RECORDING REQUESTED BY:
THE CITY OF SAN JOSE, CALIFORNIA

WHEN RECORDED RETURN TO:
Quint & Thimmig LLP
575 Market Street, Suite 3600
San Francisco, CA 94105-2874
Attention: Paul J. Thimmig, Esq.

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

among the

CITY OF SAN JOSE, CALIFORNIA,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Trustee

and

BROOKWOOD TERRACE FAMILY APARTMENTS, L.P.,
a California limited partnership

Dated as of November 1, 2009

Relating to:
$13,600,000
City of San José, California
Variable Rate Demand Multifamily Housing Revenue Bonds
(Brookwood Terrace Family Apartments), Series 2009B

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REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as supplemented and amended from time to time, this "Regulatory Agreement") is made and entered into as of November 1, 2009, by and among the CITY OF SAN JOSE, CALIFORNIA, a municipal corporation and charter city organized and existing under its Charter and the laws of the State of California (together with any successor to its rights, duties and obligations, the "Issuer"), WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee under the Indenture described below (together with any successor trustee under the said Indenture, the "Trustee"), and BROOKWOOD TERRACE FAMILY APARTMENTS, L.P., a California limited partnership (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the "Borrower").

R E C I T A L S :

WHEREAS, the Issuer proposes to issue its $13,600,000 City of San José, California Variable Rate Demand Multifamily Housing Revenue Bonds (Brookwood Terrace Family Apartments), Series 2009B (the "Bonds") pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended (the "Act"), and a Trust Indenture, dated as of November 1, 2009, between the Issuer and the Trustee (the "Indenture");

WHEREAS, the proceeds of the Bonds will be used by the Issuer to make a loan to the Borrower pursuant to a Financing Agreement, dated as of November 1, 2009 (as supplemented and amended from time to time in accordance with its terms, the "Financing Agreement"), among the Issuer, the Trustee and the Borrower, in order to enable the Borrower to finance the acquisition and construction of an 84-unit rental housing project known as Brookwood Terrace Family Apartments and located on the real property site described in Exhibit A hereto (as further described herein, the "Project"); and

WHEREAS, in order to assure the Issuer and the owners of the Bonds that interest on the Bonds will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"), to satisfy the public purposes for which the Bonds are authorized to be issued under the Act, and to satisfy the purposes of the Issuer in determining to issue the Bonds, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the issuance of the Bonds by the Issuer and the mutual covenants and undertakings set forth herein, and other good and valuable consideration

20091110_02a3_con3
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the receipt and sufficiency of which are hereby acknowledged, the Issuer, the Trustee and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto, in this Section 1 or in Section 1.01 of the Indenture.

"Adjusted Income" means the adjusted income of a person (together with the adjusted income of all persons who intend to reside with such person in one residential unit) as calculated in the manner prescribed in the Code as of the Closing Date.

"Administrator" means the Issuer or any administrator or program monitor appointed by the Issuer to administer this Regulatory Agreement, and any successor so appointed.

"Affiliated Party" means (a) a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code, (b) 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), (c) 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 (d) 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.

"Affordability Restriction" means the 55-Year Affordability Restrictions, dated March 3, 2009, by the Borrower and the Issuer, in connection with a loan from the Issuer (not from the proceeds of the Bonds), as amended and supplemented by the First Amendment to 55-Year Affordability Restrictions, dated October __, 2009, by the Borrower and the Issuer, and as it may be further supplemented or amended from time to time.

"Annual City Fee" has the meaning given such term in Section 7(a) of this Regulatory Agreement.

"Area" means the San José Primary Metropolitan Statistical Area.

"CDLAC" means the California Debt Limit Allocation Committee or its successors.

"CDLAC Conditions" has the meaning given such term in Section 7(i).

"Certificate of Continuing Program Compliance" means the Certificate to be filed by the Borrower with the Issuer, the Administrator (if other than the Issuer) and the Trustee pursuant to Section 4(f) hereof, which shall be substantially in the form attached as Exhibit C hereto or in such other comparable form as may be provided by the Issuer to the Borrower.

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"Closing Date" means November 19, 2009, being the date the Bonds were issued for purposes of the Code.

"Completion Certificate" means the certificate of completion of the acquisition and construction of the Project required to be delivered to the Issuer 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 D.

"Completion Date" means the date of the completion of the acquisition and construction of the Project, as that date shall be certified as provided in Section 2 of this Regulatory Agreement.

"Housing Act" means the United States Housing Act of 1937, as amended, or its successor.

