

<p><b>AGENDA AMENDMENT:</b> Amendment to the board agenda item #08 – 4/4/2025</p>
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**A REGULAR MEETING OF THE  
BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

TO BE HELD AT 715 EAST BRIER DRIVE  
SAN BERNARDINO, CALIFORNIA  
April 8, 2025 AT 3:00 P.M.

**AGENDA**

**PUBLIC SESSION**

- 1) Call to Order and Roll Call
- 2) Additions or deletions to the agenda
- 3) General Public Comment - Any member of the public may address the Board of Commissioners on any matter not on the agenda that is within the subject matter jurisdiction of the Board. To make a comment on a specific agenda item, you may do so during the meeting or, alternatively, please submit your comments via email by 1:00 p.m. on the Tuesday of the Board meeting. Comments should be limited to 250 words or less. Please submit your comments via web at <https://hacsb.com/board-of-commissioners/> or email at [publiccomment@hacsb.com](mailto:publiccomment@hacsb.com). Your comments will be placed into the record at the meeting. Efforts will be made to read the comments into the record, but some comments may not be read due to time limitations.

**DISCUSSION CALENDAR**

(Public comment is available for each item on the discussion calendar)

- 4) Receive the Executive Director's Report for April 8, 2025.  
(Page 1)
- 5) Receive the board building presentation for April 8, 2025, an update of the Housing Authority of the County of San Bernardino's development projects.  
(Page 2)
- 6) Adopt Resolution No. 208 approving revisions to the Admissions and Continued Occupancy Policy governing the Housing Authority of the County of San Bernardino's Public Housing program.  
(Pages 3-37)
- 7) Adopt Resolution No. 209 approving the policy for the sale of single-family homes within the ownership structure of Housing Authority of the County of San Bernardino.  
(Pages 38-42)

- 8) Retroactively authorize the Executive Director to execute the lease agreement for Sterling Apartments with Sterling HACSB, LLC.  
(Pages 43-100)

## **CONSENT CALENDAR**

### APPROVAL OF CONSENT ITEMS: # 9-12

- 9) Approve delinquent landlord accounts for the Housing Services Programs to be written off as collection losses.  
(Pages 101-102)
- 10) Approve the meeting minutes for the special meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on March 17, 2025.  
(Pages 103-110)
- 11) Approve and file Agency-wide Financial Statements through December 2024.  
(Pages 111-114)
- 12) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of January 2025.  
(Pages 115-121)

## **CLOSED SESSION**

- 13) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Initiation of litigation pursuant to Paragraph (4) of subdivision (d) of Government Code Section 54956.9.  
Number of Cases: One Case
- 14) **CONFERENCE WITH LABOR NEGOTIATOR**  
Pursuant to Government Code Section 54957.6  
Agency designated representatives: Jennifer Dawson, Director of Administrative Services  
Employee Organization: Teamsters Local 1932
- 15) Individual Board member comments.
- 16) Adjourn

This agenda contains a brief description of each item of business to be considered at the meeting. In accordance with the Ralph M. Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting at the Housing Authority of the County of San Bernardino (HACSB) Building located at 715 East Brier Drive, San Bernardino, California, 92408. The agenda and its supporting documents can be viewed online at <http://www.hacsb.com>. However, the online agenda may not include all available supporting documents or the most current version of documents.

If you challenge any decision regarding any of the above agenda items in court, you may be limited to raising only those issues you or someone else raised during the public testimony

period regarding that agenda item or in written correspondence delivered to the Board of Commissioners at, or prior to, the public meeting.

It is the intention of the HACSB to comply with the Americans with Disabilities Act (ADA). If you require special assistance, HACSB will attempt to accommodate you in every reasonable manner. Please contact Cynthia Robinson at (909) 890-5388 at least 48 hours prior to the meeting to inform us of your particular needs.

HACSB ofrece asistencia idiomática gratis. Para ayuda con este documento, por favor llámenos al (909) 890-0644.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**April 8, 2025**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

**Executive Director's Report for April 8, 2025**

**RECOMMENDATION(S)**

Receive the Executive Director's Report for April 8, 2025.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

This item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

The Executive Director's report summarizes ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by the U.S. Department of Housing and Urban Development.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 3, 2025.



**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**April 8, 2025**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Board Building Presentation for April 8, 2025

**RECOMMENDATION(S)**

Receive the board building presentation for April 8, 2025, an update of the Housing Authority of the County of San Bernardino's development projects.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**Aspirational Statement #5: To create, build and utilize partnerships that provide opportunities and create a meaningful difference in the lives of the families that we serve, maximizing our resources by mobilizing the talents of our community partners.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

Per the U.S. Department of Housing and Urban Development's (HUD) Commissioner Lead the Way Training and Moving to Work designation responsibilities, board building is required to provide the Board of Commissioners with information regarding ongoing initiatives of HACSB's strategic plan, Moving to Work (MTW) activities, overall agency updates, as well as other initiatives federally regulated by HUD.

This month's board building presentation will include an update of HACSB's development projects.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 03, 2025.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**April 8, 2025**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Revisions to the Admissions and Continued Occupancy Policy of the Housing Authority of the County of San Bernardino

## **RECOMMENDATION(S)**

Adopt Resolution No. 208 approving revisions to the Admissions and Continued Occupancy Policy governing the Housing Authority of the County of San Bernardino's Public Housing program.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

Approval of the proposed revisions to the Admissions and Continued Occupancy Policy (ACOP) will have no direct financial impact to the Housing Authority of the County of San Bernardino's (HACSB) FY25 budget.

## **BACKGROUND INFORMATION**

HACSB's ACOP outlines the adopted policies that govern the Public Housing program. This program provides rental subsidies for low-income families. The ACOP is required of all housing authorities administering the Public Housing program and is reviewed and updated as needed to maintain compliance with Public and Indian Housing Notices (PIH), Federal Register Notices as issued by the United States Department of Housing and Urban Development (HUD), and HACSB's Moving to Work (MTW) activities.

The primary reasons for revising the ACOP are to incorporate new definitions and income exclusions under the Housing Opportunity Through Modernization Act of 2016 (HOTMA) required under the recent HUD guidance, revisions to the subsidy standard policy and changes to the Moving to Work activities in the 2025 Moving to Work Annual Plan. Other revisions have been made throughout the Administrative Plan to promote consistent application of policies and procedures. Since the ACOP is continuously reviewed for compliance and efficiency, HACSB staff take the opportunity to make minor changes when material changes are brought to the board. Attached is a table summarizing the proposed revision along with the corresponding sections from the ACOP with the redline changes.

To ensure alignment with HUD regulations and to promote program efficiency, it is recommended the Board adopt the resolution to approve the proposed changes to the ACOP.

Revisions to the Admissions and Continued Occupancy Policy Governing the Housing Authority  
of the County of San Bernardino's Public Housing Program  
April 8, 2025

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on March 6, 2025.

**HOUSING AUTHORITY RESOLUTION NO. 2025-208**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO APPROVING REVISIONS TO THE ADMISSIONS AND  
CONTINUED OCCUPANCY POLICY GOVERNING THE HOUSING AUTHORITY OF THE COUNTY  
OF SAN BERNARDINO'S RENTAL ASSISTANCE PROGRAMS**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino (HACSB) is required to maintain an Admissions and Continued Occupancy Policy which outlines regulations and policies necessary to administer the Public Housing program on behalf of the United States Department of Housing and Urban Development (HUD); and

**WHEREAS**, HUD requires public housing agencies to amend their Admissions and Continued Occupancy Policy to incorporate changes and define policy relative to administration of the Public Housing program; and

**WHEREAS**, HACSB desires to amend its policies and procedures to incorporate new HUD regulations as well as revise language in other sections.

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY  
OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the proposed revisions to the Admissions and Continued Occupancy Policy governing the Housing Authority of the County of San Bernardino's rental assistance programs, attached hereto as Exhibit "A" and incorporated by reference herein.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, April 8, 2025.

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Secretary

## Summary of Admissions and Continued Occupancy Policy Changes

<b>Section</b>	<b>Topic</b>	<b>Change</b>
1.6	Rules and Regulations	Adds language and updates concerning Housing Opportunity through Modernization Act (HOTMA) implementation
1.8	Reasonable Accommodations Policies and Procedures	Adds language permitting the Housing Authority to re-verify the need for a reasonable accommodation under certain circumstances
2.2.7	Foster Children and Foster Adults	Updates HUD definition of foster child and foster adult
5.1.7.1	Income and Rent Determinations -Periodic Payments	Implements unearned income definition changes under HOTMA as provided in rent HUD guidance
5.1.7.5	Income and Rent Determinations -Payments in Lieu of Earnings	Implements unearned income definition changes under HOTMA as provided in rent HUD guidance
5.1.4	Excluded Income	Implements new income exclusions per recent HUD guidance
6.3.5	Student Financial Assistance-	Implements new income exclusions per recent HUD guidance
5.1.6.8	Withdrawal of Cash or Liquidation of Investment	Implements new unearned income changes under HOTMA as provided in the recent HUD guidance
5.1.6.11.5	Retirement Accounts	Updated treatment of retirement account distributions based on the latest HUD guidance. However, this section, which refers to new HOTMA asset inclusions/exclusions is not yet implemented
5.3.2.1	Calculation of Baseline for Streamlined Lease Assistance Programs	Updates section to correct baseline income to the baseline TTP to align with the MTW Plan
5.3.4	Hardship Exemption Criteria for Streamlined Lease Assistance Programs	Clarifies that the effective date of the hardship is the first of the month following receipt of the request consistent with the 2025 MTW Plan
13.4.2.1	Privacy Act Requirements-Revocation of Consent Form	Implements HOTMA termination policy for revocation of the HUD-9886-A consent form as HUD is now requiring collection of the new form

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families will transition to the applicable Streamlined Assistance program at their next regularly scheduled recertification.

### 1.6 Rules and Regulations

This ACOP is set forth to define the Housing Authority's local policies for operation of the housing programs in the context of Federal laws and regulations. All issues related to the affordable program not addressed in this document are governed by the HACSB's MTW Agreement, MTW Plans, federal regulations, HUD memos, notices and guidelines, state and local laws, and other applicable laws. Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: HACSB-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

On February 14, 2023, HUD published the final rule of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) implementing sections 102, 103 and 104 of HOTMA. The final rule was effective January 1, 2024. However, housing authorities were afforded one year to transition to the new HOTMA rules. HUD later extended implementation of some parts of section 102 and 104 of HOTMA until further notice. The timing of implementation is contingent upon HUD completing necessary changes to reporting systems.

The HOTMA sections in this plan were adopted in conjunction with the agency's MTW Annual Plan and prior to the establishment of a transition date. Therefore, HOTMA provisions are identified throughout this Plan as being "effective 10/1/24 or as soon as practicable thereafter. "Sections with the 10/1/24 HOTMA effective date are on hold until

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an implementation date is determined. All HOTMA policies and rules will be implemented at the same time unless otherwise specified.

### **1.7 Fair Housing Policy [24 CFR §982.54(d)(6)]**

The Housing Authority is committed to nondiscrimination in housing and does not discriminate on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The Housing Authority complies with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2013 (VAWA 2013)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012
- Any applicable state laws or local ordinances and any legislation protecting individual rights of residents, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

The Housing Authority shall not deny any family or individual the opportunity to apply for or receive assistance under the program on the basis of race, color, sex, religion, creed,



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all families, including providing reasonable accommodations to persons with disabilities. Fair housing signage is posted throughout the Housing Authority's office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments and/or regulations.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the Housing Authority's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Housing Authority's office in such a manner as to be easily readable from a wheelchair.

In order to provide accessibility for persons who are deaf, hard-of-hearing or hearing or speech impaired, the Housing Authority utilizes the national 711 telecommunications relay service.

### **1.8 Reasonable Accommodations Policies and Procedures [24 CFR 8.24]**

The Housing Authority's policies and practices are designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on Housing Authority forms and letters to all families.

The Housing Authority will make a reasonable accommodation or modification for individuals with disabilities when necessary to ensure equal access to HACSB's property and property amenities, programs, services and activities. Reasonable modifications include changes to a building, grounds or an individual apartment and reasonable accommodations include changes to policies, programs, services and procedures. HACSB will provide accommodations or modifications as requested unless doing so is unreasonable. A request is unreasonable if it is structurally infeasible, would result in a fundamental alteration in the nature of a HACSB program, or would result in an undue financial and administrative burden. If a request is unreasonable, HACSB will work with the individual to try to accommodate his or her needs.

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An individual with a disability may request a reasonable accommodation at any time during the application process or participation in the affordable housing program. Individuals may submit their reasonable accommodation request(s) in writing, orally, or by any other equally effective means of communication. However, Housing Authority will ensure that all reasonable accommodation requests are put in written form.

Within twenty (20) business days of receipt, the HACSB will notify the individual, in writing, if additional information or documentation is needed and a reply date for the submission of the required documentation. This notification letter may also request the completion and submittal of additional forms.

HACSB may request additional documentation in order to verify the extent of an individual's functional limitations and whether the requested accommodation is substantially related to the functional limitations of the disability. In addition, HACSB may request that the individual provide suggested reasonable accommodations. However, HACSB will not require individuals to disclose confidential medical records in order to verify a disability. In addition, HACSB will not require specific details regarding the disability. HACSB will only request documentation to confirm the disability-related need(s) for the requested accommodation(s). HACSB may not require the individual to disclose the specific disability(ies) or the nature or extent of the individual's disability(ies).

Unless a disability is already known by the Housing Authority or readily apparent, a knowledgeable professional must provide verification of an individual's disability and the need for the requested accommodation. Knowledgeable professionals include, but are not limited to (1) physician; (2) licensed health professional; (3) professional representing a social service agency; or (4) disability agency or clinic.

Within thirty (30) business days of receipt of the request and, if necessary, all supporting documentation, HACSB will provide written notification to the individual of its decision to approve or deny the request(s). If HACSB approves the accommodation, the individual will be notified of the projected date for implementation. If HACSB denies the accommodation, the individual will be notified of the reasons for denial. In addition, the notification of the denial will also provide information regarding their right to appeal.

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If a request for accommodation is denied, individuals may file a request for an appeal with the Reasonable Accommodation Review Committee for evaluation and final decision.

At its discretion, the Housing Authority may request that an applicant or participant re-verify the continued need for an approved reasonable accommodation due to a change in circumstances or non-use of an approved accommodation.

### **1.9 Program Accessibility [24 CFR 8.6]**

HUD regulations require the Housing Authority ensure that persons with disabilities related to hearing and vision have reasonable access to the Housing Authority's programs and services.

At the initial point of contact with each applicant, the Housing Authority shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork. To meet the needs of persons with hearing or speech impairments, the Housing Authority utilizes the national 711 telecommunications relay service.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HACSB staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpreters; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

### **1.10 Translation of Documents**

The Housing Authority acknowledges the importance of serving Limited English Proficiency (LEP) persons and adopted a Language Access Plan to ensure its programs and services are accessible to persons with LEP. In accordance with Federal guidelines, the Housing Authority will make reasonable efforts as appropriate and in consideration of cost and availability of resources to provide language assistance for its LEP residents, applicants, and/or persons eligible for Housing Authority programs. A copy of the

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of the affordable housing unit more than 51 percent of the time, are not subject to the time limitations of guests as described above.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

### ***2.2.7 Foster Children and Foster Adults [24 CFR 5.6039]***

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of occupancy standards. Foster adults are usually persons with disabilities, unrelated to the resident family, who are unable to live alone. The term foster child is not specifically defined by HUD regulations.

Children that are temporarily absent from the home as a result of placement in foster care are discussed later in this chapter.

A foster child is defined as a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

A foster adult is defined as a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency. A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of occupancy standards.

<sup>5</sup> HACSB's MTW Activity 5: Simplified Income Determination includes foster children and adults as family members

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~~Children that are temporarily absent from the home as a result of placement in foster care are discussed later in this chapter.<sup>5</sup>~~

~~For post HOTMA actions effective 10/1/24 or as soon as practicable thereafter:~~

~~A foster child is defined as a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.~~

~~A foster adult is defined as a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating~~

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~~<sup>5</sup> HACSB's MTW Activity 5: Simplified Income Determination includes foster children and adults as family members.~~

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## ~~Chapter 2: Eligibility, Denial of Admission and Informal Reviews~~

### ~~Page 2-7~~

physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

### **2.2.8 Live-In Aide**

A family may include a live-in aide if the live-in aide meets the following stipulations:

- Is determined by the Housing Authority to be essential to the care and well-being of an elderly person or a person with the disability;
- Is not obligated for the support of the person(s);
- Would not be living in the unit except to provide care for the person(s); and

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For persons who regularly receive bonuses or commissions, the HACSB will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the HACSB will use the prior year amounts. In either case the family may provide, and the HACSB will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HACSB will count only the amount estimated by the employer. The file will be documented appropriately.

### 5.1.3.2 Some Types of Military Pay [24 CFR 5.609(b)(8)]

All regular pay, special pay and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

### ~~5.1.4 Types of Earned Income Not Counted in Annual Income~~Excluded Income [24 CFR 5.609(b)]

~~This section describes the types of earned income that are not included in annual income.~~

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### ~~Nonrecurring Income [24 CFR 5.609 (c) 9]~~

~~For post-HOTMA actions effective 10/1/2024 or as soon as practicable thereafter actions effective on or after 7/1/2025:~~

The following income sources are excluded from the calculation of annual income:

- Nonrecurring income, which is income that was received in the previous year that will not be repeated in the coming year. Income received as an independent contractor, day laborer, or seasonal worker or through a temporary staffing agency is not excluded from income even if the amount, source, and date of the income varies. Income that has a discrete end date and will not be repeated beyond the coming year will be excluded from the family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals for a period of greater than one year or that can be extended. Examples of non-recurring income include U.S. Census Bureau employment income lasting no longer than 180 days, direct federal or state payments for economic stimulus or recovery, tax credits or refunds, guaranteed income program or research stipend that will end before the next reexamination, or lump sum additions to net family assets, such as lottery winnings.
- ~~Children's Earnings [24 CFR 5.609-1]~~
- ~~Earned income of children under the age of 18 years~~
- ~~Income of a live-aid, foster child, or foster adult~~
- ~~Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the Housing Authority or owner, on a part-time basis, that enhances the quality of life in the development. No resident may receive more than one such stipend during the same period of time.~~
- ~~Incremental earnings and benefits to any family member resulting from participation in training programs funded by HUD or in a qualifying federal, state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management. Amounts excluded by this provision must be received under~~

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employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

- ~~— Employment income earned by children (including foster children) under the age of 18 years. is not included in annual income.~~
- ~~• Earned Income of Full-Time Students [24 CFR 5.609(c)(11) and HCV GB, p. 529]<sup>14</sup>~~

Earnings for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted. To be considered “full-time,” a student must be considered “fulltime” by an educational institution with a degree or certificate program.

- ~~• Income of a Live-In Aide, Foster Child or Foster Adult [24 CFR 5.609(c)(5)]~~
- ~~• Income earned by a live-in aide, foster child or foster adult.~~
- ~~• Income Earned Under Certain Federal Programs [24 CFR 5.609(c)17]~~

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<sup>14</sup> ~~HACSB's MTW Activity 5: Simplified Income Determination excludes all earned income from Full-Time Students.~~

### Chapter 5: Income and Rent Determinations

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- ~~• Resident Service Stipend [24 CFR 5.600(c)8(iv)]~~

~~Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the HACSB, on a part-time basis, that enhances the quality of life in the community. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the HACSB's governing board. No resident may receive more than one such stipend during the same period of time.~~

- ~~• State and Local Employment Training Program [24 CFR 5.609(c)(8)(v)]~~  
~~Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not~~

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~~affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.~~

~~The HACSB defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].~~

- ~~\~~ Incremental earnings and benefits to any family member resulting from participation in training programs funded by HUD or in a qualifying federal, state, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.
- 
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA), including: workforce investment activities for adults and workers dislocated as a result of permanent closure or mass layoff at a plant, facility or enterprise or a natural disaster that results in mass job dislocation, in order to assist such adults or workers in obtaining reemployment as soon as possible
- Amounts paid by a state agency to a family with a member of the family who has a disability and is living at home to offset the cost of services and equipment needed to keep the disabled family member at home [24 CFR 5.609(c)(16)]

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- Deferred periodic payments of Supplemental Security Income, Social Security income or VA disability benefits that are received in a lump sum or prospective monthly amounts
  - Payments made through state Medicaid-managed care system, other state agency or authorized entity to allow a family member with a disability to live at home, such as In Home Supportive Services. To be eligible for the exclusion, both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household [Notice PIH 2023-27]
  - Any distribution of principal or corpus of an irrevocable trust or trust outside the control of the family
  - Any distribution of income of an irrevocable trust or trust outside the control of the family that is used to pay for health and medical care expenses for a minor
  - Any distribution from a revocable trust or trust under the control of the family (except income earned by the trust will be counted as asset income<sup>10</sup> and any distribution of interest earned on the trust principal will be counted as income)
  - Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and worker's compensation. However, periodic payments paid at regular intervals for a period of greater than one year that are received in lieu of wages for workers' compensation continue to be included in annual income [Notice PIH 2023-27]
  - Income earned by government contributions to or distributions from 'baby bond' accounts created, authorized or funded by federal, state or local government
  - Reimbursement of health and medical care expenses
  - Payments related to aid and attendance for veterans under 38 U.S.C. 1521
- 
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program

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<sup>10</sup> Refer to the Assets and Asset Income section for applicability by program.

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- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS)
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era
- Refunds or rebates on property taxes paid on the dwelling unit
- Loan proceeds disbursed by a lender to a borrower or third party (e.g., educational institution or car dealership)
- Payment received by tribal members from claims relating to the mismanagement of assets held in trust by the United States
- Civil rights settlements or judgments, including settlements or judgments for back pay
- Amounts recovered in a civil action or settlement based on malpractice, negligence and other breach of duty claim resulting in a family member becoming disabled
- Income earned on amounts placed in a family's Family Self-Sufficiency (FSS) escrow account
- Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized unit to another federally subsidized unit
- Amounts specifically excluded by any other federal statute including: [FR Notice 1/31/2024]
- The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets
- Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058), except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Services appointed under 42 U.S.C. 12651c determines otherwise. This exclusion also applies to assets
- Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626c). This exclusion also applies to assets

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- Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e). This exclusion also applies to assets
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)). This exclusion also applies to assets
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04). This exclusion also applies to assets
- The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408). This exclusion also applies to assets
- Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal ~~workstudy~~work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets
- Payments received under the Maine Indian Claims Settlement Act of 1980 (25

- U.S.C. 1721). This exclusion also applies to assets  
The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets
- The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821-22). This exclusion also applies to assets
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602). This exclusion also applies to assets
- Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3214(a)(2))
- Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC. This exclusion also applies to assets

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- Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (Pub. L. 101-503 section 8(b)). This exclusion also applies to assets
- A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al, for a period of one year from the time of receipt of that payment. This exclusion also applies to assets
- Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4))
- Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the tribe receiving the per capita payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407)
- Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by States, local governments, and disaster assistance organization. This exclusion also applies to assets
- Any amounts in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113-295), as

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- described in Notice PIH 2019-09/H 2019-06) or subsequent or superseding notice is excluded from income and assets
- Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021. This exclusion also applies to assets

In calculating the incremental difference, the HACSB will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the HACSB's interim reporting requirements.

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If the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's cash value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

### 5.1.6.8 Withdrawal of Cash or Liquidation of Investments

For ~~post-HOTMA~~ actions effective ~~10/1/2024 or as soon as practicable thereafter~~on or after 7/1/2025:

Any regular withdrawal of cash or assets from an investment, such as a retirement account, will be included in income.

For ~~pre-HOTMA~~ actions ~~effective prior to the implementation of the post-HOTMA provisions above~~before 7/1/2025:

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

### 5.1.6.9 Jointly Owned Assets

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Housing Authority will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the Housing Authority will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Housing Authority will prorate the asset evenly among all owners.



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rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the Housing Authority determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### ***5.1.6.11.4 Trusts Notice PIH 2023-27]***

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset and any interest earned by the trust would not be considered income. For treatment of trust distributions refer to the annual income section of this Chapter.

### ***5.1.6.11.5 Retirement Accounts [~~HCV-GB, p.5-26~~] 24 CFR 5.603(b), 24 CFR 5.609(b)]***

For post-HOTMA actions effective 10/1/2024 or as soon as practicable thereafter:

The value of retirement accounts recognized by the IRS, such as IRA, 401(k), 401(b), and retirement plans for self-employed individuals, are excluded from assets and any asset income derived from these plans is also excluded from income. However, any distribution of periodic payments from these accounts shall be included as income at the time they are received by the family.

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For pre-HOTMA actions effective prior to the implementation of the post-HOTMA provisions above:

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the Housing Authority must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, ~~except to the extent that it represents funds invested in the account by the family member.~~ The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

### *5.1.6.11.6 Personal Property [24 CFR 5.603(b)]*

For post-HOTMA actions effective 10/1/2024 or as soon as practicable thereafter: Necessary items of personal property are excluded from assets.

