

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

*Garden Grove Housing Authority  
and  
Garden Grove Agency for Community Development*

To: Matthew Fertal

From: Economic Development

Dept: Director

Subject: AMENDED AND RESTATED  
REGULATORY AGREEMENT AND  
AGREEMENT REGARDING  
REDEMPTION AND DEFEASANCE  
OF 1996 BONDS FOR STUART  
DRIVE/ROSE GARDEN  
AFFORDABLE HOUSING PROJECTS

Date: August 10, 2010

OBJECTIVE

To consider an Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants (Amended Regulatory Agreement) and an Agreement Regarding Redemption and Defeasance of 1996 Bonds (Redemption Agreement) among the Garden Grove Housing Authority (Authority), the Garden Grove Agency for Community Development (Agency), Stuart Drive/Rose Garden Limited Partnership (Owner or Borrower), and the Bank of New York Mellon Trust Company, (Trustee) all related to the Stuart Drive and the Rose Garden Affordable Housing Apartment Projects.

BACKGROUND

On July 11, 1995, the Agency and Bertram Partners, Inc., the predecessor to Owner (both Stuart Drive/Rose Garden Limited Partnership and Bertram Partners, Inc. are corporate entities controlled by Kenneth B. Black, Jr.), entered into an Affordable Housing Agreement (AHA) for the acquisition, rehabilitation, and long-term operation of two affordable rental housing projects, the Stuart Drive Apartments consisting of 95 units located at 11602 - 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive and 11851 Stuart Drive and the Rose Garden Apartments located at 8551 Westminster Avenue consisting of 144 units.

On March 28, 1996, the Garden Grove Housing Authority Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996A (\$7,790,000), the Garden Grove Housing Authority Taxable Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996B (\$2,000,000), and the Garden Grove Housing Authority Housing Set-Aside Tax Increment Revenue Bonds (Stuart Drive/Rose Garden Apartment Project) Series 1996C (\$8,500,000) (collectively, the "Bonds") were issued by the Authority in connection with the financing of the

AMENDED AND RESTATED REGULATORY AGREEMENT AND AGREEMENT REGARDING  
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acquisition and rehabilitation of the Stuart Drive Apartments and Stuart Drive Apartments (together, the "Project"). The AHA was predicated upon the issuance of the Bonds.

Under the AHA, the Agency's financial assistance included an annual pledge of approximately \$600,000 representing security against certain debt service on the Bonds and certain additional funding for part of the rehabilitation of the Project. The AHA and the Bond Documents required, as a condition precedent to Agency's assistance, that a regulatory agreement be recorded to conform with any requirements imposed in connection with issuance of the Bonds, the Tax Credits, the AHA, the Community Redevelopment Law, other approved financing, and other applicable laws. The Owner, Agency, Authority, and predecessor to the Trustee, entered into a Regulatory Agreement and Declaration of Restrictive Covenants (Original Regulatory Agreement) dated as of February 1, 1996.

Pursuant to the AHA, the Agency pledged certain amounts from the Housing Fund to guaranty repayment of the Bonds and advanced other monies for the Project all as a residual receipts loan ("Agency Assistance"). The Owner intends to refinance the existing first mortgage for the Project and in connection with such refinancing has requested that the Bonds be redeemed in full and has agreed to repay in full the Agency Assistance. To date, the Agency has advanced to Owner \$2,274,148, towards the guarantee of the Bonds and for additional rehabilitation work pursuant to the Second Amendment to the AHA dated February 24, 1998.

#### ANALYSIS

In connection with the redemption of the Bonds and Owner's repayment in full of the Agency Assistance and to ensure the continued effectiveness of all covenants for the full term of the Affordability Period the Authority, Agency, Owner, and Trustee will be required to enter into the Amended Regulatory Agreement (Attachment 3) to amend and restate the Original Regulatory Agreement in its entirety and remove the provisions rendered obsolete or inapplicable by reason of the full repayment of the Bonds and Agency Assistance. While the Amended Regulatory Agreement terminates the AHA and amendments to the AHA, Owner covenants that 100% of the Project's housing units shall continue to be restricted for occupancy at Affordable Rent to Low Income tenants with not less than 10% of the housing units restricted to Very Low Income tenants (with the exception of one manager's unit at Stuart Drive Apartments and one manager's unit at Rose Garden Apartments) for the full Affordability Period that continues until July 14, 2032.

To facilitate the redemption of the Bonds, the payoff of Owner's existing first mortgage loan, and to repay in full the Agency Assistance, Owner (as Borrower), Agency and Authority will enter into an Agreement Regarding Redemption and Defeasance of 1996 Bonds (Redemption Agreement) (Attachment 4). This Redemption Agreement calls for the giving of notice of redemption contingent upon the availability of funds, Borrower's indemnity of the City, Authority and Agency,

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repayment in full of the Agency Assistance, and certain other matters. The Trustee currently holds approximately \$1,458,000 in reserve, which in connection with the redemption of the Bonds and Owner's refinancing of the Project, may be released to Borrower and expended for repayment of the Agency Assistance of \$2,274,148, the payment of \$25,000 for bond counsel legal services, and the payment of an administrative fee of \$100,000 that represents a compromise of certain administrative fees payable under the Bond Documents for a total repayment by Owner/Borrower of \$2,399,148. Concurrently with the recordation of the Amended Regulatory Agreement, the Owner will repay the Agency Assistance and all sums of principal and interest due to the Trustee causing the Bonds to be redeemed in full.

FINANCIAL IMPACT

The Owner will repay \$2,399,148 to the Agency, comprised of \$2,274,148 in repayment of the Agency Assistance and \$125,000 in legal and administrative fees.

RECOMMENDATION

Staff recommends that the Housing Authority:

- Adopt the attached Authority Resolution authorizing the execution of Agreement regarding Redemption Relating to the Garden Grove Housing Authority Multifamily Revenue Bonds, and the Amended Regulatory Agreement, and related implementing documents relative to bond redemption and Agency tax increment and authorizing the Authority Director to make necessary changes to the Amended Regulatory Agreement and Redemption Agreement.

Staff recommends that the Agency:

- Adopt the attached Agency Resolution authorizing the execution of Agreement regarding Redemption Relating to the Garden Grove Housing Authority Multifamily Revenue Bonds, and the Amended Regulatory Agreement, and related implementing documents relative to bond redemption and Agency tax increment and authorizing the Agency Director to make necessary changes to the Amended Regulatory Agreement and Redemption Agreement.

*Kathleen Angel*

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By: Kathleen McCall Angel  
Economic Development Specialist

Attachment 1: Agency Resolution  
Attachment 2: Housing Authority Resolution  
Attachment 3: Amended Regulatory Agreement  
Attachment 4: Redemption Agreement

Recommended for Approval

*Matthew Fertal*

Matthew Fertal  
Director

so(h:chron//katie/staff report.Bertram Amend Reg Agr v4 8-10-10)

## GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

## RESOLUTION NO.

RESOLUTION OF THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENT REGARDING REDEMPTION RELATING TO THE GARDEN GROVE HOUSING AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS (STUART DRIVE/ROSE GARDEN APARTMENTS PROJECT), SERIES 1996A, 1996B, AND 1996C; AND APPROVING AND AUTHORIZING EXECUTION OF THE AMENDED AND RESTATED REGULATORY AGREEMENT RELATED THERETO; AND APPROVING AND AUTHORIZING EXECUTION OF SUCH OTHER DOCUMENTS RELATIVE TO AND IN IMPLEMENTATION OF THE BOND REDEMPTION AND AGENCY TAX INCREMENT COMMITMENT AND THE REPAYMENT OF THE AGENCY ASSISTANCE; AND MAKING OTHER FINDINGS IN CONNECTION THEREWITH

WHEREAS, the Garden Grove Agency for Community Development (Agency) is a public agency organized and existing under the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.);

WHEREAS, the Garden Grove Housing Authority (Issuer) has previously determined to engage in a multi-family rental housing revenue bond finance program (Program) pursuant to applicable law for persons and family within the income limits established by law, and has issued revenue bonds pursuant thereto to provide funds for the Program;

WHEREAS, in 1996 the Issuer issued its Garden Grove Housing Authority Multi-Family Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) in three series consisting of Series 1996A, Series 1996B, and Series 1996C (1996 Bonds) in the aggregate principal amount of \$18,290,000;

WHEREAS, proceeds of the bonds were loaned to Stuart Drive/Rose Garden Limited Partnership, a California limited partnership (Borrower) and the use and occupancy of the multi-family housing rental units financed thereby was restricted by that certain Regulatory Agreement and Declaration of Restricted Covenants dated as of February 1, 1996 (1996 Regulatory Agreement) by and among the Issuer, the Agency, the Borrower, and First Interstate Bank of California as Trustee, and an Affordable Housing Agreement (Affordable Housing Agreement) dated as of July 11, 1995, between the Agency and Bertram Partners, Inc., a predecessor to the Borrower;

WHEREAS, that portion of the 1996 Bonds designated as Series 1996C were additionally secured by a Limited Guarantee, Support, and Pledge Agreement dated as of February 1, 1996, (1996 Agency Guarantee), executed by the Agency in favor of the Authority and the Trustee for the Bonds;

WHEREAS, the Stuart Drive/Rose Garden Apartments Project includes 239 multi-family housing units, of which 95 units are in the Stuart Drive Project and 144 units are in the Rose Garden Project, and 100% of the units are covenanted by the

1996 Regulatory Agreement and the Affordable Housing Agreement for occupancy by Low Income households at an Affordable Rent with 10% of the 100% of the units for occupancy by Very Low Income households at an Affordable Rent for the Qualified Project Period and Affordability Period, respectively (Project);

WHEREAS, pursuant to the 1996 Agency Guarantee the Agency has advanced funds on behalf of the Borrower to pay debt service on the Series 1996C Bonds and is currently indebted to the Agency with respect to such advances in the approximate amount of \$2,045,000, and the Agency loaned additional funds for a certain part of the rehabilitation work at the Project in the amount of \$225,562 for additional rehabilitation pursuant to the Second Amendment to the Affordable Housing Agreement dated February 24, 1998, for a total sum advanced and loaned of \$2,274,148;

WHEREAS, the Borrower has requested the Authority's assistance in causing the redemption of the 1996 Bonds so as to effect a termination of the 1996 Agency Guarantee and repayment in full of all amounts due the Authority and the Agency pursuant to the Indenture of Trust dated as of February 1, 1996 related to the Bonds (1996 Indenture) and all related financing documents (1996 Financing Documents);

WHEREAS, the Authority will agree to cooperate with respect to redemption of the 1996 Bonds and the prepayment of the Borrower's liability to the Agency under the 1996 Agency Guarantee substantially on the terms set forth in the form of Agreement Regarding Redemption and Defeasance of 1996 Bonds (Redemption Agreement) to be entered into between the Borrower, the Authority and the Agency, substantially in the form of which has been presented to this Board and is on file with the Agency Director; and

WHEREAS, the Borrower and the Agency propose to enter into that certain Amended and Restated Regulatory Agreement (Amended Regulatory Agreement), the form of which has been presented to this governing Board, addressing ongoing affordability requirements to be observed by the Borrower with respect to the multi-family housing Project financed with the Bonds from and after the end of the Qualified Project Period and the remaining term of the Affordability Period and the Authority wishes to authorize the Agency Director or his written designee to evidence the Authority's acceptance of the terms thereof to the extent reasonably necessary or appropriate, and to further authorize such other actions as may be necessary or desirable to facilitate the defeasance and redemption of the 1996 Bonds, the payoff of the 1996 Agency Guarantee and Agency Assistance, and related actions.

NOW, THEREFORE, THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals, and each of them, are true and correct and are a substantive part of this Resolution.

Section 2. The form of Redemption Agreement presented at this meeting is hereby approved; and the Agency Director or his written designee is hereby authorized and directed to execute and deliver the Redemption Agreement on behalf of the Agency in substantially the form hereby approved, with such changes therein and additions thereto as the officer executing the same deems necessary or appropriate, with the advice of the Agency Counsel. Approval of such changes shall be conclusively evidenced by the execution and delivery of the Redemption Agreement.

Section 3. The form of Amended Regulatory Agreement presented at this meeting is hereby approved, and the Agency Director or his written designee is hereby authorized and directed to execute and deliver the Amended Regulatory Agreement on behalf of the Agency in substantially the form hereby approved, with such changes therein and additions thereto as the officer executing the same deems necessary, with the advice of the Agency Counsel. Approval of such changes shall be conclusively evidenced by the execution and delivery of the acknowledgement of Regulatory Agreement.

Section 4. The Officers of the Agency are hereby authorized and directed, for and on behalf of the Issuer, jointly and severally, to do any and all things, and to execute and deliver any and all documents that they may deem necessary or advisable in order to facilitate the redemption and defeasance of the Bonds and the repayment of the 1996 Agency Guarantee and Agency Assistance, and otherwise to effectuate the purposes of this Resolution; such actions previously taken by such officers, including without limitation the giving of conditional notice of optional redemption of the 1996 Bonds by the Authority are hereby ratified and confirmed.

Section 5. This Resolution shall take effect immediately upon its adoption.

Section 6. The Agency Secretary shall certify to the adoption of this Resolution.

## GARDEN GROVE HOUSING AUTHORITY

## RESOLUTION NO.

RESOLUTION OF THE GARDEN GROVE HOUSING AUTHORITY APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENT REGARDING REDEMPTION RELATING TO THE GARDEN GROVE HOUSING AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS (STUART DRIVE/ROSE GARDEN APARTMENTS PROJECT), SERIES 1996A, 1996B, AND 1996C; APPROVING AND AUTHORIZING EXECUTION OF THE AMENDED AND RESTATED REGULATORY AGREEMENT RELATED THERETO; APPROVING AND AUTHORIZING EXECUTION OF SUCH OTHER DOCUMENTS RELATIVE TO AND IN IMPLEMENTATION OF THE BOND REDEMPTION AND AGENCY TAX INCREMENT COMMITMENT AND THE REPAYMENT OF THE AGENCY ASSISTANCE; AND MAKING OTHER FINDINGS IN CONNECTION THEREWITH

WHEREAS, the Garden Grove Housing Authority (Issuer or Authority) has previously determined to engage in a multi-family rental housing revenue bond finance program (Program) pursuant to applicable law for persons and family within the income limits established by law, and has issued revenue bonds pursuant thereto to provide funds for the Program;

WHEREAS, in 1996 the Issuer issued its Garden Grove Housing Authority Multi-Family Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) in three series consisting of Series 1996A, Series 1996B, and Series 1996C (1996 Bonds) in the aggregate principal amount of \$18,290,000;

WHEREAS, proceeds of the bonds were loaned to Stuart Drive/Rose Garden Limited Partnership, a California limited partnership (Borrower) and the use and occupancy of the multi-family housing rental units financed thereby was restricted by that certain Regulatory Agreement and Declaration of Restricted Covenants dated as of February 1, 1996, (1996 Regulatory Agreement) by and among the Issuer, Garden Grove Agency for Community Development (Agency), the Borrower, and First Interstate Bank of California as Trustee, and an Affordable Housing Agreement (Affordable Housing Agreement) dated as of July 11, 1995, between the Agency and Bertram Partners, Inc., a predecessor to the Borrower;

WHEREAS, that portion of the 1996 Bonds designated as Series 1996C were additionally secured by a Limited Guarantee, Support, and Pledge Agreement dated as of February 1, 1996, (1996 Agency Guarantee), executed by the Agency in favor of the Authority and the Trustee for the Bonds;

WHEREAS, the Stuart Drive/Rose Garden Apartments Project includes 239 multi-family housing units, of which 95 units are in the Stuart Drive Project and 144 units are in the Rose Garden Project, and 100% of the units are covenanted by the 1996 Regulatory Agreement and the Affordable Housing Agreement for occupancy by Low Income households at an Affordable Rent with 10% of the 100% of the units for occupancy by Very Low Income households at an Affordable Rent for the Qualified Project Period and Affordability Period, respectively (Project);

WHEREAS, pursuant to the 1996 Agency Guarantee the Agency has advanced funds on behalf of the Borrower to pay debt service on the Series 1996C Bonds and is currently indebted to the Agency with respect to such advances in the approximate amount of \$2,045,000, and the Agency loaned additional funds for a certain part of the rehabilitation work at the Project in the amount of \$225,562 for additional rehabilitation pursuant to the Second Amendment to the Affordable Housing Agreement dated February 24, 1998, for a total sum advanced and loaned of \$2,274,148;

WHEREAS, the Borrower has requested the Authority's assistance in causing the redemption of the 1996 Bonds so as to effect a termination of the 1996 Agency Guarantee and repayment in full of all amounts due the Authority and the Agency pursuant to the Indenture of Trust dated as of February 1, 1996 related to the Bonds (1996 Indenture) and all related financing documents (1996 Financing Documents);

WHEREAS, the Authority will agree to cooperate with respect to redemption of the 1996 Bonds and the prepayment of the Borrower's liability to the Agency under the 1996 Agency Guarantee substantially on the terms set forth in the form of Agreement Regarding Redemption and Defeasance of 1996 Bonds (Redemption Agreement) to be entered into between the Borrower, the Authority, and the Agency, substantially in the form of which has been presented to this Board and is on file with the Authority Director; and

WHEREAS, the Borrower and the Agency propose to enter into that certain Amended and Restated Regulatory Agreement (Amended Regulatory Agreement), the form of which has been presented to this governing Board, addressing ongoing affordability requirements to be observed by the Borrower with respect to the multi-family housing Project financed with the Bonds from and after the end of the Qualified Project Period and the remaining term of the Affordability Period and the Authority wishes to authorize the Authority Director or his written designee to evidence the Authority's acceptance of the terms thereof to the extent reasonably necessary or appropriate, and to further authorize such other actions as may be necessary or desirable to facilitate the defeasance and redemption of the 1996 Bonds, the payoff of the 1996 Agency Guarantee and Agency Assistance, and related actions.

NOW, THEREFORE, THE GARDEN GROVE HOUSING AUTHORITY DOES  
HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals, and each of them, are true and correct and are a substantive part of this Resolution.

Section 2. The form of Redemption Agreement presented at this meeting is hereby approved; and the Authority Director of the Issuer or his written designee is hereby authorized and directed to execute and deliver the Redemption

Agreement on behalf of the Issuer in substantially the form hereby approved, with such changes therein and additions thereto as the Officer executing the same deems necessary or appropriate, with the advice of the Issuer Counsel. Approval of such changes shall be conclusively evidenced by the execution and delivery of the Redemption Agreement.

Section 3. The form of the Amended Regulatory Agreement presented at this meeting is hereby approved, and the Authority Director of the Issuer or his written designee is hereby authorized and directed to execute and deliver the Amended Regulatory Agreement (or an acknowledgment thereof) on behalf of the Issuer in substantially the form hereby approved, with such changes therein and additions thereto as the officer executing the same deems necessary, with the advice of Issuer Counsel and Agency Counsel. Approval of such changes shall be conclusively evidenced by the execution and delivery of the acknowledgement of Amended Regulatory Agreement.

Section 4. The Officers of the Issuer are hereby authorized and directed, for and on behalf of the Issuer, jointly and severally, to do any and all things, and to execute and deliver any and all documents that they may deem necessary or advisable in order to facilitate the redemption and defeasance of the Bonds and the repayment of the 1996 Agency Guarantee and Agency Assistance, and otherwise to effectuate the purposes of this Resolution; such actions previously taken by such officers, including without limitation the giving of conditional notice of optional redemption of the 1996 Bonds by the Authority, are hereby ratified and confirmed.

Section 5. This Resolution shall take effect immediately upon its adoption.

Section 6. The Authority Secretary shall certify to the adoption of this Resolution.

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Garden Grove Agency for Community Development  
11222 Acacia Parkway  
P.O. Box 3070  
Garden Grove, California 92842  
Attention: Agency Director

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This document is exempt from the payment of a  
recording fee pursuant to Government Code  
Sections 6103 and 27383

**AMENDED AND RESTATED  
REGULATORY AGREEMENT  
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

**GARDEN GROVE HOUSING AUTHORITY,  
a public body corporate and politic**

and

**GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,  
a public body corporate and politic**

and

**STUART DRIVE/ROSE GARDEN LIMITED PARTNERSHIP,  
a California limited partnership**

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.  
(for the limited purposes described in Section 2(b) herein)**

Dated as of August \_\_, 2010

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## ATTACHMENTS

- Attachment No. 1: Legal Description and Project Site
- Attachment No. 2: Annual Recertification Tenant Survey Form  
and Certificate of Continuing Program Compliance
- Attachment No. 3: Initial Occupancy Certification of Income
- Attachment No. 4: Notice of Affordable Housing Restrictions
- Attachment No. 5: Fannie Mae Rider
- Attachment No. 6: Sections 3 and 6 of Original Regulatory Agreement

**AMENDED AND RESTATED  
REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS**

This **AMENDED AND RESTATED REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** ("Amended Regulatory Agreement"), dated as of August \_\_, 2010, by and among the **GARDEN GROVE HOUSING AUTHORITY**, a public body corporate and politic, that is organized and existing under the California Constitution, the Housing Authorities Law, Health & Safety Code Section 34200, *et seq.*, and other applicable laws of the State of California (together with any successor to its rights, duties and obligations, "**Authority**"), the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic, that is organized and existing under the California Constitution, the California Community Redevelopment Law, Health & Safety Code Section 33000, *et seq.*, and other applicable laws of the State of California (together with any successor to its rights, duties and obligations, "**Agency**"), **STUART DRIVE/ROSE GARDEN LIMITED PARTNERSHIP**, a California limited partnership ("**Owner**"), and, for the sole purpose of terminating the Original Regulatory Agreement as provided in Section 2(b), below, **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, a national banking association duly organized and existing under and by virtue of the laws of the United States ("**Trustee**").

**WITNESSETH**

**A.** The Legislature of the State of California has enacted Chapter 1 of Part 2 of Division 24 of the Health and Safety Code, the Housing Authorities Act ("**Act**") authorizing housing authorities to issue bonds to finance the construction and development, including rehabilitation, of multifamily rental housing for families and individuals of low or moderate income.

**B.** Authority is a public body corporate and politic (within the meaning of that term in the Regulations of the Department of Treasury and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code of 1986, as amended ("**Code**").

**C.** Agency is a public body, corporate and politic and a California redevelopment agency acting under the California Community Redevelopment Law, Part 1 of Division 24, Section 33000, *et seq.*, of the Health and Safety Code ("**CRL**").

**D.** Agency and Bertram Partners, Inc., a California corporation, predecessor in interest to Owner, and as "**Borrower**" therein, entered into an Affordable Housing Agreement, dated as of July 11, 1995, as amended by amendments dated as of March 12, 1996 February 24, 1998, and January 11, 2000 (together, as amended, the "**Housing Agreement**"), in order to set forth the terms and conditions relating to the acquisition, rehabilitation, and long-term operation, management, and maintenance of affordable housing called the Rose Garden Apartments and Stuart Drive Apartments. The Rose Garden Apartments are located at 8551 Westminster Avenue and are improved with one hundred forty-four (144) apartment units and the Stuart Drive Apartments are located at several separate properties, including units located at 11602 - 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive, and 11851 Stuart Drive that are improved with a total of ninety-five (95)

apartment units, as particularly described in the Legal Description attached hereto as Attachment No. 1, and incorporated herein by reference (the Stuart Drive Properties and the Rose Garden Property are collectively referred to herein as the "Project").

E. On or about March 27, 1996, Authority issued its revenue bonds designated as the Garden Grove Housing Authority Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996A in the original principal amount of \$7,790,000, the Garden Grove Housing Authority Taxable Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996B in the original principal amount of \$2,000,000 and the Garden Grove Housing Authority Housing Set-Aside Tax Increment Revenue Bonds (Stuart Drive/Rose Garden Apartment Project) Series 1996C in the original principal amount of \$8,500,000 (collectively, "**Bonds**") in connection with the financing of the acquisition, rehabilitation and long-term operation, management, and maintenance of affordable housing at that certain existing multifamily residential rental housing projects located in the City of Garden Grove known as the Rose Garden Apartments and Stuart Drive Apartments ("**Project**").

F. Pursuant to a Loan Agreement, dated as of February 1, 1996 ("**Loan Agreement**"), among Authority, First Interstate Bank of California ("**Original Trustee**"), and the Owner (as the "Borrower" therein), the net proceeds of the Bonds were loaned to Borrower ("**Loan**") to finance the cost of the acquiring and rehabilitating the Project.

G. The Housing Agreement required, as a condition precedent to Agency's assistance of Owner's acquisition and rehabilitation of the Project, that a regulatory agreement be recorded in the Official Records of Orange County, California, which regulatory agreement was required to conform with any requirements imposed in connection with issuance of the Bonds, the Tax Credits, other approved financing, the Housing Agreement, and applicable law. To this end, Borrower, Agency, Authority, and Original Trustee, entered into that certain Regulatory Agreement dated as of February 1, 1996, which was recorded on March 27, 1996 as Instrument No. 19960147918, Official Records, Orange County, California ("**Original Regulatory Agreement**").

H. In addition, pursuant to the Housing Agreement, Agency agreed to pledge certain amounts of Agency's funds ("**Agency Assistance**") to guaranty repayment of the Bonds. Agency has previously advanced \$2,274,148 of Agency Assistance.

I. Concurrently with the recordation hereof, Owner is repaying all sums of principal and interest arising under the Loan Agreement and causing the Bonds to be redeemed in full. In addition, Owner is repaying in full the entire balance of Agency Assistance in the sum of \$2,274,148.

J. Owner desires and has requested that the Bonds be redeemed in full and that Agency Assistance be repaid in full. The Owner shall be causing the Bonds to be redeemed and the Agency Assistance to be repaid from (a) funds currently held in the Trustee's reserve funds pursuant to the Bonds, plus (b) the proceeds of a new loan to be secured by the Project. Therefore, it is in the best interest of Authority and Agency to have the Bonds redeemed in full and for Agency Assistance to be repaid in full to Agency all with Owner's funds. Accordingly, by reason of the repayment of Agency Assistance and the redemption of the Bonds and repayment of the Loan, many of the terms and conditions of the Original Regulatory Agreement are and/or will be no longer applicable. For example, among other things, by reason of the Bonds being paid in full, the Trustee need not be a party to the Regulatory Agreement. Therefore, Authority, Agency, Owner, and Trustee have determined to enter into this Amended Regulatory Agreement to amend and restate the Original

Regulatory Agreement in its entirety and remove the provisions rendered obsolete or inapplicable by reason of the full repayment of the Loan, the Bonds, and Agency Assistance.