"HUD" means the United States Department of Housing and Urban Development.

"Income Certification" means a Verification of Income and an Occupancy Certificate in the form attached as Exhibit B hereto or in such other comparable form as may be provided by the Issuer to the Borrower.

"Low Income Tenant" means any tenant (i) whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of low income families under Section 8 of the Housing Act, provided that the percentage of median gross income that qualifies as Low Income shall not be greater than sixty percent (60%) of median gross income for the Area, with adjustments for family size, and (ii) whose income does not exceed sixty percent (60%) or less of area median income (as used in this clause (ii), "income" and "area median income" have the meanings specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Code). If all the occupants of a unit are students (as defined under Section 151(e)(4) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a tenant's status as a Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in the Project by such tenant, on the basis of an Income Certification executed by the tenant, and annually thereafter.

"Low Income Units" means the units in the Project required to be rented, or held available for occupancy, by Low Income Tenants pursuant to Sections 4(a) and 6(a) of this Regulatory Agreement.

"Project" means the leasehold interest of the Borrower in the land under, and the Borrower's ownership interest in, the 84-unit multifamily rental housing development to be known as Brookwood Terrace Family Apartments, which land is described in Exhibit A hereto, which shall be owned by the Borrower, and consisting of those facilities, including the real property leased to the Borrower, structures, buildings, fixtures or equipment situated thereon,

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as may at any time exist, the acquisition of which facilities is to be financed, in whole or in part, from the proceeds of the sale of the Bonds, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of such facilities.

"Qualified Project Costs" means Project Costs (excluding Costs of Issuance) incurred after the date which was sixty (60) days prior to May 21, 2009, 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 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 I.R.S. Regulation 1.103-8(a)(1)(i); provided, however, that only such portion of interest accrued during construction of the Project shall constitute a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the Project financed with proceeds of the Bonds or other funds of the Borrower; and provided further that interest accruing after the Completion Date shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), "Qualified Project Costs" shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (c) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, 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" means the period beginning on the first day on which at least 10% of the units in the Project are first occupied, and ending on the later of the following:

(a) the date which is fifteen (15) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied;

(b) the first date on which no Tax-Exempt private activity 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 Housing Act terminates;

provided that, unless otherwise amended or modified in accordance with the terms hereof, the Qualified Project Period for purposes of this Regulatory Agreement shall be 55 years from the Closing Date, as required by the CDLAC Conditions.

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"Regulations" means the Income Tax Regulations of the Department of the Treasury applicable under the Code from time to time.

"Regulatory Agreement" means this Regulatory Agreement, as it may be supplemented and amended from time to time.

"Tax-Exempt" means with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from gross income for federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax under the Code.

"Verification of Income" means a Verification of Income in the form attached as Exhibit B hereto or in such other comparable form as may be provided by the Issuer to the Borrower.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any 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 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.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. Representations, Covenants and Warranties of the Borrower. The Borrower hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The statements made by or on behalf of the Borrower in the various certificates delivered by the Borrower to the Issuer on the Closing Date are true and correct.

(b) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds of the Bond Mortgage Loan to

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be applied in a manner contrary to the requirements of the Financing Agreement or this Regulatory Agreement.

(c) It will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the exclusion from gross income for federal income tax purposes or the exemption from California personal income taxation of the interest on the Bonds and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(d) It will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(e) The Borrower has incurred a substantial binding obligation to expend proceeds of the Bond Mortgage Loan pursuant to which the Borrower is obligated to expend at least five percent (5%) of the principal amount of the Bond Mortgage Loan.

(f) The Borrower will proceed with due diligence to complete the acquisition, construction and equipping of the Project and the full expenditure of the proceeds of the Bond Mortgage Loan. The Borrower reasonably expects to complete the acquisition, construction and equipping of the Project and to expend the full amount of the Bond Mortgage Loan for Project Costs by May 1, 2012.

(g) The Borrower's reasonable expectations respecting the total expenditure of the proceeds of the Bond Mortgage Loan have been accurately set forth in a certificate of the Borrower delivered on the Closing Date. At all times, the aggregate disbursements of the proceeds of the Bond Mortgage Loan will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an amount equal to ninety-seven percent (97%) or more of such disbursements, and less than twenty-five percent (25%) of such disbursements shall have been used to pay for the acquisition of land or an interest therein.

(h) No proceeds of the Bonds will be used to finance the acquisition or construction of any portion of the Project to be used, or available for use, for retail commercial sales.

