and (ii) the enforcement of any rights or remedies under the Loan Documents, whether any action or proceeding is commenced, or the protection of the security, or interests of Lender under the Loan Documents. All costs and expenses, together with interest at Loan rate, will form a part of the indebtedness and will be secured by the Security Documents.

**12.17. NO REPRESENTATIONS BY LENDER.** By accepting or approving anything required to be observed, performed, or fulfilled, or to be given to Lender pursuant to this Loan Agreement or pursuant to the Loan Documents, including, but not limited to, any officer's certificate, balance sheet, statement of income and expense, or other Financial Statement, survey, appraisal, or insurance policy, Lender will not be deemed to have warranted or represented the sufficiency, legality, effectiveness, or legal effect of it or of any particular term, provision, or condition of it, and any acceptance or approval will not be or constitute any warranty or representation by Lender.

**12.18. AMENDMENT.** The Loan Documents and the terms of each of them may not be modified, waived, discharged, or terminated except by a written instrument signed by the party against whom enforcement of the modification, waiver, discharge, or termination is asserted.

**12.19. TERMINATION.** Except as otherwise provided in the Loan Documents, all rights and obligations under this Loan Agreement will terminate except as to any accrued obligations effective on the payment of all Indebtedness owing by Borrower to Lender.

**12.20. COUNTERPARTS.** The Loan Documents may be executed in any number of counterparts and by different parties in separate counterparts, each of which when executed and delivered will be deemed an original and all of which counterparts taken together will constitute one and the same instrument.

**12.21. SEVERABILITY.** If any term, provision, covenant, or condition or any application is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions and all applications not held invalid, void, or unenforceable will continue in full force and will in no way be affected, impaired, or invalidated.

**12.22. CAPTIONS.** All Article and Section headings in the Loan Documents are inserted for convenience of reference only and do not constitute a part of the Loan Documents for any other purpose.

**12.23. INDEMNITY.** Borrower agrees to defend, indemnify, and hold Lender harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorney fees that Lender may reasonably incur as a direct or indirect consequence of the making of the Loan, Borrower's failure to perform any obligations as and when required by this

## Exhibit B- Acquisition Loan Agreement

Loan Agreement or any of the other Loan Documents, the failure at any time of any of Borrower's representations or warranties to be true and correct, or any act or omission by Borrower, any contractor, subcontractor, engineer, architect, or other Person with respect to the Property, or any portion of it. Borrower will pay immediately on Lender's demand any amounts owing under this indemnity, together with interest at the lesser of the Default Rate or the maximum rate permitted by law from the date Lender makes a payment or incurs a loss. Borrower's duty to indemnify Lender will survive the release and cancellation of the Note and the reconveyance or partial reconveyance of the Trust Deed.

**12.24. FURTHER ASSURANCES.** At Lender's request and at Borrower's expense, Borrower will execute, acknowledge, and deliver all other instruments and perform all other acts necessary, desirable, or proper to carry out the purposes of the Loan Documents or to perfect and preserve any liens created by the Loan Documents.

**12.25. DISCLOSURE OF INFORMATION.** If Lender elects to sell the Loan, Lender may forward to the buyer of the Loan all documents and information related to the Loan in Lender's possession, including without limitation all Financial Statements, whether furnished by Borrower or otherwise.

**12.26. LENDER'S AGENTS.** Lender may designate agents or independent contractors to exercise any of Lender's rights under the Loan Documents. Any reference to Lender in any of the Loan Documents will include Lender's employees, agents, and independent contractors.

**12.27. INTEGRATION AND INTERPRETATION.** The Loan Documents contain or expressly incorporate by reference the entire agreement between Lender and Borrower with respect to the covered matters and supersede all prior negotiations. Any reference to the Property in any of the Loan Documents will include all or any portion of them. Any reference to the Loan Documents themselves in any of the Loan Documents will include all amendments, renewals, or extensions approved by Lender.