K. It is acknowledged that the Trustee is a party to this Amended Regulatory Agreement for the sole purpose of terminating the Original Regulatory Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Authority, Agency, and Owner hereby agree as follows:

**Section 1. Definitions and Interpretation.** The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

(a) “Act” means Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California as now in effect and as it may from time to time hereafter be amended or supplemented.

(b) “Adjusted Income” means the adjusted income of all persons who intend to reside in one residential unit, whether a Very Low Income Unit or a Low Income Units as applicable, calculated in the manner determined by the Secretary of the Treasury pursuant to Tax Credit Rules.

(c) “Affordability Period” means the term that the Project and all the Very Low Income Units and the Low Income Units, as applicable, thereon shall be subject to the requirements of this Amended Regulatory Agreement for the period that commenced on the date of recordation of the Original Regulatory Agreement in the Official Records of Orange County, California and ending on July 14, 2032.

(d) “Affordable Rent” means:

(i) for the Very Low Income Units to be rented to Very Low Income Households, a monthly Rent that does not exceed one twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of the Area Median Income, as determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code,

(ii) for the Low Income Units to be rented to Low Income Households, a monthly Rent that does not exceed one twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of the Area Median Income, as determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code, for a family of a size appropriate to the unit.

Further, for purposes of this Amended Regulatory Agreement and as defined in the term “Rent”, the term “Affordable Rent” shall also include and mean the total of monthly payments for (a) use and occupancy of each Very Low Income Unit and for each Low Income Unit, as applicable, and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Owner that are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, or cable TV or internet services, and (d) possessory interest,

taxes or other fees or charges assessed against a tenant for use of the land and facilities associated therewith by a public or private entity other than Owner.

(e) **“Agency”** means the Garden Grove Agency for Community Development, a public body, corporate and politic.

(f) **“Agency Director”** means any of the Agency’s Director, the Agency’s Deputy Director, and the authorized designee(s) of the Agency’s Director. Whenever the consent, approval or other action of the **“Agency Director”** is required herein, such consent may be provided by any of the Agency’s Director, the Agency’s Deputy Director, and the authorized designee(s) of the Agency’s Director, or the Agency Director in his sole discretion may submit to the Agency for action to approve or disapprove such request.

(g) **“Amended Regulatory Agreement”** means this Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, together with any amendments hereto or supplements hereof.

(h) **“Area”** means the Orange County, California Primary Metropolitan Statistical Area, as designated by the federal Office of Budget and Management.

(i) **“Area Median Income”** or **“AMI”** means the median gross income for the Area as determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code.

(j) **“Authority”** means the Garden Grove Housing Authority, a public body corporate and politic.

(k) **“Bond Counsel”** means an attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, who is or are reasonably acceptable to Authority and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

(l) **“Bond Issuance Date”** means the date of the delivery of the Bonds, being March 28, 1996.

(m) **“Bonds”** means the \$7,790,000 Garden Grove Housing Authority Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project), Series 1996A, \$2,000,000 Garden Grove Housing Authority Taxable Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996B, and \$8,500,000 Garden Grove Housing Authority Housing Set-Aside Tax Increment Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996C. (The Series 1996A Bonds and the Series 1996C Bonds are referred to herein as the **“Tax Exempt Bonds”**.)

(n) **“Capital Replacement Reserve”** means the separate reserve fund account established pursuant to the Management Plan for the Project, and for each Component of the Project, which is and shall continue to be maintained by Owner.

(o) **“Certificate of Continuing Program Compliance”** means the certificate with respect to the Project to be filed by Owner with Agency, and the Program Administrator, which shall be substantially in the form attached hereto as Attachment No. 2.

(p) “City” means the City of Garden Grove, California, a California municipal corporation.

(q) “Code” means the Internal Revenue Code of 1986, as amended, together with the Regulations. All references herein to sections, paragraphs or other subdivisions of the Code or the Regulations shall be deemed to be references to correlative provisions of any applicable successor code or regulations promulgated thereunder.

(r) “Component” means each of the multifamily residential rental projects, both Stuart Drive Apartments and Rose Garden Apartments, that are legally described on Attachment No. 1 hereto that comprise the Project (inclusive of Project Sites 1-9).

(s) “CRL” means the California Community Redevelopment Law, Part 1 of Division 24, Section 33000, *et seq.*, of the Health & Safety Code.

(t) “Effective Date” means the date of recordation of this Amended Regulatory Agreement in the Official Records, County of Orange, California.

(u) “Governmental Requirements” means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the City, or any other political subdivision in which the Project is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over Agency, Owner or the Project.

(v) “Gross Mismanagement” has the meaning ascribed to such term in Section 4(a).

(w) “Hazardous Material” or “Hazardous Materials” means and includes any substance, material, or waste which is or becomes regulated by any local governmental authority, including the County, Orange County Health Care Agency, the Regional Water Quality Control Board, the State of California, or the United States Government, including, but not limited to, any material or substance which is: (i) defined as a “hazardous waste,” “acutely hazardous waste,” “restricted hazardous waste,” or “extremely hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter Presley Tanner Hazardous Substance Account Act); (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos and/or asbestos containing materials; (vii) lead based paint or any lead based or lead products; (viii) polychlorinated biphenyls, (ix) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317); (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.* (42 U.S.C. Section 6903); (xi) Methyl tert Butyl Ether; (xii) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, *et seq.* (42 U.S.C. Section 9601); (xiii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any “Governmental Requirements” (as defined in Paragraph (c) of

this Section 308) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment; and/or (xiv) lead based paint pursuant to and defined in the Lead Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. § 4800, *et seq.*, specifically §§ 4821-4846, and the implementing regulations thereto. Notwithstanding the foregoing, "Hazardous Materials" shall not include such products in quantities as are customarily used in the construction, maintenance, rehabilitation, management, operation and residence of residential developments or associated buildings and grounds, or typically used in residential activities in a manner typical of other comparable residential developments, or substances commonly ingested by a significant population living within the Project, including without limitation alcohol, aspirin, tobacco and saccharine.

(x) **"Hazardous Materials Contamination"** means the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Project by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Amended Regulatory Agreement) emanating from the Project.

(y) **"Housing Agreement"** means the Affordable Housing Agreement, dated July 11, 1995, by and between Agency and Bertram Partners, Inc., a California corporation, as amended by amendments dated March 12, 1996, February 24, 1998, and January 11, 2000.

(z) **"Income Computation and Certification"** means documents substantially in the form attached hereto as Attachment No. 2 and Attachment No. 3 and any alternate form that Owner is directed by Program Administrator and/or Agency to use.

(aa) **"Low Income Tenants" or "Low Income Households"** means those tenant households earning not greater than sixty percent (60%) of the Area Median Income, as the Area Median income is determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code. The household size adjustment shall be determined in a manner consistent with the requirements of the Tax Credit Rules which currently provides for adjustments by multiplying that figure which equals sixty percent (60%) of the Area Median Income by the following percentages:

<i>Household Size</i>	<i>Adjustment</i>
1	70%
2	80%
3	90%
4	100%
5	108%
6	116%
7	124%
8	132%

(bb) **"Low Income Units"** means the dwelling units in the Project designated for occupancy by Low Income Tenants pursuant to Section 5 and Section 6 hereof, including any Very Low Income Units.

(cc) **“Management Agreement”** means the Management Agreement, dated as of August 1, 2010, by and between i.Asset Corporation, a Nevada corporation as management agent and Owner, with such management agent as the Property Manager of the Project hereunder, and any replacement management agreement between the Owner and the Property Manager.

(dd) **“Management Plan”** means the detailed **“Management Plan”** set forth in Section 4, which sets forth in detail the duties of the Property Manager, the tenant selection process, a security system and crime prevention program, the procedures for the collection of rent, the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations of the Project and manner of enforcement, a standard lease form, and other matters relevant to the management of the Project.

(ee) **“Notice of Affordable Housing Restrictions”** means, collectively, the separate covenants agreement to be executed by the parties in substantially the form attached hereto as Attachment No. 4 and incorporated herein, which shall recite the affordability restrictions and restrictions on transfer imposed on the Project Site by this Amended Regulatory Agreement and which shall be recorded against the Project concurrent herewith all as required by and in compliance with CRL Section 33334.3(f)(3)(B).

(ff) **“Original Regulatory Agreement”** means that certain Regulatory Agreement entered into by Borrower, Agency, Authority, and Original Trustee dated as of February 1, 1996, which was recorded on March 27, 1996 as Instrument No. 19960147918, Official Records, Orange County, California.

(gg) **“Owner”** means Stuart Drive/Rose Garden Limited Partnership, a California limited partnership, and its successors and assigns.

(hh) **“Primary Loan”** means the permanent financing obtained by Owner for the Project from an institutional lender which loan (but not the refinancing, modification or amendment thereof) shall be senior to this Amended Regulatory Agreement.

(ii) **“Program Administrator”** means a governmental agency, a financial institution, a certified public accountant, an apartment management firm, a mortgage insurance company or other business entity performing similar duties or otherwise experienced in the administration of restrictions on bond financed multifamily housing projects which shall initially be Agency and, at Authority’s election, any other person or entity appointed by Authority who shall enter into an Administration Agreement in a form acceptable to Authority and the Program Administrator.

(jj) **“Project”** means the Project Facilities and the Project Site.

(kk) **“Project Facilities”** means the buildings, structures and other improvements to be rehabilitated on the Project Site, and all fixtures and other property owned by Owner and located on, or used in connection with, such buildings, structures and other improvements constituting the Project.

(ll) **“Project Site”** means the parcel or parcels of real property legally described in Attachment No. 1, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances thereunto appertaining.

(mm) **"Property Manager"** means the individual property manager or property management company contracted by and with Owner, after obtaining Agency Director's written approval of such individual or company, to perform the operation, maintenance, and management of the Project; in this regard, Agency pre-approves Bertram Property Management as the Property Manager as more fully set forth in Section 4(g) hereof.

(nn) **"Qualified Project Period"** means the period beginning on the Bond Issuance Date and ending on the later of: (a) the date which is 15 years after the Bond Issuance Date (namely, March 28, 2011), or (b) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

(oo) **"Regulations"** means the income tax regulations promulgated or proposed by the United States Department of the Treasury pursuant to the Code from time to time.

(pp) **"Rehabilitation"** means the rehabilitation of each of the respective Components of the Project as required pursuant to Section 2 of the Original Regulatory Agreement.

(qq) **"Remediation"** means the cleanup and removal of Hazardous Materials and Hazardous Materials Contamination as set forth in Section 7 hereof.

(rr) **"Rent"** means for purposes of calculating the maximum Affordable Rent allowed under Section 5(a) of this Amended Regulatory Agreement, the total of monthly payments for (a) use and occupancy of each Very Low Income Unit and for each Low Income Unit, as applicable, and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Owner that are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, or cable TV or internet services, and (d) possessory interest, taxes or other fees or charges assessed against a tenant for use of the land and facilities associated therewith by a public or private entity other than Owner.

(ss) **"Request for Notice"** means the request(s) for notice of default pursuant to Civil Code Section 2924b to be recorded against the Project and both Components concurrent with the recordation of this Amended Regulatory Agreement and fully incorporated by this reference.

(tt) **"Rose Garden Property"** or **"Rose Garden Apartments"** means that parcel of real property located within the City of Garden Grove located at 8551 Westminster Avenue and is improved with an existing one hundred forty-four (144) unit apartment complex thereon, as particularly described in the Legal Description.

(uu) **"State"** means State of California.

(vv) **"Stuart Drive Properties"** or **"Stuart Drive Apartments"** means those eight (8) parcels of improved real property located within the City of Garden Grove which are located at 11602 through 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive, and 11851 Stuart Drive, and are improved with a total of ninety-five (95) existing multifamily apartment units thereon, as particularly described in the Legal Description.

(ww) "Tax Credits" means Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *a seq.*

(xx) "Tax Credit Rules" means Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Sections 50199.4 to 50199.21, as applicable, as the foregoing may be amended from time to time, and the rules and regulations implementing the foregoing.

(yy) "Tax Exempt Bonds" means the Series A Bonds and the Series C Bonds.

(zz) "TCAC" means the California Tax Credit Allocation Committee, the allocating agency for Tax Credits in California.

(aaa) "TCAC Regulatory Agreement" means the regulatory agreement which is required to be recorded against the Project with respect to the issuance of Tax Credits.

(bbb) "Very Low Income Tenants" or "Very Low Income Households" means those tenant households earning not greater than fifty percent (50%) of Area Median Income, as the Area Median Income is determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code, adjusted for household size. The household size adjustment shall be determined in a manner consistent with the requirements of Tax Credit Rules, which currently provide for adjustments by multiplying that figure which equals fifty percent (50%) of the Area Median Income by the following percentages:

<i>Household Size</i>	<i>Adjustment</i>
1	70%
2	80%
3	90%
4	100%
5	108%
6	116%
7	124%
8	132%

(ccc) "Very Low Income Units" means the dwelling units in the Project designated for occupancy by Very Low Income Tenants pursuant to Section 5(a) of this Amended Regulatory Agreement.

Unless the context clearly requires otherwise, as used in this Amended Regulatory Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Amended Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Amended Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding

any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Amended Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Amended Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

## **Section 2. Amendment and Restatement of the Regulatory Agreement.**

(a) The Rehabilitation of the Project having been completed, and the Bonds having been repaid in full and redeemed on the Effective Date, and the Loan having been paid in full on the Effective Date, it is agreed the Original Regulatory Agreement is hereby amended and restated in full effective as of Effective Date. All terms and conditions of the Original Regulatory Agreement shall apply to the Project through the date immediately prior to the date hereof, and from and after the date hereof the terms of this Amended Regulatory Agreement shall apply to the Project.

(b) By its execution hereof, the Trustee acknowledges and agrees that the Original Regulatory Agreement is restated as provided herein, and the Trustee and the other parties hereto agree that from and after the recordation hereof, the Trustee shall no longer be a party to this Amended Regulatory Agreement.

(c) The parties acknowledge and agree that, as required by Section 406 of the Housing Agreement, the Original Regulatory Agreement contained the affordable housing and other covenants of the Housing Agreement. Accordingly, because this Amended Regulatory Agreement sets for such covenants and the Agency Loan is and shall be paid in full prior to or concurrent with the Effective Date hereof, the Housing Agreement is deemed terminated and of no force or effect as of the Effective Date. Without limiting the generality of the foregoing, Agency's pledge of Agency Assistance (as defined in Section 201 of the original Housing Agreement and as amended by the First Amendment to the Housing Agreement) is hereby terminated and of no further force or effect. Nothing herein shall be construed as terminating the Management Agreement and the Management Agreement or the affordable housing covenants provided thereunder which shall remain in full force and effect.

(d) Owner certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b, *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900, *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, and all other anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended.

(e) Owner shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Project, subject to Owner's right to contest in good faith any such taxes. Owner shall remove or have removed any levy or attachment made on any of the Project or any part thereof,

or assure the satisfaction thereof within a reasonable time. Owner shall not apply for or receive any exemption from the payment of property taxes or assessments on any interest in or to the Project.

**Section 3. Residential Rental Property.** For the term of this Amended Regulatory Agreement, Owner hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) Each Component of the Project, taken individually, will be owned, managed and operated as a "qualified residential rental project" (within the meaning of the Section 142(d) of the Code) until the expiration of the Qualified Project Period. The foregoing shall not be construed as a limitation on the other terms and requirements of this Amended Regulatory Agreement that shall remain in effect throughout the term hereof until the end of the Affordability Period, to the end that following the expiration or termination of the Qualified Project Period, except in the event of a foreclosure, deed in lieu of foreclosure, eminent domain or action of federal agency, Very Low Income Units and Low Income Units shall remain available to and shall be leased to and occupied by qualified Very Low Income Tenants and Low Income Tenants pursuant to the terms of this Agreement for the remaining years of the Affordability Period.

(b) Tenants occupying Very Low Income Units at the date of expiration or termination of the Qualified Project Period shall continue to be eligible to remain to the Very Low Income Tenants then occupying such units at the Project at a rent not greater than the rent determined pursuant to Section 5 below until the earliest of any of the following occurs:

(i) The household's income exceeds 140 percent of the income of a Very Low Income Tenant.

(ii) The household voluntarily moves or is evicted for "good cause." For these purposes, "good cause" means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the lease agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project.

(iii) The expiration of the Affordability Period.

(c) During the three-year period prior to the expiration of the Qualified Project Period, Owner shall continue to make available to Very Low Income Tenants Very Low Income Units that have been vacated to the same extent that other units in the Project are made available to the general public subject to the affordable housing covenants set forth in Section 5 and Section 6 hereinbelow for the remaining years of the Affordability Period.

(d) The Project was acquired and rehabilitated for the purpose of providing multifamily residential rental property, and Owner shall own, manage and operate the Project and each Component as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with applicable provisions of the Tax Credit Rules and the Code (Section 142(d) of the Code and Section 1.103-8(b) of the Regulations), the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(e) All of the dwelling units in each Component of the Project constitute similarly constructed units, and, to the extent required by the Code and the Regulations, each dwelling unit in each Component of the Project contains complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator (which may be provided by the tenant) and sink. To the extent any Low Income Tenant does not possess a refrigerator at occupancy of a Low Income Unit, Owner shall provide a refrigerator for such tenant at no cost to the tenant.

(f) None of the dwelling units in the Project will at any time be utilized on a transient basis, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, retirement house or trailer court or park.

(g) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall Owner take any steps in connection with a conversion to such ownership or uses. Owner shall not take any steps in connection with a conversion of the Project to a condominium ownership except with the prior written approval of Agency, which approval Agency may grant, withhold or deny in its sole and absolute discretion.

(h) Subject to the tenant selection provisions set forth in Section 4(c), all of the dwelling units will be available for rental on a continuous basis to members of the general public and Owner will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or rented to Low Income Tenants or Very Low Income Tenants; provided however and subject to Fair Housing Laws, Owner shall provide priority to low and moderate income persons and households displaced from the Agency's redevelopment project areas (CRL Section 33411.3) and reasonable preference to persons and households who live in and/or work in the City of Garden Grove.

(i) No dwelling unit in any Component of the Project shall be occupied by Owner unless the Component contains five or more dwelling units, in which case one or more units may be occupied by Owner or by persons related to or affiliated with Owner such as a resident manager or maintenance personnel.

(j) Owner shall not discriminate on the basis of race, creed, color, sex, source of income (e.g. AFDC, SSI), physical disability, age, national origin or marital status in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

#### **Section 4. Operation of the Project.**

##### **(a) Selection of Tenants.**

(i) Owner shall be responsible for the selection of tenants for the Very Low Income Units and the Low Income Units, as applicable, in compliance with all lawful and reasonable criteria, and shall prepare and implement at the Project Site a tenant selection system that shall be approved by Authority Director in his reasonable discretion and that establishes a chronological waiting list system for selection of tenants that shall be set forth in a Marketing Program and the Property Management Plan, both of which are required to be submitted by Owner

and approved by Authority Director within thirty (30) days of the date of this Amended Regulatory Agreement. Subject to applicable Fair Housing Laws, including any rules imposed by HUD and/or TCAC, as applicable, Authority shall be afforded a first right of refusal in referring eligible tenants to Very Low Income Units and the Low Income Units, as applicable, in the following order of priority:

(A) Low Income Households or Very Low Income Households, as applicable, who have been displaced from their residences due to programs or projects implemented by Agency or Authority or City;

(B) Low Income Households or Very Low Income Households, as applicable; who have applied for and have received rental vouchers from Authority;

(C) Low Income Households or Very Low Income Households, as applicable, who are listed on Authority's waiting list for affordable housing and who live and/or work in Garden Grove; and

(D) Low Income Households or Very Low Income Households, as applicable, who live and/or work in Garden Grove.

(ii) Owner shall not refuse to lease to a holder of a certificate of family participation under 24 CFR part 882 (Rental Certificate Program) or a rental voucher under 24 CFR part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a program pursuant to the HOME Investment Partnership Act, 42 U.S.C. §12701, *et seq.* and the implementing regulations located at 24 CFR part 92, as such now exist and as may hereafter be amended, a Section 8 voucher program or other tenant-based assistance program, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria (collectively, "Voucher Programs").

(iii) Notwithstanding anything provided herein to the contrary, with the Authority's approval, which shall not be unreasonably withheld, Owner shall have the right, upon reasonable grounds, to disapprove any tenant referred to Owner by the Authority, so long as any disapproval is not a violation of Fair Housing Laws or other applicable laws. In connection with Owner's proposed disapproval of any tenant pursuant to this subsection (iii), if requested by the Authority, Owner shall provide Authority in writing its objective basis and rationale for such a disapproval and any supporting documentation or other materials substantiating the Owner's reasonable basis for arriving at the Owner's decision.

(b) **Household Income Requirements.**

(i) On or before one hundred twenty (120) days following the end of Owner's fiscal year, which is December 31, Owner shall prepare and submit to Agency, at Owner's expense, (A) a written summary of the income, household size, and rent payable by each of the tenants of the Very Low Income Units and the Low Income Units, as applicable, and (B) upon the written request of Agency, copies of each and all leases or rental agreements and the current rules and regulations for the Project Site. At Agency's request, Owner shall also provide to Agency completed income computation and certification forms, all in a form reasonably acceptable to Agency, for each and all tenants at the Property. Samples of such forms are set forth in Attachment Nos. 2 and 3 hereto.

(ii) Owner shall obtain, or shall cause to be obtained by the Property Manager, a certification from each household leasing a Very Low Income Unit or Low Income Unit, as applicable, at the Property demonstrating that such household is a Very Low Income Household or Low Income Household, as applicable, and according to the Area Median Income annually determined and published by HUD for Orange County, California, and meets the eligibility and occupancy requirements established for the Housing Unit. Owner shall verify, or shall cause to be verified by the Property Manager, the income and household size certification of the tenant household. Samples of such forms are set forth in Attachment Nos. 2 and 3 hereto.

(c) **Maximum Unit Occupancy.** Separate from the assumed household size pursuant to Tax Credit Rules, actual household size occupancy shall be limited to the following occupancy standards: (A) for one-bedroom dwelling units three persons; (B) for two-bedroom dwelling units five persons; and (C) for three-bedroom dwelling units seven persons. Notwithstanding the foregoing, however, the occupancy requirements herein shall not apply to tenants of the dwelling units who were tenants at the Property as of the date of this Amended Regulatory Agreement.

(d) **Leases; Rental Agreements for Very Low Income Units and Low Income Units.** Concurrent with the updated Management Plan, Owner shall submit to the Agency a standard lease form that shall comply with the requirements of this Amended Regulatory Agreement, including all applicable provisions of Tax Credit Rules and the CRL for Agency's review and approval, which shall not unreasonably be withheld or delayed; provided, however, the Agency and the Authority agree that the calculation of permitted rents and income limits of permitted tenants shall be governed by the Tax Credit Rules as authorized pursuant to CRL 50053(c). Agency shall reasonably approve such lease form upon finding that such lease form is consistent with this Amended Regulatory Agreement, the Tax Credit Rules, and the CRL (but, as provided, above, the calculation of affordable rents and income limits shall be governed by the Tax Credit Rules as authorized pursuant to CRL Section 50053(c)). Owner shall enter into a written lease, in the form approved by Agency, with each tenant/tenant household of the Project. During the remaining term of the Affordability Period, any material changes to such approved lease form are subject to the reasonable review and prior approval of the Agency Director.

(e) **Management Plan.**

(i) **General Maintenance.** Owner shall maintain or cause to be maintained the interiors and exteriors of the Project in a decent, safe and sanitary manner, in accordance with the standard of maintenance of first class housing units within Orange County,

California. Owner shall maintain the Project and all improvements thereon, including lighting and signage, in good condition, free of debris, waste and graffiti, and in compliance the City of Garden Grove Municipal Code. In addition, Owner shall perform or cause to be performed landscape and clean-up maintenance.

(A) Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

(B) Clean-up maintenance shall include, but not be limited to: maintenance of all sidewalks, paths and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

(C) Owner agrees further to maintain landscaping in the City right-of-way which the City may install from time to time along the block wall on the north side of Stuart Drive at points adjacent to any Component of the Project. Owner further agrees to comply and cooperate with any City-initiated parking program relative to on-street parking in the general area of the Project.

(ii) **Programmed Maintenance.** In addition to the routine maintenance and repair required pursuant to Section 2, Owner shall perform the following programmed maintenance on the Project:

(A) Interior painting and window covering replacement at least every five (5) years;

(B) Exterior painting at least every ten (10) years;

(C) Repair and resurfacing of parking areas and walkways at least every five (5) years; and

(D) Replacement of all deteriorated or worn landscaping and play equipment at least every five (5) years.

(iii) **Failure to Maintain.** No exterior alterations of the buildings or landscaping (other than routine maintenance) shall be made without the prior written consent of Agency. If at any time Owner fails to maintain the Project in accordance with this Amended Regulatory Agreement and such condition is not corrected within five (5) days after written notice from Agency with respect to graffiti, debris, waste material, and general maintenance, or thirty (30) days after written notice from Agency with respect to landscaping and building improvements and other matters, then Agency, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable Component of the Project and perform all acts and work

necessary to protect, maintain, and preserve the Project and landscaped areas on the Project, and to assess Owner in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by Agency and/or costs of such cure, including a fifteen percent (15%) administrative charge, which amount shall be promptly paid by Owner to Agency upon demand.