Non-necessary items of personal property, such as checking/savings accounts, recreational boat, art, coin collection, or vintage baseball cards, having a combined total value exceeding \$50,000 are counted as assets. If the value of the non-necessary items of personal property cannot be verified, a self-certification will be accepted.

Examples of necessary and non-necessary personal property for post-HOTMA actions effective 10/1/2024 or as soon as practicable thereafter:

Necessary Personal Property	Non-necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use	Recreational car/vehicle not needed for day-to-day transportation, such as camper vans, travel trailers, all terrain vehicles

may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

### **5.1.6.10.7 Life Insurance [HCV GB, p.5-26]**

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

### **5.1.7 Periodic Payments [24 CFR 5.609]**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

#### **5.1.7.1 Periodic Payments Included in Annual Income**

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. ~~For pre-HOTMA actions,~~ For actions effective prior to 7/1/2025, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family.
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum.

#### **5.1.7.2 Lump-Sum Payments for the Delayed Start of a Periodic Payment**

A lump sum received as a result of a retirement account distribution, such as a Required Minimum Distribution, is counted as income.

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum from Social Security and Department of Veterans Affairs disability benefits are excluded, are excluded, and these are discussed under the excluded income section in this Chapter

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### 5.1.7.3 Treatment of Overpayment Deductions from Social Security Benefits

When the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full, HACSB will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

### 5.1.7.4 Periodic Payments Excluded from Annual Income

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

### 5.1.7.5 Payments in Lieu of Earnings {

For ~~post-HOTMA~~ actions effective on or after 10/1/2024–7/1/2025. or as soon as practicable thereafter:

Payments in lieu of earnings, such as unemployment, worker's compensation, disability compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If payment in full ~~the full amount~~ is received in a one-time lump sum (as a settlement, for instance), the payment is treated as a lump-sum receipt and excluded from income.

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For ~~pre-HOTMA~~ actions effective ~~prior to the enactment of post-HOTMA provisions above~~  
before 7/1/25:

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts.

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**5.3.2.1 Calculation of Baseline for Streamlined Lease Assistance Programs** The family's baseline ~~income-TTP is set at admission to the program and which~~ is based on the annual income calculation policies and income inclusions/exclusions in effect at the time ~~that~~ the baseline TTP was ~~set~~made. The baseline ~~income-TTP~~ will only be reset if the family qualifies for a permanent hardship exemption, is transferred from one program to another, such as from SLA to TLA, or as an income correction due to the family's failure to report income ~~at admission~~.

### **5.3.3 Streamlined Fixed Lease Assistance for Career-Focused Families Program**

The Housing Authority will calculate family rent by selecting the greatest of thirty-six percent (36%) of monthly gross income, the baseline rent, or the minimum rent.

### **5.3.4 Hardship Exemption Criteria for Streamlined Lease Assistance Programs**

HACSB recognizes that under some circumstances, families may experience a hardship that makes it challenging to pay the applicable rent under the Streamlined Lease Assistance Program. Hardship exemption criteria have been developed for all families that see a significant increase in their portion as a direct result of the SLA calculation at initial implementation of the activity or experience certain expenses or losses of income while participating in the program. In order for families to be eligible for a hardship exemption, they must make their request for a hardship exemption in writing and be in compliance with all program rules and regulations. The request for hardship exemption must come no later than 60 days after the change in circumstances. Families also must provide all supporting documents regarding their case and all requests for hardship exemption will be reviewed by the Hardship Review Committee. After the committee has evaluated the family's request, they will determine if the family qualifies for a temporary or permanent hardship exemption. If approved, the tenant rent portion change will be effective the first of the month following the receipt of the request. <sup>37</sup>

The following sections describe the types of hardship exemptions that may be granted. All non-elderly/non-disabled households approved for a temporary hardship exemption will be required to participate in the ~~Career Development Initiatives~~Family Empowerment Services case management activities.

#### **5.3.4.1 Permanent Hardship Exemptions**

A permanent hardship exemption may be approved for the following reasons:

- the family experiences a death of a household member with income;

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- any income-earning member of the assisted family no longer remains in the unit;
- An elderly or disabled household experiences a permanent loss of income.
- Unforeseen and involuntary permanent loss of income for a family member under the age of 18.

If a permanent hardship exemption has been approved, HACSB will reset the family's previous highest rent share (the "baseline rent") by recalculating the family's income and applying the applicable rent percentage. For example, for families participating in the Streamlined Fixed Lease Assistance for Elderly/Disabled Families program, the new monthly income will be multiplied by twenty-four percent (24%) to determine the new monthly rent share. For families participating in the Streamlined Tiered Lease Assistance for Career-Focused Families program, the new monthly income will be multiplied by the most recent tiered rent percentage established at recertification to determine the new monthly rent share.

<sup>37</sup> FY 2025 MTW Plan, Activity 22: Streamlined Lease Assistance describes the hardship review criteria and effective date.

### 6.3.5 Student Financial Assistance

#### **Streamlined Lease Assistance**

The ~~following full amount of~~ student financial assistance is excluded from the calculation of annual income while the student is attending an institution of higher education as defined under section 102 of the Higher Education Act of 1965:<sup>19</sup>

~~For pre-HOTMA actions effective prior to the enactment of post-HOTMA provisions above~~ actions effective on or after 7/1/2025:

~~Certain student financial assistance is included in annual income. However, most student financial assistance is excluded from annual income. The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:~~

- Any amount in or from, or any benefits, income, or distributions from any Coverdell educational savings account of or any qualified program under the IRS sections 529 and 530.
- Full amount of assistance received under section 479B of the Higher Education Act of 1965, such as Federal Pell Grants, Teach Grants, Federal Work-Study Programs, and Federal Perkins Loans.
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act
- Student Loans
- Other student financial assistance, such as a grant, scholarship, or other assistance amounts for the actual costs charged by the institute of higher education
  - o Other student financial assistance exceeding the cost of tuition, books, supplies, fees or the cost of housing (for students who are not the head of

<sup>19</sup> HACSB's FY2024 MTW Plan Activity 5: Simplified Income Determination adds all student financial assistance to the list of excluded income. This provision is for post-HOTMA actions effective 10/1/2024 or as soon as practicable thereafter.



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household or spouse) if not living in the unit while attending school is counted as income.

- ~~• They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.~~
- ~~• They are seeking or receiving Housing Services program assistance on their own—that is, apart from their parents.~~
- ~~• They are under twenty-four (24) years of age **OR** they have no dependent children.~~

~~—For students who satisfy these three (3) conditions, any financial assistance **in excess of tuition and any other required fees and charges** received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.~~

~~—To determine annual income in accordance with the above requirements, the Housing Authority will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 4, along with the following definitions [FR 4/10/06, pp. 18148-18150]:~~

- ~~1. *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, and State Assistance under the Leveraging Educational Assistance~~

~~—Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.~~

- ~~2. *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in a Housing Services program assisted unit.~~

~~o *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled and will include any other fees and charges required by the institution for enrollment [FR 12/14/12, p. 74497].~~

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The following student financial assistance is excluded from the calculation of annual income while the student is attending an institution of higher education as defined under section 102 of the Higher Education Act of 1965:

- Any amount in or from, or any benefits, income, or distributions from any Coverdell educational savings account or any qualified program under the IRS sections 529 and 530.
- Full amount of assistance received under section 479B of the Higher Education Act of 1965, such as Federal Pell Grants, Teach Grants, Federal Work-Study Programs, and Federal Perkins Loans.
- Student Loans
- Other student financial assistance, such as a grant, scholarship, or other assistance amounts for the actual costs charged by the institution of higher education
  - o Other student financial assistance exceeding the cost of tuition, books, supplies, fees or the cost of housing (for students who are not the head of household or spouse) if not living in the unit while attending school is counted as income.

## **6.3.6 Assets and Assets Income [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]**

Assets will be calculated using the policies in this Section. HUD requires that the Housing Authority include in annual income the income derived from assets, such as interest, dividends, and other net income of any kind from real or personal property. This section discusses how to calculate net family assets and how the income from various types of assets is determined. For most types of assets, the Housing Authority must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the net family assets will be determined
- How income from the asset will be calculated

- Vital documents, including identification documents, birth certificates, social security cards, and immigration documents
- Application for assistance
- Family Obligations Statement/Voucher  
HUD-9886-A, Declaration of Citizenship/Lawful residency status and Debts Owed Form signed by all adult household members.

### **13.4.2 Records Management**

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACSB staff. HACSB staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

#### **13.4.2.1 Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants will be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886-A, Authorization for Release of Information/Privacy Act Notice. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the HACSB may release the information collected.

~~Effective for post-HOTMA actions on 10/1/2024 or as soon as practicable thereafter~~, if a member of the household revokes consent provided on the Form HUD-9886-A, the family will receive a pre-termination notice notifying the family that they will be terminated unless a new Form HUD-9886-A is signed within ten (10) days. If a new Form HUD-9886-A form is not signed by the deadline provided, the family's participation will be terminated.

Further, the Housing Authority will notify the local HUD field office of the revocation of consent.

### 13.4.2.2 Up-front Income Verification Records

HACSB uses UIV data through HUD's Enterprise Income Verification (EIV) System and has adopted and follows specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper).

### 13.4.2.3 Criminal Records [24 CFR 5.903(e), 24 CFR 5.903(g)]

The HACSB may only disclose the criminal conviction records which the HACSB receives from a law enforcement agency to officers or employees of the HACSB, or to authorized representatives of the HACSB who have a job-related need to have access to the information. The HACSB must establish and implement a system of records management that ensures that any criminal record received by the HACSB from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACSB action without institution of a challenge or final disposition of any such litigation.

The HACSB must establish and implement a system of records management that ensures that any sex offender registration information received by the HACSB from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the HACSB action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a HACSB other than under 24 CFR 5.905.

### 13.4.2.4 Medical/Disability Records

HACSB is not permitted to inquire about the nature or extent of a person's disability. The HACSB may not inquire about a person's diagnosis or details of treatment for a disability.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**April 08, 2025**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Policy for the sale of single-family homes within the ownership structure of Housing Authority of the County of San Bernardino.

## **RECOMMENDATION(S)**

Adopt Resolution No. 209 approving the policy for the sale of single-family homes within the ownership structure of Housing Authority of the County of San Bernardino.  
(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

Any funds invested into the property will be recouped upon its sale through the proceeds.

## **BACKGROUND INFORMATION**

The Housing Authority of the County of San Bernardino's (HACSB) Homeownership Program Policy will establish the guidelines for the sale of single-family homes owned within the ownership structure of HACSB, ensuring a fair and transparent process.

The policy prioritizes eligible clients based on their Homeownership Program entry date, their ability to meet the asking price through pre-approval and, when available, down payment assistance provided by third-party agencies. Additionally, the sale will be effectuated through the HUD Section 32 program, and the affordability covenant will determine the home price. The Homeownership Program is designed for clients who have completed the application process and received a Certificate of Eligibility. To qualify, clients must meet specific requirements, including income eligibility per the HACSB Administrative Plan, first-time homebuyer status, completion of an 8-hour HUD-approved Homebuyer Education Course, and pre-approval for a 30-year fixed mortgage loan. Additional criteria includes ensuring clients are financially prepared for homeownership and able to maintain long-term stability.

The policy outlines a structured process for the sale of HACSB-owned single-family homes. When a property becomes available, eligible clients are notified and invited to express interest. Selection is based on the date of the Certificate of Eligibility, with priority given to those with the longest standing eligibility. The selected buyer must demonstrate their ability to meet the asking price and complete the purchase within established timelines.

This new policy ensures transparency, fairness, and consistency in the home sale process while promoting sustainable homeownership. The policy also reinforces HACSB's commitment to

Policy for the sale of single-family homes within the ownership structure of Housing Authority of the County of San Bernardino.

April 8, 2025

providing affordable housing pathways, helping families achieve long-term self-sufficiency and economic stability.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on March 21, 2025.

**HOUSING AUTHORITY RESOLUTION NO. 2025-209**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO APPROVING A POLICY GOVERNING THE SALE OF HOUSING AUTHORITY-OWNED HOMES**

**RECITALS**

**WHEREAS**, the Housing Authority of the County of San Bernardino (HACSB) is committed to ensuring the fair, transparent, and non-discriminatory sale of Housing Authority-owned homes in accordance with federal, state, and local regulations; and

**WHEREAS**, HACSB seeks to establish a policy that promotes equitable access to homeownership opportunities, particularly for the families it serves, while maintaining transparency and accountability in the disposition of its properties; and

**WHEREAS**, HACSB desires to implement clear procedures that prevent discrimination, ensure fairness in the sales process, and create pathways to homeownership for the families it serves, supporting long-term housing stability and economic mobility.

**OPERATIVE PROVISIONS**

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:**

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves Policy Governing the Sale of HACSB Owned Homes, attached hereto as Exhibit "A" and incorporated by reference herein.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA                     )  
   )  
COUNTY OF SAN BERNARDINO        )       ss.

I, \_\_\_\_\_, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, March 17, 2025.

\_\_\_\_\_  
Secretary

## HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO SALE OF HACSB OWNED HOME POLICY

The purpose of this policy is to ensure a fair and transparent process for the sale of single-family homes owned by the Housing Authority of the County of San Bernardino (HACSB), prioritizing clients based on their Homeownership Program entry date and their ability to meet the asking price.

### **Eligibility**

Clients who have submitted Homeownership program applications and have received a Certificate of Eligibility are eligible to purchase HACSB owned single-family homes through HACSB's Homeownership program. Clients must meet all of the following requirements:

1. be income eligible in accordance with the HACSB Administrative Plan,
2. be in good standing with the HACSB,
3. be a first-time homebuyer with no ownership interest in real estate at any time in the past three years,
4. must invest a minimum of 1% of the down payment, not including closing costs, of their own funds,
5. must occupy the home as their principal residence for a minimum of 5 years and cannot be occupied by tenants,
6. must complete an 8-hour Homebuyer Education Course from a HUD-approved housing counseling agency ([https://hud4.my.site.com/housingcounseling/s/?language=en\\_US](https://hud4.my.site.com/housingcounseling/s/?language=en_US)) and provide a completion certificate to HACSB before close of escrow,
7. be pre-approved by a lender for a 30-year fixed mortgage loan; cash purchases are not eligible,
8. must not have more than \$10,000 in liquid assets in your bank account after the close of escrow, and
9. have no outstanding debts or violations of the HACSB's Homeownership Assistance Program rules.

### **Home Sale Process**

When an HACSB owned single family home becomes available for sale, HACSB will notify clients with a Certificate of Eligibility, via mail. HACSB will provide all pertinent details, including the asking price. Interested clients must submit an expression of interest within a specified timeframe, as indicated in the letter. The sale will be effectuated through the HUD Section 32 program and the affordability covenant will determine the home price. The affordability covenant shall include, among other requirements, HACSB's right to recapture some or all of the gains from appreciation and the below-market assistance provided to the household if they sell in the first five years.

### **Selection Process**

Eligible clients will be prioritized based on the date of Certificate of Eligibility issuance, from the oldest to the newest. HACSB will maintain a current list of Certificate of Eligibility holders, sorted by entry date. The selected buyer must demonstrate their



ability to meet the asking price of the home. This may include providing proof of financing, a mortgage pre-approval letter, or other relevant financial documentation. Once a buyer is selected, HACSB will present a formal offer to the client, outlining the terms and conditions of the sale. The client must sign a sale agreement and affordability covenant within a specified period to finalize the purchase and close escrow within 2 months of selection. Failure to do so will result in the offer being extended to the next eligible client based on the entry date.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**April 08, 2025**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Long-Term Lease Agreement for Sterling Apartments located at 3164 North Sterling Ave, San Bernardino, CA

## **RECOMMENDATION(S)**

Retroactively authorize the Executive Director to execute the lease agreement for Sterling Apartments with Sterling HACSB, LLC.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The cost of the lease agreement is projected to be funded through income generated through the property's operations.

## **BACKGROUND INFORMATION**

The Housing Authority of the County of San Bernardino received approval to pursue this lease agreement structure from the board for Loma Vista apartments at a prior board meeting. Unfortunately, the acquisition of Loma Vista did not materialize. However, the Aspen Group and HACSB have identified another property that is a good candidate for this acquisition and lease structure.

HACSB is entering into a partnership via this lease agreement for Sterling Apartments with the Aspen Group, which will be the majority owner of the property. HACSB will take minor ownership through membership in Sterling HACSB, LLC, which will be the ownership entity. HACSB will operate the property via its third-party property management company, Beacon Property Management. Furthermore, HACSB will gain additional ownership interest incrementally for each year of the lease agreement at 2.5% per annum. HACSB may have to contribute up to \$320,000 to help close the transaction. This contribution is not contemplated in the current version of the lease agreement, however, if it is needed, HACSB will receive an additional ownership interest of 3.08% at the inception of the lease.

This agreement allows HACSB to add a newly-constructed multi-family property consisting of 27 units to its portfolio with little to no funds contributed towards the purchase. Since the property is new construction and unoccupied, HACSB will receive lease and operating reserve funds in the amount of \$813,076 at the inception of the lease term.

Long-Term Lease Agreement for Sterling Apartments Located at 3164 North Sterling Ave, San Bernardino, CA  
April 8, 2025

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, April 3, 2025.

*Kutak Rock LLP  
Draft of 3/12/25*

**LEASE**

Between

**STERLING HACSB, LLC**  
as Lessor

and

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**  
as Lessee

Dated: May \_\_, 2025

*Concerning the premises located at:*

*3164 North Sterling Avenue, San Bernardino, California 92404*

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## EXHIBITS

- A. LEGAL DESCRIPTION
- B. PERMITTED ENCUMBRANCES
- C. FIXED RENT
- D. RESERVES SCHEDULE

THIS LEASE, made and entered into on May \_\_, 2025 (together with all amendments and supplements hereto, this "**Lease**"), is entered into by and between **STERLING HACSB, LLC** ("**Lessor**"), a Wyoming limited liability company with its address at [P.O. Box 2375, Aspen, CO 81612] and the **HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**, a local government public agency corporate and politic ("**Lessee**") with its office at 715 East Brier Drive, San Bernardino, CA 92408.

This is a lease of the premises owned by Lessor and located at 3164 North Sterling Avenue, San Bernardino, California 92404.

In consideration of all of the mutual promises and covenants set forth herein, Lessor and Lessee agree as follows:

Lessor hereby leases the Premises (as defined below) to Lessee on and subject to the terms and conditions herein set forth and in this Lease.

## 1. DEFINITIONS, CONSENTS AND CALCULATIONS

1.1 **Defined Terms**. The following terms shall have the following meanings for all purposes of this Lease and shall be equally applicable to both the singular and plural forms of the terms herein defined.

(a) "**Additional Rent**" shall mean all amounts, liabilities and obligations, other than Fixed Rent, which Lessee assumes or agrees to pay under this Lease to Lessor or others.

(b) "**Affiliate**" shall mean a Person controlled by; controlling; or under common control with, the Person in question.

(c) "**Applicable Laws**" shall have the meaning given to such term in Section 11(a).

(d) "**Appraiser**" shall mean an individual having not less than ten (10) years current experience as a leasing broker specializing in commercial properties of a nature and type similar to that of the Premises in the geographic area where the Premises is located.

(e) "**Assignment of Lease**" shall have the meaning given to such term in Section 15.2.

(f) "**Buildings**" shall mean those certain buildings located at 3164 North Sterling Avenue, San Bernardino, California 92404.

(g) "**Business Day**" shall mean any day except Saturdays, Sundays and the days observed by state-chartered banks and national banks in the State of California as public holidays.

(h) "**Capital Replacement Annual Deposits**" shall mean deposits to be made by Lessee from operation of the Premises and held by Lessee in the Capital Replacement Reserve Account. Mandatory and non-accruing annual deposits shall be in the amount of \$650.00 per unit per year commencing on the Commencement Date, as shown on Exhibit D. Such Capital Replacement Annual Deposits shall be made to the Capital Replacement Reserve Account and continue throughout the term of this Lease. The per unit per year amount of \$650.00 shall increase by



3.95% annually starting in the first year after the completion of the initial year following the Commencement Date. Notwithstanding the foregoing, if there is an initial shortfall in the Capital Replacement Reserve Account, Lessor shall provide an initial Capital Replacement Annual Deposit in the amount of such shortfall, calculated on a present value basis, to Lessee by the Commencement Date.

(i) **“Capital Replacement Reserve Account”** shall mean the account held by Lessee in the initial amount of \$[\_\_\_\_], which initial amount shall be paid by Lessor to Lessee under this Lease upon the Lease Commencement Date, as shown on Exhibit D. This amount represents the net present value of the difference between: (i) the Capital Replacement Annual Deposits; and (ii) the total amount of capital needs identified in the Capital Needs Assessment Report by JLL Value and Risk Advisory dated May \_\_, 2025 (and provided to Lessor and Lessee under separate cover) over the 25 years of the study. Said amount shall be held in the segregated account by that name held by Lessee for the benefit of the capital improvements on the Premises, into which Capital Replacement Annual Deposits shall be deposited.

(j) **“Commencement Date”** shall mean the date of Lessee’s actual possession of the Premises, which is the date on which the terms of this Lease shall commence.

(k) **“Effective Date”** shall mean the date of execution of this Lease, as set forth on the first page hereof.

(l) **“Environmental Laws”** shall mean the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§6901 et seq. (RCRA), as amended, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 et seq. (CERCLA), as amended, the Toxic Substance Control Act, as amended, 15 U.S.C. §§2601 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. §§136 et seq., the Clean Air Act, the Hazardous Materials Transportation Act, and all applicable federal, state and local environmental laws, ordinances, rules and regulations, as any of the foregoing may have been or may be from time to time amended, supplemented or supplanted, and any other federal, state or local laws, ordinances, rules and regulations, now or hereafter existing relating to regulations or control of Hazardous Materials.

(m) **“Event of Default”** shall mean any of the events set forth in Section 13.

(n) **“First Mortgage”** shall mean a first priority Mortgage on the Premises given by Lessor to the Mortgagee to secure a loan encumbered by Lessor’s interest in the Premises.

(o) **“Fixed Rent”** shall mean the rental amounts specified on Exhibit C.

(p) **“Hazardous Materials”** shall mean substances defined as “hazardous substances”, “hazardous materials”, “hazardous wastes” or “toxic substances” in any applicable federal, state or local statute, rule, regulation or determination, including but not limited to Environmental Laws; and asbestos, pcb’s, radioactive substances, methane, volatile hydrocarbons, petroleum or petroleum-derived substances or wastes, radon, industrial solvents or any other material as may be specified in Applicable Laws.

- (q) **“Imposition”** shall mean the various tax and other charges referred to in Section 5 herein and the present and future governmental laws and regulations more specifically described in Section 11 herein.
- (r) **“Improvements”** shall mean the Buildings and all of the structures, improvements and all building fixtures therein (including, without limitation, parking areas (as defined in Section 16(b) and Section 16(c)) and driveways) now or hereafter located on the Land.
- (s) **“Land”** shall mean the land described on Exhibit A hereto.
- (t) **“Lease Expiration Date”** shall mean the end of the four hundred eightieth (480<sup>th</sup>) month following the Commencement Date.
- (u) **“Lease Payment Reserve”** shall mean the amount paid by Lessor to Lessee on the Commencement Date equal to \$304,841 for use by Lessee to cover rent payment shortfalls by sublessees of individual units within the Buildings or for any other purposes determined by Lessee in its sole discretion, as shown on Exhibit D.
- (v) **“Lease Up Reserve”** shall mean the amount paid by Lessor to Lessee on the Commencement Date equal to \$149,715 for use by Lessee to offer rent accommodations in Lessee’s discretion to sublessees of individual units within the Buildings or for any other purposes determined by Lessee in its sole discretion, as shown on Exhibit D.
- (w) **“Lease Year”** shall mean a 12 month period, with the first Lease Year commencing on the Commencement Date and subsequent Lease Years on the annual anniversary thereof, as may be applicable; provided, however, that, if the Commencement Date is a day other than the first day of a calendar month, then the first Lease Year shall include that period of time from the Commencement Date up to the first day of the next calendar month plus the following 12 month period, and any subsequent Lease Year shall be the 12 month period beginning on the first day of such month.
- (x) **“Lessee”** shall mean The Housing Authority of the County of San Bernardino, as set forth above.
- (y) **“Lessee’s Equity”** shall have the meaning that is set forth in Section 3.1.
- (z) **“Lessee’s Representatives”** shall mean Lessee’s managers, directors, officers, employees or invitees or licensees.
- (aa) **“Lessee’s Rights”** shall have the meaning that is set forth in Section 15.1(a).
- (bb) **“Lessee’s Trade Fixtures”** shall mean all personal property of Lessee in or on the Premises which are not necessary for the operation of the Improvements, including without limitation kitchen and cafeteria equipment. Lessee shall have the right, at any time, to substitute customary office fixtures for any unusual fixtures (including chandeliers) previously installed by Lessee.

