

**TRUST INDENTURE**

THIS TRUST INDENTURE, dated \_\_\_\_\_, ~~2019~~2020, by and between the COLLIER COUNTY HOUSING AUTHORITY, a public body corporate and politic of the State of Florida (the "Issuer"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee (the "Trustee");

WITNESSETH:

WHEREAS, in and by the Enabling Instrument (hereinafter defined), the Issuer has determined to deposit with the Trustee the proceeds of the Bonds (hereinafter defined) as payment of portions thereof shall from time to time be received by the Issuer from the Government (hereinafter defined) and such other amounts as hereinafter provided, and has determined that it is in the best interest of the Issuer and its economy to provide for the temporary investment of such moneys pending the application thereof to payment of Costs of the Project (each as hereinafter defined), and has authorized the execution and delivery by the Issuer of this Indenture,;

NOW, THEREFORE, in consideration of the purchase of the Bonds by the Government and of the mutual covenants and agreements herein contained, the Issuer and the Trustee agree as follows:

1. Definitions. As used herein, the following terms shall have the following meanings, unless the text clearly otherwise requires:

"Bonds" shall mean the Housing Revenue Bond, Series ~~2019~~2020, of the Issuer authorized to be issued in a principal amount not exceeding \$1,500,000, pursuant to Section 2.01 of the Enabling Instrument.

"Chairman" shall mean the Chairman or Vice Chairman of the Issuer.

"Construction Account" shall mean the Construction Account created pursuant to Section 2 hereof.

"Cost" when used in connection with the Project, shall mean all expenses necessary, appurtenant, or incidental to the acquisition, construction, and erection of the Project, including without limitation the cost of any land or interest therein or of any fixtures, equipment, or personal property necessary or convenient therefor; the cost of labor and materials to complete such construction; architectural, engineering, and legal expenses; fiscal expenses; expenses for estimates of costs and of revenues; expenses for plans, specifications, and surveys; interest during construction; administrative expenses related solely to the acquisition, construction, and erection, of the Project; and all expenses incident to the financing of the Project and the issuance of the Bonds.

"Enabling Instrument" shall mean Resolution No. 19-~~06~~01, adopted by the Issuer on ~~June 18~~, 2019, as amended and supplemented, authorizing the acquisition, construction, and erection of the Project and authorizing the issuance of the Bonds, for the purpose of providing funds to pay a part of the Cost of the Project.

"Expenses" shall mean the fees and expenses of the Trustee in connection with its performance of its duties and services hereunder.

"Federal Securities" shall mean direct obligations of the United States of America and obligations the principal of and interest on which are fully guaranteed by the United States of America, none of which permit redemption prior to maturity at the option of the obligor.

"Government" shall mean the United States of America, acting through the U.S. Department of Agriculture, Rural Development.

"Government's Representative" shall mean the Person from time to time designated as such by written notice to the Trustee signed on behalf of the Government by an authorized representative of the Government.

"Indenture" shall mean this Trust Indenture.

"Issuer" shall mean the Collier County Housing Authority, a public body corporate and politic of the State of Florida.

"Issuer's Representative" shall mean the Person from time to time designated as such by written notice to the Trustee signed on behalf of the Issuer by the Chairman or the Secretary.

"Person" shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

"Project" shall mean the additions, extensions, and improvements to the Issuer's existing low-rent multifamily housing units and appurtenant facilities for low-income domestic farm labor to be financed with the proceeds of the Bonds and constructed pursuant to the authorization contained in the Enabling Instrument in accordance with certain plans and specifications now on file with the Secretary, together with any and all additions, extensions, and improvements thereto hereafter constructed or acquired.

"Secretary" shall mean the Secretary or Assistant Secretary of the Issuer.

"Trustee" shall mean U. S. Bank National Association, a national banking association.

2. Disposition of Bond Proceeds. The Issuer covenants and agrees to deposit with the Trustee the proceeds of the sale of the Bonds, as each portion thereof shall from time to time be received by the Issuer from the Government, the Issuer's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties, and all proceeds of insurance compensating for damages to the Project during the period of construction, which shall be held by the Trustee in trust and applied solely in the manner hereinafter provided. The Trustee agrees that all such moneys so deposited with the Trustee shall be deposited by the Trustee in the Construction Account, hereby created, and applied by the Trustee as hereinafter provided. The wire/ACH transfer instructions for the Trustee are attached hereto as Exhibit A and amounts shall be transferred to the Trustee in accordance with such instructions until such time as different instructions shall be provided by the Trustee in writing.

