

## **ITEM 1: COVER PAGE**

**OTAY VILLAGE III MANAGER, LLC  
OTAY VILLAGE 8 MANAGER, LLC**

**1903 Wright Place, Suite 220  
Carlsbad, CA 92008**

**PART 2A OF FORM ADV  
FIRM BROCHURE**

**August 11, 2021**

**This brochure (the “Brochure”) provides information about the qualifications and business practices of Otay Village III Manager, LLC and Otay Village 8 Manager, LLC (collectively, “Otay Village Manager”). If you have any questions about the contents of this Brochure, please contact Erin Ruhe, Otay Village Manager’s Chief Compliance Officer (“CCO”), at (760) 918-8200 or [eruhe.eb5@hfc-ca.com](mailto:eruhe.eb5@hfc-ca.com). The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.**

**Any reference to Otay Village Manager as a registered investment adviser does not imply a certain level of skill or training.**

**Additional information about Otay Village Manager is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

## **ITEM 2: MATERIAL CHANGES**

Since Otay Village Manager's initial Brochure dated May 27, 2021, the CCO's email address has been updated, which has been reflected on the cover page of this Brochure. There are no additional material changes to report.

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## **ITEM 4: ADVISORY BUSINESS**

### **Item 4.A. General Description of Advisory Firm**

Otay Village III Manager, LLC (“**Otay Village III Manager**”) and Otay Village 8 Manager, LLC (“**Otay Village 8 Manager**”), a relying adviser, each a Delaware limited liability company, were formed in 2016 and 2018 respectively. Otay Village III Manager and Otay Village 8 Manager operate as a single advisory business (collectively, “**Otay Village Manager**”). Otay Village III Manager and Otay Village 8 Manager are both solely owned by HomeFed LLC (“**HomeFed**”), whose sole owner is Jefferies Financial Group, Inc.

### **Item 4.B. Description of Advisory Services**

Otay Village Manager is an investment advisory firm that provides advisory services on a discretionary basis to privately offered pooled investment vehicles, Otay Village III Lender, LLC (“**Otay Village III Fund**”) and Otay Village 8 Lender, LLC (“**Otay Village 8 Fund**”), and together with Otay Village III Fund, the “**Funds**” and each a “**Fund**”). Interests in the Funds are offered to certain qualified and/or accredited investors (each an “**Investor**” and collectively, the “**Investors**”). Otay Village III Manager and Otay Village 8 Manager serve as general partners to the respective Funds.

Otay Village Manager solely manages EB-5 investment funds which provide financing for real estate development projects managed by affiliates of HomeFed. Please see Item 8.A. for additional information regarding Otay Village Manager’s investment strategy.

### **Item 4.C. Availability of Customized Services for Individual Clients**

Otay Village Manager’s investment management and advisory services to the Funds are provided pursuant to the terms of the Funds’ offering memorandum and other offering documents, subscription agreements, operating agreements, or other governing documents (collectively, the “**Governing Documents**”). Investors cannot obtain services tailored to their individual specific needs.

Otay Village Manager may enter into certain side letter arrangements with certain Investors providing such Investors with different or preferential rights or terms, including but not limited to, modified fee and other economic arrangements with respect to particular Investors, information and reporting rights, transfers to affiliates, withdrawal rights due to adverse tax or regulatory events (but limited by requirements of the EB-5 Program (defined below)), and consent rights to obtain certain Fund agreement amendments.

### **Item 4.D. Wrap Fee Programs**

Otay Village Manager does not participate in a wrap fee program.

#### **Item 4.E. Regulatory Assets Under Management**

As of May 12<sup>th</sup>, 2021, Otay Village Manager managed \$205,602,915 in regulatory assets under management. Otay Village Manager manages its assets solely on a discretionary basis.

### **ITEM 5: FEES AND COMPENSATION**

#### **Item 5.A. Description of Compensation Arrangements**

As outlined in each Fund's Governing Documents, Otay Village Manager will receive a processing fee (the "**Processing Fee**") with respect to each Investor upon investment, to pay for or reimburse organizational expenses and marketing costs, commissions and fees to placement agents in connection with each Fund's offering and Investors' participation in such offering. Otay Village III Manager is entitled to a Processing Fee of 10% of an Otay Village III Fund Investor's capital contribution amount (initially \$50,000) and Otay Village 8 Manager is entitled to a Processing Fee of \$65,000 from an Otay Village 8 Fund Investor.

Otay Village Manager will also receive an annual fee for Fund administration and immigration workflow services equal to the relevant Fund's out-of-pocket, per-Investor cost (the "**Funds Administration Cost**"). The Funds Administration Cost will reduce each Investor's preferred return, as described in each Fund's Governing Documents (the "**Preferred Return**"). The Funds Administration Cost will be payable only from a portion of the Preferred Return that would otherwise be paid to an Investor. If the aggregate Preferred Returns distributable to an Investor are insufficient to satisfy the Funds Administration Cost for an Investor, such Investor will not be responsible for any shortfall in the Funds Administration Cost.

The Processing Fee and Funds Administration Cost are generally not negotiable; however, Otay Village Manager, in its sole discretion, may modify, waive, or rebate the Processing Fee or Funds Administration Cost for certain Investors as set forth in each Fund's Governing Documents. Any such reduction or rebate of the Processing Fee or Funds Administration Cost will not affect the Processing Fee or Funds Administration Cost charged to other Investors.

In addition, the Funds solely provide financing to Otay Village Manager's affiliates to finance real estate development projects managed by such entities. As such, certain of Otay Village Manager's affiliates may benefit as a result of such financing.

#### **Item 5.B. Manner of Payment**

As noted above, each Investor is required to pay a Processing Fee in addition to its investment amount upon subscription. The Funds Administration Cost will be funded as a reduction of each Investor's Preferred Return on an annual basis in arrears.

#### **Item 5.C. Other Fees and Expenses Clients May be Charged**

The Funds are responsible for their normal, recurring daily operating expenses, including legal fees, indemnification obligations and litigation costs. Otay Village Manager may advance Fund expenses, with such advances reimbursed by the Funds from future net distributable cash from

operations or net distributable cash from certain capital events. There is no limit on the amount of expenses that may be reimbursed.

In addition to the interest payments set forth under the loan agreement outlined in each Fund's Governing Documents, in the case of Otay Village 8 Fund, the Project Owner (as defined below) will reimburse Otay Village 8 Fund for all such expenses once the Processing Fees are depleted. Such reimbursements will be made pursuant to the reimbursement agreement outlined in Otay Village 8 Fund's Governing Documents (the "**Reimbursement Agreement**"). No portion of an Investor's capital contribution will be applied to Fund expenses.

Any new fund launched by Otay Village Manager may have materially different terms than those summarized above. Investors should review each Fund's Governing Documents for details of each Fund's fee structure and expenses.

#### **Item 5.D. Timing of Fee Payments**

As noted in Item 5.A above, Investors are required to pay a Processing Fee in addition to their capital contribution upon investment. Otay Village Manager may be obligated to return Investors' Processing Fees and capital contributions upon certain events, which are outlined in each Fund's Governing Documents.

#### **Item 5.E. Receipt of Compensation for Sales**

Neither Otay Village Manager nor or its supervised persons are compensated for the sale of securities or other investment products.

### **ITEM 6: PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Subject to applicable law and any limitations contained in the Governing Documents for Otay Village III Fund, Otay Village Manager may elect from time to time to distribute net distributable cash to the Fund's Investors. In accordance with the distribution priorities outlined in the Governing Documents, certain of the Fund's distributions may be distributed to Otay Village Manager, which would be a performance-based fee.

Otay Village Manager recognizes that there could exist certain potential conflicts of interest associated with the presence of a performance-based fee. Residual distribution interests could motivate Otay Village Manager to make investment decisions that are riskier or more speculative than would be the case if these arrangements were not in effect. Otay Village Manager seeks to address these conflicts of interest by advising the Funds in accordance with each Fund's investment strategy, guidelines and any investment restrictions as set forth in each Fund's Governing Documents.

The officers of Otay Village Manager may carry on investment activities for their own accounts and for those of affiliates' businesses (including affiliates that may be wholly or principally owned by affiliates of Otay Village Manager). The compensation paid to Otay Village Manager and its officers through other affiliated businesses is substantial, creating an incentive for certain of Otay

Village Manager's officers to focus more on the affiliates' businesses rather than on their duties to Otay Village Manager and the Funds.

In the event of a conflict between the interests of Otay Village Manager's affiliates and the Funds, Otay Village Manager's officers may have an incentive to favor the interests of Otay Village Manager's affiliates at the expense of the interests of the Funds. In effect, Otay Village Manager may earn little to no income from the operation of the Funds. Thus, Otay Village Manager's officers have an incentive to ensure that any conflict that may arise between the Funds and Otay Village Manager's affiliates will be resolved in the benefit of the affiliates at the expense of the Funds as there may be little to no economic benefit to Otay Village Manager and its officers through the Funds and most or all economic gain achieved by Otay Village Manager and its officers is through their interests in Otay Village Manager's affiliates, including through the affiliates' real estate development projects to whom the Funds are providing financing.

However, Otay Village Manager will advise the Funds in accordance with their Governing Documents and strives to ensure that the Funds are treated fairly in accordance with Otay Village Manager's fiduciary duty to its clients under the Investment Advisers Act of 1940, as amended (the "**Advisers Act**").