(cc) **“Lessor”** shall mean Sterling HACSB, LLC, a Wyoming limited liability company, as set forth above.

(dd) **“Lessor’s Representatives”** shall mean Lessor’s partners, members, shareholders, agents, contractors, managers, directors, officers, employees or invitees or licensees.

(ee) **“Loan Documents”** shall have the meaning given to such term in Section 15.3.

(ff) **“Mortgage”** shall mean any mortgage on the Premises given by Lessor to a Mortgagee to secure a loan encumbered by Lessor’s interest in the Premises.

(gg) **“Mortgagee”** shall mean any holder of a Mortgage with respect to the Premises or any part thereof.

(hh) **“Operating Reserve”** shall mean the amount paid by Lessor to Lessee on the Commencement Date equal to \$91,570 for use by Lessee to cover operating expenses of the Premises or for any other purposes determined by Lessee in its sole discretion, as shown on Exhibit D.

(ii) **“Option to Call”** shall mean Lessee’s option to call on Lessor to refinance the Premises or to pay off the balance of all Mortgages on the Premises and for Lessee to take ownership of the Premises as set forth in Section 3.2.

(jj) **“Other Taxes”** shall mean all taxes, assessments, excises, levies, fees and charges, including all payments related to the cost of providing facilities or services, whether or not now customary or within the contemplation of Lessor and Lessee, that are levied, assessed, charged, confirmed or imposed by any public or government authority upon, or measured by, or reasonably attributable to: (i) the Premises; (ii) the cost or value of Lessee’s Trade Fixtures or the cost or value of any leasehold improvements made in or to the Premises by or for Lessee, regardless of whether title to such improvements is vested in Lessor or Lessee; (iii) any Rent payable under this Lease, including any gross income tax or excise tax levied by any public or government authority with respect to the receipt of any such Rent; (iv) the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Lessee of the Premises; or (v) this transaction or any document to which Lessee is a party creating or transferring an interest or an estate in the Premises. Other Taxes shall not include federal, state or local income, documentary transfer or inheritance taxes of Lessor, unless levied or assessed against Lessor in whole or in part in lieu of, as a substitute for any Other Taxes.

(kk) **“Overdue Rate”** shall mean the rate of interest charged by the Mortgagee from time to time after default under the First Mortgage (being [ ]% per annum with respect to the initial First Mortgage) and/or the debt instruments secured thereby, or if there is no Mortgage, the rate which would have been charged on the last Mortgage encumbering the Premises.

(ll) **“Permitted Encumbrances”** shall mean:

(i) Any liens for taxes, assessments and other governmental charges which are not due and payable;

(ii) The easements, rights-of-way, encroachments, encumbrances, restrictive covenants or other matters affecting the title to the Premises or any part thereof set forth in Schedule B to the policy of owners title insurance (or commitments therefor) delivered to and accepted by Lessor with respect to the Premises in connection with the delivery of this Lease, as shown on Exhibit B hereto, and any Mortgage, subordination and non-disturbance agreement, assignment of Lease or other security agreement encumbering the Premises which Lessor certifies in writing will not affect the intended use of the Premises, interfere with the Lessee's beneficial use and occupancy of the Premises, result in any abatement of Rental Payments or affect the priority of any Mortgage then in place or the rights of the Mortgagee thereunder;

(iii) This Lease and the rights of Lessor thereunder; and

(iv) This Lease and the rights of Lessee hereunder.

(mm) "**Person**" shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, trustee(s) of a trust, unincorporated organization, or government or governmental authority, agency or political subdivision thereof.

(nn) "**Premises**" shall mean the Land and the Improvements, together with any easements, rights and appurtenances in connection therewith or belonging to the Land and Improvements. No easement for light, air or view is included with or appurtenant to the Premises. The foregoing disclaimer has been negotiated by Lessor and Lessee and is intended as a complete negation of any representation or warranty by Lessor, express or implied.

(oo) "**Proceeds Trustee**" shall mean the Mortgagee, a commercial bank or a trust company so long as the Mortgagee, such commercial bank or such trust company is licensed to do business in the State of California and has a net worth of not less than \$200,000,000.

(pp) "**Property Taxes**" shall mean all taxes, assessments, excises, levies, fees and charges (and any tax, assessment, excise, levy, fee or charge levied wholly or partly in lieu thereof or as a substitute therefor or as an addition thereto) of every kind and description, general or special, ordinary or extraordinary, foreseen or unforeseen, secured or unsecured, whether or not now customary or within the contemplation of Lessor and Lessee, that are levied, assessed, charged, confirmed or imposed by any public or government authority on or against, or otherwise with respect to, the Premises or any part thereof or any personal property owned or leased by Lessee and used in connection with the Premises. Property Taxes shall not include net income, documentary transfer or inheritance taxes of Lessor, unless levied or assessed against Lessor in whole or in part in lieu of or as a substitute for any Property Taxes. The Premises is anticipated to be tax exempt pursuant to State Board of Equalization ruling (provided to Lessee under separate cover).

(qq) "**Rent**" shall mean Fixed Rent and Additional Rent.

(rr) "**Site Assessment**" shall have the meaning given to that term in Section 24(d).



- (ss) **“Site Reviewers”** shall have the meaning given to that term in Section 24(d).
- (tt) **“Superior Mortgage”** shall have the meaning given to that term in Section 15.1(a).
- (uu) **“Subordination Agreement”** shall have the meaning given to that term in Section 15.1(a).
- (vv) **“Term”** shall mean the period beginning on the Effective Date and ending on the Lease Expiration Date or such earlier Termination Date or end date of the Lease, including but not limited to the end date pursuant to Section 3.2.
- (ww) **“Termination Date”** has the meaning given to such term in Section 12.3(a).
- (xx) **“Working Capital Reserve Account”** shall mean the amount paid by Lessor to Lessee at the Commencement Date, equal to \$266,950. Said amount shall provide for a Working Capital Reserve Account to be utilized by Lessee, in Lessee’s sole discretion, for any operating deficits experienced during the term of this Lease, as shown on Exhibit D.

1.2 **Consents**. Except as otherwise provided herein, whenever in this Lease a party’s approval or consent shall be required, same shall not be unreasonably withheld, conditioned or delayed. If given, such approval or consent shall be given in writing in the manner required for notices under Section 17 herein.

1.3 **Rentable Square Foot Calculations**. During the Term it will be assumed that the Premises contains 70,509 square feet. Any measurement of rentable square feet for such purpose shall be determined in accordance with ANSI/BOMA Z65.1-1996, or, if such standard is no longer being used, a comparable generally accepted standard of measurement mutually agreeable to Lessor and Lessee.

## 2. **DEMISE OF PREMISES; QUIET ENJOYMENT; USE**

(a) Lessor hereby demises and leases to Lessee and Lessee hereby leases and rents from Lessor the Premises, on the terms and conditions set forth in this Lease.

(b) Upon the payment of the Rent and the performance of all of the terms of this Lease, Lessee shall at all times during the Term peaceably and quietly enjoy the Premises without any disturbance from Lessor or from any person claiming by, through or under Lessor, subject to the terms of this Lease and the terms of any Mortgage encumbering the Premises. Exercise by Lessor of its rights to enter upon the Premises as set forth in this Lease shall not constitute a violation of this subsection.

(c) Lessee may use and occupy the Premises only for residential uses and shall have sole and absolute discretion to sublease the units within the Premises in accordance with its authority as a California housing authority. Lessee may further enter into arrangements with other entities, including but not limited to the San Bernardino Community College District, to set aside and sublease a portion of the units within the Premises to provide affordable housing opportunities to such entities’ students, faculty or other persons. Lessee further retains sole discretion to impose rent restrictions on any sublease of the units within the Premises whereby rents are restricted to not more than the moderate-income level maximum of 120% of the area moderate income,

adjusted for family size, as defined in federal statutes and Housing and Urban Development Department regulations. In all events, Lessee shall not use or occupy the same, or knowingly permit them to be used or occupied, contrary to any Applicable Laws; or in any manner which would violate any certificate of occupancy affecting the same; or which would cause structural injury or waste to the Premises or cause the value or usefulness of the Premises, or any portion thereof, to diminish; or increase the risk of violation of Environmental Laws; or which would constitute a public or private nuisance or waste. Lessee shall promptly, upon discovery of any such use, take all necessary steps to compel the discontinuance of such use, subject to Lessee's right to contest same, as provided in Section 25 herein.

(d) In performing its obligations under this Lease, Lessee shall not act contrary to any Applicable Laws; or in any manner which would violate any certificate of occupancy affecting the same; or which would cause structural injury or waste to the Premises or cause the value or usefulness of the Premises, or any portion thereof, to diminish; or increase the risk of violation of Environmental Laws; or which would constitute a public or private nuisance or waste.

(e) Lessee shall not use, suffer or permit the Premises, or any portion thereof, to be used by Lessee, any third party or the public, as such, without restriction or in such manner as might impair Lessor's title to the Premises, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or third Persons, or of implied dedication of the Premises, or any portion thereof. Nothing contained in this Lease and no action by Lessor shall be construed to mean that Lessor has granted to Lessee any authority to do any act or make any agreement that may create any such third party or public right, title, interest, lien, charge or other encumbrance upon the estate of Lessor in the Premises.

3. TERM. The Term shall be for a period beginning on the Effective Date and ending on the Lease Expiration Date, or such earlier or later date as hereinafter provided, including upon Lessee's exercise of the Option to Call.

3.1 Lessee's Equity. It is the intent of Lessor to donate the Premises upon the payoff of Lessor's First Mortgage on or before the expiration of the Term. So long as Lessee is not in default hereunder and has made all required payments under this Lease, Lessee shall have the right to purchase the Premises for an amount necessary to transfer the Premises to the Lessee, including all amounts payable under Lessor's First Mortgage (principal and interest to date), upon which Lessor shall transfer and convey the same to Lessee. During the Term of this Lease, and contingent upon Lessee's performance thereunder, Lessee shall be granted a non-participating, passive, non-voting equity interest in the Premises which shall have no voting, consent or approval rights whatsoever ("Lessee's Equity") at the rate of 2.5% per annum over the entirety of the Term. Lessee's Equity shall vest on the Commencement Date in an amount equal to 2.5% plus the proportion of Lessee's initial Fixed Rent payment (as set forth in Exhibit C) to Lessor's purchase price for the Premises (\$10,400,000), and thereafter at the beginning of each Lease Year for such period's granted equity at the rate of 2.5% per annum; however, in the event of any uncured Event of Default hereunder after the expiration of all applicable cure periods as set forth in Section 13.1, Lessee shall forfeit its remaining unrealized Lessee's Equity to Lessor, and Lessor's obligation to transfer the Premises under this Lease shall terminate. Lessee shall be entitled to receive proceeds from any subsequent sale of the Premises in proportion to Lessee's Equity at the time of the occurrence of the Event of Default. Lessee's Equity shall be fully vested and debt-free to Lessee

at the end of the Term and Lessor shall execute and provide to Lessee a grant deed turning over all right, title and interest in and to the Premises to Lessee at such time without further obligation of Lessee to make any payment or take further action to be fully vested therein other than complete documentation to accomplish such transfer. Lessor shall take all actions to assure full transfer of all of its right, title and interest in and to the Premises debt-free to Lessee is accomplished by the end of the Term. Lessor hereby acknowledges and hereby agrees that its obligation to accomplish such transfer by the end of the Term is a material inducement to Lessee in entering into this Lease and any breach of such obligation shall entitle Lessee to seek all available remedies at law or equity to compel Lessor to transfer the Premises as required herein and recover all damages, costs and attorneys' fees incurred as a result thereof. Notwithstanding anything herein to the contrary, Lessor shall be entitled to ownership of and claim to all depreciation and tax items related to the Premises regardless of Lessee's Equity. Any acquisition of Lessee's Equity or the Premises shall be without representation or warranty of any kind and without recourse to Lessor.

3.2 Option to Call. Lessee shall have the Option to Call on Lessor to donate/transfer all of Lessor's right, title and interest in and to the Premises debt-free to Lessee concurrently with Lessee's payment of all amounts due under this Lease and First Mortgage as noted in Section 3.1 and any and all other amounts necessary to complete such transfer. The parties agree that Lessee shall be financially responsible for all costs incurred with any such transfer, including, but not limited to, yield maintenance defeasance, Mortgagee fees, reasonable legal fees, refinance, broker fees, title, taxes, closing costs etc.

3.3 Retention of Sale Proceeds. Notwithstanding anything to the contrary set forth herein: (a) in the event of Lessor's sale of the Premises, Lessee shall retain all sale proceeds in excess of: (1) the amount of Fixed Rent due hereunder and any Additional Rent due at the time of the closing of the sale (including as Additional Rent all costs of transferring title to the Premises, such as, without limitation, all transfer and conveyance taxes and recording fees); and (2) all other amounts due to Mortgagees; and (b) in the event of the refinancing of a Mortgage, Lessee shall retain any cash flow savings distributed as a result of such refinancing; provided that any such refinancing shall require the prior written consent of Lessee, which consent shall not be unreasonably withheld or delayed; and provided further that all Rent is timely paid to Lessor and that all amounts due to Mortgagees in connection with such refinancing are timely paid.

#### 4. RENTAL.

(a) Lessee shall pay to Lessor the following amounts as Rent for the Premises:

(i) Beginning on the Commencement Date and thereafter on the first day of each month during the Term, Lessee shall pay to Lessor as annual rent, the Fixed Rent, in the amounts specified on Exhibit C hereto, payable in advance in equal monthly installments (pro-rated for any partial month), with the exception of the first payment, which is due in full in a single lump sum on the Commencement Date.

(ii) Beginning on the Commencement Date and throughout the Term, Lessee shall pay all Additional Rent, whether or not such amounts of money or charges are designated Additional Rent.

(b) It is the intention of Lessor and Lessee that the Fixed Rent payable during the entire Term shall be absolutely net of all costs and expenses (i.e., gross rent) incurred in connection with the management, operation, maintenance and repair of the Premises in accordance with this Lease. Lessor shall have no obligations or liabilities whatsoever with respect to the ownership, management, operation, maintenance or repair of the Premises (and except as specified in this Lease, no right to incur expenses reimbursable by Lessee) during the Term of this Lease. Lessee shall, at its sole cost and expense, manage, operate, maintain and repair the Premises in accordance with this Lease and shall pay all costs and expenses incurred in connection therewith before such costs or expenses become delinquent. Without limiting the generality of the foregoing, beginning on the Commencement Date and throughout the entire Term, Lessee shall pay, as Additional Rent, all Other Taxes that accrue during or are allocable to the Term of this Lease; provided that the parties acknowledge that Lessor shall provide an opinion of counsel to the effect that the Premises are exempt from Property Taxes on or prior to the Commencement Date. Lessee shall pay any prepayment premium or fee, make-whole premium or other fee (however denominated) in connection with any prepayment or defeasance of debt secured by a First Mortgage, for any reason other than: (i) Lessor's voluntary refinancing or sale of the Premises, which shall be permitted only upon the prior written consent of Lessee, which consent shall not be unreasonably withheld or delayed; or (ii) a foreclosure triggered by Lessor's default under the Mortgage which does not result directly from Lessee's default under this Lease; provided, however, that Lessee shall pay same in the case of a sale to Lessee or any party designated by or acting for the benefit of Lessee. Without limiting the examples of Lessee's liability under the preceding sentence, if an Event of Default described in Sections 14(a), (c), (d) or (e) shall occur hereunder which remains uncured and Lessor shall fail to make a payment due or fail to otherwise comply with an obligation under the Mortgage (whether or not the Mortgagee shall have formally declared a default), it shall be deemed that Lessor's default under the Mortgage resulted directly from Lessee's default under this Lease, and if any other Event of Default has occurred and is continuing, Lessor's default under the Mortgage shall be deemed to have resulted from Lessee's default under this Lease if Lessee's failure is directly related to Lessee's default hereunder.

(c) Lessee shall pay all Fixed Rent to Lessor, in advance, on or before 2 p.m. prevailing Pacific Time on the Commencement Date (with respect to the first payment) and thereafter on the first day of each and every calendar month during the Term of this Lease without notice, by wire transfer or other electronic means (or otherwise so there are collected funds available to Lessee on the due date). Interest at the Overdue Rate shall accrue and be payable by Lessee on Fixed Rent not paid by the due date thereof, from the due date thereof to the date of actual payment. Lessee shall pay all Additional Rent when due to the Person entitled thereto. Lessee shall pay all Fixed Rent to Lessor without notice, demand, deduction or offset, in lawful money of the United States of America, to the bank account designated by Lessor, or to such other Person or at such other place as Lessor may from time to time designate by notice to Lessee pursuant to Section 17 herein. At Lessor's direction, all Fixed Rent or Additional Rent may be paid to Mortgagee, with the Proceeds Trustee remitting to Lessor all excess cash flow over the payment due to the Mortgagee.

(d) In the event that Lessee fails to pay any Fixed Rent or Additional Rent payable to Lessor on the due date thereof, in addition to paying interest to Lessor at the Overdue Rate as set forth above, Lessee shall pay Lessor the amount of any late fees, late charges, late interest, or the like, which Lessor may actually incur to the holder of the Mortgage resulting from any late payment by Lessee hereunder. In no event shall such late payment charges be deemed to grant to Lessee a



grace period or extension of time within which to pay any Rent or prevent Lessor from exercising any right or enforcing any remedy available to Lessor upon Lessee's failure to pay all Rent due under this Lease in a timely fashion, including the right to terminate this Lease.

(e) If any day on which Fixed Rent is due falls on a day which is not a Business Day, Fixed Rent shall be due and payable on the next succeeding Business Day without interest or penalty if paid on such Business Day.

(f) In the event of any failure by Lessee to pay or discharge any amount of Additional Rent, Lessor shall have all rights, powers and remedies provided for herein or by law or otherwise in the case of nonpayment of Fixed Rent. Lessee shall pay Additional Rent directly to the Person entitled thereto.

## 5. TAXES.

(a) Lessor has confirmed through its legal counsel that the Premises shall be exempt from all Property Taxes. Should the Premises not receive a tax exemption from the San Bernardino County Assessor's Office, Lessor and Lessee agree to make good faith efforts to re-negotiate the terms of this Lease to, among other things, fully offset the impacts of any such Property Tax obligations on Lessee.

(b) Lessee shall pay, as Additional Rent, all Other Taxes prior to the assessment of any interest or penalty for late payment.

(c) Except for any tax on the net income derived from the Fixed Rent, if at any time during the Term, any method of taxation shall be such that there shall be levied, assessed or imposed on Lessor, or on the Fixed Rent or Additional Rent, or on the Premises, or any portion thereof, a capital levy, gross receipts tax, occupational license tax or other tax on the Rents received therefrom, or a franchise tax, or an assessment, gross receipts levy or charge measured by or based in whole or in part upon such gross Rents, Lessee, to the extent permitted by law, covenants to pay and discharge the same, it being the intention of the parties hereto that the Fixed Rent to be paid hereunder shall be paid to Lessor, absolutely net without deduction or charge of any nature whatsoever, foreseeable or unforeseeable, ordinary or extraordinary, or of any nature, kind, or description, except as otherwise expressly provided in this Lease.

(d) Except as set forth in subsection (c), Lessee shall pay all Other Taxes directly to the appropriate taxing authorities. Lessee shall furnish Lessor, within 15 days after payment of Other Taxes, official receipts of the appropriate taxing authority, if any, or other appropriate proof reasonably satisfactory to Lessor, evidencing the payment of the same. The certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition may be relied upon by Lessor as sufficient evidence that such Imposition is due and unpaid at the time of making or issuance of such certificate, advice or bill.

(e) During the continuance of an Event of Default hereunder, Lessor may deliver to Lessee Lessor's reasonable estimate of the Other Taxes which it anticipates will be paid or incurred for the ensuing calendar year or fiscal year, as Lessor may determine, and Lessee shall pay to Lessor (or if Lessor so directs, to Lessor's Mortgagee) an amount equal to the estimated amount of such Other Taxes for such year in equal monthly installments during such year with the installments of

Fixed Rent. Payment by Lessee of estimated amounts of Other Taxes under this subsection shall be considered as performance of such obligation under the provisions of subsections (a) and (b) above. If Lessor shall have elected to bill Lessee for Other Taxes on an estimated basis in accordance with this provision, Lessor will furnish to Lessee, within 120 days following the end of the applicable calendar or fiscal year, as the case may be, a statement setting forth: (i) the amount of such Other Taxes paid or incurred during the just ended calendar or fiscal year; and (ii) the amount that Lessee has paid to Lessee for credit against such expenses for the stated period. Lessor shall, at its election, either: (1) credit the amount of any overpayment toward the next ensuing payment or payments of Other Taxes that would otherwise be due; or (2) refund in cash to Lessee the amount of such overpayment. If such year-end statement shall show that Lessee did not pay its obligation for such Other Taxes in full, then Lessee shall pay to Lessor the amount of such underpayment within 30 days from Lessor's billing of same to Lessee. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

(f) Subject to the provisions of subsection (a), Lessor and/or Lessee shall have the right to contest the amount or validity, in whole or in part, of any Property Tax or Other Tax or to seek a reduction in the valuation of the Premises as assessed for real estate property tax purposes by appropriate proceedings diligently conducted in good faith pursuant to Section 25 herein. Lessor shall not be required to join in any proceeding referred to in this subsection unless required by law, or unless Lessee reasonably determines that such joinder will be advantageous and bears all costs in connection therewith, in which event Lessor shall, upon written request by Lessee, join in such proceedings or permit the same to be brought in its name. Notwithstanding the foregoing, Lessor shall cooperate with Lessee and execute any document required for Lessee to contest, or seek a reduction of, any Property Tax or Other Tax. Lessee covenants that Lessor shall not suffer or sustain any costs or expenses (including, but not limited to, counsel fees) or any liability in connection with any such proceeding. No such consent shall subject Lessor to any material civil liability or the risk of any criminal liability.

## 6. NET LEASE; NON-TERMINABILITY.

(a) This is a triple net Lease, and the Rent and all other sums payable hereunder by Lessee shall be paid, except as expressly provided in Section 12.1, without notice (except as expressly provided herein), demand, set-off, counterclaim, abatement, suspension, deduction or defense. It is the intention of the parties hereto that the Fixed Rent shall be an absolutely net return to Lessor throughout the Term of this Lease. In order that such Fixed Rent shall be absolutely net to Lessor, Lessee shall pay when due, and save Lessor harmless from and against, any and all costs, charges and expenses attributable to the Premises and allocable to the Term, including but not limited to, each fine, fee, penalty, charge (including governmental charges), assessments, sewer rent, Impositions, insurance premiums, utility expenses, carrying charges, costs, expenses and obligations of every kind and nature whatsoever, general and special, ordinary and extraordinary, foreseen and unforeseen, the payment for which Lessor is, or shall become liable by reason of any rights or interest of Lessor in, to or under the Premises or this Lease or in any manner relating to the ownership, leasing, operation, management, maintenance, repair, rebuilding use or occupation of the Premises, or of any portion thereof; provided, however, that nothing herein contained shall be construed as imposing upon Lessee any obligation to pay: (i) any of the aforementioned costs, charges or expenses resulting from Lessor's acts or omissions, including but not limited to failure to pay the same when due; or (ii) any income, estate, inheritance, succession or transfer tax of

Lessor growing out of, or levied in connection with, this Lease or Lessor's right or interest in the Premises, except as provided in Section 5 herein; and provided further that Lessor shall pay to Lessee the amounts set forth in Exhibit D on the Commencement Date.

(b) Except as set forth in Section 12.3, this Lease shall not terminate, nor shall Lessee have any right to terminate this Lease, nor shall Lessee be entitled to any abatement or reduction of Rent hereunder, nor shall the obligations of Lessee under this Lease be affected, by reason of: (i) any damage to or destruction of all or any part of the Premises from whatever cause; (ii) subject to Section 12 herein, the taking of the Premises or any portion thereof by condemnation, requisition or otherwise; (iii) the prohibition, limitation or restriction of Lessee's use of all or any part of the Premises, or any interference with such use; (iv) any eviction by paramount title or otherwise; (v) Lessee's acquisition or ownership of all or any part of the Premises otherwise than as expressly provided herein; (vi) any default on the part of Lessor under this Lease, or under any other agreement to which Lessor and Lessee may be parties; or (vii) any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding. It is the intention of the parties hereto that the obligations of Lessee hereunder shall be separate and independent covenants and agreements; that the Rent and all other sums payable by Lessee hereunder shall continue to be payable in all events; and that the obligations of Lessee hereunder shall continue unaffected unless the requirement to pay or perform the same shall have been terminated pursuant to any express provision of this Lease. Lessee agrees that Lessee will not be relieved of the obligations to pay Fixed Rent or any Additional Rent in case of damage to or destruction of the Premises.

(c) Lessee shall remain obligated under this Lease in accordance with its terms, and will not take any action to terminate, rescind or avoid this Lease, notwithstanding: (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution or winding-up or other proceeding affecting Lessor or their respective successors in interest; or (ii) any action with respect to this Lease which may be taken by any trustee or receiver of Lessor or their respective successors in interest or by any court in any such proceeding; provided that the obligations hereunder are subject and subordinate to any order of a court related to any bankruptcy or other applicable proceedings.