3. Lien and Security. Moneys in the Construction Account shall be continuously secured by the Trustee in accordance with U.S. Treasury Department Circular 176 and, if required, and not inconsistent with U.S. Treasury Department Circular 176, in the manner prescribed by the laws of the State of Florida relating to the securing of public funds. The moneys in the Construction Account, until applied in payment of any item of the Cost of the Project, shall be held in trust by the Trustee, subject to a prior lien and charge in favor of the holders of the Bonds and for the further security of such holders.

4. Application of Construction Account Moneys. The Trustee shall make payments from the Construction Account to pay the Cost of the Project upon receipt by the Trustee of a Requisition For Payment substantially in the form attached hereto as Exhibit B (upon which the Trustee may conclusively rely and shall be protected in relying without any investigation) signed by the Issuer's Representative and approved by the Government's Representative, stating with respect to each payment to be made: (A) the requisition number, (B) the name and address of the Person to whom payment is due, (C) the amount to be paid, and (D) that each obligation, item of cost, or expense mentioned therein has been properly incurred, is a proper charge against the Construction Account, and has not been the basis of any previous withdrawal, or that each obligation, item of cost, or expense mentioned therein has been paid by the Issuer, is a proper charge against the Construction Account, has not been theretofore reimbursed to the Issuer or otherwise been the basis of any previous withdrawal, and that the Issuer is entitled to reimbursement thereof.

For three years from the date thereof, each requisition submitted to the Trustee pursuant to this Indenture shall be retained by the Trustee, subject to inspection by the Issuer, its agents, and representatives and the holders of any of the Bonds and their respective agents and representatives.

Upon the completion of the portion of the Project to be financed with the proceeds of the Bonds, the Issuer's Representative shall provide the Trustee with a written certification stating that such portion of the Project has been completed and, to the extent any funds remain on deposit in the Construction Account, such amounts shall be paid by the Trustee to the Issuer for application by the Issuer in the manner provided in the Enabling Instrument, and the Trustee shall have no further responsibility with respect thereto after making such payment. Simultaneously with such payment the Trustee shall certify to the Issuer the proper expenditure of the proceeds of the Bonds. In connection with such certification, the Trustee may conclusively rely on the Issuer's representations and the requisitions received by the Trustee pursuant to this Section 4.

5. Investment of Construction Account Moneys. The Issuer expects all moneys in the Construction Account will be immediately applied to pay Costs of the Project upon receipt of such moneys from the Government. In the event any moneys are deposited in the Construction Account and are not so immediately applied, if such moneys are needed within the next 90 days for payment of any item of the Cost of the Project such moneys shall be held in cash and not invested by the Trustee. Any moneys on deposit in the Construction Account not needed for the next 90 days for payment of any item of the Cost of the Project shall be invested by the Trustee in Federal Securities maturing not later than the date or dates such funds shall be needed for the payment of the items of the Cost of the Project or for application otherwise as herein provided. Unless the Trustee receives a written notice from the Issuer containing information as to the expected date any deposits into the Construction Account will be spent, the Trustee shall be entitled to assume that such deposited amounts will be needed within 90 days of each such deposit. All such Federal Securities shall be designated to the Trustee by written instrument signed on behalf of the Issuer by the Chairman or the Secretary. The Chairman and the Secretary are hereby authorized to determine the specific investments to be made hereunder, upon the advice of the Issuer's fiscal agent and/or such other advice or information as the Chairman or the Secretary shall deem to be reliable. All interest and other income derived from investments of Construction Account moneys shall be deposited by the Trustee into the Construction Account. The Trustee may rely conclusively upon written instructions of the Issuer signed by the Chairman or the Secretary as to the dates when moneys are needed and shall not be liable or responsible for determining such dates in the absence of such written instructions. The Issuer acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the Issuer the right to receive brokerage confirmations of security transactions as they occur, the Issuer

waives receipt of such confirmations. The Trustee shall furnish to the Issuer periodic statements which include detail of all investment transactions made by the Trustee.

6. Expenses. The Trustee's annual fee of \$[1,000] is payable by the Issuer in advance of each year upon delivery by the Trustee of an invoice to the Issuer. The first annual fee is payable on the date of issuance of the Bonds. In the event the Issuer fails to pay any Expenses of the Trustee upon receipt of an invoice, the Trustee shall be entitled to pay to itself from moneys in the Construction Account all Expenses which shall then be due and payable to the Trustee hereunder.

7. Reinvestment. Except as provided in this section and Section 5 hereof, the Trustee shall have no power or duty to invest any funds held by it under this Indenture or to sell, transfer, or otherwise dispose of or make substitutions for any Federal Securities held hereunder.