## **ITEM 7: TYPES OF CLIENTS**

Otay Village Manager provides discretionary investment advice solely to the Funds, as described in Item 4.B. above. The Funds' interests are generally offered to foreign nationals seeking immigrant status through participation in the EB-5 immigrant investor program (the "**EB-5 Program**") established pursuant to the Immigration Act of 1990, as amended (the "**Immigration Act**"). Each Fund has designated minimum capital contribution amounts for Investors as required under the Immigration Act and provided in each Fund's Governing Documents. Investors are "accredited investors" within the meaning of Rule 501(a) under the Securities Act of 1933, as amended (the "**Securities Act**").

## **ITEM 8: METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

### **Item 8.A. Methods of Analysis and Investment Strategy**

The Funds use the proceeds from the sale of their interests to make loans (the "**Loans**") to special purpose entities (each, a "**Project Owner**" and collectively, the "**Project Owners**") created to facilitate the acquisition, ownership, development, financing, and operation of mixed-use and residential real estate development projects located in Chula Vista, California (each, a "**Project**" and collectively, the "**Projects**").

The Projects are affiliated with various "**Regional Centers**" (as defined in each Fund's Governing Documents), as designated by the United States Citizenship Immigration Service (the "**USCIS**"). Because the Projects are located within approved geographic areas and industry categories of the Regional Centers, Investors receive the benefit of "indirect and induced" job creation under the EB-5 Program.

## **Items 8.B. and 8.C.**

### **Materials Risks Involved for Otay Village Manager's Strategies**

Investing in the Funds involves a high degree of risk and potential conflicts of interest, and an investment in the Funds is designed only for sophisticated investors who are able to bear the economic risk of losing all or a substantial portion of their investment. There can be no assurance that the Funds will achieve their investment objectives or that Investors will receive the Preferred Return or a return of their capital contributions. Further, because of the limitation on the rights of Investors to withdraw from the Funds, and the fact that there will be no secondary or other market for Investors' interests in the Funds, an investment in the Funds is an illiquid investment. Prospective Investors should carefully review the investment considerations and risk factors described below.

The following discussion of investment considerations and risk factors does not purport to be a complete description of the investment considerations and risks involved in an investment in the Funds. Prospective Investors should read the applicable Fund's Governing Documents in their entirety and should analyze carefully the information contained in such documents. Each prospective Investor should consult with their own legal, tax and financial advisors with respect thereto. Prospective Investors should be aware of the risk factors related to an investment in the Funds and should consider, among others, those factors set forth below.

### **Risk Factors Relating to the Loans**

**The Loans and the Reimbursement Agreements Will Be the Funds' Only Assets.** The Funds' only business activities will be to extend the Loans to the Project Owners to fund a portion of the Projects' costs and to make reinvestments, if any. As a consequence, the aggregate return of the Funds will be entirely dependent on the performance of the Projects and any reinvestments. The Loans should be considered high-risk investments because of their nature as construction loans, the nature of the Collateral, as defined below (which is likely to consist of unimproved land), the potential subordination of the Loans to senior financing, the limitations on remedies described in the Governing Documents, and the nature of the housing industry. If the Project Owners fail to pay principal or interest on the Loans or reimbursements under applicable Reimbursement Agreements, then the Funds may not be able to pay their expenses, make distributions to, or redeem the interests of, Investors, and Investors may not recover all or any portion of their capital contributions in the Funds or their Fund's Preferred Return.

**No Guarantee of Repayment or Reimbursements.** There is no guarantee that the Project Owners will repay all or any part of the Loans, either at maturity or ever. Similarly, there is no guarantee that the Project Owners will perform under the Reimbursement Agreements. Except to the limited extent of the "**Provisional Refund Guaranty Agreement**," as defined in the Governing Documents and as amended, neither the Loans nor the Reimbursement Agreements will be guaranteed by any party.

**Project Cash Flow and Proceeds from Sale of Collateral are Sole Sources of Loan Repayment.** The Project Owners are special purpose, single asset entities and the land for the Projects will be their only material assets. Therefore, the Project Owners' ability to make payments



on the Loans and reimbursements under the Reimbursement Agreements depend on the Projects' cash flow. The success of the Projects and the ability of the Project Owners to make Loan payments and reimbursements will depend on: (i) the successful development, construction, operation and/or monetization of the Projects and its components; (ii) various components of Project revenues; (iii) the health of the residential real estate market in San Diego County, California and in each Project's local area; (iv) covenants and obligations contained in other agreements to which the Project Owners or their direct or indirect subsidiaries are or may become subject; (v) business and tax considerations; and (vi) applicable law, including laws regarding the payment of dividends and distributions.

There can be no assurance that the operating results of the Project Owners at any given time will be sufficient such that any distributions and/or payments to the Funds will be adequate to pay any amounts due under the Loans and the Reimbursement Agreements.

**Limited Refinance Ability.** The Loans are of a nature that full refinance is unlikely. The Project Owners intend to repay the Loans through establishment of reserves from operating activities such as land sales or joint ventures with homebuilders, proceeds from sales of single and multi-family homes and commercial sites including proceeds through joint ventures with homebuilders, and leasing and sales revenues from apartments. While portions of these assets may be refinanced, it is unlikely that the maximum amounts of the Loans could be refinanced. For example, the Project Owners may be able to refinance certain alternative financing but not the Loans. This economic structure of new home development creates a different risk profile than other investment opportunities that typically monetize through a single refinance or sale. The financial condition of components of the Projects, the national and local housing market at the time the Loans are due and the commercial lending market will all determine the extent to which refinancing is a viable manner to repay the Loans. In the event the Loans cannot be refinanced, the Project Owners' ability to repay the Loans will be dependent on reserves established by the Project Owners and sale of the remaining assets of the Project Owners, which the Project Owners are not obligated to do and which may not be possible given market conditions. If the Project Owners are unable to repay the Loans at maturity after any available loan extensions are exhausted, the Loans would then either fall into default or require renegotiation of the maturity date and perhaps others terms. If the Loans fall into default, there is no assurance that the Funds would be able to recover all or even a material portion of the Loans' amounts from foreclosing on the Collateral the applicable Fund will hold.

**Collateral Will Consist Primarily of Unimproved Land and May Not Produce Recovery of the Loans' Amounts Secured.** The Loan Agreements will be secured by a first trust deed on real property with a loan-to-value (LTV) Ratio, as determined by a certified third party appraiser reasonably acceptable to the Funds, of no less than the advances drawn under the Loan Agreements at any given time. Subject to certain additional terms to be set forth in the Loan Agreements and, as applicable, compliance with securities and other applicable laws, the Project Owners may substitute such collateral, in whole or in part, with other collateral, subject to satisfaction of the 100% LTV Ratio requirement. Appraisals speak only as of the date they are prepared, and they do not guarantee that the property appraised could be sold for the appraised amount even on the date prepared. The collateral pledged (the "Collateral") can be expected to change in value based on a number of factors outside the Funds' control, including national and local real estate markets, economic conditions and the availability of financing. The Project Owners will have the right to substitute Collateral that has appreciated in value and might represent a lower LTV Ratio (a lower

LTV ratio provides greater security) for Collateral that meets the maximum LTV Ratio of 100%. The Funds can provide no assurance that they would be able to recover all or even a material portion of the outstanding Loans' amounts through foreclosure of the Collateral. Additionally, foreclosure decisions will be determined by Otay Village Manager (except in very limited circumstances involving Investors' veto right), and Otay Village Manager will be affiliated with the owners of the Collateral and will therefore have conflicts of interest in connection with foreclosure decisions. See "Conflicts of Interest" below.

**California Laws Applicable to Encumbrances of Real Property and Their Enforcement May Limit or Delay the Funds' Ability to Satisfy the Loan Following an Event of Default.** The Loans will be secured by one or more deeds of trust encumbering the related real estate. Foreclosure of a deed of trust in California may be accomplished by a nonjudicial trustee's sale in accordance with the California Civil Code (so long as it is permitted by a specific provision in the deed of trust, which will be the case for the Loans) or by judicial foreclosure action in accordance with the California Code of Civil Procedure. After a foreclosure proceeding is commenced by the recording of a notice of default and election to sell, in the case of a trustee's sale, or the commencement of a judicial foreclosure action, the borrower has a right to reinstate the secured obligation prior to a trustee's sale or the entry of a decree of foreclosure by paying all outstanding amounts other than accelerated principal and certain expenses limited by statute. If the borrower fails to timely reinstate the secured obligation, the encumbered real estate may be sold by the trustee pursuant to the trustee's power of sale after public notice for a statutory period of time, or sold by the sheriff or a court-appointed referee following the entry of a decree of foreclosure in a judicial foreclosure action. Following a judicial foreclosure sale, the borrower or its successor in interest may, for a period of up to one year, redeem the property; however, there is no redemption right following the exercise of a trustee's power of sale.

California's "one action" and "anti-deficiency" rules limit a lender's rights when enforcing a real estate secured obligation. The "security first" aspect of California's "one action" rule requires a lender to complete foreclosure of all real estate encumbered under the deed of trust in a single action before pursuing the borrower for recovery of any deficiency (if otherwise permitted) on the secured obligation after application of the proceeds of the real estate, except in certain cases involving environmentally impaired real property where foreclosure of the real property is not required before making a claim under the indemnity. While a sale by the trustee under a deed of trust does not constitute an "action" for purposes of the "one action" rule, under California's statutory "anti-deficiency" rules, once a property has been sold pursuant to the power of sale clause in a deed of trust (that is, via a nonjudicial trustee's sale), the lender is precluded from seeking a deficiency judgment from the borrower or, under certain circumstances, guarantors. Other California statutory provisions limit the amount of any deficiency judgment (if otherwise permitted) against the borrower following a judicial foreclosure to the amount by which the indebtedness exceeds the greater of the fair value of the property at the time of the foreclosure sale and the foreclosure sale price.