(d) Lessee waives all rights which may now or hereafter be conferred by law: (i) to quit, terminate or surrender this Lease or the Premises or any part thereof; or (ii) except as set forth in Section 12.1, to any abatement, suspension, deferment or reduction of the Rent or any other sums payable under this Lease, except as otherwise expressly provided herein.

7. SERVICES. Commencing on the Commencement Date, Lessee shall, at Lessee's sole cost and expense, supply the Premises with electricity, heating, ventilating and air conditioning, water, natural gas, lighting, replacement for all lights, restroom supplies, telephone service, window washing, security service, janitor, scavenger and disposal services (including hazardous and biological waste disposal), and such other services as Lessee determines to furnish to the Premises. Lessor shall not be in default hereunder or be liable for any damage or loss directly or indirectly resulting from, nor shall the Fixed Rent or Additional Rent be abated or a constructive or other eviction be deemed to have occurred by reason of, the installation, use or interruption of use of any equipment in connection with the furnishing of any of the foregoing services, any failure to furnish or delay in furnishing any such services, whether such failure or delay is caused by accident

or any condition beyond the control of Lessor or Lessee or by the making of repairs or improvements to the Premises, or any limitation, curtailment, rationing or restriction on use of water, electricity, gas or any form of energy serving the Premises, whether such results from mandatory governmental restriction or voluntary compliance with governmental guidelines. Lessee shall pay the full cost of all of the foregoing services and all other utilities and services supplied to the Premises as Additional Rent; and Lessee shall indemnify and hold harmless Lessor and any Mortgagee from any loss, damage or liability to any party supplying such services or utilities, including without limitation reasonable attorneys' fees. The aforementioned Lessee obligations shall not apply should Lessor, through its acts or omissions, cause, any interruption in the aforementioned services.

#### 8. REPAIRS AND MAINTENANCE.

(a) On the Commencement Date, Lessor shall pay the amount set forth in the definition of "Capital Replacement Reserve Account" in Section 1.1. In addition, by no later than each anniversary of the Commencement Date throughout the Term, the Capital Replacement Annual Deposits shall be made as set forth on Exhibit D, such amounts to be used by Lessee in Lessee's sole discretion for capital improvements to the Premises and held in the Capital Replacement Reserve Account.

(b) Commencing on the Commencement Date, Lessee shall, at its expense, keep the Premises in good order and condition at all times during the Term of this Lease. Lessee shall promptly and adequately repair the Premises and all of its component parts and replace or repair all damaged or broken fixtures (including Lessee's Trade Fixtures) and appurtenances. In addition, Lessee shall timely and properly maintain, repair and to the extent necessary in Lessor's reasonable judgment, replace all of the Premises, so as to maintain the same in good condition and repair, but in all events so as to preserve the effectiveness of any warranty relating thereto. The parties shall arrange an annual inspection by Lessor's Representatives to review compliance with Lessee's obligations hereunder. If any building system or component shall become obsolete, Lessee shall remove such item from the Premises and, promptly replace it with a new item of comparable value and function. Lessee shall obtain Lessor's prior written consent before making any substantial change in the structure of the Improvements or any building system. Notwithstanding the foregoing, it is intended by the parties that Lessor shall have no obligation to repair or maintain the Premises (or any equipment therein), whether ordinary or extraordinary. Lessee shall deliver to Lessor a statement showing all removals and replacements of such systems or components during the preceding calendar year, and on the date of expiration or termination of this Lease, including manufacturers, model numbers, and serial numbers.

(c) Lessee shall maintain on the Premises and turn over to Lessor upon expiration or termination of this Lease current operating manuals for the equipment now or hereafter located on the Premises. Lessee will also provide Lessor with copies of any operating manuals in Lessee's possession relating to: (i) new equipment added to the Premises by Lessee after the Commencement Date; (ii) replacement equipment added to the Premises after the Commencement Date; and (iii) updates and supplements to any operating manuals relating to equipment located on the Premises. Lessee shall not install any underground storage tank on the Land.



## 9. DESTRUCTION OF OR DAMAGE TO PREMISES.

(a) If the Premises, or any part thereof, are damaged by fire or other casualty during the Term, Lessee shall diligently repair such damage and restore the Premises to substantially the same or better condition as existed before the occurrence of such fire or other casualty, using materials of the same or better grade than that of the materials being replaced, and this Lease shall remain in full force and effect, and there shall be no abatement of Rent due under this Lease. Such repair and replacement by Lessee shall be done in accordance with Sections 9 and 21 herein, subject to then Applicable Laws, and Lessee shall, at its expense, obtain all permits required for such work. This Lease shall not terminate by reason of such damage or destruction, it being acknowledged and agreed that the failure of the Lessee to maintain any required insurance or the inadequacy of such insurance shall not result in any abatement of the Fixed Rent or Additional Rent. Provided that no Event of Default has occurred hereunder and is continuing and no default described in Sections 14(a), (c), (d) or (e) has occurred and is continuing, and provided that Lessee has: (i) delivered to Lessor plans and specifications and a budget for such repair and restoration (all of which Lessor shall have approved in its reasonable judgment); and (ii) deposited with Lessor or the Proceeds Trustee cash in an amount equal to the excess, if any, of the total cost set forth in such approved budget over the amount of insurance proceeds received on account of such casualty, then Lessor shall make available to Lessee all insurance proceeds actually received by Lessor and not paid over to the Proceeds Trustee on account of such casualty, for application to the costs of such approved repair and restoration, as set forth below. Lessee's obligations under this Section shall survive the termination or expiration of this Lease. If this Lease shall terminate by its terms prior to completion of Lessee's renovation obligations, Fixed Rent shall continue to be payable hereunder until substantial completion of the restoration, excluding punch list items, at the same rate as the Fixed Rent for the last month of the Term, and Lessee's obligations hereunder, including payment of Additional Rent, shall continue until completion of the restoration, provided that, in such event, Lessee may elect not to restore all or any part of damaged Lessee Improvements and remit any insurance proceeds paid with respect to damages to Lessee Improvements to Lessor.

(b) In the event that the estimated cost of reconstruction is in excess of \$250,000, all insurance proceeds shall be paid to or deposited with the Proceeds Trustee in the name of the Proceeds Trustee as trustee for Lessor and Lessee and disbursed in the manner hereinafter provided. If no First Mortgage is then in effect, the Proceeds Trustee shall be designated by Lessor. Insurance proceeds shall be deposited in an interest-bearing account and interest shall be distributed to Lessee upon completion of portions of said installation, repair, replacement or rebuilding, provided that no Event of Default has occurred and is continuing hereunder. All checks drawn on said account shall be co-signed by the Proceeds Trustee and Lessee. Provided that no Event of Default has occurred and is continuing hereunder, insurance proceeds shall be disbursed to Lessee by the Proceeds Trustee under the following procedure:

(i) No more frequently than once per calendar month, Lessee may request that the Proceeds Trustee reimburse Lessee out of such insurance proceeds for costs incurred by Lessee for work in place to repair and restore the Premises during the immediately preceding calendar month, less customary retainage retained by Lessee from the contractor, as reflected in the contractor's request for payment. Lessee's request shall include a certification by Lessee, Lessee's independent, licensed architect and its general contractor that all work for which reimbursement is requested was performed in compliance with the plans and specifications approved by Lessor

pursuant to Section 21 herein and all Applicable Laws, and shall include reasonably satisfactory evidence of the costs incurred by Lessee and unconditional lien releases in form and substance reasonably satisfactory to the Proceeds Trustee executed by all mechanics, materialmen, laborers, suppliers and contractors who performed any portion of the repair work or supplied materials, to the extent that such waivers are permitted under Applicable Laws.

(ii) Within 10 days after receiving Lessee's request, the Proceeds Trustee shall approve or disapprove Lessee's request, which approval shall not be unreasonably withheld, by notice to Lessee. If the Proceeds Trustee approves all or any portion of a request and the Proceeds Trustee has received (and not previously disbursed) insurance proceeds, then the Proceeds Trustee's approval shall include a check in the amount approved by the Proceeds Trustee. If the Proceeds Trustee disapproves all or any portion of a request, then the Proceeds Trustee's notice shall state the reasons for that disapproval. The Proceeds Trustee's failure to deliver a notice approving or disapproving a request within such 10-day period shall be conclusively deemed the Proceeds Trustee's approval of the request. In addition, the Proceeds Trustee shall have the right to impose other conditions upon disbursement so long as they are consistent with customary construction loan disbursement practices.

(iii) In addition, prior to commencement of restoration and at any time during restoration, if the estimated cost of restoration, as reasonably determined by the Proceeds Trustee, exceeds the then amount of the proceeds account, the amount of such excess shall be paid by Lessee to the Proceeds Trustee promptly after Lessee's receipt of written notice and be added to the proceeds account. Any sum which remains in the proceeds account upon the completion of restoration shall be paid to Lessee.

## 10. INSURANCE, HOLD HARMLESS AND INDEMNIFICATION.

### 10.1 Release and Indemnification.

(a) Lessor shall not be liable to Lessee for any damage to or loss or theft of any property or for any bodily or personal injury, illness or death of any person in, on or about the Premises arising at any time and from any cause whatsoever: (i) except to the extent caused by the gross negligence or willful misconduct of Lessor or Lessor's Representatives; or (ii) except as set forth in Section 29. This subsection shall in no way modify the obligations of Lessee which are set forth in Section 7 herein. Except as specified above, Lessee waives all claims against Lessor arising from any liability described in this subsection.

(b) Lessee shall pay and indemnify and defend Lessor, Lessor's Representatives and any Mortgagee against and hold Lessor, Lessor's Representatives and any Mortgagee harmless from all claims, demands, liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees and disbursements, arising during the Term and arising from or related to: (i) any use or occupancy of the Premises; (ii) any condition of the Premises; (iii) any default in the performance of Lessee's obligations hereunder; and (iv) any damage to any property (including property of employees and invitees of Lessee) or any bodily or personal injury, illness or death of any person (including employees and invitees of Lessee) from any cause whatsoever, occurring in, on or about the Premises or any part thereof or any part of the Improvements or the Land constituting a part of the Premises or occurring outside the Premises when such damage, bodily or

personal injury, illness or death is caused by any act or omission of Lessee or Lessee's Representatives, except, in the case of (i) through (iv) above, to the extent caused by: (w) the gross negligence or willful misconduct of Lessor or Lessor's Representatives; (x) the gross negligence or willful misconduct of any Mortgagee or its agents, contractors, employees or invitees; or (y) any act or omission of Lessor, Lessor's Representatives or any Mortgagee or its agents, contractors, employees or invitees, which results in a violation of an Environmental Law. This subsection shall in no way modify the obligations of Lessee which are set forth in Section 7 herein. This Section shall survive the termination of this Lease with respect to any event arising or occurring during the Term. Except as specified in this Section, the waiver provision in subsection (a) and the indemnity provision in this subsection are intended to exculpate and indemnify Lessor, Lessor's Representatives and the Mortgagee and its agents: (i) from and against the consequences of their own negligence or fault to the extent that such party is negligent or contributorily, partially, jointly, comparatively or concurrently negligent with Lessee or any other person (except for any gross negligence of Lessor); and (ii) from and against any liability of Lessor, Lessor's Representatives or the Mortgagee and its agents based on any applicable doctrine of strict liability.

(c) Lessor shall pay and indemnify and defend Lessee and Lessee's Representatives against and hold Lessee and Lessee's Representatives harmless from all claims, demands, liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees and disbursements, arising during the Term arising from or related to: (i) any use or occupancy of the Premises; (ii) any condition of the Premises; (iii) any default in the performance of Lessor's obligations hereunder; and (iv) any damage to any property (including property of employees and invitees of Lessee) or any bodily or personal injury, illness or death of any person (including employees and invitees of Lessee) occurring in, on or about the Premises or any part thereof or any part of the Improvements or the Land constituting a part of the Premises arising at any time and from any cause whatsoever, when such use, condition, damage, bodily or personal injury, illness or death referred to in any of clauses (i) through (iv) above is caused by any act or omission of Lessor or any of Lessor's Representatives. This Section shall survive the termination of this Lease with respect to any event arising or occurring during the Term.

(d) Should any event occur for which any Person is entitled to indemnification pursuant to subsection (b) above or other provisions of this Lease, such Person shall provide prompt written notice to Lessee describing the nature of such claim (provided, however, that the failure by such Person to so notify Lessee shall not limit or otherwise affect the obligations and liabilities of Lessee hereunder provided that such failure does not prevent Lessee from so indemnifying such Person). Lessee may assume responsibility for any action to be taken to contest the claim, provided that Lessee will notify the indemnified Person in writing of its intention to contest such claim within ten (10) days after receipt of notice of the claim. Lessee, at its sole expense, may control all proceedings relating to such contest, provided that no Event of Default is continuing and that Lessee has acknowledged its obligation to provide indemnification hereunder relating to the applicable claim. The indemnified Person will cooperate with Lessee in contesting such claim, provided that Lessee indemnifies and holds harmless the indemnified Person for all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) relating to contesting such claim. Any counsel selected by Lessee hereunder shall be reasonably acceptable to the indemnified Person, and the indemnified Person, at its option, shall have the right to contest such claim through separate counsel in the event that any claims against or defenses of such Person are in conflict under the applicable standards of professional conduct with those of Lessee, and



Lessee shall be obligated to pay for all reasonable costs and expenses (including without limitation reasonable attorneys' fees and expenses) actually incurred relating to any such separate contest of such claim.

(e) Should any event occur for which any Person is entitled to indemnification pursuant to subsection (c) above or other provisions of this Lease, such Person shall provide prompt written notice to Lessor describing the nature of such claim (provided, however, that the failure by such Person to so notify Lessor shall not limit or otherwise affect the obligations and liabilities of Lessor hereunder provided that such failure does not prevent Lessor from so indemnifying such Person). Lessor may assume responsibility for any action to be taken to contest the claim, provided that Lessor will notify the indemnified Person in writing of its intention to contest such claim within ten (10) days after receipt of notice of the claim. Lessor, at its sole expense, may control all proceedings relating to such contest, provided that Lessor has acknowledged its obligation to provide indemnification hereunder relating to the applicable claim. The indemnified Person will cooperate with Lessor in contesting such claim, provided that Lessor indemnifies and holds harmless the indemnified Person for all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) relating to contesting such claim. Any counsel selected by Lessor hereunder shall be reasonably acceptable to the indemnified Person, and the indemnified Person, at its option, shall have the right to contest such claim through separate counsel in the event that any claims against or defenses of such Person are in conflict under the applicable standards of professional conduct with those of Lessor, and Lessor shall be obligated to pay for all reasonable costs and expenses (including without limitation reasonable attorneys' fees and expenses) actually incurred relating to any such separate contest of such claim.

## 10.2 Insurance.

(a) Lessee shall, at all times beginning on the Commencement Date and during the Term, at Lessee's sole expense, obtain and keep in force the following:

(i) comprehensive commercial general liability insurance, including contractual liability (specifically covering this Lease), fire legal liability, and premises operations, all on an "occurrence" policy form, with a minimum combined single limit in the amount of \$2,000,000 per occurrence for bodily or personal injury to, illness of, or death of persons and damage to property occurring in, on or about the Premises, and such insurance shall name Lessor and the Mortgagee as additional insureds. Lessee shall maintain excess or umbrella liability insurance in an amount not less than \$8,000,000 written on an occurrence basis (i.e., not a claims made basis) providing coverage limits in excess of the insurance limits required under this subsection. Such insurance shall follow from the primary insurance and the aggregate and drop down in case of exhaustion of underlying limits and/or damages where insurable under Applicable Laws. Lessee shall, at Lessee's expense, be responsible for insuring Lessee's furniture, equipment, fixtures, computers, office machines and personal property. If Lessee voluntarily carries any greater amount of liability insurance than required hereunder and applicable to the Premises, such insurance shall comply with the requirements of this Section;

(ii) worker's compensation and employer's liability insurance;



(iii) insurance against loss (including earthquake, in the event that the probable maximum loss exceeds 12%, as determined solely by Lessee in Lessee's reasonable discretion based on all factors considered, including feasibility, costs and availability, and flood) or damage to the Premises by fire and all other risks of physical loss covered by insurance of the type now known as "all risk," with difference in conditions coverage, in an amount not less than the full replacement cost of the Premises (without deduction for depreciation), including the cost of debris removal and such endorsements as Lessor may reasonably require, including without limitation, insurance in amounts and against such other risks as the Mortgagee may reasonably require and against such risks as are customarily insured against by operators of similar properties in San Bernardino County, California;

(iv) to the extent that there are boilers, pressure vessels or similar equipment on the Premises, insurance for such boilers, pressure vessels or equipment in a minimum amount of \$2,000,000 per occurrence;

(v) business interruption insurance covering no less than twenty-four (24) months Fixed Rent and Additional Rent;

(vi) condemnation gap lease enhancement insurance which provides, in the event of condemnation of the Premises, for payment to the Mortgagee prior to a final condemnation judgment; such insurance shall be acceptable to the Mortgagee under the First Mortgage in its reasonable discretion; and

(vii) such other insurance, in such amounts and against such risks, as is customarily maintained by owners and operators of similar properties or is reasonably required by any Mortgagee.

(b) All insurance required to be maintained by Lessee under this Section and all renewals thereof shall be issued by good and responsible companies and/or a self-insured risk pool qualified to do and doing business in the State of California and having an S&P Global Ratings claims paying ability rating of at least "A", and shall be satisfactory to Lessor and Mortgagee. In the event that Lessee's insurance company's S&P Global Ratings claims paying ability rating falls below an "A" rating, unless Lessor and Mortgagee consent to an insurance company with a lower rating, Lessee shall diligently, and in all events not more than one hundred eighty (180) days after becoming aware of the insurance company's downgrade, acquire all insurance required to be maintained by Lessee hereunder from a new insurance company having an S&P Global Ratings claims paying ability rating of at least "A"; provided however, that at no time shall Lessee permit any insurance policy to lapse. Deductible amounts in excess of: (i) \$10,000 for "all risk" property insurance required by Section 10.2(a)(iii) and insurance required under Section 10.2(a)(iv); and (ii) \$10,000 for all insurance required by Section 10.2(a)(ii) and (iii) shall be subject to Lessor's and Mortgagee's prior written approval. In the event that payment is made on any policy where a deductible amount is in effect, Lessee shall pay such deductible amount to the recipient of the insurance proceeds at the time that such insurance proceeds are paid to such recipient. Each policy to be maintained by Lessee shall expressly provide that the policy shall not be canceled or altered without thirty (30) days' prior written notice to Lessor and Mortgagee and shall remain in effect notwithstanding any such cancellation or alteration until such notice shall have been given to Lessor and Mortgagee and such period of thirty (30) days shall have expired. All property and

casualty insurance shall list Lessor and Mortgagee as an additional insured and as “loss payee”, and all other insurance under this Section to be maintained by Lessee shall name Lessor and the Mortgagee as additional insureds. All insurance shall be primary and noncontributing with any insurance which may be carried by Lessor (which insurance is not required to be carried by Lessor and the cost of which insurance shall not be deemed an expense that Lessee is obligated to reimburse Lessor for except as provided in Section 15.2 herein), shall afford coverage for all claims based on any act, omission, event or condition that occurred or arose (or the onset of which occurred or arose) during the policy period, and shall expressly provide that Lessor, although named as an additional insured, shall nevertheless be entitled to recover under the policy for any loss, injury or damage to Lessor. Lessee may carry such insurance under “blanket” policies, provided that such policies specifically allocate coverage amounts for the Premises equal to the amount required by this Lease. Upon the issuance of each such policy to be maintained by Lessee, Lessee shall deliver a certificate thereof (Acord 27 form) to Lessor for retention by Lessor or the Mortgagee. Lessor and/or Mortgagee shall have the right, upon reasonable notice to Lessee, to inspect, review and make copies of all insurance policies required to be maintained by Lessee at Lessee’s corporate headquarters or such other location where Lessee keeps said policies.

(c) Lessor and (to the extent that Lessor carries any insurance with respect to the Premises, which Lessor is not required to do) Lessee each hereby waives its respective right of recovery against the other and each releases the other from any claim arising out of loss, damage or destruction to the Premises and contents thereon or therein, to the extent of net insurance proceeds actually received by the releasing party or the Proceeds Trustee, whether or not such loss, damage or destruction may be attributable to the fault or negligence of either party, or any of its respective partners, agents, invitees, contractors or employees, or any agents, invitees, contractors or employees of any partner or member of Lessor. Each party shall look first to the proceeds of its respective property insurance policy, if any, and, in the case of Lessee, to Lessee’s own funds to the extent that Lessee is self-insured, to compensate it for any such loss, damage or destruction.

(d) Lessee shall not obtain or carry separate insurance concurrent in form or contributing in the event of loss with that required in this Section to be furnished by Lessee, unless Lessor and Mortgagee are named as loss payee on all property and casualty policies and Lessor and Mortgagee are included therein as additional insureds on all other policies, with loss payable as in this Lease provided. Lessee shall immediately notify Lessor whenever any such separate insurance is obtained and shall deliver to Lessor and Mortgagee the policy or policies or certificates evidencing the same.

(e) Lessee shall comply with all of the terms and conditions of each insurance policy maintained pursuant to the terms of this Lease and shall not use the Premises in any manner which would void or otherwise adversely affect any insurance then in force with respect thereto.

#### 11. COMPLIANCE WITH LAWS, COVENANTS.

(a) Lessee represents and warrants that the Premises and the Improvements are currently in compliance with all applicable land use zoning ordinances. Throughout the Term, Lessee shall, with respect to Lessee’s use, occupancy and maintenance of the Premises, promptly comply with any and all present and future laws, ordinances (zoning or otherwise), orders, rules, regulations and requirements of all Federal, State, municipal and other governmental bodies having

jurisdiction over the Premises and the appropriate departments, commissions, boards and officers thereof, and the orders, rules and regulations of the Board of Fire Underwriters where the Premises are situated, or any other body now or hereafter constituted exercising lawful or valid authority over the Premises, or any portion thereof, or exercising authority with respect to the use or manner of use of the Premises. Lessee, at its sole cost and expense, shall comply with all agreements, contracts, easements, restrictions, reservations or covenants, if any, encumbering the Land or the Improvements, or hereafter created by Lessee or consented to, in writing, by Lessee or requested, in writing, by Lessee. Lessee shall also comply with, observe and perform all provisions and requirements of all policies of insurance maintained by Lessee with respect to the Premises under the terms of Section 10 herein and shall comply with all development permits issued by governmental authorities issued in connection with development of the Premises. The laws, ordinances, rules, regulations and requirements referred to in this Section are collectively referred to as “**Applicable Laws**”. It is the intent of the parties that throughout the Term Lessor shall be responsible for compliance with Applicable Laws which require any physical modifications to the Buildings.

(b) If Lessee shall at any time fail to pay any Imposition in accordance with the provisions of this Lease, or to take out, pay for, maintain and deliver any of the insurance policies or certificates of insurance provided for in Section 10 herein, or shall fail to make any other payment or perform any other act on its part to be made or performed hereunder, then Lessor, after 30 days’ prior notice to Lessee (or without notice in situations where Lessor determines that delay is likely to cause harm to Lessor’s interest in the Premises), and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease, may, but shall be under no obligation to do so, cure such non-performance for the account of Lessee in accordance with the provisions of Section 14.2 herein, and any amount of reasonable costs so incurred by Lessor shall be reimbursed by Lessee to Lessor within 30 days following Lessor’s statement therefor.

(c) Upon two (2) business days’ prior written notice from Lessor to Lessee describing the time and duration of access and areas to be accessed, Lessor may enter upon the Premises for any such purpose described in subsection (b) above and take all such action therein or thereon as may be necessary therefor. All sums, reasonable under the circumstances, actually so paid by Lessor and all costs and expenses, including reasonable attorneys’ fees incurred by Lessor in connection with the performance of any such act, shall be paid by Lessee to Lessor within 30 days after Lessor’s statement therefor and submission of reasonable evidence of such expenditures. Lessor shall not be limited in the proof of any damages which Lessor may claim against Lessee arising out of or by reason of Lessee’s failure to provide and keep in force insurance as aforesaid, to the amount of the insurance premium or premiums not paid or incurred by Lessee, and which would have been payable upon such insurance, but Lessor shall also be entitled to recover, as damages for such breach, the uninsured amount of any loss, damages, costs and expenses of suit, including reasonable attorneys’ fees, suffered or incurred by reason of damage to or destruction of the Premises, or any portion thereof or other damage or loss which Lessee is required to insure against hereunder, occurring during any period when Lessee shall have failed or neglected to provide insurance as aforesaid.

(d) Lessee covenants to take such action as may be necessary to include all Rent due hereunder as a separate line item in its annual budgets and to make necessary annual appropriations for all such Rent. Notwithstanding the foregoing or any other provision of this Lease, Lessee’s



obligations under this Lease are not subject to any appropriation. The covenants on the part of Lessee herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of Lessee to take such action and do such things as are required by law in the performance of the official duty of such officials to enable Lessee to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by Lessee.