(f) **Capital Reserve Requirements.** The Owner shall deposit annually into a separate account, segregated from other funds of the Project, the sum of \$300, or such increased amount required by TCAC or the Owner's primary lender, for each Very Low Income Unit and each Low Income Unit comprising the Project ("**Capital Replacement Reserve**"). The Capital Replacement Reserve shall be used for repairs and replacements to the improvements comprising the Project, include common areas, and for capital replacements to the Project's fixtures and equipment that are normally capitalized under generally accepted accounting principles. If the terms of the Primary Loan, this Regulatory Agreement, or the Management Plan approved by the Agency impose more strict requirements regarding the funding and/or use of Capital Replacement Reserve, the strictest of such requirements shall apply. The Capital Replacement Reserve shall be used as the primary resource to fund capital improvements and replacement improvements for the Project, and each Component of the Project. Such separate account may be under the control of the Project's lender. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve or lessen Owner's obligation to undertake any and all necessary capital repairs and improvements and to continue to maintain the Project in the manner prescribed in this Amended Regulatory Agreement. Upon written request of Agency, but not more often than once per year, Owner, at its expense, shall submit to the Agency Director an accounting for the Capital Replacement Reserve for the Project. Capital repairs to and replacement of the Project shall include only those items with a long useful life, including without limitation the following: carpet and window covering replacement; appliance replacement; exterior painting, including exterior trim; hot water heater replacement; plumbing fixtures replacement, including tubs and showers, toilets, lavatories, sinks, faucets; air conditioning and heating replacement; asphalt repair and replacement, and seal coating; roofing repair and replacement; landscape tree replacement; irrigation pipe and controls replacement; sewer line replacement; water line replacement; gas line pipe replacement; lighting fixture replacement; elevator replacement and upgrade work; miscellaneous motors and blowers; common area furniture replacement; and common area repainting.

(g) **Property Manager.**

(i) The parties acknowledge that Agency and Authority are interested in the continued long-term management and operation of the Project and in the qualifications of any persons or entities retained by Owner for that purpose ("**Property Manager**"). Therefore, Owner shall maintain retain professional property management and shall have at least one on-site Property Manager for the Rose Garden Apartments and at least one on-site Property Manager for the Stuart Drive Apartments, and the selection of the identity of each Property Manager (and any Property Manager hired to replace a previous Property Manager) shall be subject to the prior approval of Agency Director, all as further set forth in and required by the Management Agreement. In addition, Owner shall submit (or cause the Property Manager to submit) for the approval of Agency Director a detailed Management Plan which sets forth in detail the duties of each Property Manager, the tenant selection process, a security system and crime prevention program, the procedures for the collection of rent, the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations of the Project and manner of enforcement, a standard lease form, and other matters relevant to the management of the Project. The management of the Project shall be in

compliance with the Management Plan which is approved by Agency and the Property Manager. Agency may from time to time review and evaluate the identity and performance of the Property Manager and the Property Manager's compliance with the provisions of the Management Plan and the Management Agreement.

(ii) If Agency determines that the performance of the Property Manager is deficient based upon the standards and requirements set forth in the Management Plan, or in the event of Gross Mismanagement, then Agency shall provide notice to Owner of such deficiencies and Owner shall use its best efforts to correct such deficiencies. If the Property Manager does not cure such deficiencies within 30 days after the issuance of such notice, then Agency shall have the right to require Owner to immediately remove and replace the Property Manager with another property manager or property management company, the selection of which shall be subject to Agency's approval, which shall not unreasonably be withheld or delayed. Any successor Property Manager shall have not less than five (5) years experience in property management, and shall have experience in managing affordable multifamily residential developments of the size, quality and scope of the Project.

(iii) Owner will not terminate any Property Manager without the prior approval of Agency, which approval shall not unreasonably be withheld or delayed.

(iv) For purposes of this Amended Regulatory Agreement, the term "Gross Mismanagement" shall mean management of the Project (or any part of the Project) in a manner which violates the terms and/or intention of this Amended Regulatory Agreement to operate a high quality, affordable rental housing complex comparable to other similar complexes in Orange County, California, and shall include, but is not limited to, any one or more of the following, if the Property Manager does not cure the alleged deficiency within 30 days after receipt of notice:

(A) Leasing to tenants who exceed the prescribed income levels (unless such lease was pursuant to a misrepresentation by the tenants);

(B) Allowing tenants to exceed the prescribed occupancy levels without taking prompt action to stop such overcrowding, to the extent legally able to do so;

(C) Failing to perform, in a material fashion, the maintenance of the Project in accordance with the Management Plan;

(D) Failing to submit timely and/or adequate annual reports to Agency as required herein;

(E) Fraud or embezzlement of Project funds;

(F) Failing to reasonably cooperate with the Garden Grove Police Department or other local law enforcement agency(ies) with jurisdiction over the Project, in maintaining a crime-free environment within the Project;

(G) Failing to reasonably cooperate with the Garden Grove Fire Department or other local public safety agency(ies) with jurisdiction over the Project, in maintaining a safe environment within the Project;

(H) Failing to reasonably cooperate with the Garden Grove Planning & Building Department, including the Code Enforcement Division, or other local health and safety enforcement agency(ies) with jurisdiction over the Project, in maintaining a safe environment within the Project.

(h) **Code Enforcement.** Owner acknowledges and agrees that Agency, Authority, and City, and their employees and authorized agents, shall have the right to conduct code compliance and/or code enforcement inspections of the Project and the individual apartment units, both exterior and interior, at reasonable times and upon reasonable prior notice from the City (or Agency or Authority). In furtherance hereof, Owner agrees that in no event (both under this subsection 4(h)(i) and under subsection 4(h)(ii) below) shall the City be required to obtain an inspection warrant to conduct any code enforcement inspection of the Project and the individual apartment units as Owner hereby provides its knowing and voluntary consent to such inspection(s) now and in the future so long as City's (or Agency or Authority) inspection(s) are at reasonable times and upon reasonable prior notice to Owner (or its Property Manager or agent).

(i) In the event that an inspection is initiated by City (or Agency or Authority) on its own (i.e., rather than initiated after or on a complaint from a tenant or third party as provided in subsection 4(h)(ii) below), then City (or Agency or Authority) and their employees and authorized agents, shall have the right to conduct code compliance and/or code enforcement inspections of the Project and the individual apartment units, both exterior and interior, at reasonable times and upon 48 hours prior notice to Owner (and expressly not subject to the conditions in subsection 4 (h)(ii) below).

(ii) In the event that a code enforcement inspection becomes necessary due to, based on, or initiated by complaint of a tenant at the Project or upon complaint by a third party who is not a tenant (i.e., rather than initiated by City, Agency or Authority pursuant to subsection 4(h)(i) above), then Owner acknowledges and agrees that City (and Agency and Authority), and their employees and authorized agents, shall have the right to conduct code compliance and/or code enforcement inspections of the Project and the individual apartment units, both exterior and interior, at reasonable times and upon reasonable prior notice on the following terms and conditions:

(A) The Code Enforcement Division shall notify Owner by telephone, fax, or email, of any complaint received from a tenant at the Property or a third party who is not a tenant (i.e., rather than initiated by City, Agency or Authority pursuant to subsection 4(h)(i) above) and the nature of the complaint.

(B) The Owner shall have two (2) business days after receipt of notice to remedy the matter complained of (unless it is an emergency, in which case the Owner shall use commercially reasonable efforts to remedy the matter as soon as reasonably possible). If it is a matter that is not reasonably correctable within two (2) business days, then Owner shall, at least, commence to cure the matter within such two-day period and then diligently pursue the correction to completion.

(C) If the matter complained of is not reasonably corrected within such two (2) business day period (or does not commence to cure same within that period, as provided above), and the tenant or third party issues a further complaint to the Code Enforcement Division, then the Code Enforcement Division shall the right, on 24 hours' notice to Owner to inspect the

applicable unit with respect to the matter raised in the tenant's or third party's complaint. Owner shall include express advisement of such inspection rights within the lease/rental agreements for each unit in the Project in order for each and every tenant and tenant household to be aware of the inspection right of governmental entities, and such inspection(s) shall not unreasonably interfere with use and enjoyment of the Project. If such notice is provided by Agency, Authority, or City representative(s) to Owner, then Owner (or its Property Manager) shall immediately and directly advise any affected tenant of such upcoming inspection and cause access to the area(s) and/or units of the Project to be made available and open for inspection.

(D) Thereafter, the Code Enforcement Division shall have the right, on two (2) business days' notice, to conduct follow up inspections from time to time to confirm that the matter which has been complained of by the tenant or third party is properly addressed, and upon completion of corrective action, the Code Enforcement Division shall issue written confirmation to the Owner that the matter has satisfactorily been resolved.

(E) Owner shall hereafter provide in Owner's lease form (or in a rider thereto) that tenants who have a complaint concerning a condition of the property shall first notify the Owner and the Property of any alleged deficiencies prior to initiating a complaint with governmental authorities, and, except in the case of an emergency, that the Owner shall have at least two (2) business days after delivery of such notice to cure such alleged deficiency (or if the alleged deficiency is not reasonably correctable within 2 business days, and owner does not, at least, commence to cure the matter within such 2 day period and thereafter diligently pursue the correction to completion). In addition, the Owner's form lease shall hereafter provide that appropriate City staff having jurisdiction over housing shall have the right to enter the tenant's premises without warrant for purposes of conducting inspections, as provided herein.

(i) **Non-Discrimination.**

(i) Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Project, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Project. The foregoing covenants shall run with the land.

(ii) Owner shall refrain from restricting the rental or lease of the Project on any of the bases listed above. All leases or contracts relating to the Project shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(A) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease,

sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

(B) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

“That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(C) In contracts: “There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

The covenants established in this Section 4(i)(ii) of this Amended Regulatory Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of Agency, its successors and assigns, Agency and any successor in interest to the Project, or any part thereof, and shall remain in effect in perpetuity.

(j) **Duration of Covenants.** Except as otherwise provided in Section 13 herein and except as to the non-discrimination covenants that shall remain in effect in perpetuity, the Project shall be subject to the requirements of this Section 4 and Section 5 until the expiration of the Affordability Period.

(k) **Monitoring and Recordkeeping.** Throughout the Affordability Period, Owner shall comply with all applicable recordkeeping and monitoring requirements set forth in the Tax Credit Rules, the Act, and the CRL (and successor laws) and shall annually complete and submit to City a Certification of Continuing Program Compliance substantially in the form attached hereto as Attachment No. 2. Owner agrees to maintain records in a businesslike manner, to make such records available to Agency, Authority and/or City upon three (3) business days’ notice, and to maintain such records for any applicable unit for ten (10) years after the end of each fiscal year.

**Section 5. Rent Requirements; Affordable Housing Covenants; Very Low Income Tenants and Low Income Tenants.** For purposes of compliance with and pursuant to the requirements of the Tax Credit Rules and the Code and applicable provisions of the Act and the CRL, Owner hereby represents, as of the date hereof, and warrants, covenants and agrees as follows:

(a) **From the Effective Date through the end of the Affordability Period:** Owner agrees to make available, restrict occupancy to, and rent one hundred percent (100%) of the total 239 dwelling units in the Project (144 dwelling units in the Rose Garden Apartments and 95 dwelling units in the Stuart Drive Apartments totaling 239 units) to Low Income Tenants, with not less than 10% of the dwelling units comprising the Project (i.e., not less than 24 units of the 239 total units comprising the Project) to Very Low Income Tenants, all at an Affordable Rent (as defined in Section 1(d)(ii)), and excepting one (1) on-site manager's unit each in the Rose Garden Apartments and the Stuart Drive Apartments as permitted hereunder. For this purpose, all Very Low Income Units rented at an Affordable Rent pursuant to Section 5 shall be deemed to satisfy the requirements relating to Low Income Units rented an a Affordable Rent.

For purposes of determining whether a unit is occupied by a Low Income Tenant or a Very Low Income Tenant, the following shall apply: (i) a unit occupied by a Low Income Tenant or a Very Low Income Tenant who at the commencement of the occupancy is such a tenant shall be treated as occupied by such a tenant until a recertification of such tenant's income in accordance with Section 6(b) below demonstrates that such tenant no longer qualifies as a Low Income Tenant or a Very Low Income Tenant and thereafter any residential unit of comparable or smaller size in the Project is occupied by a Low Income Tenant or a Very Low Income Tenant; and (ii) a unit previously occupied by a Low Income Tenant or a Very Low Income Tenant and then vacated shall be considered occupied by such a tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be re-determined. In no event shall such temporary period exceed thirty-one (31) days.

(b) Owner shall, and shall cause its Property Manager to, operate the Project and cause occupancy of the Apartment Complex and all Housing Units thereon in conformity with these covenants and this Agreement.

**Section 6. Agency Maximum Income Requirements.** Owner agrees and covenants that:

(a) **Income Computation and Certification.**

(i) Immediately prior to a Low Income Tenant's and/or a Very Low Income Tenant's occupancy of a unit, Owner shall obtain and maintain on file an Income Computation and Certification form from each Very Low Income Tenant and each Low Income Tenant occupying a unit dated immediately prior to the initial occupancy at the Project. In addition, Owner will provide such further information as may be required in the future by the State of California, Authority, Agency, the Program Administrator, by the Act, the CRL, the Tax Credit Rules, and the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under the Tax Credit Rules and the Code or by the Act or the CRL. Owner shall verify that the income provided by a prospective tenant household is accurate by taking the following steps as a part of the verification process: (A) obtain a

federal income tax return for the most recent tax year, (B) obtain a written verification of income and employment from applicant's current employer, or if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income satisfactory to the Program Administrator or (C) such other information as may reasonably be requested by the Program Administrator. Samples of such forms are set forth in Attachment Nos. 2 and 3 hereto.

(ii) Copies of the most recent Income Certifications for Very Low Income Tenants and Low Income Tenants, as applicable, commencing or continuing occupancy of a unit shall be filed with the Program Administrator, as applicable, within 30 days of the last day of each month during the Qualified Project Period and annually with the Agency Director during the remaining years of the Affordability Period.

(b) **Recertification.**

(i) On each July 1, Owner shall recertify the income of the tenant households of all Very Low Income Units and Low Income Units at the Project by obtaining within 30 days prior to such July 1 a completed Income Computation and Certification based upon the current income of all occupants of each tenant household for each unit. Owner shall verify that the income provided by a tenant is accurate by taking the following steps as a part of the recertification process: (1) obtain a federal income tax return for the most recent tax year, (2) obtain a written verification of income and employment from applicant's current employer, or if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income satisfactory to the Program Administrator, as applicable, or (3) such other information as may be requested by Agency or the Program Administrator, as applicable. Samples of such forms are set forth in Attachment Nos. 2 and 3 hereto.

(ii) In the event the recertification demonstrates that such household's income exceeds 140% of the income at which such household would qualify as Very Low Income Tenants or Low Income Tenants, as applicable, such household will no longer qualify as such a tenant and Owner shall rent the next available unit of comparable or smaller size to one or more Very Low Income Tenants or Low Income Tenants, as applicable. No tenant shall be denied continued occupancy of a unit in the Project for the sole reason that the household income increases to a level at which the members of such household no longer qualify as Very Low Income Tenants or Low Income Tenants, as applicable, but the Owner shall not be in breach of this Amended Regulatory Agreement such tenant continues in occupancy of such unit, and as a result there are fewer units leased to Very Low Income Tenants and Low Income Tenants than otherwise required hereunder, until such household's income exceeds 140 percent of the maximum eligible income, at which time the Owner shall have the right, but not the obligation, to terminate such household's lease; however, such Owner shall not be limited to charging "Affordable Rents" to tenants who cease to qualify as either "Low Income Tenants" or "Very Low Income Tenants."

(iii) After expiration the Qualified Project Period then Owner shall comply with the CRL as to annual monitoring, recordkeeping, and recertification of the household income for each unit at the Project.

(c) **Income Computation and Certification.** Owner shall obtain, at Owner's expense, a completed income computation and certification form from tenants residing in the Project at the time of Owner's acquisition of the Project, as well as prospective tenants of the units in the Project after Owner's acquisition of the Project, in the form which is provided by Agency.

At Agency's discretion, such form may be the Income Computation and Certification Form. Owner shall obtain such certification prior to the rental or lease of any dwelling unit in the Project to a new tenant, and within a reasonable time after Owner's acquisition of the Project with respect to existing tenants, and annually thereafter. No new tenants shall be permitted to lease a dwelling unit within the Project unless such certification demonstrates that such prospective tenant is a Very Low Income Tenant or a Low Income Tenant, as applicable, and meets the eligibility requirements established for the dwelling unit. However, no tenant lawfully occupying a unit within the Project as of the date of Owner's acquisition of the Project shall be displaced as a result of such tenant's failure to qualify as a Very Low Income Tenant and/or Low Income Tenant or meet the eligibility requirements established for the dwelling unit. Such income certifications shall be available for inspection and copying by Agency upon reasonable advance notice during normal business hours. Owner shall verify the income of each proposed and existing tenant of the dwelling units in the Project by at least two of the following methods as appropriate to the proposed or existing tenant (provided, however, that upon the request of Owner, Agency may in its reasonable discretion waive the requirement to provide a second method if it finds that one method is sufficient):

(i) obtain two (2) paycheck stubs from the person's two (2) most recent pay periods.

(ii) obtain a true copy of an income tax return from the person for the most recent tax year in which a return was filed.

(iii) obtain an income verification certification from the employer of the person.

(iv) obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the person receives assistance from such agencies.

(v) obtain an alternate form of income verification reasonably requested by Agency, if none of the above forms of verification is available to Owner.

**(d) Reports and Records.**

(i) Owner shall advise Authority and the Program Administrator of the status of the occupancy of the Project by delivering to such parties a Certificate of Continuing Program Compliance, annually, within 30 days after the end of each calendar year.

(ii) Owner will maintain complete and accurate records pertaining to the Low Income Units and Very Low Income Units, and will permit any duly authorized representative of Authority, Agency, the Program Administrator, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of Owner pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(iii) Until the expiration of the Qualified Project Period, Owner shall submit to the Secretary of the Treasury annually on the anniversary date of the start of the Qualified Project Period, or such other date as is required by the Secretary, a certification that the Project continues to meet the requirements of the Code and shall provide a copy of such certification to the Program Administrator.

(iv) Owner, at its expense, shall submit or cause to be submitted by the Property Manager to Agency the reports required pursuant to Health and Safety Code Section 33418, as the same may be amended from time to time, with each such report to be in the form prescribed by Agency. At Agency's discretion, such requirement may be satisfied by Owner's submission to Agency of the completed Certificate of Continuing Program Compliance. Each annual report shall cover the immediately preceding fiscal year.

(e) **Section 8 Tenants.**

(i) Owner shall accept as tenants on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, or its successor. Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants and Owner shall not refuse to rent to any Very Low Income Tenant and/or Low Income Tenant on the basis of household size so long as the household size requirement of Section 4(c) are met. Owner shall not refuse to rent a two-bedroom Very Low Income Tenant and/or Low Income Unit to a family of four or a one-bedroom Very Low Income Tenant and/or Low Income Unit to a family of two. Owner shall not be required to rent a two-bedroom Very Low Income Tenant and/or Low Income Unit to one person, except where otherwise required to do so to be in compliance with this Amended Regulatory Agreement. Owner shall not collect any additional fees or payments from a Very Low Income Tenant and/or Low Income Tenant except security deposits or other deposits required of all tenants. Owner shall not collect security deposits or other deposits from Section 8 certificate or voucher holders in excess of that allowed under the Section 8 Program. Owner shall not discriminate against Very Low Income Tenant and/or Low Income Tenant applicants on the basis of source of income (i.e., AFDC or SSI), and Owner shall consider a prospective tenant's previous rent history of at least one year as evidence of the ability to pay the applicable rent (ability to pay shall be demonstrated if a Very Low Income Tenant and/or Low Income Tenant can show that the same percentage or more of the tenant's income has been paid for rent in the past as will be required to be paid for the rent applicable to the Very Low Income Tenant and/or Low Income Unit to be occupied provided that such Very Low Income Tenant's and/or Low Income Tenant's expenses have not materially increased or household income has not materially decreased).

(ii) In the event Owner rents a Low Income Unit or a Very Low Income Unit to a household holding a Section 8 portable housing voucher, Owner's rental agreement (or lease agreement, as applicable) between Owner, as landlord, and the tenant shall expressly provide that monthly rent charged shall be the Affordable Rent for the Low Income Unit or a Very Low Income Unit, as applicable, required hereunder (not fair market rent); i.e., the rent charged to such tenant under the rental agreement shall be the Affordable Rent chargeable hereunder and not fair market rent for the area, as would otherwise be permitted under the applicable voucher program.

(f) **Very Low Income Units to be of Comparable Quality to Low Income Units.** The Very Low Income Units described in this Section 5 shall be of comparable quality to the Low Income Units notwithstanding that Owner and Agency and Authority agree that one-bedroom units will be the Very Low Income Units required to satisfy the Affordable Rent of this Amended Regulatory Agreement.

(g) **Reliance by Owner.** Each lease pertaining to a Very Low Income Unit and/or Low Income Unit shall contain a provision to the effect that Owner has relied on the Income

Computation and Certification and supporting information supplied by the Very Low Income Unit and/or Low Income Tenant in determining qualification for occupancy of the Very Low Income Unit and/or Low Income Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. Each lease will also contain a provision that failure to cooperate with the annual recertification process reasonably instituted by Owner pursuant to Section 6(b) above may, at the option of Owner, disqualify the unit as a Very Low Income Unit and/or Low Income Unit or provide grounds for termination of the lease.

(h) **Current Tenants.** As provided in, and subject to the provisions of, Section 4(b)(ii), no tenants of the dwelling units in the Project at the time of the execution of this Amended Regulatory Agreement shall be evicted from their dwelling units solely because such tenants do not meet the requirements of this Section 6 of this Amended Regulatory Agreement until such household's income exceeds 140 percent of the maximum eligible income, at which time the Owner shall have the right, but not the obligation, to terminate such household's lease; however, such Owner shall not be limited to charging "Affordable Rents" to tenants who cease to qualify as either "Low Income Tenants" or "Very Low Income Tenants." The Management Plan (as described in Section 4(e) hereof) shall contain a procedure for selection of tenants for openings which arise after the date of this Amended Regulatory Agreement which shall be implemented by Owner and the Property Manager. Preference shall be given to tenants who have been displaced by redevelopment activities of Agency in the implementation of Agency's Buena Clinton and Community redevelopment project area and redevelopment plans.

(i) **Compliance with TCAC Regulatory Agreement Standards.** Notwithstanding any other provisions of this Amended Regulatory Agreement, to the extent that the regulatory agreement executed by Owner as a requirement of receiving the Tax Credits ("TCAC Regulatory Agreement") is more restrictive with respect to the requirements applicable to tenant selection, tenant income levels and unit rent levels than as provided in this Amended Regulatory Agreement, the TCAC Regulatory Agreement shall control and Owner's compliance therewith shall not be a default hereunder.

(j) Except as provided otherwise herein, the Project shall be subject to the requirements of this Section 6 until the end of the Affordability Period.

#### **Section 7. Environmental Condition of Project.**

(a) Owner shall, at its sole cost and expense, promptly take (i) all actions required by any federal, state or local governmental agency or political subdivision or any Governmental Requirements with respect to the Project, and (ii) all actions necessary to make full economic use of the Project for the purposes described in this Amended Regulatory Agreement, which actions, requirements or necessity arise from the presence upon, about or beneath the Project of any Hazardous Materials or Hazardous Materials Contamination regardless of when such Hazardous Materials or Hazardous Materials Contamination were introduced to the Project and regardless of who is responsible for introducing such Hazardous Materials or Hazardous Materials Contamination to the Project, or portion thereof ("**Remediation**"). The Remediation shall include, but not be limited to, an initial investigation of the environmental condition of the Project, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work required. Owner shall take all actions necessary to promptly restore the Project to an environmentally sound condition for uses contemplated by this Agreement,

notwithstanding any lesser standard of remediation allowable under applicable Governmental Requirements.

(b) During operation of the Project, Owner shall take all necessary precautions to prevent the release of any Hazardous Materials into the environment on or under the Project which release is in violation of Governmental Requirements. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Owner shall install and utilize such equipment and implement and adhere to such procedures as are consistent with the then prevailing standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

(c) Owner shall notify Agency, and provide to Agency a copy or copies, of any environmental permits, disclosures, applications, entitlements or inquiries relating to the Project: notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks, and Owner shall report to Agency, as soon as possible after each incident, any unusual, potentially important incidents with respect to the environmental condition of the Project. In the event of a release of any Hazardous Materials into the environment, Owner shall, as soon as possible after the release, furnish to Agency a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of Agency, Owner shall furnish to Agency a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Project including, but not limited to, all permit applications, permits and reports.

**Section 8. Covenants of Owner.** Owner agrees:

(a) That Owner shall at all times maintain books, contracts, records, documents, and other papers relating to the Project in reasonable condition for proper audit. The Project and all such books, contracts, records, documents, and other papers shall be subject to inspection and examination at any reasonable time by Authority and Agency or their respective authorized agents.

(b) That, within 120 days following the end of fiscal year of the Project, Owner shall furnish to Authority complete audited financial statements, based upon an examination of the books, records, and accounts of the Project which have been certified by an independent certified public accountant which is acceptable to Authority, setting forth the financial condition of Owner as of the end of such fiscal year the results of operation of the Project for such fiscal year, and such other financial information as Authority may request.

(c) That, at the request of Authority at any time, Owner shall furnish to Authority monthly occupancy reports and shall provide specific information relating to (i) the income, assets, liabilities, contracts, operations, and condition of the Project; and (ii) the tenants of the Project.

(d) That Owner shall obtain and maintain in force fire and casualty insurance, liability insurance, building ordinance insurance and such other insurance, and fidelity bonds of such types, in such amounts, and at such times as Authority may reasonably require. Owner shall provide to Authority evidence of such insurance from time to time as reasonably requested by Authority.

(e) That it shall not file a petition for voluntary bankruptcy or reorganization or make an assignment for the benefit of creditors.

(f) That it shall not reconstruct or demolish any part of the Project except where necessary to construct improvements following a casualty or due to wear and tear.

(g) That it shall not require, as a condition of the occupancy or leasing of any unit in the Project, any consideration or deposit other than the prepayment of the first month's rent plus a security deposit in an amount not in excess of one month's rent to guarantee the performance of the covenants of the lease. In addition, Owner shall comply with any future requirements of the State or federal law pertaining to security deposits and the disposition thereof.

(h) That it shall not permit the use of the dwelling units and of the space of the Project for any purpose except a use which has been approved by Authority.

(i) That it shall not, where Owner is not an individual (as for example, a corporation, limited partnership or limited liability company), engage in any other business activity, including the operation of any other rental housing development, or incur any liability or obligation not in connection with the Project.