The combination of these rules means that the Funds would have to choose between either (A) a nonjudicial trustee's sale, which would limit the Funds' recovery to the value that could be realized upon sale of the Collateral (which may be substantially less than the Loan amount) and (B) a judicial foreclosure. Judicial foreclosure generally takes longer than non-judicial foreclosure. In addition, in a judicial foreclosure, the borrower has the right to "redeem," or buy back the property

for a period of one year after the foreclosure sale for the price paid by buyer at the foreclosure sale plus certain additional charges. This “right of redemption” could substantially reduce the value of the Collateral in a judicial sale to a third party, if a third party were willing to bid at all. If the Funds were to purchase the Collateral in such a judicial foreclosure sale for a credit against the Loans’ amounts due, the Funds would be limited in their ability to develop or resell such property within one year due to this “right of redemption.”

**The Loans Will Be Subordinated in Payment Priority to Senior Construction Financing, Which May Result in the Inability of Project Owner to Make Payments on the Loan if Those Other Obligations Are In Default.** The Project Owners may borrow up to certain amounts of senior construction financing and agree to payment subordination of the Loans with the Lender of such funds, subject to certain conditions to be set forth in the Loan Agreements. While the Loan Agreements may not permit such payment subordination to preclude the Funds from proceeding against the Collateral and retaining the proceeds therefrom to the maximum extent permitted by applicable law, such payment subordination may have a significant adverse effect on the ability of the Project Owners to repay the Loans timely, or at all.

### **Risk Factors Related To The Projects**

**Absence of Capital Commitments to Complete the Project.** Each Project includes a budget, with a portion of the budget including the current appraised value of the land for the Project. The Project Owners intend to fund the balance of the budgets and the current appraised value of the applicable land through a combination of the Loans, equity from Otay Village Manager and potentially other equity sponsors, including through potential land sales or joint ventures with homebuilders, senior construction financing for affordable and market rate apartments, proceeds from sale of single and multi-family homes and commercial sites, including proceeds through joint ventures with homebuilders, and leasing revenues from apartments. While HomeFed has substantial capital resources available to fund infrastructure development and soft costs without additional outside equity as of the date of each Fund’s Governing Documents, HomeFed has not contractually committed such funds to the Projects and nor has any other proposed source of the Projects’ funding committed capital to the Projects as of the date of each Fund’s Governing Documents. Availability of capital for the Projects will depend on the success of each Fund’s offering, the Project Owners’ and HomeFed’s financial condition, the financial condition of potential homebuilder partners, the creditworthiness of the Projects, the national and local housing markets, the general availability of capital and other factors outside the Funds’, the Project Owners’ or HomeFed’s control.

If the Project Owners lack sufficient funds to complete the Projects and operate those portions that will remain under its control, the position of Investors in the Funds will be adversely affected. Unforeseen circumstances may make it necessary or desirable for the Project Owners to finance the construction and operation of the Projects through additional borrowing which may (and in the case of the senior construction financing discussed in each Fund’s Governing Documents, will) rank senior in terms of payment and priority to the Loans and otherwise adversely affect the Project Owners’ ability to repay the Loans. In addition, to the extent cash flow from the Projects are not sufficient to fund these additional debt obligations, the Project Owners may be required to obtain cash from other sources. The Project Owners might be required to raise additional equity investment or to borrow additional funds, and there can be no assurance that additional funds will

be available on favorable terms, if at all. In that event, the Project Owners may be required to sell the Projects on disadvantageous terms, or mortgages, security agreements or guarantees securing any of the Project Owners' debt may be foreclosed and the Projects sold by the senior lenders to repay the debts owing them. This would have a materially adverse effect on the affected Fund and its Investors and could result in a complete loss of the Investors' investments in such Fund.

If the full Projects' budgets are not available to the Project Owners as needed, the Project Owners may have to delay development and/or curtail the scope of the Projects. Delays in funding or curtailment of the Projects could adversely affect projected job creation and have an adverse effect on the ability of the Funds to repay the Loans when due. Further, failure of the Project Owners to expend sufficient funds during the job creation period projected in the economist report or within a reasonable time thereafter could also lead to denials of Investors' I-829 petitions.

**General Risks of Real Estate.** The success of the Funds' Loans to the Project Owners will be determined by facts and events relating to the development, construction, ownership, operation, financing and sale of real property and improvements thereto over which the Funds will have limited or no control, including, without limitation, all of the risk factors described above under "Risk Factors Related to the Loan," and additional factors described under this heading.

**Dependence on Key Personnel.** The success of the Projects and therefore the repayment of each Investor's investment in the Funds depend in substantial part upon the skill and expertise of the key personnel of the Project Owners and the other individuals employed to assist them. There can be no assurance that these key personnel or such other individuals will continue to be associated with the Projects. The loss of the services of one or more of these key personnel or such other individuals could have a material adverse effect on the Projects.

**Competitive Development.** An increase in the supply of residential housing, whether arising from new construction or the redevelopment of existing properties, could cause the Projects to decrease in value, reduce the Projects' revenues or otherwise have a negative effect on the Funds' investment results. Should land prices decline or construction costs decrease, competitive developments could enjoy significantly lower costs, which could have a negative effect on the Funds' investment results.

**General Economic Conditions.** The San Diego County, California economy tends to be cyclical like the U.S. national economy, and a subsequent downturn in the U.S. economy would likely have a negative impact on the San Diego County, California real estate market. The Funds' financial position and performance could therefore be harmed if there is a downturn in economic conditions. The Funds' investment strategy is partially dependent on the overall strength of the U.S. economy, particularly the San Diego County, California metropolitan area and each Project area's development, and the continued strength of the overall real estate industry. There can be no guarantee that the sources of revenue from the Projects will meet or exceed the projections developed by the Funds.

**Construction and Development Risks.** The completion of the Projects is subject to the risks associated with construction and development. These risks include construction delays, cost overruns over the projected amount and existing zoning and land use restrictions. Construction delays may result from labor disputes, adverse weather conditions, governmental orders or delays,

litigation, changes in government regulation, unavailability of materials or labor, or the financial insolvency of a developer, contractor or subcontractor. In addition, construction cost overruns due to increases in the prices of materials and labor, and to other factors, are common. The Project Owners or other affiliates of HomeFed intend to serve as the general contractor for the Projects, and they will therefore be responsible for all cost overruns other than costs to be incurred by any builders for the Projects, regardless of the cause. The Projects are also subject to numerous entitlement, zoning and land use restrictions that run with the title of the land. These include covenants with certain cities arising out of the entitlements granted for development of the Projects, restrictive covenants, easements and other title matters. If construction of the Projects are not completed in a timely manner, or cost overruns occur, the Funds' Loans to the Project Owners could be impacted adversely. More specifically, the Project Owners have estimated the total amount of funds required to complete the Projects and have also estimated the amount of financing that may be obtained based upon assumptions they deem reasonable. However, there can be no assurance that the Project Owners' estimates are accurate. If any of the Project Owners' estimates or assumptions are inaccurate, additional funds will be required to complete the Projects. There can be no assurance that additional funds will be available on reasonable terms, if at all. If adequate additional funds are not available on reasonable terms, completion of the Projects and repayment of the Loans will be adversely affected. If, for any reason, portions of the Projects are not completed, operated and marketed according to the business plan, the Loans may not be repaid in full and Investors may lose some or all of their investment.

**Risks Associated with Third Party Involvement.** The Funds intend to use the proceeds of the sale of interests to make the Loans to the Project Owners, which will be used by the Project Owners for certain construction costs of the Projects. As such, the Funds' success will be largely dependent on the ability of the Project Owners and its affiliates to satisfy the development and other objectives of the Projects. In addition, the successful development of the Projects will also depend on the efforts of HomeFed, the builders, the subcontractors, and the architects involved in the design and construction of the Projects. Any failure by any such parties to fulfill their obligations in connections with the development of the Projects could have a material and adverse effect on the Funds' ability to realize a return of the investment made by Investors.

**Risks Associated with Mortgage Interest Rate Levels.** The Project Owners' business is dependent upon the availability and cost of mortgage financing for prospective homebuyers. Any significant increase in prevailing mortgage interest rate environment or decrease in available credit would reduce consumer demand for housing, and could result in fewer home sales or lower sale prices, which could materially adversely affect the investment returns and financial performance of the Projects and the Project Owners' ability to repay the Loans. Such changes would also likely impair the value of the Collateral.

**Risks Associated with Demographic Changes.** Demographic changes in the U.S. generally and San Diego, California in particular could reduce the demand for housing. If the current trend of housing shortages in San Diego, California were not to continue, or in the event of any significant reductions in employment, demand for real estate in San Diego, California may decline from current levels, which could materially adversely affect the investment returns and financial performance of the Projects and the Project Owners' ability to repay the Loans.

**Risks Associated with Natural Disasters.** The Projects or their components may be at risk from natural disasters beyond the Project Owners' control. Damage to any of the Projects' properties, whether by natural disasters, including earthquakes, hurricanes and fires or otherwise, may either delay or preclude the Project Owners' ability to develop and sell the Projects' properties, or affect the price at which the Project Owners may sell such properties.

**Risks Associated with Water and Energy Shortages.** San Diego, California, like most of California, has been subject to periodic and prolonged droughts. Shortages of adequate water resources and reliable energy sources in San Diego, California could adversely affect the value of the Projects' properties or restrict the Project Owners from continuing development. If the Project Owners are unable to obtain adequate water resources and reliable energy sources for the Projects, development of the Projects might be delayed, resulting in reduced profitability and cash flows, which could materially adversely affect the investment returns and financial performance of the Projects and the Project Owners' ability to repay the Loans.

**Risks Associated with Local Opposition to the Project.** Opposition from local community, political or environmental groups with respect to construction or development of the Projects could increase development costs. Further challenges to the Project Owners' entitlements with respect to the Projects are possible, which would result in increased legal fees, development costs or delays in development.