Upon receipt by the Trustee of written instructions signed on behalf of the Issuer by the Chairman or the Secretary, the Trustee shall sell, transfer, otherwise dispose of, or request the redemption of any of the Federal Securities acquired hereunder and shall purchase other Federal Securities to be substituted for such Federal Securities disposed of or redeemed.

Notwithstanding the foregoing, the Trustee shall not be responsible or liable for any loss suffered in connection with any investments if such investments are made in accordance with written instructions of the Issuer.

8. Indemnity. Whether or not any action or transaction authorized or contemplated hereby shall be undertaken or consummated, the Issuer hereby agrees, to the extent permitted by law, to indemnify, protect, save, and keep harmless the Trustee and its respective successors, assigns, agents, and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses, and disbursements (including legal fees and attorneys' disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against the Trustee at any time, whether or not the same may be indemnified against by the Issuer or any other Person under any other agreement or instrument, by reason of or arising out of the execution and delivery of this Indenture, the establishment of the Construction Account, the acceptance by the Trustee of the funds herein described, the purchase, retention, or disposition of the Federal Securities or the proceeds thereof, or any payment, transfer, or other application of funds or securities by the Trustee in accordance with the provisions of this Indenture; provided, however, that the Issuer shall not be required to indemnify the Trustee for any expense, loss, costs, disbursements, damages, or liability resulting from its own negligence or willful misconduct. The indemnities contained in this section shall survive the termination of this Indenture.

Nothing in this section contained shall give rise to any liability on the part of the Issuer in favor of any Person other than the Trustee.

9. Duties and Responsibilities of Trustee. The Trustee is authorized to exercise trust powers and, accordingly, is granted the power to execute the trust hereby created. All officers, employees, and agents of the Trustee who shall exercise any of the powers or duties of the Trustee under this Indenture shall be bonded in the manner provided by the law. The Trustee and its respective successors, assigns, agents, and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, by reason of the execution and delivery of this Indenture, the establishment of the Construction Account, the acceptance and disposition of the various moneys and funds described herein, or the purchase, retention, or disposition of the Federal Securities in accordance with the provisions of this Indenture or by reason of any non-negligent act, omission, or error of the Trustee made in good faith in the conduct of its duties. The Trustee shall, however,

be liable to the Issuer and to holders of the Bonds to the extent of their respective damages for negligent or willful acts, omissions, or errors of the Trustee which violate or fail to comply with the terms of this Indenture. The duties and obligations of the Trustee shall be determined by the express provisions of this Indenture and no duties or obligations shall be implied to the Trustee. The Trustee may consult with counsel, who may or may not be counsel to the Issuer, and in reliance upon the opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered, or omitted by it in good faith in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Indenture, such matter may be deemed to be conclusively established by a certificate signed on behalf of the Issuer by the Chairman or the Secretary.

10. Resignation of Trustee. The Trustee may resign and thereby become discharged from the duties and obligations hereby created, by notice in writing given to the Issuer and the holders of the Bonds and published once not less than 60 days before such resignation shall take effect, in a newspaper of general circulation in the area of operation of the Issuer. The costs of such publication shall be borne by the Issuer and the determination of the appropriate newspaper shall be made by the Issuer. Such resignation shall take effect immediately upon the appointment of a new Trustee hereunder, if such new Trustee shall be appointed before the time limited by such notice and shall then accept the duties and obligations of the Trustee hereunder.

11. Removal of Trustee. The Trustee may be removed at any time upon 30 days prior notice by an instrument or concurrent instruments in writing, executed by the holders of not less than 51% in aggregate principal amount of the Bonds then outstanding, such instrument or instruments to be filed with the Issuer, and published by the Issuer once not less than 60 days before such removal shall take effect, in a newspaper of general circulation in the area of operation of the Issuer. A photographic copy of any instrument filed with the Issuer under the provisions of this paragraph shall be delivered by the Issuer to the Trustee.

The Trustee may also be removed at any time by any court of competent jurisdiction upon the application of the Issuer or the holders of not less than 5% in aggregate principal amount of the Bonds then outstanding, for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties or obligations of the Trustee.

12. Successor Trustee. If at any time hereafter the Trustee shall resign, be removed, be dissolved, or otherwise become incapable of acting, or shall be taken over by any governmental official, agency, department, or board, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, the Issuer shall appoint a successor Trustee to fill such vacancy. The Issuer shall publish notice of any such appointment once in each week for four successive weeks in a newspaper of general circulation in the area of operation of the Issuer.