#### **Section 9. Indemnification.**

(a) Owner shall indemnify, hold harmless and defend Authority, Agency, the City, and the Program Administrator and the respective officers, members, directors, officials and employees of each of them, against all loss, costs, damages, expenses, suits, judgments, actions and liabilities of whatever nature (including, without limitation, attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from or arising out of or related to (i) the design, rehabilitation, installation, operation, use, occupancy, maintenance, or ownership of the Project (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto); or (ii) any written statements or representations with respect to Owner or the Project made or given to Authority, Agency, the City, or the Program Administrator, by Owner, or any of its partners, agents or employees, including, but not limited to, statements or representations of facts or financial information. Owner also shall pay and discharge and shall indemnify and hold harmless Authority, Agency, the City, and the Program Administrator from (A) any lien or charge upon payments by Owner to Authority, Agency, the City, and the Program Administrator hereunder and (B) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, Authority, Agency, the City, or the Program Administrator shall give prompt notice to Owner, and Owner shall have the sole right and duty to assume, and will assume, the defense thereof, including the employment of counsel selected by the indemnified party and the payment of all expenses related thereto, with full power to litigate, compromise or settle the same with the approval of Authority.

(b) In addition thereto, Owner will pay upon demand all reasonable out of pocket of the fees and expenses paid or incurred by the Program Administrator, if applicable, Authority, Agency or the City in enforcing the provisions hereof.

**Section 10. Insurance.** Owner shall take out and maintain during the entire term of the Affordability Period a commercial liability policy of insurance in the amount of One Million Dollars (\$1,000,000) combined single limit policy, (and, if the Owner owns any automobiles, a comprehensive automobile liability policy in the amount of One Million Dollars (\$1,000,000), combined single limit), including contractual liability, as shall protect the Owner, City, Authority, and Agency from claims for such damages, and which policy shall be issued by an insurance carrier rated at least B+ VII in Best's Insurance Guide. Such policy or policies shall be written on an occurrence form. Owner shall also furnish or cause to be furnished to Agency Director evidence satisfactory to Agency Director that Developer and any contractor and Property Manager with whom it has contracted for the performance of work on the Project, the ownership, operation and maintenance of the Project, or otherwise pursuant to this Amended Regulatory Agreement carries workers' compensation insurance as required by law. Owner shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by Agency Director setting forth the general provisions of the insurance coverage. With respect to the commercial general liability coverage, the countersigned certificate shall name the City, Authority, and Agency and their respective officers, agents, and employees as additional insureds under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify Agency of any material change, cancellation or termination of the coverage at least ten (10) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by Owner shall be primary insurance and not be contributing with any insurance maintained by City, Authority or Agency, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City, Authority, and Agency. Updated certificate(s) shall be furnished by Owner prior to the Effective Date.

**Section 11. Reliance.** Authority, Agency and Owner hereby recognize and agree that the representations, warranties, covenants and agreements set forth herein may be relied upon by all persons interested in the legality and validity of the Bonds, the compliance of Owner with applicable law, and in the exclusion from gross income for federal income tax purposes of the Tax-Exempt Bonds and the exemption from State personal income taxation of the interest on the Bonds. In performing their duties and obligations hereunder, Authority, and Agency may rely upon statements and certificates of Owner and Very Low Income Tenants and Low Income Tenants, and upon audits of the books and records of Owner pertaining to the Project. In addition, Authority may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by Authority or Agency hereunder in good faith and in conformity with such opinion.

**Section 12. Sale or Transfer of the Project.** Owner intends to hold the Project for its own account. In the event of any sale or transfer of the Project, such sale transfer shall be subject to the terms of this Amended Regulatory Agreement. Not less than 20 days prior to consummating any sale, transfer or disposition of any interest in the Project, Owner shall deliver to Authority a notice in writing explaining the nature of the proposed transfer. Within 30 days after any transfer of the Project, Owner shall notify Agency of such transfer, and the new Owner shall deliver to Agency (a) estoppel certificates, one from Owner and one from the transferee, and (b) an assignment and assumption agreement by which the transferee assumes in full all of Owner's duties, liabilities, and obligations under this Amended Regulatory Agreement for the remaining years of the Affordability Period.

**Section 13. Term; Involuntary Substantial Loss or Destruction.**

(a) Subject to the following paragraph of this Section 13, this Amended Regulatory Agreement and all and several of the terms hereof shall become effective on the Effective Date and shall remain in full force and effect until the end of the Affordability Period. At the end of the Affordability Period, this Amended Regulatory Agreement shall, without any further action, be of no further force or effect. Notwithstanding any other provisions of this Amended Regulatory Agreement to the contrary, this entire Amended Regulatory Agreement, or any of the provisions or sections hereof, may be terminated upon mutual agreement by Authority (in its sole discretion), Agency (in its sole discretion), and Owner subject to compliance with any of the provisions contained in this Amended Regulatory Agreement.

(b) Except to the extent that Section 34312.3(d) of the Act continues to require that twenty percent (20%) of the units in the Project remain available on a priority basis to persons of Low Income for the Qualified Project Period (and subject to this Amended Regulatory Agreement and Owner's covenants to continue to own, operate, manage and maintain the Project in compliance with the CRL, but with Affordable Rent continuing at Tax Credit rents (i.e., the rents calculated pursuant to Section 1(d) of this Amended Regulatory Agreement), for the remaining years of the Affordability Period) in the event of the occurrences listed below, this Amended Regulatory Agreement, and all and several of the terms hereof, shall terminate and be of no further force and effect in the event of involuntary non-compliance with the provisions of this Amended Regulatory Agreement caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the date hereof which prevents Authority from enforcing the provisions hereof or condemnation or a similar event; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of any of such events or a similar event, Owner or any related person to it (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. Upon the termination of the terms of this Amended Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Amended Regulatory Agreement in accordance with its terms.

**Section 14. Covenants to Run With the Land.** Owner hereby subjects the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Amended Regulatory Agreement (and the Notice of Affordable Housing Restrictions required by the CRL). Authority, Agency, and Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors in title to the Project. Each and every land sale contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. Notwithstanding anything to the contrary contained in this Amended Regulatory Agreement to the contrary, however, the covenants, agreements, conditions and restrictions contained herein shall be binding upon the respective owners of any portion of the Project Site, and their successors and assigns, only during the time period and only to the extent that the applicable owner holds any fee, ground leasehold or equivalent property interest in the Project Site. On the termination of this Amended Regulatory Agreement (whether by

reason of the end of the Affordability Period having occurred, or otherwise as expressly provided herein) said covenants, reservations and restrictions shall expire without further action of any party.

**Section 15. Burden and Benefit.** Authority, Agency, and Owner hereby declare their understanding and intent that the burden of the covenants set forth herein (and in the Notice of Affordable Housing Restrictions required by the CRL) touch and concern the land in that Owner's legal interest in the Project and Project Site is rendered less valuable thereby. Authority, Agency, and Owner, hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project and Project Site by Very Low Income Tenants and Low Income Tenants, as applicable, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued and for which Agency expended monies from its Housing Fund.

**Section 16. Uniformity; Common Plan.** The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Project Site.

**Section 17. Rights and Remedies.**

(a) Upon the occurrence of an event of default under this Amended Regulatory Agreement ("Event of Default"), an Event of Default shall be deemed to have occurred under this Amended Regulatory Agreement and Authority and/or Agency may, without further notice, declare an Event of Default under this Amended Regulatory Agreement, effective on the date of such declaration, and thereupon Authority and/or Agency (and City) may apply to any court, state or federal, for specific performance of the covenants and agreements contained herein, for an injunction against any violation of such covenants and agreements, for the appointment of a receiver to take over and operate the Project, or for such other relief as may be appropriate, since the injury to Authority arising from an Event of Default would be irreparable and the amount of damage would be difficult to ascertain. Authority's and/or Agency's election to pursue any one or more of the above remedies shall not be construed to preclude or to be a waiver of Authority's and/or Agency's right to pursue any other remedy. Authority and/or Agency may take possession of the Project, bring any action necessary to enforce the rights of Owner growing out of the Project's operation, and collect the rents and operate the Project until such time as Authority and/or Agency, in their sole discretion, determine that Owner is again in a position to operate the Project in accordance with the terms of this Amended Regulatory Agreement.

(b) It is further expressly agreed that in the event Authority and/or Agency during the Affordability Period takes possession of and/or operates the Project pursuant to the terms of this Amended Regulatory Agreement, Authority and/or Agency will apply the Project's Operating Receipts to the payment of operating expenses and debt service.

**Section 18. Liability of Owner.** Authority's and/or Agency's recovery for any breach hereof will be limited to the Project and all buildings, improvements, fixtures, and equipment located thereon or used or usable in connection with the operation of the Project; and neither Owner nor any partner thereof will have any further or additional personal liability. However, Owner understands and agrees that Authority and/or Agency must preserve fully its powers under the Act and the CRL to the end that the purposes of the Act and the CRL shall be fulfilled; further, it is expressly agreed that nothing contained herein shall be deemed to be a release or impairment of any obligation of Owner or any general partner thereof under the Act or the CRL, the Limited Partnership Agreement of

Owner, or this Amended Regulatory Agreement, and neither Authority's and/or Agency's exercise of its rights under or pursuant to any of the foregoing nor the specific enforceability of any such obligations shall be deemed to be prohibited or impaired hereby.

**Section 19. Recording and Filing.** Owner shall cause this Amended Regulatory Agreement and all amendments and supplements hereto, to be recorded and filed, prior to the recording of any mortgage or deed of trust on the Project Site in the real property records of the County of Orange and in such other places as Authority and/or Agency may reasonably request. Owner shall pay all fees and charges incurred in connection with any such recording.

**Section 20. Governing Law.** This Amended Regulatory Agreement shall be governed by the laws of the State.

**Section 21. Amendments.** This Amended Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, duly recorded in the real property records of the County of Orange. If reasonably required by Agency's legal counsel, the Agency may condition its approval of an amendment during the Qualified Project period upon receipt of an opinion of Bond Counsel to the effect that such amendment will not adversely affect the exclusion from gross income for federal tax purposes of interest on the Tax-Exempt Bonds or State income tax purposes of interest on the Tax-Exempt Bonds.

**Section 22. Notice.** All notices, certificates or other communications shall be sufficiently given and shall be deemed given on the date personally delivered or on the second day following the date on which the same have been mailed by first-class mail, postage prepaid, addressed as follows or sent by telecopy to the following:

Authority:	Garden Grove Housing Authority 11400 Stanford Street Garden Grove, California 92640 Attention: Director Telecopy No.: (714) 638-5463
Agency:	Garden Grove Agency for Community Development 11222 Acacia Parkway Garden Grove, California 92642 Attention: Director Telecopy No.: (714) 638-5463
Owner:	Stuart Drive/Rose Garden Limited Partnership c/o Bertram Development Partners, LLC 26072 Merit Circle, Suite 103 Laguna Hills, CA 92653 Attention: Kenneth B. Black, Jr. Telecopy No: (949) 348-9449

Any of the foregoing parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

**Section 23. Severability.** If any provision of this Amended Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

**Section 24. Multiple Counterparts.** This Amended Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

**Section 25. Special Covenants Concerning the Qualified Project Period.** Owner acknowledges that this Amended Regulatory Agreement is intended to comply with all requirements of Section 142 of the Code necessary to maintain the tax-exempt status of the Bonds. Accordingly, for the avoidance of doubt, and anything to the contrary in this Amended Regulatory Agreement notwithstanding, Owner agrees that the Owner shall continue to comply with the requirements of Section 3 and Section 6 of the Original Regulatory Agreement (a copy of which together with the definitions related thereto, is attached as Attachment No. 6 hereto) until the expiration of the Qualified Project Period, provided the provisions thereof related to the determination of rent shall not apply. If there is any inconsistency between the terms of this Amended Regulatory Agreement and such applicable provisions of Section 3 and Section 6 of the Original Regulatory Agreement, then the Owner shall continue to comply with the requirements of Section 3 and Section 6 of the Original Regulatory Agreement until the expiration of the Qualified Project Period. Nothing in this Amended Regulatory Agreement shall limit or affect the terms of the Tax Certificate referenced in the Original Regulatory Agreement or the Owner's Use of Proceeds Certificate comprising a part thereof, or the Owner's obligation to comply with the terms thereof. This Section 25 shall cease to apply to the Project from and after the termination of the Qualified Project Period.

IN WITNESS WHEREOF, Authority, Agency, and Owner have executed this Amended Regulatory Agreement by duly authorized representatives, all as of the date first written hereinabove.

**Owner:**

**STUART DRIVE/ROSE GARDEN LIMITED PARTNERSHIP,**  
a California limited partnership

By: Stuart Rose Properties, LLC,  
a California limited liability company  
its General Partner

By: \_\_\_\_\_  
Kenneth B. Black, Jr., Manager

**Authority:**

**GARDEN GROVE HOUSING AUTHORITY,**  
a public body corporate and politic

By: \_\_\_\_\_  
Its Director

**ATTEST:**

\_\_\_\_\_  
Authority Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stradling, Yocca, Carlson & Rauth  
Authority Special Counsel

**Trustee (for the sole purpose of consenting to the termination of the Original Regulatory Agreement):**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,**  
a national banking association duly organized and existing under and by virtue of the laws of the United States

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Agency:**

**GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,**  
a public body corporate and politic

By: \_\_\_\_\_  
Its Director

**ATTEST:**

\_\_\_\_\_  
Authority Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stradling, Yocca, Carlson & Rauth  
Authority Special Counsel

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF PROJECT

That certain real property in the City of Garden Grove, County of Orange, State of California, described as follows:

**PARCEL 1:**

THE WEST 425.00 FEET OF THAT PORTION OF THE SOUTH 510.00 FEET OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, LYING EASTERLY OF THE CENTER LINE OF ERIN STREET, AS SHOWN ON THE MAP OF TRACT NO. 3482 RECORDED IN BOOK 124, PAGES 23, 24 AND 25 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

EXCEPT ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING, AND OPERATING THEREFOR, AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREIN DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS, TUNNELS AND SHAFTS, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 1500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, OR OTHERWISE IN SUCH MANNER AS TO ENDANGER THE SAFETY OF ANY BUILDINGS OR IMPROVEMENTS THAT MAY BE CONSTRUCTED ON SAID LAND BY THE GRANTEE OR ITS SUCCESSORS AND ASSIGNS, AS RESERVED BY LEWIS P. MARQUIS, AS SURVIVING TRUSTEE UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED NOVEMBER 23, 1953 IN DEED RECORDED SEPTEMBER 8, 1953 IN BOOK 4872, PAGE 107 OF OFFICIAL RECORDS.

**PARCEL 2:**

THE EAST 414.81 FEET OF THAT PORTION OF THE SOUTH 510.00 FEET OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, AS PER MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, LYING EASTERLY OF THE CENTER LINE OF ERIN STREET, AS SHOWN ON THE MAP OF TRACT NO. 3482 RECORDED IN BOOK 124, PAGES 23, 24 AND

25 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

EXCEPT ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING, AND OPERATING THEREFOR, AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREIN DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS, TUNNELS AND SHAFTS, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 1500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, OR OTHERWISE IN SUCH MANNER AS TO ENDANGER THE SAFETY OF ANY BUILDINGS OR IMPROVEMENTS THAT MAY BE CONSTRUCTED ON SAID LAND BY THE GRANTEE OR ITS SUCCESSORS AND ASSIGNS, AS RESERVED BY LEWIS P. MARQUIS, AS SURVIVING TRUSTEE UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED NOVEMBER 23, 1953 IN DEED RECORDED SEPTEMBER 8, 1953 IN BOOK 4872, PAGE 107 OF OFFICIAL RECORDS.

**PARCEL 3:**

LOTS 4, 15 AND 16 OF TRACT NO. 2770, AS SHOWN ON A MAP RECORDED IN BOOK 114 PAGES 13, 14 AND 15 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL UNDERGROUND WATER LYING UNDER THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF SURFACE ENTRY FOR THE PURPOSE OF PRODUCING WATER AS CONVEYED TO THE CITY OF GARDEN GROVE, BY DEED RECORDED APRIL 21, 1959 IN BOOK 4678 PAGE 440, OF OFFICIAL RECORDS.

**PARCEL 4:**

LOT 3 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 5:**

LOT 7 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**ATTACHMENT NO.1**

Page 2 of 3

**PARCEL 6:**

LOT 9 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 7:**

LOT 10 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 8:**

LOT 11 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**APNs:**

098-524-14 (Parcel 1)

098-524-15 (Parcel 2)

100-502-03 (Parcel 4)

100-502-07 (Parcel 5)

100-503-04 (Parcel 8)

100-503-05 (Parcel 7)

100-503-06 (Parcel 6)

100-562-01 (Parcel 3)

100-563-05 (Parcel 3)

100-563-06 (Parcel 3)

ATTACHMENT NO. 2

GARDEN GROVE HOUSING AUTHORITY AND  
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

ANNUAL RECERTIFICATION  
TENANT SURVEY FORM  
(for each housing unit)

A. GENERAL INFORMATION

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

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

Phone/Home: \_\_\_\_\_ Work: \_\_\_\_\_ Message: \_\_\_\_\_

Date First Occupied Unit: \_\_\_\_\_

Head of Household is:  Male  Female  Elderly  Handicapped

Number of Occupants: Total \_\_\_\_ No. Adults \_\_\_\_ No. Children (Under 18) \_\_\_\_

Names of all Household Members/All Sources of Household Income:

<u>LIVING IN UNIT</u>	<u>SEX</u>	<u>AGE</u>	<u>INCOME</u>	<u>SOURCE</u>
-----------------------	------------	------------	---------------	---------------

B. HOUSING CHARACTERISTICS

Monthly Housing Cost:	Current Monthly Rent	\$ _____
	Average Monthly Utility Cost	\$ _____
	Total Monthly Housing Cost	\$ _____

Actual Unit Size:  1-BR  2-BR

C. TENANT RE-HOUSING PREFERENCES/NEEDS

Remain in Present Dwelling  Move to Another Dwelling in Building

Rent Elsewhere  Purchase  Subsidized Housing  None

Location/Neighborhood Consideration: \_\_\_\_\_

Special Needs (Disabilities, Pets, Etc.): \_\_\_\_\_

Size of Dwelling Required: \_\_\_\_\_

**OPTIONAL:**

Please check the ethnic group which describes household:

White \_\_\_ Black\_\_\_ American Indian/Alaskan Native \_\_\_  
Hispanic \_\_\_ Asian/Pacific Islander \_\_\_ Other \_\_\_

**TO BE SIGNED BY ALL ADULT HOUSEHOLD MEMBERS:**

I/we do hereby declare under penalty of perjury that the information disclosed herein is true and accurate.

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

Printed Name: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

[FOR USE AFTER INITIAL INCOME VERIFICATION AND TENANT ELIGIBILITY]

GARDEN GROVE HOUSING AUTHORITY AND  
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

CERTIFICATION OF INCOME AND  
PROGRAM COMPLIANCE

**NOTE TO APARTMENT OWNER:** This form is designed to assist you in computing Annual Income in accordance with the method set forth in the applicable federal and state laws and regulations, including without limitation, the Department of Housing and Urban Development ("HUD") Regulations (24 CFR 813). You should make certain that this form is at all times up to date with applicable state and federal laws and regulations.

Re: ROSE GARDEN APARTMENTS, 8551 Westminster Avenue, total of 144 apartment units

Re: STUART DRIVE APARTMENTS, 11602 - 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive, and 11851 Stuart Drive total of 95 apartment units

*TENANT'S ANNUAL INCOME CERTIFICATION*  
*(for the year 20\_\_)*

Address of Properties: \_\_\_\_\_  
Unit No. \_\_\_\_\_  
Unit Size: \_\_\_\_\_ Bdrm. \_\_\_\_\_

*The rent and occupancy of your apartment unit is subject to a Regulatory Agreement by and among the Garden Grove Agency for Community Development, and the Garden Grove Housing Authority, and your landlord. The agreement limits the rent which may be charged and the income level of tenants of all of the units within the Stuart Drive and Rose Garden Projects. This form is required each year by the Agency under that agreement. This form must be completed by you as the resident. This information is confidential and will not be unlawfully released to any other entity.*

**I. NAME OF RESIDENT(S)**

Total number of persons in your household: \_\_\_\_\_

List the correct legal name of each member of your household (both adults and children):

ATTACHMENT NO. 2

Page 3 of 7

(Please Print) <u>Name of Head of Household</u>	Sex <u>(M/F)</u>	<u>Age</u>	<u>Signature</u>
_____	_____	_____	_____
<u>Other Member(s) of Household</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

## II. HOUSEHOLD INCOME

List all gross income earned or received by the head of the household (even if temporarily absent) and all other **adults** living in your household (use additional form if necessary):

<b>GROSS ANNUAL INCOME</b>	Household Member (Adult) \$ _____			
<b>Sources of Income</b>				
Wages & Salary (Before Deductions)				
Interest & Dividends				
Social Security				
Insurance				
Retirement Funds & Pensions				
Disability Benefits				
Unemployment Compensation				
Severance Pay				
Public Assistance (AFDC, Welfare)				
Alimony & Child Support				
Other (Describe)				
<b>TOTAL</b>				

**Note:** The following items are **not** considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payments such as inheritances, insurance payments, capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; special pay to a serviceman head of family away from home and under hostile fire; relocation payments under federal, state or local law; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

### III. ASSETS

List the current value of all assets of everyone living in the household. (Note: Do not report necessary items such as personal effects, furniture, and automobiles):

ASSETS	Household Member	Household Member	Household Member	Household Member
<b>Sources of Assets</b>	\$ _____	\$ _____	\$ _____	_____
Real Property				
Bank & Savings Accounts				
Stocks & Bonds				
Other (Describe)				
<b>TOTAL</b>				

### IV. UTILITY EXPENSES

List the following **monthly** utility expenses of the household:

Water           \$ \_\_\_\_\_                      Garbage   \$ \_\_\_\_\_  
 Gas             \$ \_\_\_\_\_                      Sewer     \$ \_\_\_\_\_  
 Electricity    \$ \_\_\_\_\_

Attached are true copies of the following:

- |   |  |
|---|--|
| <input type="checkbox"/> Paycheck stubs from two most recent pay periods<br><input type="checkbox"/> Employment verification<br><input type="checkbox"/> Income tax return<br><input type="checkbox"/> Social Security verification<br><input type="checkbox"/> Dept. of Social Services verification | <input type="checkbox"/> Bank/savings account verification<br><input type="checkbox"/> Self-employment verification<br><input type="checkbox"/> Unemployment verification<br><input type="checkbox"/> Welfare verification<br><input type="checkbox"/> Disability verification |
|---|--|

This affidavit is made with the knowledge that it will be relied upon by the Garden Grove Agency for Community Development and Garden Grove Housing Authority, and our landlord and the owner of our apartment building, to determine maximum income for eligibility. (I/we) warrant that all information set forth in this document is true, correct and complete and based upon information (I/we) deem reliable and based upon such investigation as (I/we) deemed necessary.

(I/We) acknowledge that (I/we) have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of (my/our) rental agreement with the property owner to rent the unit and will additionally enable the property owner to initiate and pursue all applicable legal and equitable remedies with respect to the unit and to me/us.

(I/We) do hereby swear under penalty of perjury that the foregoing statements are true and correct and that this declaration was executed on \_\_\_\_\_, 20\_\_ at Garden Grove, California.

Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**ATTACHMENT NO. 3**

**GARDEN GROVE HOUSING AUTHORITY AND  
GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**

**INITIAL OCCUPANCY CERTIFICATION OF INCOME  
(Stuart Drive and Rose Garden Projects)**

Re: Rose Garden Apartments, 8551 Westminster Avenue, total of 144 apartment units

Re: Stuart Drive Apartments, 11602 - 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive, and 11851 Stuart Drive total of 95 apartment units

I/We, the undersigned, state that I/we have read and answered fully, frankly and personally each of the following questions for all persons who are to occupy the unit being applied for in the above-referenced apartment project. Listed below are the names of all persons who intend to reside in the unit:

1.	2.	3.	4.	5.	6.
Names of Members of Household	Relationship to Head of Household	Age	Social Security Number	Place/Source of Employment	Monthly Gross Income Amount (before deductions)
	HEAD				
	SPOUSE				

**Income Computation**

1. The total anticipated income, calculated in accordance with the provisions of this paragraph 1, of all persons over the age of 18 years listed above for the 12-month period beginning the date that I/we plan to move into a unit is \$\_\_\_\_\_.

Included in the total anticipated income listed above are:

- (a) all wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services, before payroll deductions;

(b) the net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets);

(c) interest and dividends (including income from assets excluded below);

(d) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including any lump sum payment for the delayed start of a periodic payment;

(e) payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay;

(f) the maximum amount of public assistance available to the above persons other than the amount of any assistance specifically designated for shelter and utilities;

(g) periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling;

(h) all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; and

(i) any earned income tax credit to the extent that it exceeds income tax liability.

Excluded from such anticipated income are:

(a) casual, sporadic or irregular gifts;

(b) amounts which are specifically for or in reimbursement of medical expenses;

(c) lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses;

(d) amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships or payments to veterans not used for the above purposes are to be included in income;

(e) special pay to a household member who is away from home and exposed to hostile fire;

(f) relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(g) foster child care payments;

(h) the value of coupon allotments for the purchase of foods pursuant to the Food Stamp Act of 1977;

**ATTACHMENT NO. 3**

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- (i) payments to volunteers under the Domestic Volunteer Service Act of 1973;
- (j) payments received under the Alaska Native Claims Settlement Act;
- (k) income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;
- (l) payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- (m) payments received from the Job Training Partnership Act;
- (n) income derived from the disposition of funds of the Grand River Band of Ottawa Indians; and
- (o) the first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

2. Do the persons whose income or contributions are included in item 6 of the chart above:

(a) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interests in Indian trust land); or \_\_\_\_\_ Yes      \_\_\_\_\_ No

(b) have they disposed of any assets (other than at a foreclosure or Credit Bankruptcy sale) during the last two years at less than fair market value? \_\_\_\_\_ Yes      \_\_\_\_\_ No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000? \_\_\_\_\_ Yes      \_\_\_\_\_ No

(d) If the answer to (c) above is yes, state:

(1) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent: \$ \_\_\_\_\_

(2) the amount of such income, if any, that was included in item 6 of the chart above: \$ \_\_\_\_\_

3. (a) Are all of the individuals who propose to reside in the unit full-time students? \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) If the answer to (a) above is yes, is at least one of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return? \_\_\_\_\_ Yes \_\_\_\_\_ No

4. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter the "Owner"), has any family relationship to the Owner, or owns directly or indirectly any interest in the Owner. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trustee held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

5. This certificate is made with the knowledge that it will be relied upon by the Owner to determine maximum income for eligibility to occupy the unit, and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in paragraph 1 is reasonable and based upon such investigation as the undersigned deemed necessary.