**Risks Associated with Real Estate Taxes.** Increases in real estate taxes and other local government fees could adversely affect the Projects' financial performance. Increases in real estate taxes and other government fees may make it more expensive to own the properties that the Project Owners are currently developing, which would increase the Project Owners' carrying costs of owning the properties. Such effects could also reduce the value of the Collateral.

**Inherent Uncertainty of Financial Operating Projections.** The operating projections provided by the Project Owners and on which the Funds relied in making the Loans are based upon a variety of estimates and assumptions set forth in the Funds' Governing Documents. Such estimates and assumptions underlying the operating projections involve judgments with respect to, among other things, future economic and competitive conditions and future business decisions, which may not be realized or which may be incorrect.

**Risks Associated with Market Conditions.** Reduced liquidity in capital markets and in the market for residential commercial real estate, could materially adversely affect the investment returns and financial performance of the Projects and the Project Owners' ability to repay the Loans. In the future, the Project Owners or their affiliates may be unable to sell or refinance the Projects or its components on favorable terms, or at all.

**Uninsured and Underinsured Losses.** Although the Funds expect that the Project Owners will carry comprehensive insurance on the Projects, including liability and extended coverage insurance, the Project Owners may fail to maintain such insurance, the insurance company may become insolvent, and there are certain risks that may be uninsurable or not insurable on terms which the Project Owners or the Funds believe are economical. Such risks may include, but are not limited to, earthquakes, acts of terrorism, floods, liability claims in excess of the Project Owners' policy limits and punitive damage claims. In the event of such an uninsured or

underinsured casualty loss or damage claims, or the insolvency of the insurance company, Investors' investments could be lost.

**Environmental Matters.** There can be no assurances that hazardous substances or wastes, contaminants, pollutants, or sources thereof, defined by present and future state and federal laws and regulations, will not be discovered on the Projects' property, either during the Project Owners' ownership or after a sale to a third party. If such substances are discovered or placed at the Projects during ownership, the Project Owners may be required to remove the substances and clean up the associated property. There can be no assurance that the cost of such removal and cleanup would be economical for the responsible party. Should the responsible party fail to remove the substances or sources and clean up the property, it is possible that federal, state or local environmental agencies could perform such removal and cleanup, and impose and subsequently foreclose liens on the property for the cost thereof, resulting in a loss of Investors' investments.

**Conflicts of Interest.** Certain conflicts of interest exist now and may arise in the future among Otay Village Manager, the Funds, placement agents retained by them, the Project Owners and HomeFed. There is no assurance that such conflicts will be resolved in favor of the Funds. See "Conflicts of Interest" below.

**Americans with Disabilities Act.** Under the Americans with Disabilities Act of 1990 (the "ADA"), all public accommodations are required to meet certain federal requirements related to access and use by disabled persons. Similar state laws may also now or in the future exist. If the Project Owners were required to make modifications to the public accommodations contained in the Project to comply with the ADA or any state law, the Project Owners' ability to make expected loan payments to the Funds, and the Project Owners' ability to satisfy their obligations under the Loans could be adversely affected.

**Employees and Unions.** HomeFed indirectly owns several independent properties throughout the United States. Employees of the Projects may be union members, and non-union employee staffs in various areas may be subject to union organization activities. The Project Owners do not intend to operate the Projects under a collective bargaining agreement. However, there can be no assurance that the unions will not organize the employees of the Projects and/or require the Project Owners to enter into collective bargaining agreements. In such case, the costs of operating the Projects would increase materially from the Project Owners' current projections. Moreover, if a collective bargaining agreement is executed for the Projects, there can be no assurance that the unions will abide by the terms of any collective bargaining agreement if any union deems certain aspects of such agreement unfair, and furthermore, certain employees may not be covered by such agreement. The Projects could suffer work stoppages or "slow-downs" as a result. In such event, it is likely that the employee costs of the Projects will be higher than presently projected for the continuation of the Projects, since union workers would have compensation and benefits that are generally higher than non-union workers in the same construction and development industry jobs. Neither the Project Owners nor the Funds will have control over whether one or more unions determine to target the Projects' operations for union organization activities.

**Government Regulation.** The operations of the Projects are and will be subject to various federal, state, and local laws and regulations, as well as court decisions, affecting Project operations and the Project Owners' business. Difficulties or failures in obtaining required licenses or other

regulatory approvals could delay or otherwise hamper completion of the Projects. The suspension of, or inability to renew, a license could interrupt operations at the Projects. The Project Owners and HomeFed are subject to federal, state, and local laws establishing minimum wages, unemployment taxes, and sales taxes, and regulating overtime, other working conditions, and similar matters over which the Funds will have no control. The Projects' operations will be subject to federal, state, and local regulations, including regulatory provisions relating to sanitation, health, safety and liquor licensing. All of these laws, regulations, and court decisions could have both a positive or negative impact on the Projects' operations and financial results from those operations and on the Projects' ability to compete. Suspension of the Project Owners' ability to operate or by any regulatory agency would have a material adverse effect on the profitability of the Projects and the Project Owners' ability to repay the Loans. Increased regulation of various aspects of the Projects' operations, or of the Project Owners or the Funds itself should this occur, could also have an adverse effect on the Project Owners and the Funds' financial position. Additionally, the Funds will be under substantial scrutiny by USCIS.

**Ability to Obtain Requisite Permits.** Certain building and safety, handicapped, and other permits may need to be obtained or extended in order to develop the Projects. Additionally, public health, fire and safety and other licenses may also need to be obtained. While the Project Owners believe that there should be no impediments to obtaining any necessary permits and licenses or obtaining any consents or approvals, no assurance can be made that they will be obtained.

### **Investment Considerations and Funds and Offering Risks**

**Prevention of Money Laundering.** The USA Patriot Act requires that financial institutions establish and maintain compliance programs to guard against money laundering activities. A U.S. Treasury agency may enact regulations which would require certain pooled investment vehicles to enact anti-money laundering policies, which regulations, if and when enacted, might require the Funds, acting through the Otay Village Manager, to share information with U.S. government authorities with respect to its Investors. The Funds have reserved the right in their subscription agreements to obtain information from Investors as necessary to comply with the USA Patriot Act and other similar laws, as well as the regulations that might be promulgated thereunder.

**Reliance on Otay Village Manager.** Investors must rely upon the ability of Otay Village Manager and key employees to manage the business and affairs of the Funds. Although Investors will participate in policymaking and certain decisions as expressly provided in the Funds' Governing Documents, they will not participate in the active day-to-day management of the Funds or the decisions made by Otay Village Manager. Except for matters specifically reserved for approval or veto by Investors in the Funds' Governing Documents, all of the Funds' decisions will be made solely by Otay Village Manager. No person should invest in the Funds unless he or she is willing to entrust all aspects of the management and control of the Funds to Otay Village Manager.

**No Control of Project.** While the Funds will have the benefit of covenants under the Loans and limited management rights with respect to the Project Owners, the Funds will be unable to control HomeFed or the Project Owners to the extent necessary to ensure that the operation of the Projects will adhere to current plans. The Funds' success will substantially depend on HomeFed's and the Project Owners' ability to deal successfully with the problems, expenses and delays frequently associated with construction and development operations. The viability of the Projects is



dependent upon the abilities of the Project Owners and the Projects to attract and maintain quality employees to work throughout the Projects' operations over an extended period of time. There can be no assurance that the Projects' operations will be profitable, and if they are not, Investors could suffer a total loss of their investment.

**Diverse Investor Group.** Investors may have conflicting investment, tax and other interests with respect to their investments in the Funds. The Funds anticipate that some of the investors will be Chinese and Vietnamese-born nationals subject to current visa cut-offs or other nationals subject to future visa cut-offs, and some will not, resulting in substantial differences in the expected dates that various investors could first receive return of their capital contribution. The conflicting interests of Investors may relate to or arise from, among other matters, the granting of amendments or waivers under the Loan Agreements, repayments of the Loan Agreements and reinvestments chosen. As a consequence, conflicts of interest may arise in connection with decisions made by Otay Village Manager that may be more beneficial for one investor than for another investor, for example, with respect to investors' individual tax or immigration situations. For example, the expected substantial differences in the expected dates that various investors could first receive return of their capital contribution will require Otay Village Manager to make decisions concerning the Loans and reinvestments that may favor investors of one nationality over another.

**Limited Operating History.** The Funds are recently formed entities with limited operating or financial history.

**Illiquidity.** There is a high level of illiquidity associated with private investments and with real estate related investments in particular. It is anticipated that there will be no public market for the Funds' interests. Therefore, prospective Investors must recognize this is a long-term investment with limited exit options and no certainty of return.

**Additional Capital.** No Investor has any obligation to contribute additional capital or lend funds to the Funds. The Funds have no assured source of additional capital in the event its cash needs exceed its available funds. Otay Village Manager may advance certain Funds expenses in excess of the then available cash flow or net proceeds from a capital event. The Funds will reimburse Otay Village Manager from funds received under the Reimbursement Agreements, the Funds' future available cash flow or net proceeds from a capital event (to the extent and as soon as available) for any advanced limited liability company expenses. Otay Village Manager consists of special purpose entities, and except for Processing Fees (substantially all of which are expected to be paid to placement agents), will be entirely dependent on advances from HomeFed or its affiliates for its ability to advance funds to the Funds. No assurance can be given that Otay Village Manager or any member of the Funds would loan the funds necessary to meet any short-term or long-term needs of the Funds.

