

Backfill Agreement Number ARRA CA-_____

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
SUPPLEMENTAL HCD BACKFILL LOAN AGREEMENT**

This Backfill Loan Agreement is made this _____ day of _____, 2010, between _____, a _____ (the "**Borrower**") and the California Tax Credit Allocation Committee, a public agency of the State of California (the "Committee"). This Backfill Loan Agreement ("**Backfill Loan**") is supplemental to that certain Loan Agreement (Agreement Number ARRA CA-200_-_) ("**Loan Agreement**") between Borrower and the Committee dated _____, 2010. To the extent not inconsistent with the terms of this Backfill Loan Agreement, the terms of the Loan Agreement are incorporated in this Backfill Loan Agreement.

RECITALS

A. Borrower owns or proposes to acquire the [fee] or [ground leasehold] (**Select One**) interest in the certain real property described in Exhibit A to the Loan Agreement (the "Property").

B. Borrower proposes to [construct] or [rehabilitate] or [has constructed] or [has rehabilitated] (**Select One**) on the Property certain improvements as described in the Application (defined in Exhibit B to the Loan Agreement) (the "**Improvements**").

C. The Committee has the authority to receive the HUD Grant (the "**Federal Grant**") and use the proceeds of the Federal Grant to provide financial assistance to qualified affordable housing developments.

D. Borrower has secured approval from HCD for a takeout loan (the "**HCD Loan**") for the Project which loan is expected to fund as soon as HCD can access the funds. Borrower wishes to borrow funds from the Committee in the form of a Loan in advance of HCD being able to access funds with the understanding that the HCD Loan proceeds when available will be used to repay the Loan.

ARTICLE I – DEFINITIONS

Section 1.1 – DEFINED TERMS. The following capitalized terms generally used in this Backfill Loan Agreement shall have the meanings defined or referenced

below. In addition and to the extent not inconsistent with the definitions set forth in this Article, the definitions set forth in Article I of the Loan Agreement shall apply.

“**HCD**” means the California Department of Housing and Community Development.

Section 1.2 – EXHIBITS INCORPORATED. Exhibits A, B, C, D, E, F, G and H to the Loan Agreement, are hereby incorporated into this Agreement.

Article II – Loan

Section 2.1 – LOAN. By and subject to the terms of this Agreement, the Committee agrees to lend to Borrower and Borrower agrees to borrow from the Committee the principal sum of _____ Million _____ Dollars (\$ _____), said sum to be evidenced by the Note of even date herewith. The Note shall be secured, in part, by the Deed of Trust, of even date herewith, encumbering certain real property and improvements as legally defined therein. Amounts disbursed to or on behalf of Borrower pursuant to the Note shall be used to finance the acquisition, construction or renovation of the Property and Improvements and for such other purposes and uses as may be permitted under this Agreement and the other Loan Documents.

Section 2.2 – INTEREST RATE. The Loan shall accrue interest at the rate of zero percent (0%) on the outstanding balance of the Loan as provided in the Note.

Section 2.3 – PRINCIPAL PAYMENTS. Except as provided herein, Borrower shall have no obligation to make any payments of principal to reduce the outstanding balance of the Loan prior to maturity as provided in the Note.

Section 2.4 – LOAN DOCUMENTS. Borrower shall deliver to the Committee, concurrently with this Agreement, each of the documents, properly executed and in recordable form, as applicable, described in Exhibit C to the Loan Agreement as Loan Documents, together with those documents described in Exhibit C to the Loan Agreement as Other Related Documents.

Section 2.5 - EFFECTIVE DATE. The date of the Loan Documents is for reference purposes only. The Effective Date of delivery and transfer to the Committee of the security under the Loan Documents (other than this Loan Agreement) and of Borrower's and the Committee's obligations under the Loan Documents (other than this Loan Agreement) shall be the date the Deed of Trust is recorded in the Office of the County Recorder of the county where the Property is located.

Section 2.6 – REPAYMENT. The entire principal amount shall be due and payable concurrently with the timely closing of the MHP loan from HCD or fifty-five years from the Effective Date, whichever is earlier.