6. I/we will assist the Owner in obtaining any information or documents required to verify the statements made herein, including:

(i) an income verification from my/our present employer(s), the Social Security Administration or the Department of Social Services;

(ii) copies of federal tax returns for the immediately preceding calendar year;

(iii) my/our last two pay stubs;

(iv) my/our credit report; or

(v) any other documentation acceptable to the Owner.

7. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Owner to lease the unit and will entitle the Owner to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

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\* A full-time student is an individual enrolled, during each of 5 calendar months during the calendar year in which occupancy of the unit begins, as a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance. An individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof is not a full-time student.

**ATTACHMENT NO. 3**

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8. Housing Authority Statistical Information (Optional – will be used for reporting purposes only).

Race (Head of Household)

White \_\_\_\_\_ Black \_\_\_\_\_ Asian \_\_\_\_\_  
Hispanic \_\_\_\_\_ Native American \_\_\_\_\_ Other \_\_\_\_\_

Physical Disability: Yes \_\_\_\_\_ No \_\_\_\_\_

I/we declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ in the County of Orange, California.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

[Signatures of all persons over the age of 18 years listed in number 2 above required.]

FOR COMPLETION BY APARTMENT OWNER ONLY:

A. The amount entered in 1 above qualifies the applicant(s) as a:

- 30% Very Low Income Household;
- 40% Very Low Income Household;
- 50% Very Low Income Household;
- 60% Very Low Income Household;
- Does not qualify the applicant(s) as a Very Low or Low Income Household.

B. Number of apartment unit assigned: \_\_\_\_\_  
Bedroom Size: \_\_\_\_\_ Rent: \$ \_\_\_\_\_

Tenant-Paid Utilities:

Water \_\_\_\_\_ Gas \_\_\_\_\_ Electric \_\_\_\_\_  
Trash \_\_\_\_\_ Other (list Type) \_\_\_\_\_

C. Was this apartment unit last occupied for a period of 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as Very Low or Low Income Household?  Yes  No

D. Method used to verify applicant(s) income:

- Employer income verification.
- Pay stubs.
- Credit report.
- Social Security Administration verification.
- Department of Social Services verification.
- Copies of tax returns.
- Other: ( \_\_\_\_\_ )

\_\_\_\_\_  
Manager

ATTACHMENT NO. 3

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**INCOME VERIFICATION**  
(For Employed Persons)

The undersigned employee has applied for a rental unit located in an affordable housing project that is subject to the terms and conditions of that certain Amended and Restated Regulatory Agreement ("Regulatory Agreement") by and among the Owner and the Garden Grove Agency for Community Development ("Agency") and Garden Grove Housing Authority ("Authority") for persons of Very Low Income and Low Income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual Wages: \_\_\_\_\_  
Overtime: \_\_\_\_\_  
Bonuses: \_\_\_\_\_  
Commissions: \_\_\_\_\_  
Total Current Income: \_\_\_\_\_

I hereby certify that the statements above are true and complete to the best of my knowledge.

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

\_\_\_\_\_  
Signature

Title: \_\_\_\_\_

I hereby grant you permission to disclose my income to \_\_\_\_\_ in order that they may determine my income eligibility for rental of an apartment located in the projects subject to the terms and conditions of that certain Regulatory Agreement by and among Owner, Agency and Authority.

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

\_\_\_\_\_  
Signature

Please send form to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INCOME VERIFICATION**  
**(For Social Security Recipients)**

TO: SOCIAL SECURITY ADMINISTRATION

Ladies and Gentlemen:

I have applied for a rental unit located in the projects subject to the terms and conditions of that certain Regulatory Agreement by and among Owner, Agency and Authority. Every income statement of a prospective tenant must be stringently verified. In connection with my application for a rental unit, I hereby give my consent to release to \_\_\_\_\_ the specific information requested below.

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

Social Security No.: \_\_\_\_\_ Name (Print): \_\_\_\_\_  
Address (Print): \_\_\_\_\_

Monthly Benefits Began/Will Begin: \_\_\_\_\_  
Social Security Benefit Amount: \$ \_\_\_\_\_  
Other Benefit(s): \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
Medicare Deduction: \$ \_\_\_\_\_  
Are benefits expected to change? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, please state date and amount of change: \_\_\_\_\_  
Date: \_\_\_\_\_  
Amount: \_\_\_\_\_

If recipient is not receiving full benefit amount, please indicate reason and date recipient will start receiving full benefit amount:

Reason: \_\_\_\_\_ Date of Resumption: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

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

Telephone: \_\_\_\_\_ Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_

Please send form to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INCOME VERIFICATION**  
(For Department of Social Services Aid Recipients)

TO: CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Ladies and Gentlemen:

I am receiving assistance through your office. I have applied for a rental unit located in a project subject to the terms and conditions of that certain Regulatory Agreement by and among Owner, Agency and Authority. Every income statement of a prospective tenant must be stringently verified. In connection with my application for a rental unit, I hereby authorize the Department of Social Services to release to \_\_\_\_\_ the specific information requested below.

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

\_\_\_\_\_  
Signature

Caseload Number: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Case Number: \_\_\_\_\_

Case Worker: \_\_\_\_\_

1. Number of persons included in budget: \_\_\_\_\_
2. Total monthly budget: \$ \_\_\_\_\_
  - a. Amount of grant: \$ \_\_\_\_\_ Date aid last began: \_\_\_\_\_
  - b. Other income and source: \_\_\_\_\_
  - c. Is other income included in total budget?    \_\_\_\_\_ Yes    \_\_\_\_\_ No
3. Please specify type of aid \_\_\_\_\_  
(AFDC, FR, Food Stamps, ANB, MediCal, etc.)
4. If recipient is not receiving full grant, please indicate reason:  
\_\_\_\_\_ Overpayment due to client's failure to report other income  
\_\_\_\_\_ Computation error  
\_\_\_\_\_ Other \_\_\_\_\_

5. Date when full grant will resume:

\_\_\_\_\_

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

\_\_\_\_\_  
Case Worker's Signature

Telephone: \_\_\_\_\_

\_\_\_\_\_  
District Office

Your very early response will be appreciated.

Please return form to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INCOME VERIFICATION**  
**(For Self-Employed Persons)**

I hereby attach copies of (check all that apply):

<input type="checkbox"/>	Federal Income Tax Return for the immediately preceding calendar year
<input type="checkbox"/>	State Income Tax Return for the immediately preceding calendar year
<input type="checkbox"/>	Income Verification from my present employer(s)/Social Security Administration/ Department of Social Services
<input type="checkbox"/>	Pay Stubs for the two immediately preceding pay periods
<input type="checkbox"/>	Credit Report
<input type="checkbox"/>	Other (specify)  _____

I certify that the information shown in such documents is true and complete to the best of my knowledge.

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

\_\_\_\_\_  
Signature

ATTACHMENT NO. 4

NOTICE OF AFFORDABLE HOUSING RESTRICTIONS

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Garden Grove Agency for Community  
Development  
11222 Acacia Parkway  
P.O. Box 3070  
Garden Grove, California 92842  
Attention: Agency Director

[This space for recorder]

This document is exempt from the payment of a  
recording fee pursuant to Government Code  
Sections 6103 and 27383.

**NOTICE OF AFFORDABLE HOUSING RESTRICTIONS  
STUART DRIVE AND ROSE GARDEN PROJECT**

This **Notice of Affordable Housing Restrictions** ("Notice of Affordability Restrictions") is executed and recorded pursuant to Section 33334.3(f)(3)(B) of the California Health and Safety Code as amended by AB 987, Chapter 690, Statutes of 2007 (herein, "Chapter 690"), and affects certain existing affordable housing called the Rose Garden Apartments and Stuart Drive Apartments in the City of Garden Grove, California. The Rose Garden Apartments are located at 8551 Westminster Avenue and are improved with one hundred forty-four (144) apartment units and the Stuart Drive Apartments are located at several separate properties, including units located at 11602 - 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive, and 11851 Stuart Drive that are improved with a total of ninety-five (95) apartment units, as particularly described in the Legal Description attached hereto as Attachment No. 1, and incorporated herein by reference (the Stuart Drive Properties and the Rose Garden Property are collectively referred to herein as the "Project")

This **Notice of Affordable Housing Restrictions** is dated as of August \_\_\_\_, 2010 and is entered into by and among the **GARDEN GROVE HOUSING**

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

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**AUTHORITY**, a public body corporate and politic, that is organized and existing under the California Constitution, the Housing Authorities Law, Health & Safety Code Section 34200, *et seq.*, and other applicable laws of the State of California (together with any successor to its rights, duties and obligations, "Authority"), the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic, that is organized and existing under the California Constitution, the California Community Redevelopment Law, Health & Safety Code Section 33000, *et seq.*, and other applicable laws of the State of California (together with any successor to its rights, duties and obligations, "Agency"), and **STUART DRIVE/ROSE GARDEN LIMITED PARTNERSHIP**, a California limited partnership ("Owner"). Agency, Authority and Developer have entered into that certain Amended and Restated Regulatory Agreement dated of even date herewith relating to and touching and concerning the Project ("Amended Regulatory Agreement").

1. The Amended Regulatory Agreement provides for affordability restrictions and certain other covenants that touch and concern and run with land for the Stuart Drive/Rose Garden Site, as more particularly set forth in the Amended Regulatory Agreement. A copy of the Amended Regulatory Agreement is on file with Authority and Agency (and the City of Garden Grove ("City")) as a public record and is deemed incorporated herein. Reference is made to the Amended Regulatory Agreement with regard to the complete text of the provisions of such agreement and all defined terms therein, which provides for affordability restrictions and other covenants related to the Stuart Drive/Rose Garden Site.

2. The Amended Regulatory Agreement provides for Owner to (a) continue to own, manage and operate as affordable housing all dwelling units at the Stuart Drive/Rose Garden Site for Low Income Tenants and Very Low Income Tenants and (b) to continue to rent all dwelling units to households of such limited income, paying an Affordable Rent, all as such restrictions are set forth in the Amended Regulatory Agreement that is expected to be recorded substantially concurrently herewith among the Official Records of Orange County, California. The Amended Regulatory Agreement is deemed to be incorporated herein by reference.

3. Section 5 of the Amended Regulatory Agreement provides, in part, as follows:

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

Page 2 of 9

a. **Affordable Units.** (i) Owner agrees to make available, restrict occupancy to, and rent one hundred percent (100%) of the total 239 dwelling units in the Project (144 dwelling units in the Rose Garden Apartments and 95 dwelling units in the Stuart Drive Apartments totaling 239 units) to Low Income Tenants, with not less than 10% of the dwelling units comprising the Project (i.e., not less than 24 units of the 239 total units comprising the Project) to Very Low Income Tenants, all at an Affordable Rent (as defined in Section 1(d)(ii)), and excepting one (1) on-site manager's unit each in the Rose Garden Apartments and the Stuart Drive Apartments as permitted hereunder. For this purpose, all Very Low Income Units rented at an Affordable Rent pursuant to Section 5 shall be deemed to satisfy the requirements relating to Low Income Units rented at an Affordable Rent.

For purposes of determining whether a unit is occupied by a Low Income Tenant or a Very Low Income Tenant, the following shall apply: (i) a unit occupied by a Low Income Tenant or a Very Low Income Tenant who at the commencement of the occupancy is such a tenant shall be treated as occupied by such a tenant until a recertification of such tenant's income in accordance with Section 6(b) below demonstrates that such tenant no longer qualifies as a Low Income Tenant or a Very Low Income Tenant and thereafter any residential unit of comparable or smaller size in the Project is occupied by a Low Income Tenant or a Very Low Income Tenant; and (ii) a unit previously occupied by a Low Income Tenant or a Very Low Income Tenant and then vacated shall be considered occupied by such a tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be re-determined. In no event shall such temporary period exceed thirty-one (31) days.

b. **Affordable Rent.** The term "Affordable Rent" means:

(i) for the Very Low Income Units to be rented to Very Low Income Households, a monthly Rent that does

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

not exceed one twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of the Area Median Income, as determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code,

(ii) for the Low Income Units to be rented to Low Income Households, a monthly Rent that does not exceed one twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of the Area Median Income, as determined annually by the Secretary of the Treasury pursuant to Section 42 of the Code, for a family of a size appropriate to the unit.

Further, for purposes of this Amended Regulatory Agreement and as defined in the term "Rent", the term "Affordable Rent" shall also include and mean the total of monthly payments for (a) use and occupancy of each Very Low Income Unit and for each Low Income Unit, as applicable, and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Owner that are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, or cable TV or internet services, and (d) possessory interest, taxes or other fees or charges assessed against a tenant for use of the land and facilities associated therewith by a public or private entity other than Owner.

**c. Duration of Affordability Requirements; Affordability Period.** The Stuart Drive/Rose Garden Project and all the Housing Units thereon shall be subject to the requirements of this Section 3, *et seq.* for the full term of the Affordability Period that ends on July 14, 2032. The duration of these covenants and this requirement shall be known as the "Affordability Period."

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

d. **Selection of Tenants.** Owner shall be responsible for the selection of tenants for the Very Low Income Units and the Low Income Units, as applicable, in compliance with all lawful and reasonable criteria, and shall prepare and implement at the Project Site a tenant selection system that shall be approved by Authority Director in his reasonable discretion and that establishes a chronological waiting list system for selection of tenants that shall be set forth in a Marketing Program and the Property Management Plan, both of which are required to be submitted by Owner and approved by Authority Director within thirty (30) days of the date of this Amended Regulatory Agreement. Subject to applicable Fair Housing Laws, including any rules imposed by HUD and/or TCAC, as applicable, Authority shall be afforded a first right of refusal in referring eligible tenants to Very Low Income Units and the Low Income Units, as applicable, in the following order of priority:

(i) Low Income Households or Very Low Income Households, as applicable, who have been displaced from their residences due to programs or projects implemented by Agency or Authority or City;

(ii) Low Income Households or Very Low Income Households, as applicable, who have applied for and have received rental vouchers from Authority;

(iii) Low Income Households or Very Low Income Households, as applicable, who are listed on Authority's waiting list for affordable housing and who live and/or work in Garden Grove; and

(iv) Low Income Households or Very Low Income Households, as applicable, who live and/or work in Garden Grove.

**ATTACHMENT NO. 4  
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STUART DRIVE/ROSE GARDEN PROJECT**

Owner shall not refuse to lease to a holder of a certificate of family participation under 24 CFR part 882 (Rental Certificate Program) or a rental voucher under 24 CFR part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a program pursuant to the HOME Investment Partnership Act, 42 U.S.C. §12701, et seq. and the implementing regulations located at 24 CFR part 92, as such now exist and as may hereafter be amended, a Section 8 voucher program or other tenant-based assistance program, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria (collectively, "Voucher Programs").

Notwithstanding anything provided herein to the contrary, with the Authority's approval, which shall not be unreasonably withheld, Owner shall have the right, upon reasonable grounds, to disapprove any tenant referred to Owner by the Authority, so long as any disapproval is not a violation of Fair Housing Laws or other applicable laws. In connection with Owner's proposed disapproval of any tenant pursuant to this subsection (iii), if requested by the Authority, Owner shall provide Authority in writing its objective basis and rationale for such a disapproval and any supporting documentation or other materials substantiating the Owner's reasonable basis for arriving at the Owner's decision.

**e. Household Income Requirements.** On or before one hundred twenty (120) days following the end of Owner's fiscal year, which is December 31, Owner shall prepare and submit to Agency, at Owner's expense, (A) a written summary of the income, household size, and rent payable by each of the tenants of the Very Low Income Units and the Low Income Units, as applicable, and (B) upon the written request of Agency, copies of each and all leases or rental agreements and the current rules and regulations for the Project Site. At Agency's request,

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Owner shall also provide to Agency completed income computation and certification forms, all in a form reasonably acceptable to Agency, for each and all tenants at the Property. Samples of such forms are set forth in Attachment Nos. 2 and 3 to the Amended Regulatory Agreement.

Owner shall obtain, or shall cause to be obtained by the Property Manager, a certification from each household leasing a Very Low Income Unit or Low Income Unit, as applicable, at the Property demonstrating that such household is a Very Low Income Household or Low Income Household, as applicable, and according to the Area Median Income annually determined and published by HUD for Orange County, California, and meets the eligibility and occupancy requirements established for the Housing Unit. Owner shall verify, or shall cause to be verified by the Property Manager, the income and household size certification of the tenant household. Samples of such forms are set forth in Attachment Nos. 2 and 3 to the Amended Regulatory Agreement.

**h. Occupancy Limits.** Separate from the assumed household size pursuant to Tax Credit Rules, actual household size occupancy shall be limited to the following occupancy standards: (A) for one-bedroom dwelling units three persons; (B) for two-bedroom dwelling units five persons; and (C) for three-bedroom dwelling units seven persons. Notwithstanding the foregoing, however, the occupancy requirements herein shall not apply to tenants of the dwelling units who were tenants at the Property as of the date of the Amended Regulatory Agreement.

4. The restrictions contained in the Amended Regulatory Agreement expire on July 14, 2032. The Amended Regulatory Agreement is being submitted for recordation contemporaneously with this Notice of Affordability Restrictions.

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

5. The commonly known address for the Stuart Drive/Rose Garden Site are: for the Rose Garden Apartments 8551 Westminster Avenue and for the Stuart Drive Apartments 11602 - 11612 Stuart Drive, 11622 - 11632 Stuart Drive, 11661 - 11671 Stuart Drive, 11781 Stuart Drive, 11802 Stuart Drive, 11822 Stuart Drive, 11842 Stuart Drive, and 11851 Stuart Drive all in the City of Garden Grove.

6. The assessor's parcel numbers for the Stuart Drive/Rose Garden Site are: 098-524-14; 098-524-15; 100-502-03; 100-502-07; 100-503-04; 100-503-05; 100-503-06; 100-562-01; 100-563-05; 100-563-06; such numbers are subject to change.

7. The legal description for the Stuart Drive/Rose Garden Site is attached hereto as Exhibit A and is incorporated herein by reference.

8. The Amended Regulatory Agreement that includes the affordability restrictions referenced above is expected to be submitted for recordation in the Office of the Orange County Recorder contemporaneously with this Notice of Affordability Restrictions.

9. This Notice of Affordability Restrictions is intended merely to satisfy the requirements of Chapter 690 of the Act. The Amended Regulatory Agreement remains in full force and effect and is not amended or altered in any manner whatsoever by this Notice of Affordability Restrictions.

10. Capitalized terms shall have the meaning established under the Amended Regulatory Agreement (including all Attachments thereto) excepting only to the extent as otherwise expressly provided under this Notice of Affordability Restrictions.

11. Persons having questions regarding this Notice of Affordability Restrictions, the Amended Regulatory Agreement or the Attachments thereto should contact Authority at its offices located at City Hall, 11222 Acacia Parkway, Garden Grove, California 92842 or such other address as may be designated by Authority and/or Agency from time to time.

**[Signatures appear on following pages.]**

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

Page 8 of 9

**Owner:**

**STUART DRIVE/ROSE GARDEN  
LIMITED PARTNERSHIP,**  
a California limited partnership

By: Stuart Rose Properties, LLC,  
a California limited liability company  
its General Partner

By: \_\_\_\_\_  
Kenneth B. Black, Jr.,  
Manager

**Authority:**

**GARDEN GROVE HOUSING  
AUTHORITY,**  
a public body corporate and politic

By: \_\_\_\_\_  
Its Director

**ATTEST:**

\_\_\_\_\_  
Authority Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stradling, Yocca, Carlson & Rauth  
Authority Special Counsel

**Agency:**

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body corporate and politic

By: \_\_\_\_\_  
Its Director

**ATTEST:**

\_\_\_\_\_  
Authority Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stradling, Yocca, Carlson & Rauth  
Authority Special Counsel

**ATTACHMENT NO. 4  
NOTICE OF AFFORDABILITY RESTRICTIONS  
STUART DRIVE/ROSE GARDEN PROJECT**

**EXHIBIT A TO ATTACHMENT NO. 4**

**LEGAL DESCRIPTION  
STUART DRIVE/ROSE GARDEN SITE**

That certain real property in the City of Garden Grove, County of Orange, State of California, described as follows:

**PARCEL 1:**

THE WEST 425.00 FEET OF THAT PORTION OF THE SOUTH 510.00 FEET OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, LYING EASTERLY OF THE CENTER LINE OF ERIN STREET, AS SHOWN ON THE MAP OF TRACT NO. 3482 RECORDED IN BOOK 124, PAGES 23, 24 AND 25 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

EXCEPT ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING, AND OPERATING THEREFOR, AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREIN DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS, TUNNELS AND SHAFTS, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 1500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, OR OTHERWISE IN SUCH MANNER AS TO ENDANGER THE SAFETY OF ANY BUILDINGS OR IMPROVEMENTS THAT MAY BE CONSTRUCTED ON SAID LAND BY THE GRANTEE OR ITS SUCCESSORS AND ASSIGNS, AS RESERVED BY LEWIS P. MARQUIS, AS SURVIVING TRUSTEE UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED NOVEMBER 23, 1953 IN DEED RECORDED SEPTEMBER 8, 1953 IN BOOK 4872, PAGE 107 OF OFFICIAL RECORDS.

**PARCEL 2:**

THE EAST 414.81 FEET OF THAT PORTION OF THE SOUTH 510.00 FEET OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, AS PER MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, LYING EASTERLY OF THE CENTER LINE OF ERIN STREET, AS SHOWN ON THE MAP OF TRACT NO. 3482 RECORDED IN BOOK 124, PAGES 23, 24 AND

25 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

EXCEPT ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING, AND OPERATING THEREFOR, AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREIN DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS, TUNNELS AND SHAFTS, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 1500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, OR OTHERWISE IN SUCH MANNER AS TO ENDANGER THE SAFETY OF ANY BUILDINGS OR IMPROVEMENTS THAT MAY BE CONSTRUCTED ON SAID LAND BY THE GRANTEE OR ITS SUCCESSORS AND ASSIGNS, AS RESERVED BY LEWIS P. MARQUIS, AS SURVIVING TRUSTEE UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED NOVEMBER 23, 1953 IN DEED RECORDED SEPTEMBER 8, 1953 IN BOOK 4872, PAGE 107 OF OFFICIAL RECORDS.

**PARCEL 3:**

LOTS 4, 15 AND 16 OF TRACT NO. 2770, AS SHOWN ON A MAP RECORDED IN BOOK 114 PAGES 13, 14 AND 15 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL UNDERGROUND WATER LYING UNDER THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF SURFACE ENTRY FOR THE PURPOSE OF PRODUCING WATER AS CONVEYED TO THE CITY OF GARDEN GROVE, BY DEED RECORDED APRIL 21, 1959 IN BOOK 4678 PAGE 440, OF OFFICIAL RECORDS.

**PARCEL 4:**

LOT 3 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 5:**

LOT 7 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**EXHIBIT A TO ATTACHMENT NO. 4**

Page 2 of 3

**PARCEL 6:**

LOT 9 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 7:**

LOT 10 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 8:**

LOT 11 OF TRACT NO. 1891, AS PER MAP RECORDED IN BOOK 105, PAGES 12 AND 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs:

098-524-14 (Parcel 1)

098-524-15 (Parcel 2)

100-502-03 (Parcel 4)

100-502-07 (Parcel 5)

100-503-04 (Parcel 8)

100-503-05 (Parcel 7)

100-503-06 (Parcel 6)

100-562-01 (Parcel 3)

100-563-05 (Parcel 3)

100-563-06 (Parcel 3)

ATTACHMENT NO. 5

FANNIE MAE RIDER  
TO REGULATORY AGREEMENT  
(Stuart Drive/Rose Garden Projects—Garden Grove, California)

[final form to be inserted, as negotiated/revised]

This FANNIE MAE RIDER TO REGULATORY AGREEMENT (Stuart Drive/Rose Garden Projects—Garden Grove, California) ("Rider") is attached to and forms a part of the AMENDED AND RESTATED REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("Regulatory Agreement"), dated as of August \_\_, 2010, by and among STUART DRIVE/ROSE GARDEN LIMITED PARTNERSHIP, a California limited partnership, including its successors and assigns ("Owner"), the GARDEN GROVE HOUSING AUTHORITY a public body corporate and politic ("Authority"), and the GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body corporate and politic ("Agency").

1. **Definitions.** All capitalized terms used in this Rider have the meanings given to those terms in the Regulatory Agreement.

2. **Security Instrument.** \_\_\_\_\_ ("Lender") has committed, subject to the satisfaction of certain conditions, to make a loan ("Mortgage Loan") to Owner, as "Borrower", in an original principal amount of \$ \_\_\_\_\_. The Borrower's obligation to repay the Mortgage Loan is to be evidenced by a promissory note ("Mortgage Note") to be made by Owner, as Borrower, to Lender and secured by a deed of trust upon the satisfaction of certain conditions ("Security Instrument"). The Note, Security Instrument, loan agreement, and other instruments that comprise the Mortgage Loan documents are referred to as "Mortgage Loan Documents". Lender may sell, transfer and deliver the Mortgage Note, the Security Instrument, and assign the Mortgage Loan to Fannie Mae, which is the reason and basis for this Rider.

2. **Applicability.** This Rider shall amend and supplement the Regulatory Agreement. In the event any provision of this Rider conflicts with the Regulatory Agreement, this Rider shall supersede the conflicting provision of the Regulatory Agreement. This Rider shall apply in spite of the fact that the covenants, reservations and restrictions of the Regulatory Agreement run with the land and may be deemed applicable to any successor in interest to the Owner.

3. **Monetary Obligations not Secured by the Project.** Monetary obligations, if any, of the Owner of the Project under the Regulatory Agreement shall not be secured by or constitute a lien on, or security interest in, the Project. Such monetary obligations, if any, shall constitute unsecured obligations. The occurrence of an event of default under the Regulatory Agreement shall not impair, defeat or render invalid the lien of the Security Instrument.