**Sale of Less than All Units.** There is no minimum offering amount for the Funds' interests. Interests will be offered and sold on a "best efforts" basis, with no minimum number of the Funds' interests established before sales of further interests. No commitment has been extended by anyone to purchase all, or any portion of, the Funds' interests being offered. Therefore, it is possible that, the Funds will be unable to sell any or all of the offered interests and that the Funds will have less equity capitalization from investors than anticipated. In such event, the Funds' ability to defray its expenses may be adversely affected and the Project Owners' ability to complete the Projects will

depend on its ability to secure additional capital. The ability of the Project Owners to secure additional capital may be adversely impacted by the existence of the Loans in a lesser amount than the capital needed for the Projects. The Project Owners may determine to make agreements in connection with securing alternative financing that are adverse to the interests of Investors, and the Project Owners will have conflicts of interest in making such decisions.

**Limited Transferability of the Funds' Interests.** The Funds' interests offered hereby are subject to numerous restrictions on transferability. In order to satisfy the requirements of the exemptions from registration under the Securities Act, each Investor must acquire his or her interests in the Funds for investment purposes only and not with a view towards transfer of such interests. In addition, under the Funds' Governing Documents, several conditions must be satisfied prior to any transfer of such interests. An assignee of a Fund's interests may become a substituted Investor only with consent of Otay Village Manager, and Otay Village Manager may refuse to consent to a transfer for any reason or for no reason. Otay Village Manager can also prohibit any sale, transfer or other disposition of an Investor's interests, and may require an opinion of counsel, provided at the Investor's expense, in form satisfactory to Otay Village Manager, stating that the proposed sale, transfer, or other disposition will not result in a violation of applicable federal and state securities laws and regulations.

**Funds not Registered as "Investment Companies."** The Funds are not registered, and intends to avoid becoming required to register, as investment companies under the Investment Company Act of 1940, as amended (the "**1940 Act**"). The 1940 Act imposes significant substantive requirements on the organization and operation of registered investment companies ("**registered funds**") and on registered fund insiders, such as sponsors, promoters and underwriters. These requirements were designed to protect the registered funds and their shareholders from the interests of fund insiders. As the Funds are not registered (or required to register) under the 1940 Act, these protections will not apply to the Funds or its Investors.

The 1940 Act generally defines an "investment company" to include an issuer of securities that "holds itself out as being engaged primarily, or purposes to engage primarily, in the business of investing, reinvesting or trading in securities." (Section 3(a)(1)(A) of the 1940 Act).

The Funds have been advised that the Funds fall within an exception to the definition of an "investment company" under the 1940 Act based upon either the 3(c)(1) exception while they had no more than 100 Investors or under the 3(c)(5)(C) exception once there were more than 100 Investors; however, there are no assurances that this will ultimately be the case.

Although the Funds intend to avoid becoming required to register under the 1940 Act, the Funds cannot assure prospective Investors that, under certain conditions, changing circumstances or changes in the law, the Funds will not become subject to registration under the 1940 Act in the future as a result of a determination that the Funds are "investment companies" within the meaning of the 1940 Act and has no exceptions from that definition available to it. For example, there can be no assurance that a reinvestment will be available that allows the Funds to continue to claim the 3(c)(5)(C) exemption. Becoming registered and otherwise subject to the 1940 Act could have a material adverse effect on the Funds. Additionally, the Funds could be terminated and liquidated due to registration under the 1940 Act.

**The Funds may Face Regulatory Actions or Lawsuits Brought under U.S. Securities Laws.**

Like all issuers of securities in the United States, the Funds are subject to U.S. federal and state securities laws. These laws generally require registration or qualification of securities with the SEC and/or state securities regulators unless an exemption is available. These laws also provide remedies to investors if any person, in connection with the sale of a security, makes any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. These laws also require persons engaged in the business of effecting transacting in securities for the account of others to register as broker-dealers, and provide that issuers who engage persons who should be registered as broker-dealers but who are not may be subject to penalties and liabilities. Finally, these laws provide that management contracts made in violation of any provision of the Advisers Act as regards the rights of any person who made or engaged in the performance of any such contract entered into in violation of such act are void. A common remedy for investors who purchased securities sold by an issuer that violated securities laws is “rescission,” which mean that the investor has the right to exchange its security for the original purchase price paid plus statutory interest.

The securities laws are complex and an issuer that has made every attempt to comply with them may still face administrative or civil proceedings brought by securities regulators and/or lawsuits brought by investors. Any regulatory or legal action related to the offer and sale of the Funds’ interests or the entry into or performance of the Funds’ Governing Documents, or a threat of such action, may have a material adverse effect of the Funds, including requiring expenditures of funds for costs of defense, penalties or investor claims that may reduce the amount that may be distributed to Investors and, if the claims were large enough, require the Funds to liquidate their assets.

**Placement Agents Involved in the Offering will not be Registered as Brokers or Dealers.** As noted above, a requirement of the U.S. federal securities laws is that, subject to certain policy exemptions for persons operating outside the United States, no person may engage in the business of effecting transacting in securities for the account of others without having registered as a broker-dealer under federal and applicable state law. The activities of certain placement agents that will be engaged by the Funds or Otay Village Manager would likely require registration if conducted by a person operating in the United States. The Funds request representations from placement agents involved in the offering of the Funds’ interests outside the United States that they are properly licensed in their home jurisdictions and are not engaged in activities that may require them to register as a broker or dealer in the United States. However, the legal standards for when registration is required for placement agents operating outside the United States are not clear in all circumstances, and it is possible that the Securities and Exchange Commission, a state securities regulator, a private plaintiff or a court will allege or finally determine that one or more of the placement agents engaged by Otay Village Manager or the Funds should have been registered as a broker-dealer. Should this occur, it is possible that such governmental authority would seek to impose penalties on the Funds or Otay Village Manager. It is also possible that one or more investors would attempt to rescind his or her investment. Any such actions, even if successful, could have a material adverse effect on the Funds.

**The Governing Documents have not been negotiated at arm’s length.** Otay Village Manager has generally established the terms of the Governing Documents, which were not negotiated on an

arm's length basis. In addition, legal counsel for the Funds and Otay Village Manager have not acted as counsel for or represented the interests of prospective Investors. Prospective Investors should consult with their own legal counsel with respect to an investment in the Funds.

**Removal and Voluntary Withdrawal.** The Governing Documents provide for the removal or withdrawal of an Investor from the Funds under certain circumstances. If an Investor is removed or, with the consent of Otay Village Manager, withdraws from the Funds, such Investor will lose eligibility for any immigration benefit provided by his or her investment, including without limitation, classification as an Alien Entrepreneur EB-5 program investor by the USCIS.

**Exculpation and Indemnification.** The Governing Documents limit the circumstances under which Otay Village Manager and its affiliates will be held to be liable to the Funds and Investors. For example, the duties of Otay Village Manager described in the Governing Documents replace any fiduciary duties that might otherwise apply to Otay Village Manager. As a result, Investors may have a more limited right of action against Otay Village Manager or its affiliates than they would have in the absence of such provision. Additionally, the Governing Documents provide that the Funds will indemnify Otay Village Manager and its affiliates for certain claims, losses, damages and expenses arising out of their activities on behalf of the Funds. Such indemnification obligations could have a material effect on the investment returns to Investors. Additionally, such indemnification provisions may discourage Investors from bringing a lawsuit against Otay Village Manager and may also reduce the likelihood of litigation against Otay Village Manager and its affiliates even though such action, if successful, might otherwise have benefited Investors. Additionally, an Investor's investment in the Funds may be adversely affected to the extent that costs of settlement and damage awards against Otay Village Manager are paid by the Funds pursuant to the indemnification provisions of the Governing Documents. The impact on an Investor's investment in terms of the cost of defending a lawsuit may deter an Investor from bringing suit against Otay Village Manager or its affiliates.

**Preferred Returns do not Accumulate Until the Loan is Made.** Under the Governing Documents, Preferred Returns do not begin to accumulate to an Investor until such Investor's capital contribution is invested in the Loans. During the time capital contributions are in escrow, and after release from escrow until the Loans are made, capital contributions will not earn any investment return. In addition, the amount of the Preferred Return will be reduced for the Funds Administration Expense.

**If the Funds Elect to Repay Capital Contributions, which it is not Obligated to do, Capital Contributions Cannot be Repaid Prior to Satisfaction of an Investor's Sustainment Period; Preferred Returns Cease to Accrue in Certain Circumstances if I-829 Petition Approval is Delayed.** In accordance with the rules of the EB-5 Program, the Governing Documents provide that the Funds make no guarantee that it will return the capital contributions of Investors, but in any event the Funds may not do so until such Investor's I-829 petition is approved or such earlier time consistent with published USCIS policy. I-829 petitions may be delayed indefinitely for reasons related to an individual Investor's individual situation, and the Funds will have no control over the timing of I-829 petition approvals or the timing of earlier satisfaction of the required sustainment period. Accordingly, an Investor's capital contribution may be held by the Funds indefinitely.

Following the Project Owners' repayment of the Loans or other "**Capital Event**" (as defined in the Governing Documents), if a distribution of all unrecovered capital contributions that would otherwise been made to an Investor cannot be made because such Investor is not eligible to be repaid, the Preferred Return for such remaining Investor will reduce to 0.1%. This is because the Funds' intended source of income to pay such Preferred Return – interest from a loan – will have ceased. During this time, an Investor will receive a reduced return on capital contributions held by the Funds. The Preferred Return will be restored (but not retroactively) at such time as such Investor is eligible to receive return of his or her capital contribution.