(e) Lessee covenants to maintain at all times during the Term of this Lease a rating in any rating category from S&P Global Ratings or any other nationally recognized statistical rating organization. In furtherance of the foregoing, Lessee specifically covenants to ensure that S&P Global Ratings or any other nationally recognized statistical rating organization maintains ongoing rating surveillance of Lessee.

## 12. CONDEMNATION.

12.1 Partial Taking. Lessee assigns to Lessor, or the Proceeds Trustee, as required hereunder, any award, proceeds or other payment to which Lessee may become entitled in connection with a taking of any portion of the Premises. If less than substantially all of the Premises shall be taken for public or quasi-public purposes, Lessee shall diligently, at its sole cost and expense, restore, repair, replace or rebuild the Improvements so taken in conformity with the requirements of Sections 9 and 21 herein as nearly as practicable to the condition, size, quality of workmanship and market value thereof immediately prior to such taking, without regard to the adequacy of any condemnation award for such purpose, but subject to then Applicable Laws. There shall be no abatement of Rent during such period of restoration and this Lease shall remain in full force and effect. In performing its obligations, Lessee shall be entitled to all condemnation proceeds available to Lessor under the same terms and conditions for disbursement set forth for casualty proceeds in Section 9 herein. Any condemnation proceeds in excess of the amounts as are used by Lessee for restoration or repair of the Premises shall be the sole and exclusive property of Lessor, and Fixed Rent shall not be reduced or abated. Lessee shall have the right to participate in condemnation proceedings with Lessor, and shall be entitled to receive any award made by the condemning authority in respect of Lessee's Trade Fixtures, Lessee Improvements which were paid for by Lessee (but not including any Lessee Improvements paid for by Lessor), business loss or, if available, business relocation and any other claim permitted by law which does not, in any such case, diminish Lessor's recovery.

(a) Lessor shall have sole control of the condemnation proceedings, and Lessor (or the Mortgagee if so designated by Lessor) shall receive the entire condemnation award; provided, however, that Lessee may claim and receive any award made by the condemning authority in respect of Lessee's Trade Fixtures, Lessee Improvements which were paid for by Lessee (but not including any Lessee Improvements paid for by Lessor), business loss or, if available, business relocation and any other claim permitted by law which does not, in any such case, diminish Lessor's recovery.

12.2 Temporary Taking. Notwithstanding any other provision to the contrary contained in this Section, in the event of a temporary condemnation, this Lease shall remain in full force and effect and Lessee shall be entitled to the net award allocable to such temporary condemnation; except

that such portion of the net award allocable to the time period after the expiration or termination of the Term of this Lease shall be paid to Lessor.

### 12.3 Total Taking.

(a) If all or substantially all of the Premises shall be taken for public or quasi-public purposes, or if Lessee, after any taking, reasonably determines that such event has rendered the Premises unavailable for use or unsuitable for restoration for continued use and occupancy in Lessee's business, then Lessee, in lieu of rebuilding as contemplated by Section 12.1 herein, shall, not later than 90 days after such occurrence, deliver to Lessor: (i) notice of its intention to terminate this Lease on a date occurring not more than 180 days nor less than 120 days after such notice, which date shall be the first Business Day of a month (the "**Termination Date**"); (ii) a certificate by an authorized representative of Lessee describing the event giving rise to such termination, stating that such event has rendered the Premises unavailable for use or unsuitable for restoration for continued use and occupancy in Lessee's business and the detailed reasons therefor; and if the Termination Date occurs during the Term; and (iii) an irrevocable offer to purchase the Premises (and the net amount of any insurance and condemnation proceeds payable in connection with such condemnation) on the Termination Date, at a price equal to the sum of: (x) the remaining unpaid Fixed Rent set forth in Exhibit C which would have been due and payable had the Termination Date not occurred prior to the Lease Expiration Date; and (y) all costs of transferring title to the Premises to Lessee, including without limitation all transfer and conveyance taxes, recording fees and any unwind costs resulting from a prepayment of debt secured by the Premises (including prepayment premiums or make whole amounts). In addition, Lessee shall pay all Fixed Rent and Additional Rent due as of the Termination Date. Lessor shall accept or reject such offer by notice given to Lessee not later than thirty (30) days prior to the Termination Date, and if Lessor fails to act within such period, it shall be deemed to have accepted the offer. If Lessor shall have accepted such offer or is deemed to have accepted such offer, on the Termination Date, Lessor shall convey by special warranty deed to Lessee any remaining portion of the Premises free of liens and encumbrances (except those created by Lessee or with the written consent of Lessee), along with the right to receive any condemnation award and insurance proceeds to which Lessor is entitled. If Lessor rejects such offer, this Lease shall terminate on the Termination Date, except for liabilities which accrued prior thereto and upon payment of all Fixed Rent and Additional Rent payable through the Termination Date.

### 13. DEFAULT.

13.1 Lessee Default. The occurrence of any one or more of the following events shall constitute a breach of this Lease by Lessee:

(a) Lessee fails to pay any Rent as and when such Rent becomes due and payable and such failure continues for more than five (5) days after notice thereof to Lessee, in the case of Fixed Rent, or ten (10) days after notice thereof to Lessee, in the case of Additional Rent; or

(b) Lessee fails to perform or breaches any other agreement or covenant of this Lease to be performed or observed by Lessee as and when performance or observance is due and such failure or breach continues for more than 30 days after notice thereof to Lessee; provided, however, that if, by the nature of such agreement or covenant, such failure or breach is capable of being cured,

cannot reasonably be cured by the payment of money and cannot reasonably be cured within such period of 30 days, an Event of Default shall not exist as long as Lessee commences with due diligence and dispatch the curing of such failure or breach within such period of 30 days and, having so commenced, thereafter prosecutes with diligence and dispatch and completes the curing of such failure or breach within a reasonable time, to be not later than one hundred twenty (120) days following receipt of such notice; or

(c) Lessee: (i) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (ii) makes an assignment for the benefit of its creditors; or (iii) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers, with respect to Lessee or of any substantial part of Lessee's property; or

(d) Without consent by Lessee, as applicable, a court or government authority enters an order, and such order is not vacated within 90 days: (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to or with respect to any substantial part of Lessee's property; or (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy, insolvency or other debtors' relief law of any jurisdiction; or (iii) ordering the dissolution, winding-up or liquidation of Lessee; or

(e) This Lease or any estate of Lessee hereunder is levied upon under any attachment or execution and such attachment or execution is not vacated within 60 days; or

(f) Any of Lessee's representations or warranties contained in this Lease or in any certificate or other writing delivered pursuant hereto or thereto shall have been incorrect in any material adverse respect when made; or

(g) Lessee fails to maintain insurance in accordance with Section 10.2 hereof.

Lessor may treat the occurrence of any one or more of the foregoing Events of Default as a breach of this Lease. For so long as such Event of Default continues, Lessor, at its option and with or without notice or demand of any kind to Lessee or any other person, may have any one or more of the remedies provided in this Lease, in addition to all other remedies and rights provided at law or in equity.

**13.2 Lessor Default.** The occurrence of any one or more of the following events shall constitute a breach of this Lease by Lessor:

(a) Lessor fails to abide by material terms of this Lease, including but not limited to Lessor's obligations under Section 3.1; or

(b) Any of Lessee's representations or warranties contained in this Lease or in any certificate or other writing delivered pursuant hereto or thereto shall have been incorrect in any material adverse respect when made.

Lessee may treat the occurrence of any one or more of the foregoing Events of Default as a breach of this Lease. For so long as such Event of Default continues, Lessee, at its option and

with or without notice or demand of any kind to Lessor or any other person, may have any one or more of the remedies provided in this Lease, in addition to all other remedies and rights provided at law or in equity.

#### 14. RESULTS OF DEFAULT.

14.1 Remedies. In the event of any Event of Default by Lessor, Lessee may exercise any remedies available at law or equity. In the event of any Event of Default by Lessee, Lessor may, in addition to, and not in derogation of any remedies for any preceding breach, with or without notice of demand (except as otherwise expressly provided herein) and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Event of Default, exercise any one or more of the following remedies:

(a) Lessor shall have the right at any time to give a written termination notice to Lessee and, on the date specified in such notice, Lessee's right to possession shall terminate and this Lease shall terminate and Lessee shall immediately quit and surrender possession of the Premises, without let or hindrance. Subject to Lessor's obligations under subsection (b) below, upon such termination, Lessor shall have the right to recover from Lessee:

(i) The worth at the time of determination of all unpaid Rent which had been earned at the date of termination;

(ii) The worth at the time of determination of the amount by which all unpaid Rent which would have been earned after termination until the time of determination exceeds Lessor's net income from the Premises, as determined pursuant to subsection (b) below;

(iii) The worth at the time of determination of the amount by which all unpaid Rent for the balance of the Term of this Lease after the time of determination exceeds the rent actually received by Lessor from reletting the Premises, as determined pursuant to subsection (b) below; and

(iv) All other amounts reasonably necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform all of Lessee's obligations under this Lease or which in the ordinary course of events would be likely to result therefrom, including without limitation any prepayment premium, make-whole premium or fee (however denominated) payable under the First Mortgage and any costs, loss or damage whatsoever arising out of, or in connection with, or incident to Lessor's re-entry upon the Premises, removal of any persons in possession thereof (whether in a proceeding in unlawful detainer or otherwise), subject to any rights of unit sublessees under applicable federal or state law, and removal and storage in any warehouse or other suitable place of Lessee's Trade Fixtures and Lessee's other property by Lessor. The "worth at the time of determination" of the amounts referred to in clause (i) above shall be computed by allowing interest at the Overdue Rate. The "worth at the time of determination" of the amount referred to in clauses (ii) and (iii) above and subsection (b) below shall be computed by discounting such amount at the discount rate of the New York Federal Reserve Bank at the time of award plus three percent (3%). For the purpose of determining unpaid Rent under clause (i), (ii) and (iii) above, the Rent reserved in this Lease shall be deemed to be the total Rent payable by Lessee under this Lease, and it shall be presumed that Additional Rent for the balance of the Term shall increase



a certain percentage per annum, which shall be the same percentage as the average of the Additional Rents for the last full five (5) Lease Years prior to the Termination Date exceeded Additional Rent for the immediately preceding Lease Year.

(b) [Reserved].

(c) Even though Lessee has breached this Lease, this Lease shall continue in effect for so long as Lessor does not terminate Lessee's right to possession, and Lessor shall have the right to enforce all of its rights and remedies under this Lease, including the right to recover all Rent as it becomes due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon initiative of Lessor to protect Lessor's interest under this Lease shall not constitute a termination of Lessee's right to possession unless notice of termination is given by Lessor to Lessee. If Lessor elects to relet the Premises, any net income (after reasonable costs of preparing the Premises for reletting, including marketing costs, the cost of alterations and improvements paid by Lessor, brokerage commissions, attorneys' fees and other costs incurred in connection with reletting) shall be deducted from the amount that Lessee is obligated to pay under this Section.

(d) If Lessee abandons or surrenders the Premises, or is dispossessed by process of law or otherwise, any movable furniture, equipment, trade fixtures or personal property belonging to Lessee and left in the Premises shall be deemed to be abandoned, at the option of Lessor, and Lessor shall have the right to sell or otherwise dispose of such personal property in any commercially reasonable manner at Lessee's expense. If Lessee abandons the Premises, Lessor shall have the right, but not the obligation, to let the Premises on reasonable terms for the account of Lessee, and Lessee shall be liable for all costs of such letting, including without limitation the cost of preparing the Premises for subtenants and leasing commissions paid to brokers.

(e) To the extent permitted by, and subject to the requirements of, Applicable Laws, each and every right, power and remedy herein specifically given to Lessor or otherwise in this Lease shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute. Each and every right, power and remedy, whether specifically herein given or otherwise existing, may be exercised from time to time and as often and in such order as may be deemed expedient by Lessor, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any right, power or remedy. No delay or omission by Lessor or Lessee in the exercise of any right, power or remedy or in the pursuit of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of Lessor or Lessee, respectively, or to be an acquiescence therein. Lessor's or Lessee's consent to any request made by Lessee or Lessor, as applicable, shall not be deemed to constitute or preclude the necessity for obtaining Lessor's or Lessee's consent, respectively, in the future, to all similar requests. No express or implied waiver by Lessor or Lessee of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default. Lessor and Lessee shall use reasonable efforts to mitigate any damages suffered by Lessor or Lessee, as applicable, that result from an Event of Default.

(f) If an action shall be brought for the enforcement of any provision of this Lease in which it shall be determined that an Event of Default has occurred, the defaulting party shall pay to the



non-defaulting party all costs and other expenses which may become payable as a result thereof, including reasonable attorneys' fees and expenses. If the non-defaulting party shall, without fault on its part, be made a party to any litigation commenced against the defaulting party, such defaulting party shall pay all costs and reasonable attorneys' fees actually incurred or paid by the non-defaulting in connection with such litigation.

14.2 Cure by Lessor. All agreements and covenants to be performed or observed by a defaulting party under this Lease shall be at the defaulting party's sole cost and expense and (if Lessee is the defaulting party) without any abatement of Fixed Rent or Additional Rent. If the defaulting party fails to pay any sum of money to be paid by such defaulting party or to perform any other act to be performed by such defaulting under this Lease as and when due or required to be performed, and such failure continues beyond 30 days' written notice to such defaulting party, except in the event of emergencies (when only immediate notice shall be required), the non-defaulting shall have the right, but shall not be obligated, and without waiving or releasing the defaulting from any obligations of such defaulting party, to make any such payment or to perform any such other act on behalf of such defaulting party in accordance with this Lease. Upon an Event of Default by Lessee, all reasonable sums so paid by Lessor and all necessary incidental costs shall be deemed Additional Rent hereunder and shall be payable by Lessee to Lessor within 30 days following Lessor's statement therefor and submission of reasonable evidence of such expenditures, together with interest thereon at the Overdue Rate. Upon an Event of Default by Lessor, all reasonable sums so paid by Lessee and all necessary incidental costs shall be payable by Lessor to Lessee within 30 days following Lessee's statement therefor and submission of reasonable evidence of such expenditures, together with interest thereon at the Overdue Rate. The non-defaulting party shall have the same rights and remedies in the event of the nonpayment of such sums plus interest by the defaulting party as in the case of default by Lessee in the payment of Rent.

## 15. SUBORDINATION AND TITLE.

### 15.1 Nondisturbance and Notice.

(a) Lessee shall at any time hereafter, and from time to time within 30 days of written request of Lessor, execute and deliver to Lessor an instrument in the form customarily used by any Mortgagee subjecting and subordinating this Lease to the lien of any mortgage, deed of trust, security instrument, ground or underlying lease or other document of like nature (hereinafter collectively referred to as "Superior Mortgage") which at any time may be placed upon the Premises, or any portion thereof, by Lessor, and to any replacements, renewals, amendments, consolidations, modifications, extensions or refinancings thereof, and to each and every advance made under any Superior Mortgage. Any such refinancings shall require the prior written consent of Lessee, which consent shall not be unreasonably withheld or delayed. It is agreed, nevertheless, that so long as there exists no Event of Default, such subordination agreement or other instrument, release or document (herein, "Subordination Agreement") shall not interfere with, hinder or reduce Lessee's Equity, the Option to Call, Lessee's right to quiet enjoyment under this Lease or the right of Lessee to continue to occupy the Premises, and all portions thereof, and to conduct its business thereon in accordance with the covenants, conditions, provisions, terms and agreements of this Lease (collectively, "Lessee's Rights"). The costs of preparing and recording such document shall be borne by Lessee.

(b) If any Mortgagee shall succeed to the rights of Lessor under this Lease or to ownership of the Premises, whether through possession or foreclosure or the delivery of a deed to the Premises in lieu of foreclosure, then such Mortgagee shall automatically be deemed to have recognized this Lease and Lessee's Rights and to assume the obligations of Lessor hereunder accruing on and after the date that such Mortgagee acquired title to the Premises, and Lessee shall attorn to and recognize such Mortgagee as Lessee's landlord under this Lease and shall promptly execute and deliver any instrument that such Mortgagee may reasonably request to evidence such attornment (whether before or after the making of the Mortgage). In the event of any other transfer of Lessor's interest hereunder, such transferee shall automatically be deemed to have recognized this Lease and to assume the obligations of Lessor hereunder accruing on and after the date of such transfer, Lessee shall attorn to and recognize such transferee as Lessee's landlord under this Lease and shall promptly execute and deliver any instrument that such transferee and landlord may reasonably request to evidence such attornment.

(c) Notwithstanding the provisions of subsection (a), the holder of any Mortgage to which this Lease is subject and subordinate shall have the right, at its sole option, at any time, to subordinate and subject the Mortgage, in whole or in part, to this Lease and Lessee's Rights by recording a unilateral declaration to such effect.

(d) Upon fifteen (15) days' advance notice, Lessee shall execute, acknowledge and deliver a document consenting to the assignment by Lessor of this Lease to a Mortgagee, in a form then in use among institutional lenders, with such changes herein as may be reasonably requested by the Mortgagee.

## 15.2 Lessee's Consent to Assignment for Indebtedness.

Lessee acknowledges that in order to secure Lessor's obligations under any Mortgage debt documents, Lessor will be required to agree in an assignment of lease and/or in the Mortgage (an "Assignment of Lease"), among other things, to the assignment (to the extent provided therein) to the Mortgagee of Lessor's right, title and interest to this Lease and to the undertakings of Lessee in this Section. While the Assignment of Lease and the Mortgage are in effect, Lessee hereby:

(a) consents to such assignment;

(b) upon notice from the Mortgagee of Lessor's default under the Mortgage, covenants to make in full to Mortgagee, in Mortgagee's name, when due (without offset, deduction, defense, deferment, abatement or diminution, except as provided in this Lease), by wire transfer of immediately available funds in accordance with the terms of this Lease:

(i) each payment of Fixed Rent and, to the extent not directly payable by Lessee to third parties or governmental authorities, all Additional Rent; and

(ii) all termination amounts, and other sums payable to Lessor under this Lease; and

(c) agrees:

(i) to deliver to the Mortgagee all notices and other communications which Lessee is required to deliver to the Mortgagee pursuant to this Lease;

(ii) that all consents to be delivered by Lessor pursuant to this Lease shall not be effective unless consent is also given by the Mortgagee, to the extent that Mortgagee consent is required by the Mortgage documents;

(iii) to deliver to the Mortgagee duplicate originals of all written notices and other communications delivered to Lessor pursuant to this Lease, in accordance with this Lease, of the occurrence of any Event of Default, the making of any election, the exercise of any right to terminate all or any portion of this Lease, and the exercise of any option;

(iv) to deliver to the Mortgagee, at such address as the Mortgagee shall designate, all such payments and sums and all such notices and other communications;

(v) that it shall not, except as provided in this Lease or under applicable law, seek to recover from the Mortgagee any moneys paid to the Mortgagee by virtue of the Assignment of Lease and the foregoing provisions; provided, however, that neither the Assignment of Lease nor the foregoing provisions shall limit Lessee's right to recover: (x) any duplicate payment made to the Mortgagee, whether due to computational or administrative error or otherwise, if the Mortgagee has received such payment; (y) all or any portion of a payment in excess of the amount then due under this Lease or otherwise owed by Lessee to Lessor under this Lease, if the Mortgagee has received such payment or amount; and (z) any amounts that have been paid to or are actually held by the Mortgagee that are required to be refunded to, repaid, or otherwise released to or for the benefit of Lessee under this Lease;

(vi) that no payment of Rent (other than payments required by this Lease to be paid to third parties) or delivery of such notices or other communications by Lessee shall be of any force or effect unless paid to the Mortgagee or delivered to the Mortgagee as provided above;

(vii) that Lessee shall not pay any Rent more than thirty 30 days prior to such payment's scheduled due date except as provided in this Lease;

(viii) that Lessee shall not enter into any agreement subordinating or (except as expressly permitted by the terms of this Lease as in effect on the date hereof) terminating this Lease without the prior written consent of the Mortgagee, and that any such attempted subordination or termination without such consent shall be void;

(ix) that Lessee shall not enter into any amendment or modification of this Lease without the prior written consent of the Mortgagee, and any such attempted amendment or modification without such consent shall be void;

(x) that if this Lease shall be amended, it shall continue to constitute collateral under the Mortgage without the necessity of any further act by Lessor, Lessee or the Mortgagee;

(xi) that except as expressly provided in this Lease, Lessee shall not take any action to terminate, rescind or avoid this Lease, notwithstanding, to the fullest extent permitted by law, the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution or other proceeding affecting Lessor or any assignee of thereof and notwithstanding any action with respect to this Lease which may be taken by an assignee, trustee or receiver of Lessor or of any such assignee or by any court in any such proceedings; and

(xii) that the Mortgagee is entitled to all rights and benefits, including without limitation rights to indemnification, specifically referencing the Mortgagee as set forth in this Lease, notwithstanding the fact that the Mortgagee is not a party to this Lease.

The parties acknowledge and agree that the Mortgagee shall be a third party beneficiary of the provisions contained in this Section.

### 15.3 Lessee Non-Recourse Obligations.

Lessee understands and agrees that Lessor, simultaneously with the execution of this Lease, shall enter into a loan agreement (such agreement, together with an associated First Mortgage and all other loan documents related thereto, are referred to herein as the "**Loan Documents**") with CTL Capital, LLC, as the Mortgagee under the First Mortgage, which shall hold a first-position lien against the Premises.

As the primary occupant and manager of the Premises under the terms of this Lease, and in order to ensure Lessee's continuous occupation of the Premises, Lessee further agrees to satisfy and perform all of the non-recourse obligations for the benefit of Lessor and each Mortgagee as contained in this Section as its own obligations. Lessee shall be primarily responsible to Lessor and each Mortgagee for the same as set forth in this Section and shall indemnify and defend Lessor against any and all losses related to any failure to perform the same. Accordingly, Lessee agrees not to cause or allow the following during the term of the Lease:

- (a) the retention of any insurance proceeds or condemnation awards in respect of the Premises, its rents or other pledged collateral to any Mortgagee, which are received by Lessee and not applied as provided herein;
- (b) any breach of a Hazardous Materials indemnity agreement which may be part of the Loan Documents or documents entered into in connection with a Mortgage other than the First Mortgage;
- (c) any amendment, termination or surrender of this Lease without the prior written consent of Lessor and each Mortgagee, other than a cancellation or termination under an express cancellation or termination right set forth in this Lease as of the date hereof or in an amendment consented to in writing by Lessor and each Mortgagee;
- (d) the filing of a voluntary petition under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law;
- (e) any party related to Lessee filing, or joining in the filing of, an involuntary petition against Lessor under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law which is not dismissed within thirty (30) days from the filing of such petition;
- (f) the filing of an answer or other document consenting to or acquiescing in any involuntary petition filed against Lessee by any other person (other than a Mortgagee) under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law;

- (g) any party related to Lessee consenting to or acquiescing in or joining in an application for the appointment of a custodian, receiver, trustee or examiner for the Premises;
- (h) an assignment for the benefit of creditors (other than for the benefit of a Mortgagee), or admission in writing (other than to a Mortgagee) of Lessee and/or Lessee's insolvency or inability to pay its debts as they become due;
- (i) any party related to Lessee taking any affirmative action with the intent to induce any other person, whether an affiliate or otherwise, to commence an involuntary petition against Lessee under the United States Bankruptcy Code or any other federal or state bankruptcy or insolvency law;
- (j) any physical waste on the Premises caused by the willful or wanton acts or omissions of Lessee, it being acknowledged that there shall be no recourse liability under this subsection 15.3(j) to the extent that any such violation was caused not by a voluntary act of Lessee but rather by: (A) insufficient revenue being generated by the Premises; (B) failure of Lessee, as tenant under this Lease, to take action for which it is responsible that would remediate such physical waste of the Premises (so long as Lessee is satisfying its obligations hereunder); (C) lack of access to revenues from the Premises as a result of a Mortgagee's exercise of its rights or remedies; or (D) the insolvency or capital adequacy of Lessee; or
- (k) the willful or grossly negligent material violation by Lessee of any law, ordinance, rule or regulation applicable to it or to the Premises, it being acknowledged that there shall be no recourse liability under this subsection 15.3(k) to the extent that any such violation was caused not by a voluntary act of the but rather by: (A) insufficient revenue being generated by the Premises; (B) lack of access to revenues from the Premises as a result of a Mortgagee's exercise of its rights or remedies; or (C) the insolvency or capital adequacy of Lessee.