4. **Recordation Priority.** The Regulatory Agreement has been, or will be, recorded in the Official Records of Orange County, California, prior to recordation of the Security Instrument in such Official Records. Accordingly, the terms, covenants and restrictions of the Regulatory

ATTACHMENT NO. 5  
FANNIE MAE RIDER

Page 1 of 4

Agreement are and shall at all times remain senior in all respects, to the liens, rights and interests created under the Security Instrument.

5. **Monetary Obligations Personal.** Authority and Agency agree that no owner of the Project (including, without limitation, Fannie Mae) subsequent to the Owner will be liable for monetary obligations, if any, related to, assume or take title to the Project subject to:

(a) any failure of the Owner (or predecessor thereto) of the Project to perform or observe any representation or warranty, affirmative or negative covenant or other agreement or undertaking under the Regulatory Agreement; and

(b) the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by Owner (or predecessor thereto) of the Project under the Regulatory Agreement.

Owner (and each subsequent Owner) of the Project shall be responsible under the Regulatory Agreement for its own acts and omissions occurring during the period of its ownership of the Project as to each and all monetary obligations thereunder. All monetary obligations and liability therefor shall be and remain personal to each such Owner even after such Owner ceases to be the fee owner of the Project.

6. **Sale or Transfer.** All restrictions on sale or transfer of the Project or of any interest in Owner, consents of Authority and Agency, transfer agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to Fannie Mae or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Mortgage Loan or to any subsequent transfer by Fannie Mae following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Mortgage Loan by Fannie Mae. Nothing contained in the Regulatory Agreement shall affect any provision of the Security Instrument or other Mortgage Loan Documents that requires Owner to obtain the consent of Fannie Mae as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in Owner, excluding transfers permitted by the Security Instrument. No covenant obligating Owner to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall apply to a transfer to Fannie Mae upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Mortgage Loan, or to any subsequent transfer by Fannie Mae following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Mortgage Loan by Fannie Mae. Any written consent to a sale or transfer obtained from Authority and Agency shall constitute conclusive evidence that the sale or transfer is not a violation of the transfer provisions of the Regulatory Agreement.

7. **Damage, Destruction or Condemnation of the Project.** In the event that the Project is damaged or destroyed or title to the Project, or any part thereof, is taken through the exercise or the threat of the exercise of the power of eminent domain, Owner shall comply with all applicable requirements of the Security Instrument and other Mortgage Loan Documents.

8. **Regulatory Agreement Default.** Notwithstanding anything contained in the Regulatory Agreement to the contrary:

**ATTACHMENT NO. 5  
FANNIE MAE RIDER**

Page 2 of 4

(a) The occurrence of an event of default under the Regulatory Agreement shall not impair, defeat or render invalid the lien of the Security Instrument.

(b) The occurrence of an event of default under the Regulatory Agreement shall not be or be deemed to be a default under the Mortgage Loan Documents, except as may be otherwise specified in the Mortgage Loan Documents.

(c) Upon any default by Owner under the Regulatory Agreement, Authority and Agency shall only have the right to seek specific performance of the obligations of Owner or any other owner of the Project under the Regulatory Agreement and injunctive relief against acts that may be in violation of the Regulatory Agreement or otherwise unlawful; provided, however, that Authority and Agency may enforce any and all rights they may have under the Regulatory Agreement for monetary damages only against Excess Revenues (as defined below), if any, of Owner, unless Fannie Mae otherwise specifically consents in writing to the use of other funds.

(d) Authority and/or Agency shall provide written notice to Fannie Mae and the servicer of the Mortgage Loan ("Mortgage Loan Servicer") immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Regulatory Agreement.

(e) As used in Section 8(c), the term "Excess Revenues" means, for any period, the net cash flow of Owner available for distribution to shareholders, members or partners, or other interest holders (as the case may be) for such period, after the payment of all interest expense, the amortization of all principal of all indebtedness coming due during such period (whether by maturity, mandatory sinking fund payment, acceleration or otherwise), the payment of all fees, costs and expenses on an occasional or recurring basis in connection with the Mortgage Loan, the payment of all operating, overhead, ownership and other expenditures of Owner directly or indirectly in connection with the Project (whether any such expenditures are current, capital or extraordinary expenditures), and the setting aside of all reserves for taxes, insurance, water and sewer charges or other similar impositions, capital expenditures, repairs and replacements and all other amounts that Owner is required to set aside pursuant to the Mortgage Loan Documents, but expressly excluding depreciation and amortization of intangibles.

(f) Until the Mortgage Loan, and all amounts secured by the Mortgage Loan Documents, are repaid in full, the terms and conditions of Section 4(f) and Section 4(g) of the Regulatory Agreement shall be inoperative and of no force or effect.

9. **Amendments.** Authority and Agency shall not consent to any amendment, supplement to, or restatement of the Regulatory Agreement without the prior written consent of Fannie Mae, which consent shall not be unreasonably withheld, conditioned or delayed.

10. **Third-Party Beneficiary.** The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of Fannie Mae and are entered into for the benefit of Fannie Mae. Fannie Mae shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with Authority and/or Agency, or to cause Authority and/or Agency to enforce, the terms of the Regulatory Agreement. In addition, Owner and Authority

**ATTACHMENT NO. 5**

**FANNIE MAE RIDER**

Page 3 of 4

and Agency intend that Fannie Mae be an intended third-party beneficiary of the Regulatory Agreement.

11. Copies of Notices under the Regulatory Agreement. Copies of all notices under the Regulatory Agreement shall be sent to the Mortgage Loan Servicer at the address set forth below or to such other address as the Mortgage Loan Servicer may from time to time designate:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Notices. Any notice to be given to Fannie Mae shall be sent to Fannie Mae at the address set forth below or to such other address as Fannie Mae may from time to time designate:

Fannie Mae  
3900 Wisconsin Avenue, NW  
Drawer AM  
Washington, DC 20016-2899  
Attention: Director, Multifamily Asset Management  
Telephone: (301) 204-8008  
Facsimile: (301) 280-2065  
Re: Stuart Drive/Rose Garden Apartments Project

with a copy to:

Fannie Mae  
3900 Wisconsin Avenue, NW  
Drawer AM  
Washington, DC 20016-2899  
Attention: Vice President, Multifamily Operations  
Telephone: (301) 204-8422  
Facsimile: (202) 752-8369  
Re: Stuart Drive/Rose Garden Apartments Project

[For courier use 4000 Wisconsin Avenue, N.W. and delete Drawer AM]

**ATTACHMENT NO. 5  
FANNIE MAE RIDER**

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ATTACHMENT NO. 6

EXCERPTS FROM THE ORIGINAL REGULATORY AGREEMENT THAT REMAIN APPLICABLE FOR THE DURATION OF THE QUALIFIED PROJECT PERIOD IN ACCORDANCE WITH SECTION 25 OF THE AMENDED AND RESTATED REGULATORY AGREEMENT TO WHICH THIS IS ATTACHMENT NO. 6 IS ATTACHED (NAMELY SECTIONS 3 AND 6 OF THE ORIGINAL REGULATORY AGREEMENT, AND THE ASSOCIATED DEFINITIONS, OTHER THAN PROVISIONS CONCERNING DETERMINATION OF THE DETERMINATION OF RENT)

(SEE ATTACHED)

ATTACHMENT NO. 6

Page 1 of 1  
(and attached pages)

Attachment No. 6  
Excerpts From the Original Regulatory Agreement  
Page 1 of 16

WHEREAS, the Authority, the Trustee and the Borrower have entered into a Loan Agreement, dated as of the date hereof (the "Loan Agreement"), providing the terms and conditions under which the Authority will make the Loan to the Borrower to finance the acquisition and rehabilitation of the Project; and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when issued as provided in the Indenture, the valid, binding, and limited obligations of the Authority, and to constitute the Indenture a valid assignment of the amounts pledged to the payment of the principal of, and premium, if any, and interest on the Bonds have been done and performed, and the creation, execution, and delivery of the Indenture and the execution and issuance of the Bonds, subject to the terms thereof, in all respects have been duly authorized; and

WHEREAS, the Authority has obtained an allocation for the Project of a portion of the State of California's private activity bond volume cap, within the meaning of Section 146 of the Code, in accordance with the procedures established by the California Debt Limit Allocation Committee; and

WHEREAS, the Agency is required by California Health and Safety Code Section 33334.2, *et seq.*, to expend a certain percentage of property taxes allocated to it for the purpose of increasing, improving and preserving the City of Garden Grove's supply of low- and moderate-income housing available at an affordable housing cost ("Set Aside Funds"); and

WHEREAS, the Agency and Bertram Partners, Inc., a California corporation, as predecessor of the Borrower, have entered into an Affordable Housing Agreement, dated July 11, 1995 (the "Housing Agreement"), in order to set forth the terms and conditions relating to the acquisition and rehabilitation of the Project; and

WHEREAS, the Housing Agreement requires, as a condition precedent to the Agency's assistance of the Borrower's acquisition and rehabilitation of the Project, that this Regulatory Agreement be recorded in the official records of Orange County, California; and

WHEREAS, the Authority, the Agency, the Trustee and the Borrower have determined to enter into this Regulatory Agreement with respect to the Project in that the Code and the regulations and rulings promulgated with respect thereto and the Act prescribe that the use and operation of the Project be restricted in certain respects in order to ensure that the Project will be used and operated in accordance with the Code and the Act;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Authority, the Agency, the Trustee and the Borrower hereby agree as follows:

**Section 1. Definitions and Interpretation.** The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

Attachment No. 6  
Excerpts From the Original Regulatory Agreement  
Page 2 of 16

"Act" - Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California as now in effect and as it may from time to time hereafter be amended or supplemented.

"Adjusted Income" - The adjusted income of all persons who intend to reside in one residential unit, calculated in the manner determined by the Secretary of the Treasury pursuant to Section 142(d)(2)(B) of the Code.

"Affiliated Party" - (1) a Person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code or (2) a Person who together with the Borrower are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein), (3) a partnership and each of its partners (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code and (4) an S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code.

"Affordable Rent" - As applicable, the maximum monthly rent that may be charged for the Very Low Income Units as set forth in Section 6 hereof and for the Low Income Units as set forth in Section 7 hereof.

"Agency" - The Garden Grove Agency for Community Development, a public body, corporate and politic.....

"Area" - The Anaheim-Santa Ana, California Primary Metropolitan Statistical Area.

"Authority" - Garden Grove Housing Authority.

"Bond Counsel" - An attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, who is or are reasonably acceptable to the Authority and the Trustee and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

"Bond Issuance Date" - The date of the delivery of the Bonds, being March 28, 1996.

"Bonds" - \$7,790,000 Garden Grove Housing Authority Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project), Series 1996A, \$2,000,000 Garden Grove Housing Authority Taxable Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996B, and \$8,500,000 Garden Grove Housing Authority Housing Set-Aside Tax Increment Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996C.

"Borrower" - Stuart Drive/Rose Garden Limited Partnership, a California limited partnership, and its successors and assigns.

Attachment No. 6  
Excerpts From the Original Regulatory Agreement  
Page 3 of 16

"Borrower's Tax Certificate" - The certificate of the Borrower, dated the Bond Issuance Date, with respect to certain Project Costs, delivered to the Authority by the Borrower.

"Certificate of Continuing Program Compliance" - The certificate with respect to the Project to be filed by the Borrower with the Authority, the Program Administrator, and the Trustee which shall be substantially in the form attached hereto as Exhibit B.

"City" - City of Garden Grove, California, a California municipal corporation.

"Code" - The Internal Revenue Code of 1986, as amended, together with the Regulations. All references herein to sections, paragraphs or other subdivisions of the Code or the Regulations shall be deemed to be references to correlative provisions of any applicable successor code or regulations promulgated thereunder.

"Completion Certificate" - The certificate of completion of the Project required to be delivered to the Authority, the Program Administrator and the Trustee by the Borrower pursuant to Section 2 of this Regulatory Agreement, which shall be substantially in the form attached hereto as Exhibit C.

"Completion Date" - The date of the completion of the rehabilitation of the Project, as that date shall be certified as provided in Section 2 of this Regulatory Agreement.

"Component" - Each of the multifamily residential rental projects described on Exhibit E hereto on the sites described in Exhibit A hereto as Project Sites 1-9, inclusive, comprising, in the aggregate, the Project.

"Costs of Issuance" - All costs incurred in connection with the issuance of the Bonds, including, but not limited to, underwriter's fee or discount, attorneys' fees and expenses (including Bond Counsel, the Authority's counsel, Borrower's counsel, Trustee's counsel, as well as other specialized counsel fees incurred in connection with the borrowing), Authority's initial fees and expenses, financial advisor fees and expenses, rating agency fees, Trustee's initial fees and expenses (including its first annual administrative fee), accountant fees related to the issuance of the Bonds, printing costs for the Bonds and any preliminary and final offering materials, costs incurred in connection with satisfying the public approval requirement of Section 147(f) of the Code and costs of engineering and feasibility studies necessary to the issuance of the Bonds, if any.

"Determination of Taxability" - (1) the failure of the Borrower to consent in writing, within forty-five (45) days after written request by the holder of any Tax-Exempt Bond, to any amendment to the Indenture, the Loan Agreement or the Regulatory Agreement which in the written opinion of Bond Counsel addressed to the Authority, the Borrower, and the Trustee is necessary to preserve the exclusion from gross income of interest on the Tax-Exempt Bonds for federal income tax purposes, or (2) enactment of legislation or a final judgment or order of a court of original jurisdiction, a final order of any other court of competent jurisdiction, or a final ruling or decision of the Internal Revenue Service, in any such case to the effect that the interest on any of the Tax-Exempt Bonds (other than interest on any Tax-Exempt Bond for any period during which such Tax-Exempt Bond is held by a "substantial user" of any facility financed with the proceeds of the Tax-Exempt Bonds or a "related person," as such terms are used in

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Excerpts From the Original Regulatory Agreement  
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Section 147(a)(2) of the Code and except for any minimum or preference tax) is not excludable for federal income tax purposes from the gross income of the recipients thereof subject to federal income taxes. With respect to clause (2) above, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal or action has expired.

"Governmental Requirements" - All laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the City, or any other political subdivision in which the Project is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the Agency, the Borrower or the Project.

"Guaranty" - The Limited Guaranty, Support and Pledge Agreement, dated as of February 1, 1996, executed by the Agency in favor of the Authority and the Trustee.

"Hazardous Materials" - (i) Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, *et seq.*), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Sections 25300, *et seq.*), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) petroleum, oil, gasoline (refined and unrefined) and their respective by-products and constituents; and (vi) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Governmental Requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment.

"Hazardous Materials Contamination" - The contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Project by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Regulatory Agreement) emanating from the Project.

"Housing Agreement" - The Affordable Housing Agreement, dated July 11, 1995, by and between the Agency and Bertram Partners, Inc., a California corporation, as amended.

"Income Computation and Certification" - A document substantially in the form attached hereto as Exhibit "D" and any alternate form which the Borrower is directed by the Authority or the Agency to use.

"Indenture" - The Indenture of Trust, dated as of the date hereof, between the Authority and the Trustee, pursuant to which the Bonds have been issued, as amended or supplemented from time to time.

"Inducement Date" - August 22, 1995, the date of adoption of the Inducement Resolution.

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"Inducement Resolution" - The resolution adopted by the Authority on the Inducement Date, indicating its intention to issue the Bonds.

"Loan" - The mortgage loan in the amount of \$18,290,000 made by the Authority to the Borrower to provide financing for the Project.

"Loan Agreement" - The Loan Agreement entered into by and among the Borrower, the Trustee and the Authority pursuant to which the Authority will make the Loan.

"Low Income Tenants" - Individuals or families with an Adjusted Income which does not exceed the lesser of (1) sixty percent (60%) of the Median Income for the Area as adjusted for household size in accordance with the last sentence of this definition or (2) one hundred twenty percent (120%) of the qualifying limits for very low income households as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by the State of California Department of Housing and Community Development. In no event, however, will the occupants of a residential unit be considered to be Low Income Tenants if all the occupants are students, as defined in Section 151(c)(4) of the Code, no one of which is entitled to file a joint federal income tax return. Currently, Section 151(c)(4) defines a student as an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which the taxable year of the student begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof. The household size adjustment shall be determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code which currently provides for adjustments by multiplying that figure which equals sixty percent (60%) of the Median Income for the Area by the following percentages:

<u>Household Size</u>	<u>Adjustment</u>
1	70%
2	80
3	90
4	100
5	108
6	116
7	124
8	132

"Low Income Units" - The dwelling units in the Project designated for occupancy by Low Income Tenants pursuant to Sections 6 and 7 hereof, including any Very Low Income Units.

"Management Plan" - The detailed "Management Plan" which sets forth in detail the duties of the Property Manager, the tenant selection process, a security system and crime prevention program, the procedures for the collection of rent, the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations of the Project

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and manner of enforcement, a standard lease form, and other matters relevant to the management of the Project, as set forth in Section 4(c) hereof.

"Management Agreement" - The Management Agreement, dated as of the date hereof, by and between Barker Management Inc., as management agent, and the Borrower.

"Median Income for the Area" - The median income for the Area as most recently determined by the Secretary of the Treasury pursuant to Section 142(d)(2)(B) of the Code.

"Note" - The promissory note executed by Borrower in favor of the Authority in a principal amount equal to the principal amount of the Loan.

"Program Administrator" - A governmental agency, a financial institution, a certified public accountant, an apartment management firm, a mortgage insurance company or other business entity performing similar duties or otherwise experienced in the administration of restrictions on bond financed multifamily housing projects which shall initially be the Agency and, at the Authority's election, any other person or entity appointed by the Authority who shall enter into an Administration Agreement in a form acceptable to the Authority and the Program Administrator.

"Project" - The Project Facilities and the Project Site.

"Project Costs" - To the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Borrower with respect to the acquisition and rehabilitation, as the case may be, of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and Borrower's overhead and supervisors' fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made, with the approval of the Authority, for the Project), and all other costs approved by Bond Counsel.

"Project Facilities" - The buildings, structures and other improvements to be rehabilitated on the Project Site, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project.

"Project Site" - The parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances thereunto appertaining.

"Property Manager" - The property manager of the Project which is approved by the Agency pursuant to Section 4(c) hereof.

"Qualified Project Costs" - The Project Costs (excluding Costs of Issuance) incurred after the Inducement Date which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code or are chargeable to a capital

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account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts within the meaning of Regulation 1.103-8(a)(1)(i). Interest accruing on the Tax-Exempt Bonds shall not be a Qualified Project Cost; and provided that, if any portion of the Project is being rehabilitated by an Affiliated Party (whether as a general contractor or a subcontractor), "Qualified Project Costs" related thereto shall include only the actual out-of-pocket costs incurred by such Affiliated Party in rehabilitating the Project (or any portion thereof), and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof).

"Qualified Project Period" - The period beginning on the Bond Issuance Date and ending on the later of (a) the date which is 15 years after the Bond Issuance Date, (b) the first day on which no Tax Exempt Bonds (including, without limitation, the Series A Bonds and the Series C Bonds) with respect to the Project are Outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

"Qualified Rehabilitation Expenditures" - Expenditures made to rehabilitate the respective Component of the Project which qualify as rehabilitation expenditures under Section 147(d) of the Code and as described in the Tax Certificate.

"Registered Holder" or "Holder" - When used with respect to the Bonds, the holder of a Bond then outstanding under the Indenture as shown on the registration books maintained by the Trustee pursuant to the Indenture.

"Regulations" - The income tax regulations promulgated or proposed by the United States Department of the Treasury pursuant to the Code from time to time.

"Regulatory Agreement" - This Regulatory Agreement and Declaration of Restrictive Covenants, together with any amendments hereto or supplements hereof.

"Rehabilitation" - The rehabilitation of each of the respective Components of the Project which is required pursuant to Section 2 of this Regulatory Agreement.

"Rehabilitation Plans" - The plans for the Rehabilitation of the Project which are approved by the Agency pursuant to the Housing Agreement, as further set forth in Section 2(j) of this Regulatory Agreement.

"Release of Construction Covenants" - That document which evidences and determines the satisfactory completion of the Rehabilitation of the Project, in substantially the form shown in Exhibit D attached to the Housing Agreement.

"Remediation" - The cleanup and removal of Hazardous Materials and Hazardous Materials Contamination as set forth in Section 10 hereof.

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"Rent" - For purposes of calculating the maximum Affordable Rent allowed under Section 7 of this Regulatory Agreement, the total of monthly payments for (a) use and occupancy of the dwelling unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Borrower which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Borrower.

"Scope of Development" - The actions required to be undertaken by the Borrower as set forth in Exhibit C to the Housing Agreement.

"Series A Bonds" - Those Bonds designated Series 1996A, which are intended to bear interest excludable from gross income for federal tax purposes.

"Series C Bonds" - Those Bonds designated Series 1996C, which are intended to bear interest excludable from gross income for federal tax purposes.

"State" - State of California.

"Tax Certificate" - The Tax Certificate executed by the Borrower on the Bond Issuance Date.

"Tax Credits" - Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*

"Tax Exempt Bonds" - The Series A Bonds and the Series C Bonds.

"TCAC Regulatory Agreement" - The regulatory agreement which is required to be recorded against the Project with respect to the issuance of Tax Credits.

"Trustee" - First Interstate Bank of California, or any successor Trustee serving as such under the Indenture.

"Very Low Income Tenants"- Individuals or families with an Adjusted Income which does not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, currently fifty percent (50%) of the Median Income for the Area as adjusted for household size in accordance with the last sentence of this definition. In no event, however, will the occupants of a residential unit be considered to be Very Low Income Tenants if all the occupants are students, as defined in Section 151(c)(4) of the Code, no one of which is entitled to file a joint federal income tax return. Currently, Section 151(c)(4) defines a student as an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which the taxable year of the student begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional on-farm training under the supervision of

an accredited agent of such an educational organization or of a state or political subdivision thereof. The household size adjustment shall be determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code which currently provides for adjustments by multiplying that figure which equals fifty percent (50%) of the Median Income for the Area by the following percentages:

<u>Household Size</u>	<u>Adjustment</u>
1	70%
2	80
3	90
4	100
5	108
6	116
7	124
8	132

"Very Low Income Units" - The dwelling units in the Project designated for occupancy by Very Low Income Tenants pursuant to Section 6(a) of this Regulatory Agreement.

Terms not defined herein shall have the meanings assigned to them in the Indenture.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

~~Section 2. Acquisition and Rehabilitation of the Project. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:~~

~~(a) The Borrower has incurred a substantial binding obligation to commence the acquisition and rehabilitation of the Project, pursuant to which the Borrower is obligated to expend at least 5 percent of the net sale proceeds of the Tax Exempt Bonds.~~

~~(b) The Borrower's reasonable expectations respecting the total cost of the acquisition and rehabilitation of the Project and the disbursement of Bond proceeds are accurately set forth in the Borrower's Tax Certificate which has been delivered to the Authority.~~

~~Project. In the event that any displacement of tenants occurs, the Borrower shall promptly notify the Agency of such displacement. The Agency shall, as a cost of the Rehabilitation project, pay from the proceeds of the Bonds (or if no Bond proceeds are available, the first available amounts deposited in the General Fund established under the Indenture, before distribution to the Agency and the Borrower pursuant the provisions of the Indenture and the Subordinated Agency Note), provide relocation assistance and benefits in such form and amount as determined by the Agency to be required in accordance with Government Code Section 7260, *et seq.*, and the implementing regulations adopted pursuant thereto by the State of California, the City and the Agency (collectively, the "Relocation Laws"), to each tenant household required to temporarily or permanently vacate a unit within the Project for purposes of completing the Rehabilitation. The Agency may, in its sole discretion and at its expense, conduct or cause to be conducted a survey of the income level of existing tenants of the Project by obtaining a tenant survey form completed by tenant households occupying a unit within the Project.~~

~~(o) The Borrower shall not allow to be placed on the Project or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project the Borrower shall within ninety (90) days of such recording or service or within five (5) days of the Agency's demand whichever last occurs:~~

- ~~a. pay and discharge the same; or~~
- ~~b. effect the release thereof by recording and delivering to the Agency a surety bond in sufficient form and amount, or otherwise; or~~
- ~~c. provide the Agency with other assurance which the Agency deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of Agency from the effect of such lien or bonded stop notice.~~

Section 3. Residential Rental Property. The Borrower hereby acknowledges and agrees that each Component of the Project, taken individually, will be owned, managed and operated as a "qualified residential rental project" (within the meaning of Section 142(d) of the Code) until the expiration of the Qualified Project Period. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Project is being acquired and rehabilitated for the purpose of providing multifamily residential rental property, and the Borrower shall own, manage and operate the Project and each Component as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with applicable provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations, and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in each Component of the Project will be similarly constructed units, and, to the extent required by the Code and the Regulations, each dwelling unit in each Component of the Project will contain complete separate and distinct

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facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator (which may be provided by the tenant) and sink. To the extent any Low Income Tenant does not possess a refrigerator at occupancy of a Low Income Unit, the Borrower shall provide a refrigerator for such tenant at no cost to the tenant.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, retirement house or trailer court or park.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. The Borrower shall not take any steps in connection with a conversion of the Project to a condominium ownership except with (i) the prior written approval of the Agency, which approval the Agency may grant, withhold or deny in its sole and absolute discretion and (ii) the prior written approving opinion of Bond Counsel that such act will not cause the interest on the Bonds to be includable in gross income for purposes of federal income taxation.

(e) All of the dwelling units will be available for rental on a continuous basis to members of the general public and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or rented to Low Income Tenants or Very Low Income Tenants.

(f) Each Component comprising the Project Site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and each Component of the Project Facilities comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in any Component of the Project shall be occupied by the Borrower unless the Component contains five or more dwelling units, in which case one or more units may be occupied by the Borrower or by persons related to or affiliated with the Borrower such as a resident manager or maintenance personnel.

(h) The Qualified Project Period commences on the Bond Issuance Date.

(i) Should involuntary noncompliance with the provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Bond Issuance Date which prevents the Authority from enforcing the requirements of the Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the Regulations, it will either prepay the Loan or apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of the Act, Section 142(d) of the Code and the Regulations.