**Funds' Reinvestments.** The Funds are authorized pursuant to the Governing Documents to invest in other job creating entities under the EB-5 Program, including as a reinvestment of proceeds from the Loans after repayment. If the Project Owners repay all or any portion of the Loans prior to the end of the sustainment period for some or all Investors, Otay Village Manager will endeavor to reinvest the proceeds in alternate investments that meet USCIS adjudication policy with respect to the continuous sustainment of the capital investment throughout the required period. USCIS published an update to its adjudication policy in June 2017 stating that an investor's capital must be "at risk" through the period that the investor is required to sustain his or her investment. As of the date of the Funds' Governing Documents, USCIS has not set a clear policy on what types of reinvestment would be considered "at risk." In furtherance of the Funds' purpose to permit Investors to qualify for immigration to the United States under the EB-5 Program, Otay Village Manager reserves the sole and absolute discretion to reinvest cash proceeds from a Capital Event, but subject to the limitations summarized in the Funds' Governing Documents. Otay Village Manager's current intention is to reinvest the Loans' repayment proceeds in another real estate construction project of HomeFed that will (a) be consistent with USCIS adjudication policy for sustainment of the investment, (b) preserve the Funds' exemption from the 1940 Act under Section 3(c)(5)(C) of such law applicable to a company that engages in the business of acquiring mortgages and mortgage-related instruments, and (c) in a manner in which the Funds would be able to call such investment within a reasonably short time in order to make funds available for distribution upon a capital event to Investors that satisfy their sustainment period, should Otay Village Manager determine to do so in its sole discretion. There can be no assurance that investment opportunities meeting these criteria will be available at the time of the Loans' repayment, and Otay Village Manager reserves the discretion to make any reinvestment that is consistent with the provisions described in the Funds' Governing Documents. In making such determinations, Otay Village Manager will be subject to the conflicting interests of HomeFed with respect to HomeFed's capital needs for other projects.

Each reinvestment made by the Funds will be subject to, among other things, all general risks inherent in investing in a business, including, without limitation, (a) the prospective absence of a history of significant operations and of proven products and services which have been produced and sold over a significant period of time, (b) the ability of the funds recipient to establish many systems of operation which are necessary to conduct business, including, without limitation, managerial and administrative structure, sales and marketing strategies, financial administration and recruitment of personnel, (c) uncertainty of cash flow of a funds recipient to meet its obligations, including its obligations to the Funds, (d) adverse changes in general or local economic conditions, (e) reduction in the cost of operating competing businesses, (f) changes in local employment levels, adverse changes in interest rates and availability of credit, (g) changes in tax rates and other operating expenses, (h) changes in governmental rules and fiscal policies, (i)

acts of God, including earthquakes, which may cause uninsured losses, (j) the financial condition of affiliates of the funds recipient, (k) environmental risks and other factors which are beyond the control of the funds recipient, the Funds and/or Otay Village Manager, (l) for real estate or construction-related investments, prospectively all of the risks identified in the Funds' Governing Documents for the Projects, and other risks that may not be known or identified in the Funds' Governing Documents, and (m) conflicts of interest from intended reinvestment in another project of HomeFed. There can be no assurance that appropriate investment opportunities will arise and, if available, there can be no assurance that such investment opportunities will be available on terms and conditions which are favorable to the Funds.

**Risk of Investors' Capital.** Except as provided in the Funds' Governing Documents, the total liability of an Investor is limited to the amount of its capital contributions, except in certain circumstances whereby such Investor was involved in the management or otherwise engaged in the business of the Funds or externally represented the Funds. Any Investor's capital contribution is susceptible to risk of loss as a result of any liability of the Funds. If the Funds are otherwise unable to meet their obligations, Investors may, under applicable law, be obligated to return distributions previously received by them pursuant to any rules regarding fraudulent conveyances to the fund or to creditors whose interests have been injured. In addition, an Investor may be liable under applicable bankruptcy law to return a distribution made during the Funds' insolvency. In addition, the Funds will pay its expenses and Otay Village Manager will be reimbursed for any advancement of expenses prior to any return of Investors' capital. Upon liquidation of the Funds, the proceeds realized from the disposition of assets will not be available for distribution to Investors until all amounts owed to creditors (including amounts owed to Otay Village Manager for reimbursement of expenses or loans made to the Funds) have been paid. Accordingly, there is no assurance that an Investor will recover all or any portion of his or her investment.

**General Tax Risks.** Investment in the Funds involves substantial tax risks. Although the primary motive of the Funds' Investors should be eligibility for a visa under the EB-5 program, state and federal legislatures and tax authorities may alter and change the permissible deductions that may be taken with respect to the Projects and their income, and may change the current tax rates to less favorable rates. In addition, state and federal tax authorities may be more likely to audit taxpayers with higher incomes, or with Funds' income or loss. Since investors generally fall into this category, the Funds also have an increased risk of being audited. Such an examination could result in adjustments to items that are related to the Funds. Investors may incur legal or other professional expenses in connection with such audit or the adjustments resulting from such audit. The Funds have not obtained a legal opinion or ruling from any tax authority regarding any tax aspects of the Projects, the Funds or their business, or the Loans. The tax risks include, without limitation, the following: (i) changes in federal income tax laws; (ii) partnership status; (iii) taxable income in excess of distributions; (iv) allocation of tax items among members; (v) allocation of purchase price; (vi) at-risk limitations; (vii) risk of audit; (viii) profit objective; and (ix) limitations on passive losses. The tax discussions set forth here, and elsewhere in the Funds' Governing Documents, are not tax advice to Investors. Each Investor is advised to consult with his or her own tax advisor regarding the tax consequences of investing in the Funds.

**Risks Associated with Loss of Capital Contribution and Processing Fee based on Initial Project Denial or Individual Denial.** While Investors' capital contributions will initially be placed into escrow, upon satisfaction of the conditions specified in the escrow agreement, 100%

of such capital contributions may be released to the Funds prior to approval of any individual investor's I-526 petition. The Provisional Refund Guaranty Agreement, as amended, does not apply to Otay Village Manager's obligation to return Processing Fees. The Project Owners may be prohibited from repaying the Loans as a source of funds to repay capital contributions under the terms of a loan agreement and/or subordination agreement associated with any alternative financing. Although HomeFed has assets valued at substantially in excess of the maximum amount of its guaranty obligation, it does not generally maintain sufficient liquid assets to return all subscription amounts in the event of an **"Initial Project Denial"**, which would occur on a determination by USCIS that deficiencies in a Fund or in the project into which the Fund invests render Investors in such Fund ineligible for an EB-5 visa. In such event, or in the event of an unusual number of Individual Denials that strain the liquid assets of HomeFed, HomeFed would need to raise capital to satisfy its guaranty obligations in a timely manner. If sources of capital proved unavailable, HomeFed may need to sell illiquid assets, which could substantially delay repayment of capital contributions.

Investors have no right to return of their capital contribution or Processing Fees following approval of I-526 petitions, if their immigrant visa applications are denied, or if their I-829 petitions are denied. If any or all I-829 petitions are denied, EB-5 Investors will not receive a return of Processing Fees and may not receive back their capital contributions until such time as the Funds make distributions following partial or full repayment of the Loans.

THE FUNDS MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND CONCERNING WHETHER AN INVESTMENT IN THE FUNDS WILL MEET THE REQUIREMENTS OF THE EB-5 PROGRAM OR OTHER U.S. IMMIGRATION REQUIREMENTS. NO ASSURANCES CAN BE GIVEN THAT AN INVESTMENT IN THE FUNDS WILL RESULT IN ANY INVESTOR RECEIVING A VISA OR CONDITIONAL OR PERMANENT RESIDENT STATUS.

### **Conflicts Of Interest**

The Funds will be subject to various conflicts of interest arising out of their relationships with the Project Owners, Otay Village Manager, the provisional refund guarantor and their respective affiliates. Agreements and arrangements, including those relating to compensation, between the Funds, Otay Village Manager, the provisional refund guarantor and their respective affiliates are not and will not be the result of arm's length negotiations. Additionally, the Project Owners are subject to various conflicts of interest arising out of their relationship to HomeFed. Prospective Investors should be aware of the conflicts outlined below. The Project Owners, the provisional refund guarantor and their respective affiliates have not developed, and do not expect to develop, any formal process for resolving conflicts of interest. Otay Village Manager has adopted a Code of Ethics (the **"Code"**), which, among other items, is designed to prevent, mitigate, and resolve certain actual and potential conflicts of interest.

**Control of Funds.** Subject to limited policy making roles and limited voting and veto rights of Investors, Otay Village Manager will be solely responsible for making all decisions of the Funds pertaining to the investment of the offering proceeds in the Loans, the reinvestment of such proceeds upon any repayment, and the results of these investments. Additionally, Otay Village Manager is generally responsible by the terms of each Fund's Governing Documents for the

operations of the Funds, including carrying out the specific authorization to loan the offering proceeds on behalf of the Funds to the Project Owners, making reinvestments and determining if and when distributions will occur, subject to the limitations and priorities stated in the Governing Documents.

**Common Control of the Project Owners and Provisional Refund Guarantor.** The Funds are under common control with the Project Owners and the provisional refund guarantor – all are controlled by HomeFed and its affiliates. Amongst other financial arrangements among HomeFed-affiliated entities, HomeFed will earn compensation from the Project Owners for development and construction management services related to the Projects.

As borrower under the Loan Agreements, the Project Owners' legal interests are directly adverse to the legal interests of the Funds as lenders. As a limited guarantor of certain of the Project Owners' obligations as borrowers, the provisional refund guarantor's legal interests are also directly adverse to the legal interests of the Funds that are the beneficiary of the provisional refund guaranty agreements, as amended. Otay Village Manager will have substantial conflicts of interest in connection with decisions concerning the Loan Agreements, including enforcing their provisions in the event of default and considering future amendments to the Loan Agreements that may be requested by the Project Owners. Investors will have limited veto rights associated with Otay Village Manager's decisions concerning enforcing the Funds' rights under the Loan Agreements, but only in very limited circumstances would Investors ever have a direct right to enforce the Funds' rights versus parties under common control with the Funds or any other parties.