At any time within 60 days after such vacancy shall have occurred, the holders of not less than 51% in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing, executed by such holders and filed with the Issuer, may appoint a successor Trustee, which successor Trustee appointed by such holders shall supersede any successor Trustee theretofore appointed by the Issuer. Photographic copies of each such instrument shall be promptly delivered by the Issuer to the predecessor Trustee and to the Trustee so appointed by the holders.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this section, the holder of any Bond then outstanding or the retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its municipal corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation, or transfer to which it is a party, or any successor Trustee appointed in accordance with this Indenture, ipso facto shall be and become successor Trustee hereunder and vested with all of the title to all the trusts, powers, discretions, immunities, privileges, and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

13. Term. This Agreement shall commence upon its execution and delivery and shall terminate when all items of the Cost of the Project shall have been paid and the Issuer has provided the Trustee with the completion certification required under Section 4 hereof.

14. Severability. If any of the covenants, agreements, or provisions of this Indenture on the part of the Issuer or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant, agreement, or provision shall be null and void, shall be deemed separable from the remaining covenants, agreements, and provisions of this Indenture, and shall in no way affect the validity of the remaining covenants, agreements or provisions of this Indenture.

15. Counterparts. This Indenture may be executed in several counterparts, all or any of which shall be regarded for all purposes as the original and shall constitute and be but one and the same instrument.

16. Governing Law. This Indenture shall be construed under the laws of the State of Florida.

[\[Remainder of page intentionally left blank\]](#)

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be executed by their duly authorized signatories and the Issuer has caused its corporate seal to be hereunto affixed as of the date first above written.

(SEAL)

COLLIER COUNTY HOUSING AUTHORITY

By: \_\_\_\_\_  
~~Chairman~~  
Chair

ATTEST:

By: \_\_\_\_\_  
Secretary

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
~~Chairman~~  
Authorized Officer

~~IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be executed by their duly authorized signatories and the Issuer has caused its corporate seal to be hereunto affixed as of the date first above written.~~

COLLIER COUNTY HOUSING AUTHORITY

~~(SEAL)~~

\_\_\_\_\_  
By: \_\_\_\_\_  
Chairman

ATTEST:

By: \_\_\_\_\_  
Secretary

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

\_\_\_\_\_  
By: \_\_\_\_\_  
Chairman

EXHIBIT A

WIRE/ACH TRANSFER INSTRUCTIONS FOR TRUSTEE

U.S. Bank National Association  
777 E. Wisconsin Avenue  
Milwaukee, WI 53202-5300  
Attn: Eric H. Le

ABA: 091000022  
A/C #: 104790063440  
A/C Name: CT Florida/Incoming Wire  
FFC: Collier County Housing Authority



EXHIBIT B

REQUISITION FOR PAYMENT

REQUISITION NO.: No. \_\_\_\_\_

DATE OF ADVANCE: \_\_\_\_\_, 20\_\_

PRINCIPAL AMOUNT: \$\_\_\_\_\_

TO: U.S. Bank National Association, as Trustee

You are hereby authorized and directed, pursuant to the provisions of that certain Trust Indenture dated \_\_\_\_\_, 20192020 (the "Trust Indenture"), between you and the Collier County Housing Authority (the "Issuer"), in connection with the Issuer's Housing Revenue Bond, Series 20192020, dated \_\_\_\_\_, 20192020 (the "Bond"), to receive an advance on the Bond in the amount of the above-referenced Principal Amount from Rural Development, the purchaser of the Bond (which advance shall be recorded on books and records of the holder of the Bond and the Issuer, and thereby become a portion of the principal due and owing under the Bond). The Issuer hereby certifies that each obligation, item of cost, or expense specified herein has been properly incurred, is a proper charge against the Construction Account, and has not been the basis of any previous withdrawal, or that each obligation, item of cost, or expense specified herein has been paid by the Issuer, is a proper charge against the Construction Account, has not been theretofore reimbursed to the Issuer or otherwise been the basis of any previous withdrawal, and that the Issuer is entitled to reimbursement thereof. By this Requisition, you are hereby authorized and empowered to deposit into the Construction Account described in Trust Indenture, and pay directly to the payee specified below on behalf of the Issuer, the amount herein specified without any further action on the part of the Issuer.

COLLIER COUNTY HOUSING AUTHORITY

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

USDA, RURAL DEVELOPMENT

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Construction Account: (see attached)

Payee Information: (see attached)

\$\_\_\_\_\_

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

Document comparison by Workshare 10.0 on Tuesday, February 4, 2020 2:40:04 PM

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Description	Trust Indenture
Rendering set	Standard

<b>Legend:</b>	
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Style change	
Format change	
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Inserted cell	
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Padding cell	

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Moved to	0
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