(j) The Borrower shall not discriminate on the basis of race, creed, color, sex, source of income (e.g. AFDC, SSD), physical disability, age, national origin or marital status

in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(k) Following the expiration or termination of the Qualified Project Period, except in the event of a foreclosure, deed in lieu of foreclosure, eminent domain or action of federal agency and the redemption of all Tax Exempt Bonds within a reasonable period thereafter, Very Low Income Units shall remain available to the Very Low Income Tenants then occupying such units at the date of expiration or termination of the Qualified Project Period at a rent not greater than the rent determined pursuant to Section 6(a)(2) below until the earliest of any of the following occurs:

(1) The household's income exceeds 140 percent of the income at which such household would qualify as a Very Low Income Tenant.

(2) The household voluntarily moves or is evicted for "good cause." For these purposes, "good cause" means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the lease agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project.

(3) Thirty (30) years after the commencement of the Qualified Project Period.

(4) The Borrower pays the relocation assistance and benefits to such Very Low Income Tenants as provided in Section 7264(b) of the Government Code of the State of California.

(l) During the three-year period prior to the expiration of the Qualified Project Period, the Borrower shall continue to make available to Very Low Income Tenants Very Low Income Units that have been vacated to the same extent that other units in the Project are made available to the general public.

Section 4. Agency Property Management Requirements.

~~(a) Occupancy of one bedroom dwelling units in the Project shall be limited to three persons, occupancy of two bedroom dwelling units in the Project shall be limited to five persons, and occupancy of three bedroom dwelling units in the Project shall be limited to seven persons. Notwithstanding the foregoing, however, the occupancy requirements of this Section 4(a) shall not apply to any tenants of the dwelling units in the Project who were tenants of such dwelling units in the Project as of the date of the Borrower's acquisition of the Project.~~

~~(b) The Borrower shall maintain or cause to be maintained the interiors and exteriors of the Project in a decent, safe and sanitary manner, in accordance with the standard of maintenance of first class housing units within Orange County, California. No exterior alterations of the buildings or landscaping (other than routine maintenance) shall be made without the prior written consent of the Agency. If at any time the Borrower fails to maintain the Project in accordance with the Housing Agreement or this Regulatory Agreement and such condition is~~

**Section 6. Low Income Tenants.** For purposes of compliance with and pursuant to the requirements of Section 142(d) of the Code and applicable provisions of the Act, the Borrower hereby represents, as of the date hereof, and warrants, covenants and agrees as follows:

(a) During the Qualified Project Period:

(1) Not less than forty percent (40%) of the completed units in each Component of the Project shall be continuously occupied by Low Income Tenants and at least ten percent (10%) of the completed units in the Project shall be continuously occupied by Very Low Income Tenants at an Affordable Rent. The Borrower shall be in compliance with the foregoing requirement by the Bond Issuance Date, provided that, if by the Bond Issuance Date less than ten percent (10%) of the units in the Project are occupied by Very Low Income Tenants at an Affordable Rent, the Borrower shall only offer for rent Very Low Income Units until ten percent (10%) of the units in the Project are occupied by Very Low Income Tenants at an Affordable Rent. For purposes of determining whether a unit is occupied by a Low Income Tenant or a Very Low Income Tenant, the following shall apply: (i) A unit occupied by a Low Income Tenant or a Very Low Income Tenant who at the commencement of the occupancy is such a tenant shall be treated as occupied by such a tenant until a recertification of such tenant's income in accordance with Section 6(c) below demonstrates that such tenant no longer qualifies as a Low Income Tenant or a Very Low Income Tenant and thereafter any residential unit of comparable or smaller size in the Project is occupied by a Low Income Tenant or a Very Low Income Tenant; and (ii) a unit previously occupied by a Low Income Tenant or a Very Low Income Tenant and then vacated shall be considered occupied by such a tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed thirty-one (31) days.

(2) The Affordable Rent charged for the Very Low Income Units shall be a monthly rent not to exceed one-twelfth of the amount obtained by multiplying 30% times 50% of the Median Income for the Area as adjusted for household size as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Section 1437f) and assuming the following household sizes for the corresponding residential units:

<u>Residential Unit Size by Bedroom</u>	<u>No. of Persons In Family</u>
Studio	1
1	2
2	3
3	4

(3) The Low Income Units described in this Section 6 shall be of comparable quality and shall offer a range of sizes comparable to those units which are available to other tenants. To the extent practicable the bedroom mix (ratios of studio, one, two and three bedroom units) of such Low Income Units shall be in the same

proportion as the bedroom mix for the entire Project and the Low Income Units shall be distributed throughout the Project. The Very Low Income Units shall be of comparable quality to those units which are available to other tenants and shall be disbursed in the Project. The Borrower and the Authority agree that one bedroom units will be the Very Low Income Units required to satisfy the Affordable Rent provisions of Section 6(a)(2) above.

(b) On or immediately prior to the Bond Issuance Date, the Borrower will obtain and maintain on file an Income Computation and Certification form from each tenant then residing in the Project whom the Borrower wishes to qualify as a Low Income Tenant, including any Very Low Income Tenant. Thereafter, immediately prior to a Low Income Tenant's occupancy of a Low Income Unit (including any Very Low Income Tenant's occupancy of a Very Low Income Unit), the Borrower will obtain and maintain on file an Income Computation and Certification form from each Low Income Tenant occupying a Low Income Unit, dated immediately prior to the initial occupancy of such Low Income Tenant in the Project. In addition, the Borrower will provide such further information as may be required in the future by the State of California, the Authority, the Agency, the Program Administrator and by the Act, Section 142(d) of the Code and the Regulations, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code. The Borrower shall verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (1) obtain a federal income tax return for the most recent tax year, (2) obtain a written verification of income and employment from applicant's current employer, or if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income satisfactory to the Program Administrator or (3) such other information as may be requested by the Program Administrator.

Copies of the most recent Income Certifications for Low Income Tenants commencing or continuing occupancy of a Low Income Unit shall be filed with the Authority or the Program Administrator, as applicable, within 10 days of the last day of each month during the Qualified Project Period.

(c) On each July 1, commencing July 1, 1996, the Borrower shall recertify the income of the occupants of such Low Income Unit (including any Very Low Income Unit) by obtaining within 30 days prior to such July 1 a completed Income Computation and Certification based upon the current income of each occupant of the unit. The Borrower shall verify that the income provided by an applicant is accurate by taking the following steps as a part of the recertification process: (1) obtain a federal income tax return for the most recent tax year, (2) obtain a written verification of income and employment from applicant's current employer, or if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income satisfactory to the Program Administrator, as applicable, or (3) such other information as may be requested by the Authority or the Program Administrator, as applicable. In the event the recertification demonstrates that such household's income exceeds 140% of the income at which such household would qualify as Very Low Income Tenants or Low Income Tenants, as applicable, such household will no longer qualify as such a tenant and the Borrower shall rent the next available unit of comparable or smaller size to one or

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more Very Low Income Tenants or Low Income Tenants, as applicable. No tenant shall be denied continued occupancy of a unit in the Project because the household income increases to a level at which the members of such household no longer qualify as Very Low Income Tenants or Low Income Tenants, as applicable.

(d) Upon the commencement of the Qualified Project Period, and within ten days of the last day of each month thereafter during the term of this Regulatory Agreement, the Borrower shall advise the Authority, the Program Administrator and the Trustee of the status of the occupancy of the Project by delivering to such parties a Certificate of Continuing Program Compliance.

(e) The Borrower will maintain complete and accurate records pertaining to the Low Income Units (including the Very Low Income Units), and will permit any duly authorized representative of the Authority, the Agency, the Program Administrator, the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower shall submit to the Secretary of the Treasury annually on the anniversary date of the start of the Qualified Project Period, or such other date as is required by the Secretary, a certification that the Project continues to meet the requirements of Section 142(d) of the Code, and shall provide a copy of such certification to the Program Administrator.

(g) The Borrower shall accept as tenants on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants and the Borrower shall not refuse to rent to any Low Income Tenant on the basis of household size so long as the household size requirement of Section 4(a) are met. The Borrower shall not refuse to rent a two-bedroom Low Income Unit to a family of four or a one-bedroom Low Income Unit to a family of two. The Borrower shall not be required to rent a two-bedroom Low Income Unit to one person, except where otherwise required to do so to be in compliance with this Regulatory Agreement. The Borrower shall not collect any additional fees or payments from a Low Income Tenant except security deposits or other deposits required of all tenants. The Borrower shall not collect security deposits or other deposits from Section 8 certificate or voucher holders in excess of that allowed under the Section 8 Program. The Borrower shall not discriminate against Low Income Tenant applicants on the basis of source of income (i.e., AFDC or SSI), and the Borrower shall consider a prospective tenant's previous rent history of at least one year as evidence of the ability to pay the applicable rent (ability to pay shall be demonstrated if a Low Income Tenant can show that the same percentage or more of the tenant's income has been paid for rent in the past as will be required to be paid for the rent applicable to the Low Income Unit to be occupied provided that such Low Income Tenant's expenses have not materially increased or household income has not materially decreased).

(h) Each lease pertaining to a Low Income Unit shall contain a provision to the effect that the Borrower has relied on the Income Computation and Certification and supporting information supplied by the Low Income Tenant in determining qualification for

occupancy of the Low Income Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. Each lease will also contain a provision that failure to cooperate with the annual recertification process reasonably instituted by the Borrower pursuant to Section 6(c) above may, at the option of the Borrower, disqualify the unit as a Low Income Unit or provide grounds for termination of the lease.

Section 7. Agency Income and Rent Requirements. Except as otherwise provided in Section 6 hereof and for purposes of implementation of the Housing Agreement, the Borrower agrees and covenants that:

(a) The Borrower agrees to make available, restrict occupancy to, and rent each of the one hundred forty-four (144) dwelling units in the Rose Garden Apartments and each of the ninety-five (95) dwelling units in the Stuart Drive Apartments to Low Income Tenants at an Affordable Rent. For this purpose, all Very Low Income Units rented at an Affordable Rent pursuant to Section 6 shall be deemed to satisfy this requirement as to those units.

(b) The Borrower shall obtain, at Borrower's expense, a completed income computation and certification form from tenants residing in the Project at the time of the Borrower's acquisition of the Project, as well as prospective tenants of the units in the Project after the Borrower's acquisition of the Project, in the form which is provided by the Agency. At the Agency's discretion, such form may be the Income Computation and Certification Form which is attached hereto as Exhibit "D." The Borrower shall obtain such certification prior to the rental or lease of any dwelling unit in the Project to a new tenant, and within a reasonable time after Borrower's acquisition of the Project with respect to existing tenants, and annually thereafter. No new tenants shall be permitted to lease a dwelling unit within the Project unless such certification demonstrates that such prospective tenant is a Low Income Tenant and meets the eligibility requirements established for the dwelling unit. However, no tenant lawfully occupying a unit within the Project as of the date of Borrower's acquisition of the Project shall be displaced as a result of such tenant's failure to qualify as a Low Income Tenant or meet the eligibility requirements established for the dwelling unit. Such income certifications shall be available for inspection and copying by the Agency upon reasonable advance notice during normal business hours. The Borrower shall verify the income of each proposed and existing tenant of the dwelling units in the Project by at least two of the following methods as appropriate to the proposed or existing tenant (provided, however, that upon the request of the Borrower the Agency may in its reasonable discretion waive the requirement to provide a second method if it finds that one method is sufficient):

- (1) obtain two (2) paycheck stubs from the person's two (2) most recent pay periods.
- (2) obtain a true copy of an income tax return from the person for the most recent tax year in which a return was filed.
- (3) obtain an income verification certification from the employer of the person.

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WHEREAS, the Authority, the Trustee and the Borrower have entered into a Loan Agreement, dated as of the date hereof (the "Loan Agreement"), providing the terms and conditions under which the Authority will make the Loan to the Borrower to finance the acquisition and rehabilitation of the Project; and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when issued as provided in the Indenture, the valid, binding, and limited obligations of the Authority, and to constitute the Indenture a valid assignment of the amounts pledged to the payment of the principal of, and premium, if any, and interest on the Bonds have been done and performed, and the creation, execution, and delivery of the Indenture and the execution and issuance of the Bonds, subject to the terms thereof, in all respects have been duly authorized; and

WHEREAS, the Authority has obtained an allocation for the Project of a portion of the State of California's private activity bond volume cap, within the meaning of Section 146 of the Code, in accordance with the procedures established by the California Debt Limit Allocation Committee; and

WHEREAS, the Agency is required by California Health and Safety Code Section 33334.2, *et seq.*, to expend a certain percentage of property taxes allocated to it for the purpose of increasing, improving and preserving the City of Garden Grove's supply of low- and moderate-income housing available at an affordable housing cost ("Set Aside Funds"); and

WHEREAS, the Agency and Bertram Partners, Inc., a California corporation, as predecessor of the Borrower, have entered into an Affordable Housing Agreement, dated July 11, 1995 (the "Housing Agreement"), in order to set forth the terms and conditions relating to the acquisition and rehabilitation of the Project; and

WHEREAS, the Housing Agreement requires, as a condition precedent to the Agency's assistance of the Borrower's acquisition and rehabilitation of the Project, that this Regulatory Agreement be recorded in the official records of Orange County, California; and

WHEREAS, the Authority, the Agency, the Trustee and the Borrower have determined to enter into this Regulatory Agreement with respect to the Project in that the Code and the regulations and rulings promulgated with respect thereto and the Act prescribe that the use and operation of the Project be restricted in certain respects in order to ensure that the Project will be used and operated in accordance with the Code and the Act;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Authority, the Agency, the Trustee and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

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"Act" - Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California as now in effect and as it may from time to time hereafter be amended or supplemented.

"Adjusted Income" - The adjusted income of all persons who intend to reside in one residential unit, calculated in the manner determined by the Secretary of the Treasury pursuant to Section 142(d)(2)(B) of the Code.

"Affiliated Party" - (1) a Person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code or (2) a Person who together with the Borrower are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein), (3) a partnership and each of its partners (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code and (4) an S corporation and each of its shareholders (and their spouses and minor children) whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code.

"Affordable Rent" - As applicable, the maximum monthly rent that may be charged for the Very Low Income Units as set forth in Section 6 hereof and for the Low Income Units as set forth in Section 7 hereof.

"Agency" - The Garden Grove Agency for Community Development, a public body, corporate and politic.

"Area" - The Anaheim-Santa Ana, California Primary Metropolitan Statistical Area.

"Authority" - Garden Grove Housing Authority.

"Bond Counsel" - An attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, who is or are reasonably acceptable to the Authority and the Trustee and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

"Bond Issuance Date" - The date of the delivery of the Bonds, being March 28, 1996.

"Bonds" - \$7,790,000 Garden Grove Housing Authority Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project), Series 1996A, \$2,000,000 Garden Grove Housing Authority Taxable Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996B, and \$8,500,000 Garden Grove Housing Authority Housing Set-Aside Tax Increment Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996C.

"Borrower" - Stuart Drive/Rose Garden Limited Partnership, a California limited partnership, and its successors and assigns.

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"Borrower's Tax Certificate" - The certificate of the Borrower, dated the Bond Issuance Date, with respect to certain Project Costs, delivered to the Authority by the Borrower.

"Certificate of Continuing Program Compliance" - The certificate with respect to the Project to be filed by the Borrower with the Authority, the Program Administrator, and the Trustee which shall be substantially in the form attached hereto as Exhibit B.

"City" - City of Garden Grove, California, a California municipal corporation.

"Code" - The Internal Revenue Code of 1986, as amended, together with the Regulations. All references herein to sections, paragraphs or other subdivisions of the Code or the Regulations shall be deemed to be references to correlative provisions of any applicable successor code or regulations promulgated thereunder.

"Completion Certificate" - The certificate of completion of the Project required to be delivered to the Authority, the Program Administrator and the Trustee by the Borrower pursuant to Section 2 of this Regulatory Agreement, which shall be substantially in the form attached hereto as Exhibit C.

"Completion Date" - The date of the completion of the rehabilitation of the Project, as that date shall be certified as provided in Section 2 of this Regulatory Agreement.

"Component" - Each of the multifamily residential rental projects described on Exhibit E hereto on the sites described in Exhibit A hereto as Project Sites 1-9, inclusive, comprising, in the aggregate, the Project.

"Costs of Issuance" - All costs incurred in connection with the issuance of the Bonds, including, but not limited to, underwriter's fee or discount, attorneys' fees and expenses (including Bond Counsel, the Authority's counsel, Borrower's counsel, Trustee's counsel, as well as other specialized counsel fees incurred in connection with the borrowing), Authority's initial fees and expenses, financial advisor fees and expenses, rating agency fees, Trustee's initial fees and expenses (including its first annual administrative fee), accountant fees related to the issuance of the Bonds, printing costs for the Bonds and any preliminary and final offering materials, costs incurred in connection with satisfying the public approval requirement of Section 147(f) of the Code and costs of engineering and feasibility studies necessary to the issuance of the Bonds, if any.

"Determination of Taxability" - (1) the failure of the Borrower to consent in writing, within forty-five (45) days after written request by the holder of any Tax-Exempt Bond, to any amendment to the Indenture, the Loan Agreement or the Regulatory Agreement which in the written opinion of Bond Counsel addressed to the Authority, the Borrower, and the Trustee is necessary to preserve the exclusion from gross income of interest on the Tax-Exempt Bonds for federal income tax purposes, or (2) enactment of legislation or a final judgment or order of a court of original jurisdiction, a final order of any other court of competent jurisdiction, or a final ruling or decision of the Internal Revenue Service, in any such case to the effect that the interest on any of the Tax-Exempt Bonds (other than interest on any Tax-Exempt Bond for any period during which such Tax-Exempt Bond is held by a "substantial user" of any facility financed with the proceeds of the Tax-Exempt Bonds or a "related person," as such terms are used in

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Section 147(a)(2) of the Code and except for any minimum or preference tax) is not excludable for federal income tax purposes from the gross income of the recipients thereof subject to federal income taxes. With respect to clause (2) above, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal or action has expired.

"Governmental Requirements" - All laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the City, or any other political subdivision in which the Project is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the Agency, the Borrower or the Project.

"Guaranty" - The Limited Guaranty, Support and Pledge Agreement, dated as of February 1, 1996, executed by the Agency in favor of the Authority and the Trustee.

"Hazardous Materials" - (i) Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, *et seq.*), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Sections 25300, *et seq.*), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) petroleum, oil, gasoline (refined and unrefined) and their respective by-products and constituents; and (vi) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Governmental Requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment.

"Hazardous Materials Contamination" - The contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Project by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Regulatory Agreement) emanating from the Project.

"Housing Agreement" - The Affordable Housing Agreement, dated July 11, 1995, by and between the Agency and Bertram Partners, Inc., a California corporation, as amended.

"Income Computation and Certification" - A document substantially in the form attached hereto as Exhibit "D" and any alternate form which the Borrower is directed by the Authority or the Agency to use.

"Indenture" - The Indenture of Trust, dated as of the date hereof, between the Authority and the Trustee, pursuant to which the Bonds have been issued, as amended or supplemented from time to time.

"Inducement Date" - August 22, 1995, the date of adoption of the Inducement Resolution.

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"Inducement Resolution" - The resolution adopted by the Authority on the Inducement Date, indicating its intention to issue the Bonds.

"Loan" - The mortgage loan in the amount of \$18,290,000 made by the Authority to the Borrower to provide financing for the Project.

"Loan Agreement" - The Loan Agreement entered into by and among the Borrower, the Trustee and the Authority pursuant to which the Authority will make the Loan.

"Low Income Tenants" - Individuals or families with an Adjusted Income which does not exceed the lesser of (1) sixty percent (60%) of the Median Income for the Area as adjusted for household size in accordance with the last sentence of this definition or (2) one hundred twenty percent (120%) of the qualifying limits for very low income households as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by the State of California Department of Housing and Community Development. In no event, however, will the occupants of a residential unit be considered to be Low Income Tenants if all the occupants are students, as defined in Section 151(c)(4) of the Code, no one of which is entitled to file a joint federal income tax return. Currently, Section 151(c)(4) defines a student as an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which the taxable year of the student begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof. The household-size adjustment shall be determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code which currently provides for adjustments by multiplying that figure which equals sixty percent (60%) of the Median Income for the Area by the following percentages:

<u>Household Size</u>	<u>Adjustment</u>
1	70%
2	80
3	90
4	100
5	108
6	116
7	124
8	132

"Low Income Units" - The dwelling units in the Project designated for occupancy by Low Income Tenants pursuant to Sections 6 and 7 hereof, including any Very Low Income Units.

"Management Plan" - The detailed "Management Plan" which sets forth in detail the duties of the Property Manager, the tenant selection process, a security system and crime prevention program, the procedures for the collection of rent, the procedures for monitoring of occupancy levels, the procedures for eviction of tenants, the rules and regulations of the Project

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and manner of enforcement, a standard lease form, and other matters relevant to the management of the Project, as set forth in Section 4(c) hereof.

"Management Agreement" - The Management Agreement, dated as of the date hereof, by and between Barker Management Inc., as management agent, and the Borrower.

"Median Income for the Area" - The median income for the Area as most recently determined by the Secretary of the Treasury pursuant to Section 142(d)(2)(B) of the Code.

"Note" - The promissory note executed by Borrower in favor of the Authority in a principal amount equal to the principal amount of the Loan.

"Program Administrator" - A governmental agency, a financial institution, a certified public accountant, an apartment management firm, a mortgage insurance company or other business entity performing similar duties or otherwise experienced in the administration of restrictions on bond financed multifamily housing projects which shall initially be the Agency and, at the Authority's election, any other person or entity appointed by the Authority who shall enter into an Administration Agreement in a form acceptable to the Authority and the Program Administrator.

"Project" - The Project Facilities and the Project Site.

"Project Costs" - To the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Borrower with respect to the acquisition and rehabilitation, as the case may be, of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and Borrower's overhead and supervisors' fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made, with the approval of the Authority, for the Project), and all other costs approved by Bond Counsel.

"Project Facilities" - The buildings, structures and other improvements to be rehabilitated on the Project Site, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project.

"Project Site" - The parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances thereunto appertaining.

"Property Manager" - The property manager of the Project which is approved by the Agency pursuant to Section 4(c) hereof.

"Qualified Project Costs" - The Project Costs (excluding Costs of Issuance) incurred after the Inducement Date which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code or are chargeable to a capital

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account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts within the meaning of Regulation 1.103-8(a)(1)(i). Interest accruing on the Tax-Exempt Bonds shall not be a Qualified Project Cost; and provided that, if any portion of the Project is being rehabilitated by an Affiliated Party (whether as a general contractor or a subcontractor), "Qualified Project Costs" related thereto shall include only the actual out-of-pocket costs incurred by such Affiliated Party in rehabilitating the Project (or any portion thereof), and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof).

"Qualified Project Period" - The period beginning on the Bond Issuance Date and ending on the later of (a) the date which is 15 years after the Bond Issuance Date, (b) the first day on which no Tax Exempt Bonds (including, without limitation, the Series A Bonds and the Series C Bonds) with respect to the Project are Outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

"Qualified Rehabilitation Expenditures" - Expenditures made to rehabilitate the respective Component of the Project which qualify as rehabilitation expenditures under Section 147(d) of the Code and as described in the Tax Certificate.

"Registered Holder" or "Holder" - When used with respect to the Bonds, the holder of a Bond then outstanding under the Indenture as shown on the registration books maintained by the Trustee pursuant to the Indenture.

"Regulations" - The income tax regulations promulgated or proposed by the United States Department of the Treasury pursuant to the Code from time to time.

"Regulatory Agreement" - This Regulatory Agreement and Declaration of Restrictive Covenants, together with any amendments hereto or supplements hereof.

"Rehabilitation" - The rehabilitation of each of the respective Components of the Project which is required pursuant to Section 2 of this Regulatory Agreement.

"Rehabilitation Plans" - The plans for the Rehabilitation of the Project which are approved by the Agency pursuant to the Housing Agreement, as further set forth in Section 2(j) of this Regulatory Agreement.

"Release of Construction Covenants" - That document which evidences and determines the satisfactory completion of the Rehabilitation of the Project, in substantially the form shown in Exhibit D attached to the Housing Agreement.

"Remediation" - The cleanup and removal of Hazardous Materials and Hazardous Materials Contamination as set forth in Section 10 hereof.

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"Rent" - For purposes of calculating the maximum Affordable Rent allowed under Section 7 of this Regulatory Agreement, the total of monthly payments for (a) use and occupancy of the dwelling unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Borrower which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Borrower.

"Scope of Development" - The actions required to be undertaken by the Borrower as set forth in Exhibit C to the Housing Agreement.

"Series A Bonds" - Those Bonds designated Series 1996A, which are intended to bear interest excludable from gross income for federal tax purposes.

"Series C Bonds" - Those Bonds designated Series 1996C, which are intended to bear interest excludable from gross income for federal tax purposes.

"State" - State of California.

"Tax Certificate" - The Tax Certificate executed by the Borrower on the Bond Issuance Date.

"Tax Credits" - Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Section 50199, *et seq.*

"Tax Exempt Bonds" - The Series A Bonds and the Series C Bonds.

"TCAC Regulatory Agreement" - The regulatory agreement which is required to be recorded against the Project with respect to the issuance of Tax Credits.

"Trustee" - First Interstate Bank of California, or any successor Trustee serving as such under the Indenture.

"Very Low Income Tenants"- Individuals or families with an Adjusted Income which does not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, currently fifty percent (50%) of the Median Income for the Area as adjusted for household size in accordance with the last sentence of this definition. In no event, however, will the occupants of a residential unit be considered to be Very Low Income Tenants if all the occupants are students, as defined in Section 151(c)(4) of the Code, no one of which is entitled to file a joint federal income tax return. Currently, Section 151(c)(4) defines a student as an individual enrolled as a full-time student during each of 5 calendar months during the calendar year in which the taxable year of the student begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or is an individual pursuing a full-time course of institutional on-farm training under the supervision of

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an accredited agent of such an educational organization or of a state or political subdivision thereof. The household size adjustment shall be determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code which currently provides for adjustments by multiplying that figure which equals fifty percent (50%) of the Median Income for the Area by the following percentages:

<u>Household Size</u>	<u>Adjustment</u>
1	70%
2	80
3	90
4	100
5	108
6	116
7	124
8	132

"Very Low Income Units" - The dwelling units in the Project designated for occupancy by Very Low Income Tenants pursuant to Section 6(a) of this Regulatory Agreement.