The decisions of the Project Owners made by persons under common control with the Funds regarding such matters as changes in the construction of the Projects, operation of the Projects, the possibility of additional borrowing for the Projects and the possible sale of the Project Owners or the Projects will have a significant effect on the ability of the Project Owners to pay required interest and repay principal of the Loans.

**Fund Reinvestments.** The Funds are authorized pursuant to the Governing Documents to invest in other job creating entities under the EB-5 Program, including as a reinvestment of proceeds from the Loans after repayment. If the Project Owners repay all or any portion of the Loans prior to the end of the sustainment period for some or all Investors, Otay Village Manager will endeavor to reinvest the proceeds in alternate investments that meet USCIS adjudication policy with respect to the continuous sustainment of the capital investment throughout the required period. USCIS published an update to its adjudication policy in June 2017 stating that an investor's capital must be "at risk" through the period that the investor is required to sustain his or her investment. As of the date of each Fund's Governing Documents, USCIS has not set a clear policy on what types of reinvestment would be considered "at risk." In furtherance of the Funds' purpose to permit Investors to qualify for immigration to the United States under the EB-5 Program, Otay Village Manager reserves the sole and absolute discretion to reinvest cash proceeds from a capital event, but subject to the limitations summarized in the Governing Documents. Otay Village Manager's current intention is to reinvest Loan repayment proceeds in another real estate construction project of HomeFed that will (a) be consistent with USCIS adjudication policy for sustainment of the investment, (b) preserve the Funds' exemptions from the 1940 Act under Section 3(c)(5)(C) of such law applicable to a company that engages in the business of acquiring mortgages and mortgage-related instruments, and (c) in a manner in which the Funds would be able to call such



investment within a reasonably short time in order to make funds available for distribution upon a capital event to Investors that satisfy their sustainment period, should Otay Village Manager determine to do so in its sole discretion. There can be no assurance that investment opportunities meeting these criteria will be available at the time of the Loans' repayment, and Otay Village Manager reserves the discretion to make any reinvestment that is consistent with the provisions described in the Governing Documents. In making such determinations, Otay Village Manager will be subject to the conflicting interests of HomeFed with respect to HomeFed's capital needs for other projects.

**Other Affiliated Relationships of Otay Village Manager.** Otay Village Manager may engage and compensate other of its affiliates to perform services for the Funds. Any amounts payable to such affiliates will be paid by the Funds as expenses in preference to any distributions made to Investors.

**Other Activities of Affiliates of the Project Owner.** Investors should be aware that HomeFed and its affiliates are currently involved in other real estate projects both inside and outside the State of California, and plan to initiate further projects. Such projects include planned developments where new homes and apartments remain on the market and may compete directly with the Projects. These other activities of HomeFed may detract from the financial and management resources that can be devoted to the activities of the Project Owners, which could in turn jeopardize the Project Owners' ability to repay the Loans or any reinvestment made in an affiliate of HomeFed. These other activities of HomeFed may be directly competitive with the operations of the Projects and could impair in the financial results from the operation of the Projects, which could in turn jeopardize the Project Owners' ability to repay the Loans.

**Project Owner Affiliated Relationships Related to the Project.** The Project Owners and HomeFed are affiliates of each other. These affiliations create various conflicts of interest that may lead one or more of these entities to make decisions for the benefit of one of the others of these entities rather than for the benefit of the Funds. For example, subject to the covenants in the Loan Agreements, the Project Owners may direct payments to affiliates that would otherwise be available to make payments under the Loan Agreements.

**Introducers of Capital.** The Funds or Otay Village Manager intend to engage various entities (such as emigration agents, foreign immigration attorneys, distributors, wholesalers, brokers or other parties) to introduce prospective investors or to otherwise assist with the offering of the Funds' interests. The Funds will compensate such introducers of capital (also known as placement agents) in whole or in part based on their success in introducing investors who invest in the Funds. No portion of these sales commissions will be paid from capital contributions. Such sales commissions will be paid from the Processing Fees, and, upon depletion of the Processing Fees, from advances by Otay Village Manager and via reimbursement pursuant to the Reimbursement Agreements. For purposes of evaluating an investment in the Funds, a prospective Investor should presume that the maximum compensation disclosed in the Fund's confidential offering memorandum is being paid to the introducers of capital and that each investor's emigration agent is acting as an introducer of capital to the Funds. These introducers of capital also generally seek to do business with and earn fees or commissions from other third parties participating in the EB-5 Program that may have similar or different offerings and compensation arrangements than the Funds. Accordingly, the participation of these introducers of capital in the Funds' offerings may

be influenced by their interest in these current or future fees and commissions, including differentials in the fees that are offered by other third parties for which these introducers of capital act. Potential Investors should consider these potential conflicts in making their investment decisions.

In some cases, Otay Village Manager may pay a placement agent that introduced a particular investor a fee in advance of approval by USCIS of such Investor's I-526 petition (an "**Advance Fee**"). In such cases, Otay Village Manager's agreement with such placement agent will require the return to Otay Village Manager of any Advance Fee paid to such placement agent in the event of Initial Project Denial or the Investor's Individual Denial and will further provide Otay Village Manager with various mechanisms for enforcing that placement agent's obligation, including crediting Otay Village Manager for other fees due to such placement agent. In the event that such a placement agent does not perform on its obligation to return an Advance Fee to Otay Village Manager and Otay Village Manager does not have an obligation to the placement agent that may be credited by such Advance Fee, Otay Village Manager's obligation to return the Processing Fee to an Investor upon an Initial Project Denial or the Investor's individual denial of an I-526 petition (an "**Individual Denial**") will be reduced by the amount of any Advance Fee not returned or so credited by the placement agent. At such time as the Advance Fee is returned by or so credited by the placement agent to Otay Village Manager following an Initial Project Denial or an Individual Denial, Otay Village Manager will remit such Advance Fee back to the Investor within five (5) business days, to the extent not previously returned to the Investor. In lieu of such obligation to remit Advance Fee back to the Investor, Otay Village Manager may assign to the Investor Otay Village Manager's right of collection against the placement agent, if so assignable, and upon such assignment, Otay Village Manager's obligation to return the portion of the Processing Fee represented by the Advance Fee will terminate. The dependence on placement agents to repay an Advance Fee paid in respect of an Investor's Processing Fee creates a further potential conflict of interest among potential Investors, placement agents who introduce them and the Funds.

In addition, the amount and timing of compensation due to placement agents may influence the decisions made by the Project Owners concerning prepayment of the Loans or exercise of extensions, which may in turn affect the Preferred Return payable to Investors and the timing of return of their capital contributions. The Funds anticipate that certain placement agents will be compensated only during the term that funds invested by an introduced investor are loaned to the Project Owners. Where an Investor was introduced by such placement agent, the Project Owners (which are under common control with the Funds and Otay Village Manager) will have a financial incentive to repay the Loans earlier to reduce fees paid to the placement agent. In contrast, where a placement agent is either not paid annual fees based on the loan term, or where such fees are accelerated, the Project Owners have a financial incentive to keep the Loans outstanding longer because of the lack of marginal cost associated with placement agent compensation. These compensation structures create conflicts of interest amongst Investors, placement agents who introduce them and the Funds.

#### **Independent Activities of Otay Village Manager; Competition by Otay Village Manager.**

Otay Village Manager and its affiliates do not have any duty to account to the Funds for profits derived from other than the Funds' activities, and they are under no duty to engage in such activities in a manner which does not affect the Funds' investments. In addition, Otay Village Manager is required to devote to the Funds' affairs only as much time as Otay Village Manager

deems necessary. These other activities of Otay Village Manager may detract from the financial and management resources that can be devoted to the activities of the Funds. Should a conflict of interest result from such other transactions, there is no assurance that they will be resolved in favor of the Funds.

**Allocation of Management Time.** The officers of Otay Village Manager currently engage in a number of other activities and will not devote all or even a substantial amount of their time to the Funds. Specifically, Otay Village Manager and its officers will devote only so much of their time and effort to the affairs of the Funds as they deem reasonable. Accordingly, conflicts may arise with respect to the time and attention that Otay Village Manager and its officers may devote to the Funds as opposed to their other management interests.

**Fund Opportunities.** Otay Village Manager and its members, managers, officers, and their respective affiliates have previously had presented to it and/or to them opportunities to launch, and have launched, other investment funds or vehicles for the pursuit of other investment or funding opportunities. Additionally, by reason of Otay Village Manager's management of the Funds, including in particular raising and investing the proceeds contemplated by the Governing Documents, Otay Village Manager and its members, managers, officers and their respective affiliates may have presented to it or to them in the future additional opportunities to launch other investment funds or vehicles for the pursuit of other investment or funding opportunities, and to participate in other real estate development projects, both under the EB-5 Program, and otherwise, which might not otherwise have been made available to it or to them. Each Investor should recognize that Otay Village Manager (or another legal entity formed by Otay Village Manager and/or its members directly) intends to investigate such opportunities, and may, as a consequence, undertake to manage, participate in, develop, own or acquire other future investment projects, as well as continue those same activities with regard to existing investment projects, all whether or not similar to the Projects, and conceivably competitive therewith, for its own account, or for the account of others. Any investment projects so managed, developed, owned or acquired by or participated in by Otay Village Manager or its affiliates (or continuing to be managed, developed, owned or acquired by or participated in by any of them) will not constitute any part of the assets, properties or rights of the Funds, and neither Otay Village Manager, nor its members, managers, officers or their respective affiliates will have any obligation to offer such opportunities to the Funds or its Investors.