16. LESSOR'S RIGHT OF ENTRY; PARKING; ROOF RIGHTS.

- (a) Lessor and its designees shall have the right to enter the Premises at any time during normal business hours in order to perform its obligations under this Lease, and any part of the Premises for any other reason on two (2) Business Days' advance notice and to inspect the same, post notices of non-responsibility, post notices required by Applicable Laws, exhibit the Premises to prospective purchasers and mortgagees, and examine Lessee's books and records pertaining to the Premises (including statements of cash flows and rent rolls), insurance policies, certificates of occupancy and other documents, records and permits in Lessee's possession with respect to the Premises, all of which shall be customary and adequate and reasonably satisfactory to Lessor; provided that Lessor's access hereunder shall not unreasonably interfere with Lessee's operations or any sublessee of a unit at the Premises.
- (b) Except as provided for in subsection (c) below, commencing on the Commencement Date Lessee shall have the exclusive use of all parking spaces related to the Premises at no extra charge to Lessee. The location of Lessee's parking spaces shall be designated in the Plans and Specifications. Subject to zoning approval, Lessee may designate all or any portion of the parking areas as reserved.



(c) Lessee shall have the exclusive right, at Lessee's expense, to install, access and maintain an antenna, satellite dish or other communications devices on the roof of the Buildings, subject to compliance with Applicable Laws, in a manner reasonably acceptable to Lessor and so as to not adversely affect the character of the Buildings. Lessee shall take all actions necessary to prevent any such installations from adversely affecting applicable warranties with respect to the roof, and will indemnify and hold harmless Lessor with respect to any actions which adversely affect such warranties.

17. NOTICES. Notices, statements, demands, or other communications required or permitted to be given, rendered or made by either party to the other pursuant to this Lease or pursuant to any applicable law or requirement of public authority, shall be in writing (whether or not so stated elsewhere in this Lease) and shall be deemed to have been properly given, rendered or made, when received by registered mail with return receipt or overnight courier delivery with receipt of delivery, or facsimile transmission with a confirmation copy sent by overnight courier delivery addressed to the other parties, as follows:

To Lessor:

Sterling HACSB, LLC  
[P.O. Box 2375  
Aspen, CO 81612]

With copies to:

Messner Reeves LLP  
c/o Torben M. Welch (UT)  
650 Town Center Drive, Suite 700  
Costa Mesa, California 92626

To Lessee:

Housing Authority of the County of San Bernardino  
715 East Brier Drive  
San Bernardino, CA 92408  
Attn: Executive Director

With copies to:

Thomas E. Lewis  
Law Office of Thomas E. Lewis  
806 West 19th Street  
Merced, CA 95340

18. ESTOPPEL CERTIFICATE; FINANCIAL DATA.

(a) At any time and from time to time, Lessee shall, within fifteen (15) days after written request by Lessor or a Mortgagee, execute, acknowledge and deliver to Lessor and/or such Mortgagee a certificate certifying: (i) that this Lease is unmodified and in full force and effect (or,

if there have been modifications, that this Lease is in full force and effect as modified, and stating the date and nature of each modification); (ii) the Commencement Date, the Lease Expiration Date and the date, if any, to which all Rent and other sums payable hereunder have been paid; (iii) the amount of Fixed Rent currently payable monthly; (iv) that no notice has been received by Lessee of any default by Lessee hereunder which has not been cured, except as to defaults specified in such certificate; (v) to Lessee's knowledge that Lessor is not in default under this Lease, except as to defaults specified in such certificate; and (vi) as to such other matters as may be reasonably requested by Lessor or any current or prospective purchaser or mortgage lender. Any such certificate may be relied upon by Lessor and any current or prospective purchaser or mortgage lender of the Premises or any part thereof.

(b) At any time and from time to time, Lessor shall, within fifteen (15) days after written request by Lessee, execute, acknowledge and deliver to Lessee a certificate certifying: (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the date and nature of each modification); (ii) the Commencement Date, the Lease Expiration Date and the date, if any, to which all Rent and other sums payable hereunder have been paid; (iii) the amount of Fixed Rent currently payable monthly; (iv) that no notice has been received by Lessor of any default by Lessee hereunder which has not been cured, except as to defaults specified in such certificate; (v) to Lessor's knowledge that Lessee is not in default under this Lease, except as to defaults specified in such certificate; and (vi) as to such other matters as may be reasonably requested by Lessee, any prospective assignee of this Lease or any other party then dealing with Lessee. Any such certificate may be relied upon by Lessee, any prospective assignee of this Lease or any other party then dealing with Lessee.

(c) Lessee shall provide to Lessor: (i) within 270 days after the end of each fiscal year of Lessee, annual audited financial statements of Lessee, prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and (ii) if prepared by Lessee, within 45 days after the end of each calendar quarter, unaudited quarterly financial statements of Lessee, certified by Lessee's chief financial officer, treasurer, controller or equivalent officer.

## 19. LIENS.

(a) Lessee shall not suffer or permit any mechanic's lien or other lien, security interest or encumbrance to be filed or recorded against the Premises, the Rent, equipment or materials supplied or claimed to have been supplied to the Premises, other than Permitted Encumbrances. If any such mechanic's lien or other lien or encumbrance shall at any time be filed or recorded against the Premises, or any portion thereof, Lessee shall cause the same to be discharged of record (by bonding off or otherwise) within forty-five (45) days after the date of filing or recording of the same or such longer period (not to exceed ninety (90) days) as may be reasonably required, provided that Lessee is diligently proceeding to address the same. However, in the event that Lessee desires to contest the validity of any lien, it shall: (i) on or before 60 days prior to the due date thereof (but in no event later than 30 days after the filing or recording thereof), notify Lessor in writing, that Lessee intends to so contest same; (ii) on or before the due date thereof, if such lien involves an amount in excess of \$50,000 or if any Mortgagee so requires, deposit with Lessor a bond or other security (in form and content reasonably satisfactory to Lessor and the Mortgagee)

for the payment of the full amount of such lien, and from time to time deposit additional security so that, at all times, adequate security will be available for the payment of the full amount of the lien together with all interest, penalties, costs and other charges in respect thereof.

(b) If Lessee complies with the foregoing, and Lessee continues, in good faith, to contest the validity of such lien in accordance with the requirements of Section 25, Lessee shall be under no obligation to pay such lien until such time as the same has been decreed, by court order, to be a valid lien on the Premises. Any surplus deposit retained by Lessor after the payment or discharge of the lien shall be repaid to Lessee. Lessee shall indemnify and defend Lessor and any Mortgagee against and save Lessor and any Mortgagee and the Premises, and any portion thereof, harmless from and against all losses, costs, damages, expenses, liabilities, suits, penalties, claims, demands and obligations, including without limitation, reasonable attorneys' fees, resulting from the assertion, filing, foreclosure or other legal proceedings with respect to any such mechanic's lien or other lien or the attempt by Lessee to discharge same as above provided.

(c) All materialmen, contractors, artisans, engineers, mechanics, laborers and any other Person now or hereafter furnishing any labor, services, materials, supplies or equipment to Lessor or Lessee with respect to the Premises, or any portion thereof, are hereby charged with notice that they must look exclusively to Lessee to obtain payment for the same. Notice is hereby given that Lessor shall not be liable for any labor, services, materials, supplies, skill, machinery, fixtures or equipment furnished or to be furnished to Lessee upon credit, and that no mechanic's lien or other lien for any such labor, services, materials, supplies, machinery, fixtures or equipment shall attach to or affect the estate or interest of Lessor in and to the Premises, or any portion thereof.

(d) In the event of the failure of Lessee to discharge any charge, lien, security interest or encumbrance as aforesaid, Lessor may, if not discharged by Lessee within three (3) Business Days after notice to Lessee, discharge such items by payment or bond or both, and Lessee will repay to Lessor upon demand, any and all amounts paid by Lessor therefor, or by reason of any liability on such bond, and also any and all incidental expenses, including reasonable attorneys' fees, actually incurred by Lessor in connection therewith, together with interest at the Overdue Rate.

## 20. END OF TERM.

### 20.1 Surrender.

(a) Upon the expiration or earlier termination of the Term of this Lease which shall not result in Lessee taking possession of the Premises as provided in Section 3, Lessee shall surrender the Premises to Lessor in the same condition and suitable for the same use in which the Premises were on the Commencement Date, except as repaired, rebuilt or altered as required or permitted by this Lease (or, in the case of termination pursuant to Section 12 herein, as condemned), and in all cases except for ordinary wear and tear, and shall surrender keys to the Premises to Lessor at the place then fixed for notices to Lessor and shall inform Lessor of all combinations on locks, safes and vaults, if any. Except as otherwise provided herein, Lessee shall at such time remove all of its property (including Lessee's Trade Fixtures). All property of Lessee not removed on or before the last day of the Term of this Lease shall be deemed abandoned. Lessor may remove all property of Lessee, including Lessee's Trade Fixtures, from the Premises upon termination of this Lease and cause its transportation and storage, at the sole risk of Lessee, and Lessor shall not be liable for



damage, theft, misappropriation or loss thereof in any manner in respect thereto and Lessor shall be entitled to dispose of such property, as Lessor deems fit, without the requirement of an accounting.

(b) If the Premises are not surrendered as above set forth, and such holdover continues for a period in excess of ninety (90) days, Lessee shall indemnify, defend and hold Lessor and any Mortgagee harmless from and against loss or liability resulting from the delay by Lessee in so surrendering the Premises, including, without limitation, any claim made by any succeeding occupant founded on such delay. Lessee's obligation to observe or perform this covenant shall survive the expiration or other termination of this Lease. If Lessee holds possession of the Premises after expiration of the Term of this Lease, Lessee shall become a Lessee from month to month upon the terms herein specified. Such month to month tenancy may be terminated by either Lessor or Lessee by giving 30 days' notice of termination to the other at any time. In addition to the foregoing, and in addition to the Additional Rent, Lessee shall pay to Lessor a sum equal to 125% of the Fixed Rent for the first month and 150% of the Fixed Rent payable hereunder immediately prior to the termination thereafter, during each month or portion thereof for which Lessee shall remain in possession of the Premises or any part thereof after the termination of the Term or of Lessee's rights of possession, whether by lapse of time or otherwise. The provisions of this subsection shall not be deemed to limit or constitute a waiver of any other rights or remedies of Lessor provided herein, at law or at equity.

(c) Except for surrender upon the expiration or earlier termination of the Term of this Lease which shall not result in Lessee taking possession of the Premises as provided in Section 3, no surrender to Lessor of this Lease or of the Premises shall be valid or effective unless agreed to and accepted in writing by Lessor and Mortgagee.

## 20.2 Return of Premises.

Lessee shall, upon the expiration or termination of this Lease which shall not result in Lessee taking possession of the Premises as provided in Section 3, and at its own expense, return the Premises to Lessor by surrendering the same into the possession of Lessor:

(a) free and clear of all liens, except Permitted Encumbrances and liens created or caused by Lessor or Lessor's Representatives; and

(b) in compliance with all Applicable Laws and in compliance with the maintenance conditions required by this Lease.

(c) Upon the return of the Premises, Lessee shall deliver therewith:

(i) all transferable licenses, permits and the like by general assignment, without warranty as to the transferability or otherwise and without recourse;

(ii) as-built drawings including plans for heating, ventilation and air conditioning, mechanical and electrical systems, to the extent in Lessee's possession or control;

(iii) keys to the Premises; and

(iv) an assignment of maintenance contracts designated by Lessor and existing warranties by general assignment, without warranty as to assignability or otherwise and without recourse.

(d) Lessee shall not be obligated to restore the Premises at the end of the Term. Lessee shall have the right, but not the obligation, to remove any of its trade or specialty fixtures, cabling, security system, phone equipment or other telecommunication equipment after the expiration of the Term or any earlier termination.

## 21. ALTERATIONS.

(a) Lessee shall not make any alterations, additions or improvements in or to the Premises or any part thereof, or attach any fixtures or equipment thereto, without Lessor's prior written consent. Notwithstanding the preceding sentence, Lessee may make such alterations, additions or improvements without Lessor's consent only if: (i) such alterations, additions or improvements will be in compliance with all Applicable Laws; (ii) such alterations, additions or improvements will not reduce the fair market value of the Premises, considered as unencumbered by this Lease or change the character or reduce the useful life of the Buildings or materially or adversely change the Buildings; (iii) such alterations, additions or improvements will not affect in any way the structural, exterior or roof elements of the Premises or mechanical, electrical, plumbing, utility or life safety systems of the Premises or require any material demolition, or cause an increase in the costs or obligations of Lessor; and (iv) such alterations are reasonably estimated to have a cost (with respect to any particular project) of less than \$100,000. Lessee shall give prior notice of any such alterations, additions or improvements (regardless of whether consent is required) to Lessor. In no event shall Lessee be permitted to install underground storage tanks or fuel systems on the Premises.

(b) All alterations, additions or improvements having a value of \$100,000 or greater proposed by Lessee and requiring Lessor's consent shall be made at Lessee's sole cost and expense as follows:

(i) Lessee shall submit to Lessor complete plans and specifications for all work to be done by Lessee. Such plans and specifications shall be prepared by the licensed architect(s) and engineer(s), shall comply with all Applicable Laws, shall not adversely affect the structural elements of the Buildings and shall be in a form sufficient to secure the approval of all government authorities with jurisdiction over the Premises.

(ii) With respect to alterations for which Lessor's approval is required, within ten (10) Business Days after receipt of the complete plans and specifications described above, Lessor shall notify Lessee in writing whether Lessor approves or disapproves such plans and specifications; and Lessor shall describe the reasons for any such disapproval. Lessor's failure to deliver a notice within the time period specified above approving or disapproving such plans and specifications shall be conclusively deemed Lessor's approval of such plans and specifications. Lessee may submit to Lessor revised plans and specifications for Lessor's prior written approval, which approval shall be granted if: (y) the work to be done would not, in Lessor's reasonable judgment, adversely affect the value, character, rentability or usefulness of the Premises or any part thereof; or (z) the work to be done shall be required by any Applicable Law. Lessee shall pay all costs,

including the fees and expenses of the licensed architect(s) and engineer(s), in preparing such plans and specifications.

(iii) All material changes in the plans and specifications required to be approved by Lessor shall be subject to Lessor's prior written approval, and changes not requiring Lessor's approval will be provided to Lessor prior to commencement of the construction described therein. For the purpose of this subsection a "material change" shall be one which: (y) exceeds \$100,000; and/or (z) adversely affects the structure or the building systems of the Buildings. If Lessee wishes to make a change in approved plans and specifications, Lessee shall have such architect(s) and engineer(s) prepare plans and specifications for such change and submit them to Lessor. For alterations requiring Lessor's approval, Lessor shall notify Lessee in writing promptly whether Lessor approves or disapproves such change; and, if Lessor disapproves such change, Lessor shall describe the reasons for disapproval. Lessee may submit to Lessor revised plans and specifications for such change for Lessor's written approval. Lessor's failure to respond within ten (10) days shall be deemed approval of the proposed change. After Lessor's written approval or deemed approval of such change, such change shall become part of the plans and specifications approved by Lessor.

(iv) Lessee shall obtain and comply with all building permits and other government permits and approvals required in connection with the work. Lessee shall, through Lessee's licensed contractor, perform the work in a good and workmanlike manner substantially in accordance with the plans and specifications prepared as set forth above. Lessee shall pay, as Additional Rent, the entire cost of all work (including the cost of all utilities, permits, fees, taxes, and property, worker's compensation and liability insurance premiums in connection therewith) required to make the alterations, additions or improvements. Under no circumstances shall Lessor be liable to Lessee for any damage, loss, cost or expenses incurred by Lessee on account of any plans and specifications, contractors or subcontractors, design of any work, construction of any work, or delay in completion of any work, whether or not Lessor had approved the plans and specifications.

(v) No Event of Default shall have occurred and be continuing prior to commencement of any such alterations.

(c) Lessee shall give written notice to Lessor of the date on which construction of any work to be done by outside contractors will be commenced at least ten (10) days prior to such date. Lessee shall keep the Premises free from mechanic's and materialmen's liens arising out of any work performed, labor supplied, materials furnished or other obligations incurred by Lessee in accordance with the requirements of Section 19.

(d) All alterations, additions, fixtures and improvements, whether temporary or permanent in character, made in or to the Premises by Lessee, shall become part of the Premises and Lessor's property. Termination of this Lease shall not affect the obligations of Lessor pursuant to this Section to be performed after such termination. Under no circumstances shall Lessee be required to remove any Lessee Improvements, alterations, additions or other improvements to the Premises made by Lessee.

22. MEMORANDUM OF LEASE. The parties shall promptly execute a Memorandum of Lease in recordable form, specifically identifying Lessee's Equity interest, and either of the parties shall have the right, without notice to the other party, to record such Memorandum of Lease.

23. SUBLETTING/ASSIGNMENT.

23.1 Rights and Obligations of Lessee.

(a) Lessee may not mortgage, pledge or otherwise encumber its interest in this Lease or in any sublease of the Premises or any part thereof or the rentals payable thereunder. Any such mortgage, pledge or encumbrance made in violation of this Section shall be void. Provided that no Event of Default has occurred and is continuing, Lessee may sublease individual units within the Premises in Lessee's complete and sole discretion and without Lessor's consent, and such interest of Lessee in this Lease may be assigned without Lessor's consent, provided that any such sublease or assignment shall expressly be subject and subordinate to the provisions of this Lease and no such sublease shall permit the tenant thereunder to pay rent in advance for a period of more than one (1) month, and provided, further, that no such sublease or assignment shall affect or reduce any obligations of Lessee or any rights of Lessor hereunder, and all obligations of the then current Lessee hereunder shall continue in full effect as the obligations of a principal and not of a guarantor or surety, to the same extent as though no assignment or sublease had been made. Notwithstanding the foregoing, nothing in this Lease shall be deemed as a restriction or requirement by Lessor of any sublease terms and conditions and, provided that all Rent is timely paid to Lessor and that no Event of Default has occurred and is continuing hereunder, Lessee shall be entitled to retain all proceeds of such subleases or assignments. If Lessee assigns its interest in this Lease, the assignee shall, in an instrument delivered to Lessor at the time of such assignment expressly assume all of the obligations of Lessee hereunder. Lessee shall, within ten (10) days after the execution of any such sublease or assignment, other than any sublease of individual units which is required to be maintained confidential under federal or state law, deliver an executed copy thereof to Lessor. This Lease shall not, nor shall any interest herein, be assignable as to the interest of Lessee involuntarily or by operation of law without the prior written consent of Lessor, and any such assignment without the prior written consent of Lessor shall be void and shall, at the option of Lessor, constitute a default that entitles Lessor to terminate this Lease, provided that a merger, consolidation or similar reorganization of Lessee where Lessee's obligations are assumed by the successor entity by operation of law shall not be deemed to be an assignment hereunder.

(b) No assignment or sublease whatsoever shall release Lessee from Lessee's obligations and liabilities under this Lease (which shall continue as the obligations of a principal and not of a guarantor or surety) or alter the primary liability of Lessee to pay all Rent and to perform all obligations to be paid and performed by Lessee, except in the event that such assignment or sublease is approved by Lessor. The acceptance of Rent by Lessor from any other person or entity shall not be deemed to be a waiver by Lessor of any provision of this Lease. If any assignee, subtenant or successor of Lessee defaults in the performance of any obligation to be performed by Lessee under this Lease, except in the event that such assignment or sublease is approved by Lessor, Lessor may proceed directly against Lessee without the necessity of exhausting remedies against such assignee, subtenant or successor.



(c) Lessee will be entitled to retain the profits, if any, of any sublease of part or all of the Premises and of any assignment of this Lease.

23.2 Assignment of Rents. Lessee hereby assigns to Lessor all security deposits and rents due or to become due from any subtenant, effective as of the date of the happening of an Event of Default under the provisions of this Lease. Thereupon, Lessor shall apply any net amount collected by it from subtenants to the Rent due under this Lease. No collection of Rent by Lessor from an assignee of this Lease or from a subtenant shall constitute a waiver of any of the provisions of this Section or an acceptance of the assignee or subtenant as a tenant or a release of Lessee from performance by Lessee of its obligations under this Lease. Lessee shall not directly or indirectly collect or accept any payment of subrent under any sublease more than one (1) month in advance of the date when the same shall become due. Each sublease shall require the subtenants to attorn to Lessor, at Lessor's request, in the event that Lessee shall default under this Lease. Upon default by Lessee under this Lease, Lessor shall have the right to require subtenants to make their rent payments directly to Lessor.

#### 24. HAZARDOUS MATERIAL.

(a) Lessee shall, with respect to any environmental issue first occurring on and after the punch list date (or in the case of any environmental issue caused by the acts or omissions of Lessor or Lessor's Representatives, at any time during the Term): (i) comply, and cause the Premises to comply, with all Environmental Laws applicable to the Premises (including the making of all submissions to governmental authorities required by Environmental Laws and the carrying out of any remediation program specified by such authority); (ii) prohibit the use of the Premises for the generation, manufacture, refinement, production, or processing of any Hazardous Material (as hereinafter defined) or for the storage, handling, transfer or transportation of any Hazardous Material (other than in connection with the operation, business and maintenance of the Premises and in commercially reasonable quantities as a consumer thereof and in compliance with Environmental Laws); (iii) not install or permit the installation on the Premises of any surface impoundments, underground storage tanks, pcb-containing transformers or asbestos-containing materials; and (iv) cause any alterations of the Premises to be done in a way so as to not expose in an unsafe manner the persons working in or visiting the Premises to Hazardous Materials, and in connection with any such alterations shall remove any Hazardous Materials present upon the Premises which are not in compliance with Environmental Laws or which present a danger to persons working in or visiting the Premises.

(b) Lessee shall protect, defend, indemnify and hold harmless Lessor, its direct and indirect members, partners, shareholders, beneficiaries, managers, Mortgagees, directors, officers, employees and agents, and any successors and assigns from and against any and all liability, including all foreseeable and all unforeseeable damages including but not limited to attorneys' and consultants' fees, fines, penalties and civil or criminal damages, and including loss of value, directly or indirectly arising out of the use, generation, storage, treatment, release, threatened release, discharge, spill, presence or disposal of Hazardous Materials by Lessee or its employees, officers, agents or contractors from, on, at, to or under the Premises during the Term of this Lease and first occurring on and after the Commencement Date, including without limitation, the cost of any required or necessary repair, response action, remediation, investigation, cleanup or detoxification and the preparation of any closure or other required plans, whether such action is

required or necessary prior to or following transfer of title to the Premises, except to the extent caused by: (i) Hazardous Materials migrating from property adjacent to the Premises (and such migration is not resulting from Lessee's or Lessee's Representatives' acts or omissions); (ii) the negligence or misconduct of Lessor or Lessor's Representatives; or (iii) any act or omission of Lessor or Lessor's Representatives which results in a violation of any Environmental Law. This agreement to indemnify and hold harmless shall be in addition to any other obligations or liabilities Lessee may have to Lessor at common law, under all Applicable Laws or otherwise, and shall survive, with respect to liability that accrues during the Term of this Lease, without limit of time. The representations, warranties and covenants made and the indemnities stated in this Lease are not personal to Lessor, and the benefits under this Lease shall be automatically assigned to subsequent parties in interest to the chain of title to the Premises and Mortgagees, which subsequent parties in interest may proceed directly against Lessee to recover pursuant to this Lease. Lessee, at its expense, may institute appropriate legal proceedings with respect to environmental matters of the type specified in this Section or any lien for such environmental matters, not involving Lessor or its Mortgagee as a defendant (unless Lessor or its Mortgagee is the alleged cause of the damage), conducted in good faith and with due diligence, provided that such proceedings shall not in any way impair the interests of Lessor or Mortgagee under this Lease or contravene the provisions of any First Mortgage. Counsel to Lessee in such proceedings shall be reasonably approved by Lessor if Lessor is a defendant in the same proceeding. Lessor shall have the right to appoint co-counsel, which co-counsel will cooperate with Lessee's counsel in such proceedings. The fees and expenses of such co-counsel shall be paid by Lessor unless such co-counsel are appointed because the interests of Lessor and Lessee in such proceedings, in such counsel's opinion, are or have become adverse, or Lessee or Lessee's counsel, in Lessor's reasonable judgment, is not conducting such proceedings in good faith or with due diligence, in which events the fees and expenses of such co-counsel shall be paid by Lessee.

(c) Lessee, upon not less than two (2) days' prior notice, shall permit such persons as Lessor or Mortgagee may designate and (unless an Event of Default has occurred and is continuing) approved by Lessee ("Site Reviewers") to visit the Premises from time to time and perform an environmental site investigation and assessment ("Site Assessment") on the Premises for the purpose of determining whether there exists on the Premises any environmental condition which may result in any liability, cost or expense to Lessor or any other owner or occupier of the Premises. Such Site Assessments may include both above and below the ground testing for environmental damage or the presence of Hazardous Materials on the Premises and such other tests on the Premises as may be necessary to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. Lessee shall supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and shall make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. Any such access or inspection by Lessor shall not unreasonably interfere with Lessee's operations or any unit sublessee or their respective uses of the Premises. Provided that, at the time that it orders a Site Assessment, Lessor has reasonable cause to believe that there may be a violation of Environmental Laws with respect to the Premises for which Lessee is responsible under this Section, or if an Event of Default has occurred and is continuing, the cost of performing and reporting such Site Assessment shall be paid by Lessee within 30 days after demand by Lessor. Lessor, promptly after written request by Lessee and payment by Lessee to the extent required as aforesaid, shall deliver

to Lessee copies of reports, summaries or other compilations of the results of such Site Assessments.