Terms not defined herein shall have the meanings assigned to them in the Indenture.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

~~Section 2. Acquisition and Rehabilitation of the Project. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:~~

~~(a) The Borrower has incurred a substantial binding obligation to commence the acquisition and rehabilitation of the Project, pursuant to which the Borrower is obligated to expend at least 5 percent of the net sale proceeds of the Tax Exempt Bonds.~~

~~(b) The Borrower's reasonable expectations respecting the total cost of the acquisition and rehabilitation of the Project and the disbursement of Bond proceeds are accurately set forth in the Borrower's Tax Certificate which has been delivered to the Authority.~~

~~Project. In the event that any displacement of tenants occurs, the Borrower shall promptly notify the Agency of such displacement. The Agency shall, as a cost of the Rehabilitation project, pay from the proceeds of the Bonds (or if no Bond proceeds are available, the first available amounts deposited in the General Fund established under the Indenture, before distribution to the Agency and the Borrower pursuant the provisions of the Indenture and the Subordinated Agency Note), provide relocation assistance and benefits in such form and amount as determined by the Agency to be required in accordance with Government Code Section 7260, *et seq.*, and the implementing regulations adopted pursuant thereto by the State of California, the City and the Agency (collectively, the "Relocation Laws"), to each tenant household required to temporarily or permanently vacate a unit within the Project for purposes of completing the Rehabilitation. The Agency may, in its sole discretion and at its expense, conduct or cause to be conducted a survey of the income level of existing tenants of the Project by obtaining a tenant survey form completed by tenant households occupying a unit within the Project.~~

~~(o) The Borrower shall not allow to be placed on the Project or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project the Borrower shall within ninety (90) days of such recording or service or within five (5) days of the Agency's demand whichever last occurs:~~

- ~~a. pay and discharge the same; or~~
- ~~b. effect the release thereof by recording and delivering to the Agency a surety bond in sufficient form and amount, or otherwise; or~~
- ~~c. provide the Agency with other assurance which the Agency deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of Agency from the effect of such lien or bonded stop notice.~~

Section 3. Residential Rental Property. The Borrower hereby acknowledges and agrees that each Component of the Project, taken individually, will be owned, managed and operated as a "qualified residential rental project" (within the meaning of Section 142(d) of the Code) until the expiration of the Qualified Project Period. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Project is being acquired and rehabilitated for the purpose of providing multifamily residential rental property, and the Borrower shall own, manage and operate the Project and each Component as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities, in accordance with applicable provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations, and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in each Component of the Project will be similarly constructed units, and, to the extent required by the Code and the Regulations, each dwelling unit in each Component of the Project will contain complete separate and distinct

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facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator (which may be provided by the tenant) and sink. To the extent any Low Income Tenant does not possess a refrigerator at occupancy of a Low Income Unit, the Borrower shall provide a refrigerator for such tenant at no cost to the tenant.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, retirement house or trailer court or park.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. The Borrower shall not take any steps in connection with a conversion of the Project to a condominium ownership except with (i) the prior written approval of the Agency, which approval the Agency may grant, withhold or deny in its sole and absolute discretion and (ii) the prior written approving opinion of Bond Counsel that such act will not cause the interest on the Bonds to be includable in gross income for purposes of federal income taxation.

(e) All of the dwelling units will be available for rental on a continuous basis to members of the general public and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or rented to Low Income Tenants or Very-Low Income Tenants.

(f) Each Component comprising the Project Site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and each Component of the Project Facilities comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in any Component of the Project shall be occupied by the Borrower unless the Component contains five or more dwelling units, in which case one or more units may be occupied by the Borrower or by persons related to or affiliated with the Borrower such as a resident manager or maintenance personnel.

(h) The Qualified Project Period commences on the Bond Issuance Date.

(i) Should involuntary noncompliance with the provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Bond Issuance Date which prevents the Authority from enforcing the requirements of the Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the Regulations, it will either prepay the Loan or apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of the Act, Section 142(d) of the Code and the Regulations.

(j) The Borrower shall not discriminate on the basis of race, creed, color, sex, source of income (e.g. AFDC, SSI), physical disability, age, national origin or marital status

in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(k) Following the expiration or termination of the Qualified Project Period, except in the event of a foreclosure, deed in lieu of foreclosure, eminent domain or action of federal agency and the redemption of all Tax Exempt Bonds within a reasonable period thereafter, Very Low Income Units shall remain available to the Very Low Income Tenants then occupying such units at the date of expiration or termination of the Qualified Project Period at a rent not greater than the rent determined pursuant to Section 6(a)(2) below until the earliest of any of the following occurs:

- (1) The household's income exceeds 140 percent of the income at which such household would qualify as a Very Low Income Tenant.
- (2) The household voluntarily moves or is evicted for "good cause." For these purposes, "good cause" means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the lease agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the Project, or the purposes or special programs of the Project.
- (3) Thirty (30) years after the commencement of the Qualified Project Period.
- (4) The Borrower pays the relocation assistance and benefits to such Very Low Income Tenants as provided in Section 7264(b) of the Government Code of the State of California.

(l) During the three-year period prior to the expiration of the Qualified Project Period, the Borrower shall continue to make available to Very Low Income Tenants Very Low Income Units that have been vacated to the same extent that other units in the Project are made available to the general public.

Section 4. Agency Property Management Requirements.

~~(a) Occupancy of one bedroom dwelling units in the Project shall be limited to three persons, occupancy of two bedroom dwelling units in the Project shall be limited to five persons, and occupancy of three bedroom dwelling units in the Project shall be limited to seven persons. Notwithstanding the foregoing, however, the occupancy requirements of this Section 4(a) shall not apply to any tenants of the dwelling units in the Project who were tenants of such dwelling units in the Project as of the date of the Borrower's acquisition of the Project.~~

~~(b) The Borrower shall maintain or cause to be maintained the interiors and exteriors of the Project in a decent, safe and sanitary manner, in accordance with the standard of maintenance of first class housing units within Orange County, California. No exterior alterations of the buildings or landscaping (other than routine maintenance) shall be made without the prior written consent of the Agency. If at any time the Borrower fails to maintain the Project in accordance with the Housing Agreement or this Regulatory Agreement and such condition is~~

**Section 6. Low Income Tenants.** For purposes of compliance with and pursuant to the requirements of Section 142(d) of the Code and applicable provisions of the Act, the Borrower hereby represents, as of the date hereof, and warrants, covenants and agrees as follows:

(a) During the Qualified Project Period:

(1) Not less than forty percent (40%) of the completed units in each Component of the Project shall be continuously occupied by Low Income Tenants and at least ten percent (10%) of the completed units in the Project shall be continuously occupied by Very Low Income Tenants at an Affordable Rent. The Borrower shall be in compliance with the foregoing requirement by the Bond Issuance Date, provided that, if by the Bond Issuance Date less than ten percent (10%) of the units in the Project are occupied by Very Low Income Tenants at an Affordable Rent, the Borrower shall only offer for rent Very Low Income Units until ten percent (10%) of the units in the Project are occupied by Very Low Income Tenants at an Affordable Rent. For purposes of determining whether a unit is occupied by a Low Income Tenant or a Very Low Income Tenant, the following shall apply: (i) A unit occupied by a Low Income Tenant or a Very Low Income Tenant who at the commencement of the occupancy is such a tenant shall be treated as occupied by such a tenant until a recertification of such tenant's income in accordance with Section 6(c) below demonstrates that such tenant no longer qualifies as a Low Income Tenant or a Very Low Income Tenant and thereafter any residential unit of comparable or smaller size in the Project is occupied by a Low Income Tenant or a Very Low Income Tenant; and (ii) a unit previously occupied by a Low Income Tenant or a Very Low Income Tenant and then vacated shall be considered occupied by such a tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed thirty-one (31) days.

(2) The Affordable Rent charged for the Very Low Income Units shall be a monthly rent not to exceed one-twelfth of the amount obtained by multiplying 30% times 50% of the Median Income for the Area as adjusted for household size as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Section 1437f) and assuming the following household sizes for the corresponding residential units:

<u>Residential Unit Size by Bedroom</u>	<u>No. of Persons In Family</u>
Studio	1
1	2
2	3
3	4

(3) The Low Income Units described in this Section 6 shall be of comparable quality and shall offer a range of sizes comparable to those units which are available to other tenants. To the extent practicable the bedroom mix (ratios of studio, one, two and three bedroom units) of such Low Income Units shall be in the same

proportion as the bedroom mix for the entire Project and the Low Income Units shall be distributed throughout the Project. The Very Low Income Units shall be of comparable quality to those units which are available to other tenants and shall be disbursed in the Project. The Borrower and the Authority agree that one bedroom units will be the Very Low Income Units required to satisfy the Affordable Rent provisions of Section 6(a)(2) above.

(b) On or immediately prior to the Bond Issuance Date, the Borrower will obtain and maintain on file an Income Computation and Certification form from each tenant then residing in the Project whom the Borrower wishes to qualify as a Low Income Tenant, including any Very Low Income Tenant. Thereafter, immediately prior to a Low Income Tenant's occupancy of a Low Income Unit (including any Very Low Income Tenant's occupancy of a Very Low Income Unit), the Borrower will obtain and maintain on file an Income Computation and Certification form from each Low Income Tenant occupying a Low Income Unit, dated immediately prior to the initial occupancy of such Low Income Tenant in the Project. In addition, the Borrower will provide such further information as may be required in the future by the State of California, the Authority, the Agency, the Program Administrator and by the Act, Section 142(d) of the Code and the Regulations, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code. The Borrower shall verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (1) obtain a federal income tax return for the most recent tax year, (2) obtain a written verification of income and employment from applicant's current employer, or if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income satisfactory to the Program Administrator or (3) such other information as may be requested by the Program Administrator.

Copies of the most recent Income Certifications for Low Income Tenants commencing or continuing occupancy of a Low Income Unit shall be filed with the Authority or the Program Administrator, as applicable, within 10 days of the last day of each month during the Qualified Project Period.

(c) On each July 1, commencing July 1, 1996, the Borrower shall recertify the income of the occupants of such Low Income Unit (including any Very Low Income Unit) by obtaining within 30 days prior to such July 1 a completed Income Computation and Certification based upon the current income of each occupant of the unit. The Borrower shall verify that the income provided by an applicant is accurate by taking the following steps as a part of the recertification process: (1) obtain a federal income tax return for the most recent tax year, (2) obtain a written verification of income and employment from applicant's current employer, or if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income satisfactory to the Program Administrator, as applicable, or (3) such other information as may be requested by the Authority or the Program Administrator, as applicable. In the event the recertification demonstrates that such household's income exceeds 140% of the income at which such household would qualify as Very Low Income Tenants or Low Income Tenants, as applicable, such household will no longer qualify as such a tenant and the Borrower shall rent the next available unit of comparable or smaller size to one or

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Excerpts From the Original Regulatory Agreement  
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more Very Low Income Tenants or Low Income Tenants, as applicable. No tenant shall be denied continued occupancy of a unit in the Project because the household income increases to a level at which the members of such household no longer qualify as Very Low Income Tenants or Low Income Tenants, as applicable.

(d) Upon the commencement of the Qualified Project Period, and within ten days of the last day of each month thereafter during the term of this Regulatory Agreement, the Borrower shall advise the Authority, the Program Administrator and the Trustee of the status of the occupancy of the Project by delivering to such parties a Certificate of Continuing Program Compliance.

(e) The Borrower will maintain complete and accurate records pertaining to the Low Income Units (including the Very Low Income Units), and will permit any duly authorized representative of the Authority, the Agency, the Program Administrator, the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower shall submit to the Secretary of the Treasury annually on the anniversary date of the start of the Qualified Project Period, or such other date as is required by the Secretary, a certification that the Project continues to meet the requirements of Section 142(d) of the Code, and shall provide a copy of such certification to the Program Administrator.

(g) The Borrower shall accept as tenants on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants and the Borrower shall not refuse to rent to any Low Income Tenant on the basis of household size so long as the household size requirement of Section 4(a) are met. The Borrower shall not refuse to rent a two-bedroom Low Income Unit to a family of four or a one-bedroom Low Income Unit to a family of two. The Borrower shall not be required to rent a two-bedroom Low Income Unit to one person, except where otherwise required to do so to be in compliance with this Regulatory Agreement. The Borrower shall not collect any additional fees or payments from a Low Income Tenant except security deposits or other deposits required of all tenants. The Borrower shall not collect security deposits or other deposits from Section 8 certificate or voucher holders in excess of that allowed under the Section 8 Program. The Borrower shall not discriminate against Low Income Tenant applicants on the basis of source of income (i.e., AFDC or SSI), and the Borrower shall consider a prospective tenant's previous rent history of at least one year as evidence of the ability to pay the applicable rent (ability to pay shall be demonstrated if a Low Income Tenant can show that the same percentage or more of the tenant's income has been paid for rent in the past as will be required to be paid for the rent applicable to the Low Income Unit to be occupied provided that such Low Income Tenant's expenses have not materially increased or household income has not materially decreased).

(h) Each lease pertaining to a Low Income Unit shall contain a provision to the effect that the Borrower has relied on the Income Computation and Certification and supporting information supplied by the Low Income Tenant in determining qualification for

occupancy of the Low Income Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. Each lease will also contain a provision that failure to cooperate with the annual recertification process reasonably instituted by the Borrower pursuant to Section 6(c) above may, at the option of the Borrower, disqualify the unit as a Low Income Unit or provide grounds for termination of the lease.

Section 7. Agency Income and Rent Requirements. Except as otherwise provided in Section 6 hereof and for purposes of implementation of the Housing Agreement, the Borrower agrees and covenants that:

(a) The Borrower agrees to make available, restrict occupancy to, and rent each of the one hundred forty-four (144) dwelling units in the Rose Garden Apartments and each of the ninety-five (95) dwelling units in the Stuart Drive Apartments to Low Income Tenants at an Affordable Rent. For this purpose, all Very Low Income Units rented at an Affordable Rent pursuant to Section 6 shall be deemed to satisfy this requirement as to those units.

(b) The Borrower shall obtain, at Borrower's expense, a completed income computation and certification form from tenants residing in the Project at the time of the Borrower's acquisition of the Project, as well as prospective tenants of the units in the Project after the Borrower's acquisition of the Project, in the form which is provided by the Agency. At the Agency's discretion, such form may be the Income Computation and Certification Form which is attached hereto as Exhibit "D." The Borrower shall obtain such certification prior to the rental or lease of any dwelling unit in the Project to a new tenant, and within a reasonable time after Borrower's acquisition of the Project with respect to existing tenants, and annually thereafter. No new tenants shall be permitted to lease a dwelling unit within the Project unless such certification demonstrates that such prospective tenant is a Low Income Tenant and meets the eligibility requirements established for the dwelling unit. However, no tenant lawfully occupying a unit within the Project as of the date of Borrower's acquisition of the Project shall be displaced as a result of such tenant's failure to qualify as a Low Income Tenant or meet the eligibility requirements established for the dwelling unit. Such income certifications shall be available for inspection and copying by the Agency upon reasonable advance notice during normal business hours. The Borrower shall verify the income of each proposed and existing tenant of the dwelling units in the Project by at least two of the following methods as appropriate to the proposed or existing tenant (provided, however, that upon the request of the Borrower the Agency may in its reasonable discretion waive the requirement to provide a second method if it finds that one method is sufficient):

- (1) obtain two (2) paycheck stubs from the person's two (2) most recent pay periods.
- (2) obtain a true copy of an income tax return from the person for the most recent tax year in which a return was filed.
- (3) obtain an income verification certification from the employer of the person.

**AGREEMENT REGARDING REDEMPTION  
AND DEFEASANCE OF 1996 BONDS**

THIS AGREEMENT ("**Agreement**") is made and entered into as of \_\_\_\_\_, 2010, by and between the Garden Grove Housing Authority, a public body, corporate and politic (the "**Authority**"), the Garden Grove Agency for Community Development, a public body, corporate and politic (the "**Agency**"), The Bank of New York Mellon Trust Company, N.A., a national banking association, as successor trustee, ("**Trustee**"), and Stuart Drive/Rose Garden Limited Partnership, a California limited partnership ("**Borrower**").

Recitals

A. On or about March 27, 1996, the Authority issued its revenue bonds designated as the Garden Grove Housing Authority Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996A in the original principal amount of \$7,790,000, the Garden Grove Housing Authority Taxable Multifamily Housing Revenue Bonds (Stuart Drive/Rose Garden Apartments Project) Series 1996B in the original principal amount of \$2,000,000 and the Garden Grove Housing Authority Housing Set-Aside Tax Increment Revenue Bonds (Stuart Drive/Rose Garden Apartment Project) Series 1996C in the original principal amount of \$8,500,000 (collectively, the "**Bonds**") in connection with the financing of the acquisition and rehabilitation of certain existing multifamily residential rental housing projects located in the City of Garden Grove known as the Rose Garden Apartments and Stuart Drive Apartments (the "**Project**").

B. Pursuant to a Loan Agreement, dated as of February 1, 1996 (the "**Loan Agreement**"), among the Authority, First Interstate Bank of California (the "**Original Trustee**"), and the Borrower, the net proceeds of the Bonds were loaned to Borrower (the "**Loan**") to finance the cost of the acquiring and rehabilitating the Project.

C. In addition, pursuant to that certain Affordable Housing Agreement dated as of July 11, 1995, between the Agency and Bertram Partners, Inc. (predecessor in interest to Borrower), as amended by a First Amendment to Affordable Housing Agreement dated as March 12, 1996 (collectively, the "**Affordable Housing Agreement**"), the Agency agreed to pledge certain amounts of the Agency's funds (the "**Agency Assistance**") to guaranty repayment of the Bonds pursuant to a Limited Guaranty, Support and Pledge Agreement dated as of February 1, 1996 (the "Agency Guaranty"). Pursuant to the Affordable Housing Agreement, the Borrower agreed to repay the Agency Assistance, until repaid in full as follows: (i) an amount equal to 50% of the Net Profits (as such term is defined in the Affordable Housing Agreement), and (ii) upon a sale or transfer of the Project, the Borrower shall pay an amount equal to 50% of the Net Sales Proceeds (as such term is defined in the Affordable Housing Agreement). Such obligation is evidenced by a promissory note dated February 1, 1996 executed by the Borrower to the Agency (the "**Agency Note**"). As of the date hereof, the principal sum of \$\_\_\_\_\_ is outstanding on the Agency Note.

D. [reserved]

E. Pursuant to the Loan Agreement and the Affordable Housing Agreement, the Borrower, the Agency, the Authority, and the Original Trustee, entered into a Regulatory Agreement and Declaration of Restrictive Covenants dated as of February 1, 1996, which Regulatory Agreement was recorded on March 27, 1996 as Instrument No. 19960147918, Official Records, Orange County, California (the "**Regulatory Agreement**").

F. Borrower desires to refinance the Project, and in connection therewith, to (i) cause all issued and outstanding Bonds to be redeemed, (ii) repay the Agency Assistance in full and (iii) cause all Borrower obligations with respect to the Loan and the Bonds to be defeased and released.

G. Borrower intends to cause the Bonds to be defeased and redeemed in part with funds currently in possession of the Trustee and the balance with funds loaned to Borrower by Fannie Mae. Such funds would be used to redeem the Bonds.

H. The Authority is prepared to give additional Notice of optional redemption of the Bonds pursuant to the Indenture.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Defined Terms. All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture, the Affordable Housing Agreement, the Loan Agreement, and the Regulatory Agreement.

2. [reserved]

3. Notice of Redemption.

(a) Pursuant to the Borrower's written request, the Authority agrees to give (or has given) conditional notice of optional redemption of all the outstanding Bonds in the form attached as Exhibit B attached hereto ("Notice of Redemption"), such redemption to occur on the date that is 32 days after the date hereof, or such other or later date as the Borrower, Agency and Authority may mutually agree. Moreover, such notice shall be of a nature that it is conditional upon the availability of funds on the redemption date sufficient for such purpose and the following:

(i) the Trustee shall have received from Borrower, at least two business days prior to the redemption date, moneys in sufficient amount, together with all reserves then held by the Trustee, to pay the Redemption Price and accrued interest on all Bonds issued and outstanding.

(ii) The Trustee shall have received, at least two business days prior to the redemption date, an opinion of counsel that moneys payable to the Holders of the Bonds are not subject to recovery by a trustee in a bankruptcy proceeding in the event of bankruptcy, insolvency or a similar proceeding of the Borrower.

(iii) The Agency shall have received, at least two business days prior to the redemption date, the sums required to repay the balance of the Agency Assistance in full.

(iv) The Amended and Restated Regulatory Agreement described in Section 5 shall have been recorded against the Property, in accordance with escrow instructions to be approved by the Agency, subject only to such encumbrances as the Agency may approve.

The Authority may direct the Trustee to cancel the Notice of Redemption if any of the conditions set forth above are not satisfied at least 2 business days prior to the Redemption Date. The

Borrower shall direct the Authority to rescind the Notice of Redemption at any time it determines the conditions of Section 3(a) above will not be met and the Authority may rescind the Notice of Redemption if at least seven (7) business days prior to the redemption date the Authority does not receive written confirmation from the Borrower that it reasonably expects to be able to meet the conditions of Section 3(a), together with evidence satisfactory to the Authority Director of such ability and the Authority and the Agency shall have received a fully executed Regulatory Agreement in a form acceptable to it, completed in accordance with Section 5 hereof.

(v) The Borrower shall have computed and paid to the Trustee the Rebutable Arbitrage, if any, due following the redemption of the Bonds in full pursuant to the Indenture and the Tax Certificate.

(vi) The Borrower shall have paid the legal fees of counsel to the Agency and the Authority in connection with this Agreement and the Amended and Restated Regulatory Agreement referenced in Section 5 in an amount not to exceed \$25,000.

(vii) The Borrower shall have caused to be paid to the Authority a fee (the "**Authority Fee**", as defined in the Indenture) in the sum of \$100,000 concurrently with the repayment of the Agency Assistance. The Borrower, the Agency, and the Authority agree that the Borrower's payment of such sum concurrently with such payment constitutes an accord and satisfaction, and full settlement of amounts claimed by the Authority and the Agency to be due as fees to the Authority under the Regulatory Agreement.

(b) In the event the notice of redemption is rescinded, the Authority may, in the discretion of the Authority Director, give a new notice of conditional redemption upon a date mutually agreeable to the Borrower, the Agency and the Authority, on substantially the same terms as are applicable to the notice described in paragraph (a) above.

(c) If the Notice of Redemption is rescinded, the Borrower nonetheless agrees to pay or, if amounts are then available under the Indenture for such purpose, to direct the Trustee to pay to the Authority from the General Fund under the Indenture: (i) the legal fees incurred by the Agency or the Authority in connection with this Agreement, the Amended and Restated Regulatory Agreement described in Section 5 or in contemplation thereof in an amount not exceeding \$25,000, and (ii) the Authority Fee in the sum of \$100,000, as provided above.

4. Indemnification. The Borrower hereby agrees to indemnify, defend, and hold harmless the Trustee, the Authority, the City, the Agency, and their respective officers, members, commissioners, directors, officials and employees (individually an "**Indemnitee**" and collectively "**Indemnitees**") from and against, any cost, claim, demand, loss, liability or expense (including without limitation reasonable attorneys, accounting, consulting, engineering, and other fees and expenses) arising out of this Agreement and any other agreement relating to the Bonds or the Loan to which any Indemnitee is a party or pursuant to which any of them is required to act, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties thereunder, or the actions taken under this Agreement. The obligations of the Borrower under this Section shall survive the payment of the Loan and discharge of the Loan Agreement and the Indenture, and the retirement of the Bonds; provided, however, that this provision shall not require the Borrower to indemnify any Indemnitee from any claims, costs, demands, losses, expenses or liabilities arising solely from the gross negligence or willful misconduct of the Indemnitee provided, the giving of conditional notice of redemption shall in no event constitute gross negligence or willful

misconduct for purposes of this Section. In the event that any action or proceeding is brought against any Indemnitee with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the indemnified party and the payment of all expenses related thereto. Any Indemnitee shall have the right to retain separate defense counsel at the sole cost and expense of the Borrower, upon the Indemnitee's reasonable determination that such separate counsel is necessary to the Indemnitee with an adequate defense to any such action or proceeding. This indemnity shall be in addition to and in no way limit the indemnity of any indemnitee or others provided under the Loan Agreement, the Affordable Housing Agreement, the Regulatory Agreement or any other agreement of the Borrower.

5. Regulatory Agreement. Effective upon the defeasance of the Bonds in accordance with the Indenture and the repayment of the Agency Assistance, the Borrower, the Authority, and the Agency shall cause an Amended and Restated Regulatory Agreement substantially in the form attached hereto as Exhibit C to be recorded and legally effective against the Borrower and Property, provided Bond Counsel to the Authority renders any opinion required under Section 25 of the Regulatory Agreement. The Borrower, the Agency and the Authority shall authorize and direct the Trustee to execute same.

6. Miscellaneous.

(a) Time of Essence. Time is of the essence in connection with the terms and conditions of this Agreement and each party's obligations hereunder.

(b) Further Documents and Assurances. Each party agrees to provide all further information, and to execute and deliver all further documents and instruments, reasonably required to effect the terms hereof.

(c) Counterparts. This Agreement may be executed in two or more counterparts. Each counterpart shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

(d) Performance Due on Non-Business Day. If the time period for the performance of any act or notice called for under this Agreement expires on a Saturday, Sunday, any other day in which banking institutions in the State of California are authorized or obligated by law or executive order to close, or any other day in which the City of Garden Grove is closed for normal business due to a management mandated furlough (a "**Holiday**"), the act or notice in question shall be performed on the next succeeding day that is not a Saturday, Sunday or Holiday.

(e) Captions and Headings. The captions and headings in this Agreement are for convenience and shall not be held or deemed to define, limit, describe, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of or the scope or intent of this Agreement.

(f) Binding Effect. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

(g) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall not be modified, amended or otherwise changed in any manner except by a writing executed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

**Borrower:**

STUART DRIVE/ROSE GARDEN LIMITED  
PARTNERSHIP,  
a California limited partnership

By: Stuart Rose Properties, LLC,  
a Nevada limited liability company  
its General Partner

By: \_\_\_\_\_  
Kenneth B. Black, Jr., Manager

**Authority:**

GARDEN GROVE HOUSING AUTHORITY

By: \_\_\_\_\_  
Its Deputy Director

**Agency:**

GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT

By: \_\_\_\_\_  
Its Deputy Director