**Responsibility of Otay Village Manager.** The Governing Documents provide that the duties of Otay Village Manager described in the Governing Documents replace fiduciary duties that might otherwise apply to Otay Village Manager under Delaware law (but not fiduciary duties that apply under the Advisers Act). Accordingly, Otay Village Manager may not be liable to the Funds or Investors for errors in judgment or other acts or omissions, including transactions involving self-dealing. Therefore, Investors will have a more limited right of action against Otay Village Manager than they would have absent these limitations in the Governing Documents. In addition, the burden of proving a breach of duty by Otay Village Manager, and all or any portion of the expense of such lawsuit, may have to be borne by the Investor(s) bringing such action.

The members of management of Otay Village Manager have fiduciary duties to other entities, and those entities have fiduciary duties to their equity owners. These will result in conflicting fiduciary

duties for the members of management of Otay Village Manager, and there can be no assurance that these conflicts will be resolved favorably to the Funds or Investors.

**Otay Village Manager's Representation of Funds in Tax Audit Proceedings.** Situations may arise in which Otay Village Manager may act as tax matters member on behalf of the Funds in administrative and judicial proceedings involving the Internal Revenue Service or other enforcement authorities. Such proceedings may involve or affect other companies for which Otay Village Manager or its affiliates may act as managers. In such situations, the positions taken by Otay Village Manager may have differing effects on the Funds and such other companies. An Investor may not agree with decisions made by Otay Village Manager in such capacity. Any Investor who desires not to be bound by any settlement reached by Otay Village Manager will be responsible for obtaining his or her own advice in connection with such matter, and even if such Investor is able to take a different position (at his or her own expense or direction), such Investor may suffer harm based on the position taken by Otay Village Manager as agent for the Investor.

**Indemnification.** The Governing Documents provides for indemnification of Otay Village Manager and affiliates against certain liabilities. The determination of whether or not Otay Village Manager is entitled to indemnification will be made by Otay Village Manager in accordance with the standards set forth in the Governing Documents. Otay Village Manager will have conflicting interests in making such determinations.

**Lack of Independent Due Diligence Review.** No person independent of Otay Village Manager has been engaged to perform a due diligence analysis of the Governing Documents, the Funds' offerings, or the underlying elements of the Funds' business plans.

## **ITEM 9: DISCIPLINARY INFORMATION**

Otay Village Manager and its supervised persons have no reportable disciplinary events to disclose.

## **ITEM 10: OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

### **Item 10.A. Broker Dealer Affiliations**

Otay Village Manager and its management persons are not registered, or have an application pending to register, as a broker-dealer or a registered representative of a broker-dealer.

### **Item 10.B. Commodity or Futures Industry Affiliations**

Otay Village Manager and its management persons are not registered, and have not applied to register, as a futures commission merchant, commodity pool operator, commodity trading advisor, futures commission merchant, or an associated person of any of the foregoing entities.

### **Item 10.C. Affiliate Relationships**

The Funds' sole investment activities are to provide the Loans to the Project Owners, who are affiliates of Otay Village Manager. In addition, Otay Village Manager, the Funds, the Project Owners, and HomeFed are under common control. These relationships create potential conflicts of interest which are outlined in greater detail under "Conflicts of Interest" in Item 8. Otay Village Manager strives to mitigate these potential conflicts of interest by managing the Funds in accordance with their Governing Documents.

#### **Item 10.D. Investment Adviser Recommendations**

Otay Village Manager and its supervised persons do not recommend or receive compensation for the selection of other investment advisers for the Funds.

### **ITEM 11: CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

#### **Item 11.A. Code of Ethics Generally**

Otay Village Manager has adopted a Code of Ethics (the "**Code**"), which sets forth standards of conduct that are expected of Otay Village Manager's directors, officers, principals and employees and addresses conflicts of interests. The Code generally sets the standard of ethical and professional business conduct that Otay Village Manager requires of its personnel, sets forth the fiduciary obligations that Otay Village Manager and its personnel owe to the Funds, and requires personnel to comply with applicable federal securities laws and regulations.

The Code sets forth Otay Village Manager's policies and procedures with respect to personal trading and requires Otay Village Manager's personnel to obtain written approval before transacting in certain personal securities transactions, including transactions in private placements or limited offerings and initial public offerings. Otay Village Manager personnel must also report personal securities holdings initially and annually and personal securities transactions on a quarterly basis. Personal securities transactions by personnel who manage the Funds' accounts are required to be conducted in a manner that prioritizes the Funds' interests in eligible investments. Additionally, the Code and Otay Village Manager's Compliance Manual include policies and procedures with respect to material non-public information and other confidential information, political contributions, gifts and entertainment and other matters related to potential conflicts of interest.

A copy of the Code is available to any Investor or prospective Investor upon request by contacting the number on the cover page of this Brochure.

#### **Item 11.B through Item 11.D. Related Person Transactions**

As noted above, the Funds' sole investment activities are to provide the Loans to the Project Owners, who are affiliates and under common control with Otay Village Manager. Potential conflicts of interest are described under "Conflicts of Interest" in Item 8 above. Otay Village Manager strives to mitigate these potential conflicts of interest by managing the Funds in accordance with their Governing Documents.

## **ITEM 12: BROKERAGE PRACTICES**

Otay Village Manager currently does not engage in trading transactions on behalf of the Funds or utilize the services of broker-dealers for transaction related services. However, should Otay Village Manager determine that there is a need to engage a broker in the future, Otay Village Manager will select the broker considering the range and quality of its brokerage services, its execution capability and trade efficiency, level of trading expertise, commission rate, infrastructure, financial responsibility, responsiveness to Otay Village Manager and other applicable factors.

## **ITEM 13: REVIEW OF ACCOUNTS**

### **Item 13.A. and 13.B. Review of Accounts**

Otay Village Manager will closely monitor the Loans and other assets of the Funds. The Funds' portfolios will be reviewed on an ongoing basis by Otay Village Manager's officers, who review and monitor the Funds' investments and work closely with staff to ensure that the Funds' investment objectives are being met. The Loans' details are also reviewed on a quarterly basis as part of Otay Village Manager's accounting and reporting process.

### **Item 13.C. Client Reports**

Investors in the Funds will typically receive, among other things, necessary information for Investors' preparation of his or her United States federal income tax return including distributions to such Investors during such year, an annual report including an income statement for the year and a balance sheet of the applicable Fund as of fiscal year end and a written quarterly status report with respect to the applicable Fund's Loan and the Project made by such Fund.

## **ITEM 14: CLIENT REFERRALS AND OTHER COMPENSATION**

### **Item 14.A through Item 14.B. Client Referrals and Other Compensation**

No person or entity who is not a client provides economic benefits to Otay Village Manager for its advisory services to the Funds.

### **Item 14.B. Client Referrals**

As noted above in Item 8, Otay Village Manager has engaged a number of placement agents to facilitate the sale of interests in the Funds. Otay Village Manager will pay the placement agent a placement fee based upon the amount of interests committed to by applicable Investors. The Funds pay such introducers of capital a market rate sales commission, payable in cash initially or upon approval of I-526 petitions. Furthermore, participating introducers of capital may be paid additional compensation. No portion of these sales commissions are or will be paid from Investors' capital contributions. Such sales commissions are paid from the relevant Fund's Processing Fees and, upon depletion of the Processing Fees, from advances by Otay Village Manager or its affiliates.

## **ITEM 15: CUSTODY**

In accordance with Rule 206(4)-2 under the Advisers Act (the “**Custody Rule**”), the Funds will be subject to annual audits by an independent public accountant registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board and audited financial statements of the Funds will be prepared in accordance with generally accepted accounting principles and distributed to Investors within 120 days of the end of each Fund’s fiscal year. Investors should carefully review the audited financial statements of the Funds upon receipt, and should compare these statements to any account information provided by Otay Village Manager.

## **ITEM 16: INVESTMENT DISCRETION**

Otay Village Manager has discretionary authority to manage securities accounts on behalf the Funds. The Funds’ investment strategies are set forth in detail in the Funds’ Governing Documents. Investors do not have the ability to impose limitations on this discretionary authority. Investors must execute a subscription agreement in which they make various representations, including representations regarding their suitability to invest in the Funds.

## **ITEM 17: VOTING CLIENT SECURITIES**

While the Loans made by the Funds are not typically the subject of proxies, Otay Village Manager, having discretionary authority over the Funds, will vote any potential proxies in the best interests of the Funds and in accordance with its proxy voting policies and procedures outlined in Otay Village Manager’s compliance manual (the “**Manual**”).

In the event of a material conflict of interest, Otay Village Manager will follow the written policies and procedures detailed in the Manual. Although not intended to be used on a regular basis, Otay Village Manager may retain an independent third party to vote proxies in certain situations (including situations where a material conflict of interest is identified).

Investors generally do not have the ability to direct proxy votes. Investors or prospective Investors may obtain additional information regarding how Otay Village Manager voted proxies and may obtain a copy of Otay Village Manager’s proxy voting policies and procedures by contacting Otay Village Manager. Contact information is provided on the cover page of this Brochure.

## **ITEM 18: FINANCIAL INFORMATION**

### **Item 18.A. Balance Sheet**

Otay Village Manager does not require nor solicit pre-payment of more than \$1,200 in fees per client, six months or more in advance.

**Item 18.B. Financial Condition**

Otay Village Manager is not aware of any financial condition that is reasonably likely to impact its ability to meet its contractual commitments to clients.

**Item 18.C. Bankruptcy Petitions**

Otay Village Manager has not been the subject of a bankruptcy petition at any time during the past ten years.