(d) Lessee shall notify Lessor in writing, promptly upon Lessee's learning thereof, of any:

(i) notice or claim to the effect that Lessee or any other Person is or may be liable to any Person as a result of the release or threatened release of any Hazardous Material into the environment from the Premises;

(ii) notice that Lessee or any other Person is subject to investigation by any governmental authority evaluating whether any remedial action is needed to respond to the release or threatened release of any Hazardous Material into the environment from the Premises;

(iii) notice that the Premises are subject to an environmental lien;

(iv) notice of violation to Lessee or awareness by Lessee of a condition which might reasonably result in a notice of violation of any applicable Environmental Law that could have a material adverse effect upon the Premises or the value of the Premises; or

(v) Release of Hazardous Materials on the Premises or presence of Hazardous Materials on the Premises in violation of Environmental Laws.

25. PERMITTED CONTESTS. Lessee shall not be required to: (i) pay any Imposition; (ii) comply with any Applicable Law; (iii) remove any lien or encumbrance; (iv) take any action with respect to any encroachment, hindrance, obstruction, violation or impairment referred to in this Lease; or (v) discontinue a particular use under Section 2(c) herein, so long as Lessee shall contest, in good faith and at its expense, the existence, the amount or the validity thereof, the amount of the damages caused thereby, or the extent of its liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent: (w) the collection of, or other realization upon, the tax, assessment, levy, fee, rent or charge or lien, encumbrance or charge so contested; (x) the sale, forfeiture or loss of the Premises, or any part thereof, or the Fixed Rent or any Additional Rent, or any portion thereof; (y) any interference with the use or occupancy of the Premises or any part thereof; and (z) any interference with the payment of the Fixed Rent or any Additional Rent, or any portion thereof. While any such proceedings are pending, Lessor shall not have the right to pay, remove or cause to be discharged the tax, assessment, levy, fee, rent or charge or encumbrance or charge thereby being contested. Each such contest shall be promptly prosecuted by Lessee to a final conclusion. Lessee shall pay, and save Lessor and the Mortgagee harmless against, any and all losses, judgments, decrees and costs (including all reasonable attorneys' fees and expenses) in connection with any such contest and shall, promptly after the final settlement, compromise or determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interests, costs and expenses thereof or in connection therewith, and perform all acts, the performance of which shall be ordered or decreed as a result thereof; provided, however, that nothing herein contained shall be construed to require Lessee to pay or discharge any lien, encumbrance or other charge created by any act or failure to act of Lessor or the payment of which by Lessee is not otherwise required hereunder, or to perform

any act which Lessee is not otherwise required to perform hereunder. No such contest may subject Lessor or the Mortgagee to the risk of any criminal or civil liability.

26. ENVIRONMENTAL.

26.1 Environmental Indemnification.

(a) Lessor represents, warrants and covenants to Lessee that the Premises will be free of Hazardous Materials in violation of Environmental Laws on the Commencement Date. Lessor agrees to indemnify Lessee and Lessee's Representatives and hold Lessee and Lessee's Representatives harmless with respect to all liabilities, costs and expenses (including reasonable attorney's fees) arising from: (a) the presence of Hazardous Materials on the Premises in violation of Environmental Laws on the Commencement Date; and (b) any violation of Environmental Laws with respect to the Premises at any time during the Term caused by Lessor or any of Lessor's Representatives. Lessor agrees to promptly remediate any condition for which Lessor is providing indemnification under this Section.

(b) Lessor shall notify Lessee in writing, promptly upon Lessor's learning thereof, of any:

(i) notice or claim to the effect that Lessor or any other Person is or may be liable to any Person as a result of the release or threatened release of any Hazardous Material into the environment from the Premises;

(ii) notice that Lessor or any other Person is subject to investigation by any governmental authority evaluating whether any remedial action is needed to respond to the release or threatened release of any Hazardous Material into the environment from the Premises;

(iii) notice that the Premises are subject to an environmental lien;

(iv) notice of violation to Lessor or awareness by Lessor of a condition which might reasonably result in a notice of violation of any applicable Environmental Law that could have a material adverse effect upon the Premises or the value of the Premises; or

(v) Release of Hazardous Materials on the Premises or presence of Hazardous Materials on the Premises in violation of Environmental Laws.

26.2 Contest Rights. Lessor may contest its obligations to cause the Buildings to comply with Applicable Laws and its obligations to provide environmental indemnification hereunder, provided that any such contest complies with the same requirements as are applicable to a contest by Lessee pursuant to Section 25.

27. MANAGEMENT.

(a) Lessor acknowledges that Lessee will act as manager of the Premises. Lessee may manage the Premises either through employees of Lessee or through "contract" or "out-sourced" employees who are employed by an independent employee outsourcing or management company but work at the Premises exclusively for Lessee. Lessee agrees to provide Lessor, to the extent prepared by Lessee, the following: (i) each manager's report of repairs and maintenance activity;



and (ii) each detailed operating statement for the Premises setting forth all items of operating income, expenses, insurance costs, utility changes and Taxes. At Lessor's request, Lessee shall also provide copies of service contracts, access to maintenance logs and utility usage charts and other material as reasonably requested by Lessor.

(b) In the event that Lessor reasonably determines that Lessee is not managing the Premises to a standard equivalent to similar apartment complexes in the San Bernardino County, California, Lessor may give Lessee notice to that effect, which notice will specify the items which Lessor believes are not being properly managed. Lessee will have thirty (30) days from receipt of such notice to correct any such deficiencies. In the event that Lessee fails to reasonably correct such deficiencies within such thirty (30) day period, Lessor may direct that Lessee cease managing the Premises, in which event either Lessor or another third party manager mutually agreeable to Lessor and Lessee will be engaged to manage the Premises. If Lessor is engaged to manage the Premises, it shall perform such services for the compensation set forth in the preceding paragraph.

28. ARBITRATION. Any dispute between Lessor and Lessee relating to this Lease shall be settled by arbitration, and any arbitration hereunder shall be conducted in accordance with the then prevailing rules of the American Arbitration Association, or the successor party thereto from time to time in existence. The fees and expenses of the arbitrator shall be divided equally between Lessor and Lessee. Lessor and Lessee shall each bear their own expenses (including, but not limited to, attorney's fees and expenses of witnesses) in any arbitration proceedings. The arbitration proceeding shall be held in San Bernardino, California.

If a dispute shall arise between the parties hereto, and the same is not resolved between the parties, such dispute shall be settled by arbitration pursuant to this Section. In such event, either party hereto may serve upon the other party a written notice demanding that the dispute be resolved pursuant to this Section. Within fifteen (15) days after the giving of such notice, the parties shall mutually agree to an arbitrator or, failing such agreement, an arbitrator shall be appointed by the American Arbitration Association under the expedited rules of the American Arbitration Association. The arbitrator selected must have substantial experience with respect to the general subject matter of the issue under dispute. The arbitrator shall afford to Lessor and Lessee a hearing and the right to submit evidence, with the privilege of cross-examination and the right to compel testimony by applying for subpoena powers to appropriate judicial authority, on the question at issue, and shall, with all possible speed, make a determination in writing and shall give notice to the parties hereto of such determination. The determination of the arbitrator shall be binding upon the parties hereto and shall be enforceable in any court having jurisdiction, without right of appeal.

## 29. MISCELLANEOUS PROVISIONS.

(a) This Lease and all of the covenants and provisions hereof shall inure to the benefit of, and be binding upon, the parties hereto and the heirs, personal representatives, successors and permitted assigns of the parties.

(b) The titles and headings appearing in this Lease are for reference only and shall not be considered a part of this Lease or in any way to modify, amend or affect the provisions thereof.

(c) This Lease contains the complete agreement of the parties with reference to the leasing of the Premises and may not be amended except by an instrument in writing signed by Lessor and Lessee and consented to by Mortgagee (if any). Any amendment not consented to by Mortgagee (if any) shall be void and have no force and effect.

(d) Any provision or provisions of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and the remaining provisions hereof shall nevertheless remain in full force and effect.

(e) This Lease may be executed in one or more counterparts and may be signed by each party on a separate counterpart, each of which, taken together, shall be an original, and all of which shall constitute one and same instrument.

(f) The term "Lessor" as used in this Lease shall mean only the owner or owners at the time in question of the leasehold estate to the Premises under this Lease. In the event of any transfer of such title or interest, Lessor named in this Lease (and in case of any subsequent transfers, the then grantor) shall be relieved from and after the date of such transfer of all liability as respects Lessor's obligations thereafter to be performed hereunder, provided that any funds in the hands of Lessor or the then grantor at the time of such transfer, in which Lessee has an interest, shall be delivered to the grantee. The obligations contained in this Lease to be performed by Lessor shall, subject as aforesaid, be binding on Lessor's successors and assigns, only during their respective periods of ownership.

(g) This Lease shall be governed by, and construed in accordance with, the laws of the State of California. Any action at law or in equity arising under this Lease or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, or any other court in that County, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

LESSOR AND LESSEE HEREBY SUBMIT TO NON-EXCLUSIVE PERSONAL JURISDICTION IN THE STATE OF CALIFORNIA AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE STATE OF CALIFORNIA (AND ANY APPELLATE COURTS TAKING APPEALS THEREFROM) FOR THE ENFORCEMENT OF SUCH PERSON'S OBLIGATIONS HEREUNDER AND WAIVE ANY AND ALL PERSONAL RIGHTS UNDER THE LAW OF ANY OTHER STATE TO OBJECT TO JURISDICTION WITHIN SUCH STATE FOR THE PURPOSES OF SUCH ACTION, SUIT, PROCEEDING OR LITIGATION TO ENFORCE SUCH OBLIGATIONS OF LESSEE OR LESSOR. WITH RESPECT TO A SUIT COMMENCED IN A COURT LOCATED IN THE STATE OF CALIFORNIA, LESSOR AND LESSEE HEREBY WAIVE AND AGREE NOT TO ASSERT, AS A DEFENSE IN ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS LEASE: (i) THAT IT IS NOT SUBJECT TO SUCH JURISDICTION OR THAT SUCH ACTION, SUIT OR PROCEEDING MAY NOT BE BROUGHT OR IS NOT MAINTAINABLE IN THOSE COURTS OR THAT IT IS EXEMPT OR IMMUNE FROM EXECUTION; (ii) THAT THE ACTION, SUIT OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM; OR (iii) THAT THE VENUE OF THE ACTION, SUIT OR PROCEEDING IS IMPROPER.

IN THE EVENT THAT ANY SUCH ACTION, SUIT, PROCEEDING OR LITIGATION IS COMMENCED, LESSOR AND LESSEE AGREE THAT SERVICE OF PROCESS MAY BE MADE, AND PERSONAL JURISDICTION OVER LESSOR AND LESSEE OBTAINED, BY SERVICE OF A COPY OF THE SUMMONS, COMPLAINT AND OTHER PLEADINGS REQUIRED TO COMMENCE SUCH LITIGATION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED UPON LESSOR AND LESSEE AT THE ADDRESS FOR NOTICE TO SUCH PERSON IN THIS LEASE.

(h) Any claim based on or in respect of any liability of Lessor under this Lease shall be enforced only against the Premises and not against any other assets, properties or funds of: (i) Lessor or Lessee or any manager, director, officer, shareholder, general partner, limited partner, or direct or indirect partners, employee or agent of Lessor or Lessee, respectively, or its managers (or any legal representative, heir, estate, successor or assign of any thereof); (ii) any predecessor or successor Person of Lessor or Lessee or its managers, either directly or through Lessor or its predecessor or successor Person of Lessor or its general partners; and (iii) any other Person.

(i) Without the written approval of Lessor and Lessee, no Person other than Lessor (including its direct and indirect partners), Mortgagee, Lessee and their respective successors and assigns shall have any rights under this Lease.

(j) There shall be no merger of the leasehold estate created hereby by reason of the fact that the same Person may own directly or indirectly: (i) the leasehold estate created hereby or any interest in this Lease or such leasehold estate; and (ii) the fee estate in the Premises. Notwithstanding any such combined ownership, this Lease shall continue in full force and effect until terminated by an instrument executed by both Lessor and Lessee.

(k) Without the prior written consent of the other party, neither Lessor nor Lessee will directly or indirectly, consolidate with or merge into any corporation, association, partnership or other business organization or permit any corporation, association, partnership or other business organization to consolidate with or merge into it, or sell or otherwise transfer all or substantially all of its properties and assets, or acquire all or substantially all of the assets of any corporation, association, partnership or other business organization or individual (collectively, "**Consolidation**"), unless: (i) the party that is subject to Consolidation shall be the entity surviving such Consolidation, or the surviving entity or transferee shall enter into an assumption of this Lease and the other agreements contemplated by this transaction in form and substance reasonably satisfactory to the other party; (ii) immediately prior to such action, no Event of Default shall have occurred and be continuing; and (iii) immediately after giving effect to such action, no Event of Default shall exist under this Lease as a consequence of such action.

(l) In the event of the termination of this Lease as herein provided, the obligations and liabilities of Lessor and Lessee, as the case may be, actual or contingent, under this Lease which arose at or prior to such termination shall survive such termination.

(m) This Lease is intended as, and shall constitute, a true lease, and Lessor and Lessee shall report their interests herein of accounting, tax and all other purposes as a true lease and shall not take any action or position inconsistent therewith.

(n) Lessor and Lessee agree to reasonably cooperate with each other, at Lessee's expense, in order to permit Lessee to attempt to obtain a sales tax exemption with respect to materials used in construction of the Improvements. Any sales tax savings resulting from such exemption shall be paid to (or retained by) Lessee at the time that the applicable sales taxes would otherwise have been payable.

(o) In the event that any Mortgagee reasonably requests changes, modifications or amendments to this Lease or otherwise requires additional documentation from Lessee as a condition to providing a loan to Lessor secured by a Mortgage on the Premises, Lessee agrees to make any such changes, modifications or amendments so long as they do not have a material adverse effect on the rights or obligations of Lessee hereunder or in any way increase the financial obligations of the Lessee hereunder.

(p) Lessor may grant easements, licenses, rights of way or similar rights, or release or amend any such easements or rights with respect to the Premises, so long that such actions do not interfere with the benefits or increase the duties of Lessee hereunder. Lessee agrees to reasonably cooperate with Lessor in connection therewith, at no cost to Lessee.

(q) From and after the Commencement Date, if performance of any obligation of Lessee or Lessor required hereunder, other than an obligation which can be accomplished by the payment of money, is prevented or substantially impeded by a strike, labor troubles, material shortages, riots, acts of God, including without limitation governmental preemption in connection with a national emergency, any rule, order or regulation of any department or subdivision of any government agency, conditions of supply and demand which are affected by war, an act of terrorism or any other emergency, the time given to a party to comply with such obligation shall be extended for the period of time equal to the period of delay resulting from any of the foregoing causes or events, provided that such party gives notice to the other party of the occurrence of such event describing the nature thereof, as promptly as is reasonably possible following discovery of the existence of such event.

(r) On or before the Commencement Date, Lessor shall pay the Lease Payment Reserve, the Lease Up Reserve, the Operating Reserve and the amount set forth in the definition of "Capital Replacement Reserve Account" in Section 1.1 to Lessee.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

LESSOR:

STERLING HACSB, LLC, a Wyoming limited liability company

*Harry Richard*

By: Harry Richard (Mar 20, 2025 11:20 MDT)

Name: Harry Richard

Title: Partner

LESSEE:

HOUSING AUTHORITY OF THE COUNTY  
OF SAN BERNARDINO

DocuSigned by:

*Maria Razo*

By: 3D3845B57CA34FE

Name: Maria Razo

Title: Executive Director

**EXHIBIT A**  
**Legal Description**

*3164 North Sterling Avenue, San Bernardino, California 92404*

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

[TO COME]

APN: 0272-372-59

**EXHIBIT B**  
**Permitted Encumbrances**

[TO COME]



# **EXHIBIT C** **Fixed Rent**

Fixed Rent during the Term shall be payable monthly in advance on the Commencement Date and thereafter on the first Business Day of each month. Each amount shown below other than the balloon payment shall be payable in twelve equal monthly installments:

<b>Year</b>	<b>Rent Per Year*</b>	<b>Monthly Amount</b>
0 <sup>†</sup>	\$ 320,000.00	\$ N/A
1	609,682.00	50,806.83
2	633,764.00	52,813.67
3	658,798.00	54,899.83
4	684,820.00	57,068.33
5	711,871.00	59,322.58
6	739,990.00	61,665.83
7	769,219.00	64,101.58
8	799,604.00	66,633.67
9	831,188.00	69,265.67
10	864,020.00	72,001.67
11	898,149.00	74,845.75
12	933,625.00	77,802.08
13	970,504.00	80,875.33
14	1,008,839.00	84,069.92
15	1,048,688.00	87,390.67
16	1,090,111.00	90,842.58
17	1,133,170.00	94,430.83
18	1,177,930.00	98,160.83
19	1,224,459.00	102,038.25
20	1,272,825.00	106,068.75
21	1,323,101.00	110,258.42
22	1,375,364.00	114,613.67
23	1,429,691.00	119,140.92
24	1,486,164.00	123,847.00
25	1,544,867.00	128,738.92
26	1,605,889.00	133,824.08
27	1,669,322.00	139,110.17
28	1,735,260.00	144,605.00
29	1,803,803.00	150,316.92
30	1,875,053.00	156,254.42
31	1,949,118.00	162,426.50
32	2,026,108.00	168,842.33
33	2,106,139.00	175,511.58
34	2,189,332.00	182,444.33



35	2,275,810.00	189,650.83
36	2,365,705.00	197,142.08
37	2,459,150.00	204,929.17
38	2,556,286.00	213,023.83
39	2,657,260.00	221,438.33
40	2,762,221.00	230,185.08

\* Rent is paid monthly in advance as per the lease terms. Each payment shown above shall be payable in twelve equal monthly installments, as shown in the "Monthly Amount" column.

† Lessee may elect to make an initial rent payment up to the amount shown, with the exact amount to be determined by Lessee in its discretion, in a single lump sum on the Commencement Date. Such payment shall entitle Lessee to Lessee's Equity in an amount equal to the proportion of such payment to Lessor's purchase price for the Premises. By way of example only, if such payment is \$320,000 and Lessor's purchase price for the Premises is \$10,400,000, Lessee shall be entitled to Lessee's Equity of  $\$320,000 \div \$10,400,000$ , or 3.08%.

**EXHIBIT D**  
**Reserves Schedule**

1. Capital Replacement Reserve – \$[ ] on the Commencement Date, paid by Lessor to Lessee, to be replenished by Capital Replacement Annual Deposits made by Lessee of \$650.00 per unit per year, increasing by 3.95% annually, for capital replacements.
2. Lease Payment Reserve – \$304,841 on the Commencement Date, paid by Lessor to Lessee, for rent payment shortfalls by sublessees or other purposes.
3. Lease Up Reserve – \$149,715 on the Commencement Date, paid by Lessor to Lessee, for rent accommodations to sublessees or other purposes.
4. Operating Reserve – \$91,570 on the Commencement Date, paid by Lessor to Lessee, for operating expenses or other purposes.
5. Working Capital Reserve – \$266,950 on the Commencement Date, paid by Lessor to Lessee, for operating deficits.







# Lease-Aspen-HACSB-Sterling Avenue 2025-4938-4754-1533-v7-signed

Final Audit Report

2025-03-20

Created:	2025-03-20
By:	Marc Schreiber (palmbeachmarc@gmail.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdwa0rMWuT0RW1VhDwCTjdF2eJ95Hr6km

## "Lease-Aspen-HACSB-Sterling Avenue 2025-4938-4754-1533-v7-signed" History

-  Document created by Marc Schreiber (palmbeachmarc@gmail.com)  
2025-03-20 - 5:09:00 PM GMT- IP address: 73.14.3.140
-  Document emailed to arefanalyst@outlook.com for signature  
2025-03-20 - 5:15:01 PM GMT
-  Email viewed by arefanalyst@outlook.com  
2025-03-20 - 5:15:28 PM GMT- IP address: 104.47.51.126
-  Signer arefanalyst@outlook.com entered name at signing as Harry Richard  
2025-03-20 - 5:20:08 PM GMT- IP address: 187.199.237.55
-  Document e-signed by Harry Richard (arefanalyst@outlook.com)  
Signature Date: 2025-03-20 - 5:20:10 PM GMT - Time Source: server- IP address: 187.199.237.55
-  Agreement completed.  
2025-03-20 - 5:20:10 PM GMT

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**April 8, 2025**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Delinquent landlord accounts for the Housing Services Programs to be Written Off as Collection Loss.

## **RECOMMENDATION(S)**

Approve delinquent landlord accounts for the Housing Services Programs to be written off as collection losses.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The write-off of these accounts receivable is \$56,123.00. Each year, the Housing Authority budgets for these types of write-offs as a provision for bad debt.

## **BACKGROUND INFORMATION**

The Housing Authority of the County of San Bernardino maintains collections efforts with landlords. The landlord collections are typically due to Housing Assistance Payments being paid after an assisted tenant vacated the premises without notice. When a landlord leaves program participation owing money to the agency, the department continues collection efforts. Collection efforts include attempting to recoup outstanding debt from other tenant accounts when the debt is not paid in full after 30 days. In the event there are no other tenant accounts to recover the debt from, the landlord will be disqualified from participating in the Housing Choice Voucher program until the debt is fully satisfied. If collection efforts fail, the debt is referred to the collection agency.

All the debts listed are from former landlords where the Housing Authority's efforts to collect the remaining balances were unsuccessful. The total amount does not include former landlord account balances that the Housing Authority is currently working to collect. The total write-off for landlords is \$56,123.00. These landlord debts span several previous years as we are conducting a cleanup process of removing landlord debts owed to HACSB. The dates of the debts may vary for this reason. This is part of a new recurring process to address and resolve outstanding landlord debts. These accounts will be referred to a collection agency for further action. Attached is a report that itemizes the individual accounts.

## **PROCUREMENT**

Not applicable

## **REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on March 21, 2025.

Housing Authority of the County of San Bernardino  
COLLECTION WRITE-OFFS: HOUSING SERVICES PROGRAMS

Former Landlords

Program	Vendor Code	Last Name	First Name	tcode	Total Owed	Status	Delinquency Date	Owner Status
310110		R	D		\$ 232.00	Delinquent	05/01/23	Past
310300		W	N/A		\$ 2,724.00	Delinquent	11/01/21	Past
310300		W	N/A		\$ 10,840.00	Delinquent	03/01/22	Past
310300		D	D		\$ 2,952.00	Delinquent	06/01/22	Past
310300		A	S		\$ 3,625.00	Delinquent	08/01/23	Past
310300		F	H		\$ 778.00	Delinquent	07/01/23	Past
310300		L	H		\$ 532.00	Delinquent	10/01/17	Past
310300		A	N/A		\$ 532.00	Delinquent	05/01/18	Past
310300		R	J		\$ 1,450.00	Delinquent	05/01/18	Past
310300		M	J		\$ 717.00	Delinquent	12/01/17	Past
310300		B	B		\$ 782.00	Delinquent	06/01/18	Past
310300		B	B		\$ 874.00	Delinquent	06/01/18	Past
310300		H	J		\$ 363.00	Delinquent	06/01/18	Past
310300		H	J		\$ 555.00	Delinquent	06/01/18	Past
310350		T	S		\$ 10,680.00	Delinquent	08/01/19	Past
310350		A	N/A		\$ 2,500.00	Delinquent	02/01/18	Past
310370		G	E		\$ 1,097.00	Delinquent	11/01/17	Past
310370		G	E		\$ 984.00	Delinquent	11/01/17	Past
310371		T	C		\$ 711.00	Delinquent	11/30/22	Past
316057		C	A		\$ 862.00	Delinquent	08/31/23	Past
316059		J	N/A		\$ 1,972.00	Delinquent	09/30/21	Past
340067		H	N/A		\$ 10,361.00	Delinquent	04/30/24	Past
TOTAL:					\$ 56,123.00			

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**April 8, 2025**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Meeting Minutes for the Special Meeting Held on March 17, 2025

**RECOMMENDATION(S)**

Approve the meeting minutes for the special meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on March 17, 2025.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**  
**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there are no financial impacts associated with this item.

**BACKGROUND INFORMATION**

The HACSB Board of Commissioners (Board) Special Meeting took place on March 17, 2025, and attached are the meeting minutes for review and recommended approval by the Board.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 3, 2025.

**MINUTES OF THE SPECIAL MEETING OF THE BOARD OF COMMISSIONERS OF  
THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO  
March 17, 2025**

The Board of Commissioners of the Housing Authority of the County of San Bernardino met for a special meeting at the Administration Office, at 715 East Brier Drive, San Bernardino, California at 3:06 p.m. on March 17, 2025.