Section 2.7 – NONRECOURSE OBLIGATIONS UNDER THIS AGREEMENT. The obligations under this Note shall be without recourse against the Borrower and any partners, general or limited, or members of the Borrower. Notwithstanding anything in this paragraph to the contrary, Borrower, and any general partner of Borrower, shall be liable for each and all of the following:

(a) Any fraud, intentional misrepresentation or omission, or other cause of action, that is independent of liability under the Loan Documents;

(b) Any waste or intentional destruction of the Development or of any collateral secured by the Deed of Trust;

(c) All insurance proceeds, condemnation awards, or other sums or payments attributable to the Development not applied in accordance with the terms of the Loan Documents, except to the extent that such sums were not applied in accordance with the Loan Documents solely because Borrower did not have the legal right to so apply such sums because of bankruptcy, receivership, or similar judicial proceeding;

(d) All rents, lease payments, profits, issues and other income from the Development received by or on behalf of the Borrower which were not applied in accordance with the terms of the Loan Documents, except to the extent that such sums were not applied in accordance with the Loan Documents solely because Borrower did not have the legal right to so apply such sums because of bankruptcy, receivership, or similar judicial proceeding; and

(e) Any liability arising under or pursuant to any Borrower indemnity contained in the Loan Documents.

Section 2.8 – CREDIT FOR PRINCIPAL PAYMENTS. Any payment made upon the outstanding principal balance of the Loan shall be credited as of the Business Day received, provided such payment is received by the Committee no later than 11:00 a.m. (Pacific Standard Time or Pacific Daylight Time, as applicable) in immediately available funds. Any principal payment that is received after this time or that does not constitute immediately available funds shall be credited upon such funds having become unconditionally and immediately available to the Committee.

Section 2.9 – FULL REPAYMENT AND RECONVEYANCE. Upon receipt of all sums owing and outstanding under the Loan Documents, the Committee shall issue a full reconveyance of the Property and Improvements from the lien of the Deed of Trust; provided, however, that all of the following conditions shall be satisfied at the time of, and with respect to, such reconveyance: (a) the Committee shall have received all escrow, closing and recording costs, the costs of preparing and delivering such reconveyance and any sums then due and payable under the Loan Documents; and (b) the Committee shall have received a written release satisfactory to the Committee of any set aside letter, letter of credit or other form of undertaking which the Committee has issued to any surety, governmental agency or any other party in connection with the Loan and/or the Property and Improvements. The Committee's obligation to make further disbursements under the Loan shall terminate as to any portion of the Loan undisbursed as of the date of issuance of such full release or reconveyance, and any commitment of the Committee to lend any undisbursed portion of the Loan shall be canceled.

ARTICLE III – LOAN DISBURSEMENT PROCEDURES

Section 3.1 – Backfill Loan proceeds shall be disbursed to Borrower as follows: forty percent (40%) upon evidence of eligible costs incurred; an additional thirty-five percent (35%) at fifty percent (50%) completion of construction or by February 1, 2011, whichever comes sooner, and twenty-five percent (25%) at completion of the entire Development as evidenced by a final Certificate of Occupancy or Notice of Completion issued by the local building authority.

Section 3.2 – The Committee shall use its best efforts to respond to a Disbursement Request within twenty (20) business days after receipt of the Disbursement Request. Upon receipt of the complete signed Disbursement Request, the Committee shall either (1) authorize the disbursement of Backfill Loan proceeds to Borrower; or (2) notify Borrower in writing within five (5) Business Days of any deficiencies or discrepancies in the Disbursement Request. Borrower shall not receive a disbursement until Borrower corrects any such deficiencies or discrepancies. The proceeds of the Backfill Loan, when qualified for disbursement, shall be disbursed to, or for, the benefit or account of Borrower under the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in day and year first hereinabove written.

BORROWER:

BORROWER NAME

By: _____

CONTACT NAME, CONTACT TITLE

The Committee:

California Tax Credit Allocation Committee

By: _____

William J. Pavão, Executive Director