**12.28. NUMBER, IDENTITY AND GENDER.** When the context and construction so require, all words used in the singular will be deemed to have been used in the plural and vice versa. Person means any natural person, corporation, firm, partnership, association, trust, government, governmental agency, or any other entity, whether acting in an individual, fiduciary, or other capacity. When the context and construction so require, all words which indicate a gender will be deemed to have been used to indicate the gender as indicated by the context.

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Exhibit 1: Legal Description

Exhibit 2: Note Form

Exhibit 3: Trust Deed Form

Exhibit 4: Escrow Instructions



## **RESOLUTION NO. 2011 -**

**Adopted by the Housing Authority of the City of Sacramento**

on date of

### **RESOLUTION DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS AND DIRECTING CERTAIN ACTIONS**

#### **BACKGROUND**

- A. The Housing Authority of the City of Sacramento (the “Issuer”) intends to issue tax-exempt obligations in an principal amount not to exceed \$4,000,000 (the “Obligations”) for the purpose, among other things, of making a loan to Satellite Housing, Inc., a California nonprofit public benefit corporation, or a California limited liability company or limited partnership to be formed by Satellite Housing, Inc. (the “Developer”), the proceeds of which shall be used by the Developer to finance the acquisition and construction of a 20-unit multifamily housing facility to be located at 2830 Stockton Boulevard, Sacramento, California (the “Project”).
- B. United States Income Tax Regulations Section 1.103-18 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, among which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer must declare an intention to reimburse such expenditure.
- C. It is in the public interest and for the public benefit that the Authority declares its official intent to reimburse the expenditures referenced herein.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:**

- Section 1. The Authority intends to issue the Obligations for the purpose of paying the costs of financing the acquisition and construction of the Project.
- Section 2. The Authority hereby declares that it reasonably expects that a portion of the proceeds of the Obligations will be used for reimbursement of expenditures for the acquisition and construction of the Project that are paid before the date of initial execution and delivery of the Obligations.
- Section 3. The maximum amount of proceeds of the Obligations to be used for reimbursement of expenditures for the acquisition and construction of the

Project that are paid before the date of initial execution and delivery of the Obligations is not to exceed \$4,000,000.

- Section 4. The foregoing declaration is consistent with the budgetary and financial circumstances of the Authority in that there are no funds (other than proceeds of the Obligations) that are reasonably expected to be (i) reserved, (ii) allocated or (iii) otherwise set aside, on a long-term basis, by or on behalf of the Authority, or any public entity controlled by the Authority, for the expenditures for the acquisition and construction of the Project that are expected to be reimbursed from the proceeds of the Obligations.
- Section 5. The Developer shall be responsible for the payment of all present and future costs in connection with the issuance of the Obligations, including, but not limited to, any fees and expenses incurred by the Authority in anticipation of the issuance of the Obligations, the cost of printing any official statement, rating agency costs, bond counsel fees and expenses, underwriting discount and costs, trustee fees and expense, and the costs of printing the Obligations. The payment of the principal, redemption premium, if any, and purchase price of and interest on the Obligations shall be solely the responsibility of the Developer. The Obligations shall not constitute a debt or obligation of the Authority.
- Section 6. The appropriate officers or staff of the Authority are hereby authorized, for and in the name of and on behalf of the Authority, to make an application to the California Debt Limit Allocation Committee for an allocation of private activity bonds for the financing of the Project.
- Section 7. The adoption of this Resolution shall not obligate (i) the Authority to provide financing to the Developer for the acquisition and construction of the Project or to issue the Obligations for purposes of such financing; or (ii) the Authority, or any department of the Authority or the City of Sacramento to approve any application or request for, or take any other action in connection with, any environmental, General Plan, zoning or any other permit or other action necessary for the acquisition, construction or operation of the Project.
- Section 8. This resolution shall take effect immediately upon its adoption.