Details of the meeting discussion can be obtained through the recording of the Board of Commissioners meeting through a Public Records Request submitted in person or through the HACSB website: <https://hacsb.com/public-records-request/>

**1) Call to Order and Roll Call**

The meeting was called to order, and upon roll call, the following were present:

Chair-Cooper  
Vice-Chair MacDuff  
Commissioner Miller  
Commissioner Thomas  
Commissioner Johnson  
Commissioner Jain

Also in attendance were Maria Razo, Executive Director; Kristin Maithonis, Director of Housing Services; Nicole Beydler, Director of Policy and Communications; Jesse Diaz, Director of Business Services; Jennifer Dawson, Director of Administrative Services; Lucy Leslie, Director of Housing Communities; Angie Lardapide, Procurement and Contracts Supervisor; John Moore, Director of Development; Renee Kangas, Sr. Management Analyst; Armando Salazar, Management Analyst; Eduardo Martinez, Asset Management Supervisor and Rebekah Castellanos, Talent Acquisition Specialist.

Also present, was Fred Galante, Legal Counsel to the Housing Authority.

**2) Additions or Deletions to the Agenda**

Chair Cooper called for additions or deletions to the March 17, 2025, agenda. The Executive Director requested for item #8 to be tabled to the next board meeting because the attachments were missing from the board packet.

**3) General Public Comment**

Chair Cooper provided an opportunity for members of the public to address the Board of Commissioners. There were none.

**4) Introduction and welcome of new board member**

Executive Director did the introduction and welcome to Commissioner Jain.

Discussion and formal introductions amongst the Board of Commissioners took place regarding the welcome of new board member Commissioner Jain.



**5) Executive Director's Report**

The Executive Director's Report was requested.  
Executive Director provided the Executive Director's Report.

Discussion amongst the Board of Commissioners took place regarding the Executive Director's Report for March 17, 2025.

**6) Board Building Presentation for March 17, 2025**

Discussion calendar item number 6, to receive the board building presentation for March 17, 2025, a recap of the Housing Authority of the County of San Bernardino's legislative Capitol Hill visits, was requested

Executive Director explained the item.

Director of Policy and Communications, Nicole Beydler, further explained the item and presented the board building presentation.

Discussion amongst the Board of Commissioners took place regarding the discussion calendar item number 6.

**7) Revision of the Administrative Plan Governing the Housing Authority of the County of San Bernardino's Rental Assistance Programs**

Discussion calendar item number 7, to adopt Resolution No. 207 approving revisions to the Administrative Plan governing the Housing Authority of the County of San Bernardino's rental assistance programs, was requested.

Executive Director explained the item.

Commissioner Miller moved to approve discussion calendar item number 7, as recommended by staff and Commissioner Johnson seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

Ayes

Chair-Cooper  
Vice-Chair MacDuff  
Commissioner Miller  
Commissioner Thomas  
Commissioner Johnson  
Commissioner Jain

Nays

**8) Revisions to the Admissions and Continued Occupancy Policy of the Housing Authority of the County of San Bernardino**

Discussion calendar item number 8, to adopt Resolution No. 208 approving revisions to the Admissions and Continued Occupancy Policy governing the Housing Authority of the County of San Bernardino, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Due to the absence of the attachment, which was not included in the board packet provided to the team, this item was tabled. The matter will be addressed at the next prescheduled Board of Commissioners meeting.

**9) Collection Losses for Delinquent Accounts of Housing Services Programs for the month of December 2024**

Discussion calendar item number 9, to approve the write-off of delinquent accounts for the Housing Services Program as collection losses for the month of December 2024, was requested.

Discussion amongst the Board of Commissioners took place regarding the discussion calendar item number 9.

Commissioner Miller moved to approve discussion calendar item number 9, as recommended by staff and Commissioner MacDuff seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstained</u>
Chair-Cooper		
Vice-Chair MacDuff		
Commissioner Miller		
Commissioner Thomas		
Commissioner Johnson		
Commissioner Jain		

**10) Appropriations Increase for Temporary Employment Services – Maintenance**

Discussion calendar item number 10, to 1) Approve an increase in appropriations, effective March 18, 2025, for temporary employment services – maintenance in the amount of \$200,000 for an overall amount not to exceed \$600,000, 2) Approve Amendment No. 1 to Contract No. PC1314, effective March 18, 2025, for temporary employment services – maintenance with AtWork Personnel Services and HB Staffing to exercise the first option year through June 30, 2026 was requested.

Commissioner Johnson moved to approve discussion calendar item number 10, as recommended by staff and Commissioner Thomas seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstained</u>
Chair-Cooper		
Vice-Chair MacDuff		
Commissioner Miller		
Commissioner Thomas		
Commissioner Johnson		
Commissioner Jain		

**11) Extension of Project-Based Voucher Program Housing Assistance Payments Contract with HACSB Andalusia Apartments, LLC for No Child Left Unsheltered Program**

Discussion calendar item number 11, to 1) Approve a contract extension of the Project-Based Voucher Program Housing Assistance Payments Contract with HACSB Andalusia Apartments, LLC for nine No Child Left Unsheltered Program units, for an additional one-year period from April 1, 2025 through March 31, 2026, 2) Authorize and direct the Executive Director to execute and deliver the contract extension to HACSB Andalusia Apartments, LLC, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Commissioner Miller moved to approve discussion calendar item number 11, as recommended by staff and Commissioner Jain seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

<u>Ayes</u>	<u>Nays</u>
Chair-Cooper	
Vice-Chair MacDuff	
Commissioner Miller	
Commissioner Thomas	
Commissioner Johnson	
Commissioner Jain	

**12) Extension of Project-Based Voucher Program Housing Assistance Payments Contract with HACSB Hampton Court, LLC for the No Child Left Unsheltered Program**

Discussion calendar item number 12, to 1) Approve a contract extension of the Project-Based Voucher Program Housing Assistance Payments Contract with HACSB Hampton Court, LLC for four No Child Left Unsheltered Program units, for an additional one-year period from April 1, 2025 through March 31, 2026, 2) Authorize and direct the Executive Director to execute and deliver the contract extension to HACSB Hampton Court, LLC, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Commissioner Miller moved to approve discussion calendar item number 12, as recommended by staff and Commissioner Jain seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

Ayes

Chair-Cooper  
Vice-Chair MacDuff  
Commissioner Miller  
Commissioner Thomas  
Commissioner Johnson  
Commissioner Jain

Nays

**13) Extension of Project-Based Voucher Program Housing Assistance Payments Contract with HACSB Sunset Gardens Apartments, LLC for the No Child Left Unsheltered Program**

Discussion calendar item number 13, to 1) Approve a contract extension of the Project-Based Voucher Program Housing Assistance Payments Contract with HACSB Sunset Gardens Apartments, LLC for four No Child Left Unsheltered Program units, for an additional one-year period from April 1, 2025 through March 31, 2026, 2) Authorize and direct the Executive Director to execute and deliver the contract extension to HACSB Sunset Gardens Apartments, LLC, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Commissioner Miller moved to approve discussion calendar item number 13, as recommended by staff and Commissioner Jain seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

Ayes

Chair-Cooper  
Vice-Chair MacDuff  
Commissioner Miller  
Commissioner Thomas  
Commissioner Johnson  
Commissioner Jain

Nays

**14) Contract for Fuel and Fleet Maintenance of Agency Vehicles with San Bernardino County Fleet Management Department**

Discussion calendar item number 14, to 1) Approve Contract PC1393, effective April 29, 2025, with San Bernardino County's Fleet Management Department in an amount not to exceed \$495,000, for a three-year base period through April 29, 2028, with options to extend the contract for up to two single-year extensions through April 29, 2030, 2) Authorize and direct the Executive Director to execute and deliver any related documents, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Commissioner Johnson moved to approve discussion calendar item number 14, as recommended by staff and Commissioner Miller seconded the motion. Upon roll call vote, the Ayes and Nays were as follows:

Ayes

Chair-Cooper

Vice-Chair MacDuff

Commissioner Miller

Commissioner Thomas

Commissioner Johnson

Commissioner Jain

Nays

**15, 16, and 17) Consent Calendar**

Approval of the consent calendar including agenda item numbers 15-17 was requested.

Commissioner Johnson moved to approve consent calendar agenda item numbers 15-17,

15) Approve the meeting minutes for the special meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on February 18, 2025.

16) Approve and file Agency-wide Financial Statements through November 2024.

17) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of December 2024.

The motion was duly seconded by Commissioner Miller.

Upon roll call vote, the Ayes and Nays were as follows:

Ayes

Chair-Cooper

Vice-Chair MacDuff

Commissioner Miller

Commissioner Thomas

Commissioner Johnson

Commissioner Jain

Nays

Chair Cooper provided an opportunity for individual board member comments. There were none.

There being no other business, Commissioner Miller moved for the annual meeting of Monday, March 17, 2025, to be adjourned, and which motion was duly seconded by Commissioner Thomas. There being no objection to the call for adjournment, the meeting was adjourned by unanimous consent at 4:41 p.m.

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Beau Cooper, Chair

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Cassie MacDuff, Vice Chair

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Tim Johnson

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Sylvia Miller

Minutes of the Special Meeting of the Board of Commissioners of the Housing Authority of the  
County of San Bernardino for March 17, 2025

Page 7

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Michael Thomas

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Sid Jain

Attest:

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Secretary

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**April 8, 2025**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Agency-wide Financial Statements through December 2024**

## **RECOMMENDATION(S)**

Approve and file Agency-wide Financial Statements through December 2024.  
(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The Housing Authority of the County of San Bernardino's (HACSB) year-to-date agency-wide net loss through December 2024 for Federal Fiscal Year (FFY) 2024-25 is (\$738,729). This net loss is currently lower than the budgeted net loss of (\$1,156,965) with a variance of \$418,236. A draw from HACSB HUD Held Reserves (HHR) will be used to cover the budgeted loss of \$1.2 million. The actual draw amount will be based on actuals but is estimated to be the budgeted amount of \$1.2 million. Further explanation on HHR is listed in the section below.

The \$418,236 variance between the budgeted and the actual net income is due to the variance of gains and losses to the budget, such as:

- The HCV program received \$3.3 million more in Housing Assistance Payment (HAP) funding from HUD when compared to the budgeted amount. HACSB expects to receive all HAP funds that were awarded, but the actual funds that are received are based on prior months' HAP expenses. This causes a variance between the amount of funding budgeted, and the amount received.
  - An annual reconciliation between the amount of HAP funding received and the amount that should have been received is performed by HUD and HACSB. This reconciliation determines the difference between the authorized funding amount and the actual funding received.
    - If the authorized funding exceeds the amount that HACSB received, the difference is deposited into a restricted HUD Held Reserve (HHR) account which can be used for future eligible expenses, with HUD's approval.
    - If the funds HACSB receives more than the authorized funding amount, a withdrawal is made from HHR.
- Conversely, the HCV program experienced an increase in HAP costs in the amount of \$2 million. This was mainly due to rising rents. Unlike the funding in the HCV program, HAP is not budgeted at a 100% lease rate. It is budgeted based on an estimated lease rate for



the year, estimated available funding per federally approved appropriations, and on approved use of restricted HAP HUD held reserves.

- Physical needs work was \$1.1 million less than budgeted. This amount is reflected in the extraordinary maintenance line on the financial statements and the variance is due to delays in projects due to higher than expected costs and the need to value engineer or rebid said projects.
- The total amount of Other Income revenue is \$1.5 lower than the budgeted \$3.3 million. This is due to a delay in the residual receipts calculation for 2024. We expect that this calculation will be done by the end of the fiscal year.
- Depreciation expenses are not budgeted and amount to \$1.2 million. This is not a cash transaction and is based on the accrual accounting procedures required by GAAP that reduce the value of fixed assets over time. Non-cash transactions like depreciation are important and required as they impact an agency's financial statements, but not its cash flow.

The information provided is based on unaudited information. During the audit process, revenue and expenses are typically adjusted and we expect a material amount of expenses related to the pension and Other Post Employment Benefit (OPEB) plans to be recognized during this process. This will lead to a decrease in the operating net income. The audited financial report will be provided to the Board of Commissioners once the audit process has been completed. The audit process will be completed in late June 2025 for the prior fiscal year which is when the audited financial statements are submitted to HUD.

Financial Summary	FY 2025 YTD
Revenues	\$63,779,939
Expenses	\$(63,359,080)
Operating Net Income/(Loss)	\$420,859
Operating Transfers/Non-Operating Items	\$(1,159,588)
<b>Net Income/(Loss)</b>	<b>\$(738,729)</b>

### **BACKGROUND INFORMATION**

HACSB administers multiple housing programs and is the largest provider of affordable housing in the County of San Bernardino. The FFY 2024-25 budget and financial operations continue to support the vision and mission of HACSB and are in line with its Strategic Plan and Moving to Work Annual Plans. Overall, HACSB has demonstrated fiscal stability even through the challenges presented by delays in the federal budget process.

We continue to focus on maintaining the agency's fiscal stability, customer service, innovation, best practices, partnerships that will assist our staff and families, and show a continued passion for our agency's mission.

Based on HUD's guidance to routinely present key information to HACSB's Board of Commissioners, HACSB is presenting the financial statements monthly.

### **PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on April 3, 2025.

## HACSB Budget Comparison

Period = Oct 2024-Dec 2024

	YTD Actual	YTD Budget	Variance	% Var	Annual
INCOME					
TENANT INCOME					
Total Rental Income	8,952,755	8,437,583	515,171	6.11	33,745,895
Total Other Tenant Income	180,108	149,788	30,319	20.24	595,147
NET TENANT INCOME	9,132,862	8,587,372	545,491	6.35	34,341,043
GRANT INCOME					
TOTAL GRANT INCOME	52,911,203	49,227,795	3,683,408	7.48	196,976,041
OTHER INCOME					
TOTAL OTHER INCOME	1,735,873	3,251,650	-1,515,777	-46.62	9,007,913
TOTAL INCOME	63,779,939	61,066,816	2,713,122	4.44	240,324,996
EXPENSES					
GRANT EXPENSES					
TOTAL GRANT EXPENSES	2,833,184	2,494,995	-338,189	-13.55	10,044,842
ADMINISTRATIVE					
Total Administrative Salaries	4,155,825	4,475,223	319,399	7.14	18,659,130
Total Legal Expense	126,728	162,181	35,453	21.86	648,657
Total Other Admin Expenses	1,856,759	2,166,487	309,728	14.30	8,444,201
Total Miscellaneous Admin Expenses	1,061,962	1,015,067	-46,895	-4.62	3,097,127
TOTAL ADMINISTRATIVE EXPENSES	7,201,274	7,818,958	617,684	7.90	30,849,115
TENANT SERVICES					
TOTAL TENANT SERVICES EXPENSES	17,644	49,425	31,782	64.30	179,867
UTILITIES					
TOTAL UTILITY EXPENSES	1,092,186	1,208,374	116,189	9.62	4,839,943
MAINTENANCE AND OPERATIONS					
Total General Maint Expense	1,124,889	968,483	-156,406	-16.15	3,982,483
Total Materials	384,881	289,125	-95,756	-33.12	1,152,934
Total Contract Costs	1,388,041	1,141,804	-246,237	-21.57	4,558,556
TOTAL MAINTENANCE EXPENSES	2,897,810	2,399,412	-498,398	-20.77	9,693,972
GENERAL EXPENSES					
TOTAL GENERAL EXPENSES	828,283	638,847	-189,435	-29.65	2,394,281
EXTRAORDINARY MAINTENANCE EXPENSES					
TOTAL EXTRAORDINARY MAINTENANCE EXPENSES	916,166	2,059,712	1,143,546	55.52	6,583,396
HOUSING ASSISTANCE PAYMENTS					
TOTAL HOUSING ASSISTANCE PAYMENTS	47,058,728	45,039,002	-2,019,726	-4.48	180,156,007
FINANCING EXPENSE					
TOTAL FINANCING EXPENSES	513,806	515,055	1,249	0.24	2,087,990
TOTAL OPERATING EXPENSES	63,359,079	62,223,781	-1,135,299	-1.82	246,829,414
<b>OPERATING NET INCOME</b>	<b>420,859</b>	<b>-1,156,965</b>	<b>1,577,824</b>	<b>136.38</b>	<b>-6,504,418</b>
NET OPERATING TRANSFER IN/OUT	0	0	0	N/A	0
NON-OPERATING ITEMS					
TOTAL NON-OPERATING ITEMS	1,159,588	0	-1,159,588	N/A	0
NET INCOME	-738,729	-1,156,965	418,236	36.15	-6,504,418

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**April 8, 2025**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss for the Month of January 2025

## **RECOMMENDATION(S)**

Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of January 2025.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The accounts receivable loss for the month ending January 31, 2025, is \$73,422.97. The Housing Authority of the County of San Bernardino (HACSB) projects and anticipates collection losses in its annual budget.

## **BACKGROUND INFORMATION**

On a monthly basis, HACSB records vacated tenant accounts for the Authority Owned Portfolio for the purpose of being written off to collection losses. Authority Owned Portfolio units are owned by HACSB and were either acquired or developed through a variety of partnerships with local governments and/or HACSB's non-profit affiliate Housing Partners I, Inc., and include public housing developments converted through the United States Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program.

Despite HACSB's efforts to collect the debts listed in the attached reports, it has been determined that such debts are uncollectible. As part of HACSB's standard property management business practices, Board of Commissioners approval is requested to write off these accounts as accounts receivable losses to the Authority Owned Portfolio. Losses during this time period (January 1 – January 31, 2025) are primarily for voluntary move-outs and evictions. The total write-off for the month of January 2025 is \$73,422.97, as delineated in the following table. Attached is a worksheet that itemizes the individual accounts.

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss  
for the Month of January 2025  
April 8, 2025

**SUMMARY FOR HACSB- Authority Owned Properties**

<b>PROPERTY</b>	<b>NO. VACATED</b>	<b>TOTAL</b>
481130- Maplewood	1	258.00
481172- Bighorn	1	7,721.00
481174- Yosemite	1	7,911.00
402 - Summit Place	1	303.00
403 - Summit Walk	1	14,758.00
407 - Sunset Pointe	2	810.00
408 - Sunrise Vista	4	17,896.65
409 - Andalusia	2	9,146.78
416 - Arrowhead	4	3,314.00
428 - Charlemagne	0	-
437 - Sunset Gardens	0	-
467 - Hillcrest	1	793.81
490 - Northport	0	-
Concessions Write Off		-
<b>TOTAL RENT WRITE OFF</b>	18	62,912.24
Miscellaneous Charges		2,316.37
Maintenance Charges		9,519.36
Legal Charges		8,840.00
Security Deposits Applied		(10,165.00)
<b>NET TOTAL WRITE OFF</b>		73,422.97

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss  
for the Month of January 2025  
April 8, 2025

**PROCUREMENT**

Not applicable

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on March 21, 2025.

# Housing Authority County of San Bernardino

COLLECTION WRITE OFFS - Authority Owned Portfolio

Month End: 01/31/25

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
481130- Maplewood													
1	B	E		D	272.00	258.00		50.00	340.00		612.00	250.00	398.00
2													
TOTALS:						258.00	-	50.00	340.00	-	612.00	250.00	398.00
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
1	N/A										01/30/25		
2													
481172- Bighorn													
1	H	K		E	1,297.00	7,721.00		626.45	850.00		9,197.45	540.00	8,657.45
2													
TOTALS:						7,721.00	-	626.45	850.00	-	9,197.45	540.00	8,657.45
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
1	Notice to Pay or Quit	03/07/24	Posted	04/10/24	06/01/24	N		N/A	01/14/24		01/14/25		
2													
481174- Yosemite													
1	M	M		E	891.00	7,911.00			2,240.00		10,151.00	800.00	9,351.00
2													
TOTALS:						7,911.00	-	-	2,240.00	-	10,151.00	800.00	9,351.00
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
1	Notice to Pay or Quit	05/07/24	Posted	06/14/24	8/1/2024	N		N/A	01/14/25		01/14/25		
2													

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc.: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.



# Housing Authority County of San Bernardino

COLLECTION WRITE OFFS - Authority Owned Portfolio

Month End: 01/31/25

402 - Summit Place														
1	D	M		V	1,815.00	303.00			450.00		753.00	600.00	153.00	
							-				-		-	
TOTALS:						303.00		-	-	450.00	-	753.00	600.00	153.00
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date			
1											01/05/25			

403 - Summit Walk													
2	R	A		E	1,955.00	14,758.00	-	50.00	1,838.36	1,500.00	18,146.36	800.00	17,346.36
							-	-			-	-	-
TOTALS:						14,758.00	-	50.00	1,838.36	1,500.00	18,146.36	800.00	17,346.36
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
2	Notice to Pay or Quit	07/09/24	Posted	08/23/24	08/26/24	N/A		N/A	12/17/24		12/17/24		

407 - Sunset Pointe													
3	L	L		V	1,200.00	523.00		11.00	1,169.00		1,703.00	100.00	1,603.00
4	M	D		T	957.00	287.00			300.00		587.00	500.00	87.00
TOTALS:					810.00		-	11.00	1,469.00	-	2,290.00	600.00	1,690.00
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
3											01/09/25		
4	Notice to Pay or Quit	01/09/25	Posted	N/A							01/09/25		

408 - Sunrise Vista														
	5	B	M		E	875.00	4,052.00		44.98	1,198.00	1,340.00	6,634.98	400.00	6,234.98
	6	W	L		E	876.00	7,826.00		732.35	646.46	1,500.00	10,704.81	876.00	9,828.81
	7	L	H		E	1,400.00	2,862.65		251.59	302.00	1,500.00	4,916.24	600.00	4,316.24
	8	O	P		E	1,100.00	3,156.00			575.00	1,500.00	5,231.00	500.00	4,731.00
								-			-	-		-
TOTALS:						17,896.65		-	1,028.92	2,721.46	5,840.00	27,487.03	2,376.00	25,111.03
Item #	Type of Notice		Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
5	Notice to Pay or Quit		07/22/24	Posted	07/22/24	08/23/24	N			01/21/25		01/21/25		
6	Notice to Pay or Quit		07/22/24	Posted	07/22/24	10/18/24	Y		12/05/24	01/28/25		01/28/25		
7	Notice to Pay or Quit		09/24/24	Posted	09/24/24	09/29/24	Y		01/23/25	turned in keys to avoid lock out		01/30/25		
8	Notice to Pay or Quit		07/22/24	Posted	07/22/24	08/29/24	Y		10/31/24	01/21/25		01/21/25		

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc.: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE OFFS - Authority Owned Portfolio

Month End: 01/31/25

409 - Andalusia													
9	C	R							(1,500.75)		(1,500.75)		(1,500.75)
10	S	J							(200.00)		(200.00)		(200.00)
11	M	G		V	1,800.00	358.00			1,778.24		2,136.24	1,800.00	336.24
12	H	M		T	1,272.00	8,788.78		300.00	518.05		9,606.83	799.00	8,807.83
											-		-
TOTALS:					9,146.78	-	300.00	595.54	-	10,042.32	2,599.00	7,443.32	
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date			
9	Payment on bad debt												
10	Payment on bad debt												
11											01/06/25		
12	Notice to Pay or Quit	09/06/24	Posted	11/20/24	N/A						01/15/25		

416 - Arrowhead													
13	F	L		D	1,550.00	453.00		50.00	174.00		677.00	400.00	277.00
14	E	A		E	1,550.00	2,308.00		50.00	654.00	1,500.00	4,512.00	200.00	4,312.00
15	H	T		D	1,550.00	266.00		50.00	114.00		430.00	400.00	30.00
16	M	H		D	1,550.00	287.00		50.00	114.00		451.00	200.00	251.00
TOTALS:					3,314.00	-	200.00	1,056.00	1,500.00	6,070.00	1,200.00	4,870.00	
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date			
13	N/A										01/15/25		
14	Notice to pay or Quit	07/15/24	Posted	08/15/24	08/26/24	N		N/A	12/13/24		12/13/24		
15	N/A										12/31/24		
16	N/A										12/31/24		

428 - Charlemagne													
17	G	C							(285.00)		(285.00)		(285.00)
											-		-
TOTALS:					-	-	-	(285.00)	-	(285.00)	-	(285.00)	
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date			
17	Payment on bad debt												

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc.: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE OFFS - Authority Owned Portfolio

Month End: 01/31/25

437 - Sunset Gardens												
18	S	D					-		(500.00)		(500.00)	(500.00)
							-				-	-
TOTALS:						-	-	-	(500.00)	-	(500.00)	(500.00)
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date	
18	Payment on bad debt											

467 - Hillcrest												
19	E	C		V	747.00	793.81		50.00	552.00		1,395.81	995.81
											-	-
TOTALS:						793.81	-	50.00	552.00	-	1,395.81	995.81
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date	
19											01/15/25	

490 - Northport												
20	C	A							(1,808.00)		(1,808.00)	(1,808.00)
											-	-
TOTALS:						-	-	-	(1,808.00)	-	(1,808.00)	(1,808.00)
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date	
20	Adjustment to previous month write off											

ALL PROPERTY TOTALS:						62,912.24	-	2,316.37	9,519.36	8,840.00	83,551.97	10,165.00	73,422.97
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\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc.: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.