(i) On the Completion Date, the Borrower will submit to the Issuer and the Trustee a duly executed and completed Completion Certificate.

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(j) Money on deposit in any fund or account in connection with the Bonds, whether or not such money was derived from other sources, shall not be used by or under the direction of the Borrower, in a manner which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and the Borrower specifically agrees that the investment of money in any such fund shall be restricted as may be necessary to prevent the Bonds from being "arbitrage bonds" under the Code.

(k) The Borrower acknowledges that the Issuer may appoint an Administrator other than the Issuer to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any reasonable request by the Issuer or the Administrator to deliver to any such Administrator, in addition to or instead of the Issuer, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Issuer.

(l) No proceeds of the Bonds will be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property was pursuant to such acquisition; provided, however, that this limitation shall not apply with respect to any building (and the equipment therefor) if rehabilitation expenditures (as defined in the Code) with respect to such building equal or exceed fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) financed with proceeds of the Bonds; and provided, further, that this limitation shall not apply with respect to any structure other than a building if rehabilitation expenditures with respect to such structure equal or exceed one hundred percent (100%) of the portion of the cost of acquiring such structure financed with the proceeds of the Bonds.

(m) On the date on which fifty percent (50%) of the units in the Project are first rented to tenants, the Borrower will submit to the Issuer and the Trustee a duly executed and completed Certificate as to Commencement of Qualified Project Period, in the form of Exhibit E hereto.

(n) The Borrower hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Borrower contained in the Financing Agreement and the Tax Certificate.

Section 3. Qualified Residential Rental Project. The Borrower hereby acknowledges and agrees that the Project is to be owned, managed and operated as a "qualified residential rental project" (within the meaning of Section 142(d) of the Code) for a term equal to the Qualified Project Period. To that end, and for the term of this Regulatory Agreement, the Borrower hereby represents, covenants, warrants and agrees as follows:

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(a) The Project will be acquired, constructed and operated for the purpose of providing multifamily residential rental property. The Borrower will own, manage and operate the Project 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 Section 142(d) of the Code, Section 1.103-8(b) of the Regulations and the provisions of 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 the Project will be similarly constructed units, and each dwelling unit in the Project will contain 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 and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or rented for a period of less than 30 consecutive days, or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park. Use of units in the Project by guests of tenants on an intermittent basis shall not be considered transient use for purposes of this Regulatory Agreement.

(d) No part of the Project will at any time during the Qualified Project Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period.

(e) All of the dwelling units in the Project (except for one unit set aside for a resident manager or other administrative use) will be available for rental during the Qualified Project Period 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 hereunder or under the Affordability Restriction.

(f) The Project consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the facilities of the Project 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 the Project shall be occupied by the Borrower; however, if the Project contains five or more dwelling units, this provision shall not be construed to

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prohibit occupancy of not more than one dwelling unit by a resident manager or maintenance personnel any of whom may be the Borrower.

(h) Should involuntary noncompliance with the provisions of 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 Closing Date which prevents the Issuer from enforcing the requirements of the applicable Regulations, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the applicable Regulations, it will either prepay the Bonds or, if permitted under the provisions of the Financing Agreement, apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the applicable Regulations.

(i) The Borrower will not sell dwelling units within the Project.

(j) In accordance with Section 147(b) of the Code, the average maturity of the Bonds does not exceed 120% of the average reasonably expected economic life of the facilities being financed by the Bonds.

The Issuer hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code.

Section 4. Low Income Tenants; Reporting Requirements. Pursuant to the requirements of the Code, the Borrower hereby represents, warrants and covenants as follows:

(a) During the Qualified Project Period, no less than 40% of the total number of completed units in the Project shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this paragraph (a), a vacant unit that was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined.

(b) No tenant qualifying as a Low Income Tenant upon initial occupancy shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants. However, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the applicable income limit for a Low Income Tenant of the same family size, such Low Income Tenant who has ceased to qualify shall be deemed to continue to be a Low Income Tenant for purposes of the occupancy requirement of Section 4(a) hereof until a new Low Income Tenant occupies the unit as required by Section 7(g) of this Regulatory Agreement.

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(c) For the Qualified Project Period, the Borrower will obtain, complete and maintain on file Income Certifications for each Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the Project, and (ii) thereafter, an annual Income Certification with respect to each Low Income Tenant. The Borrower will provide such additional information as may be required in the future by the Code, the State or the Issuer, 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, Regulations 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 Tax-Exempt obligations. A copy of the most recent Income Certifications for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be attached to each report to be filed with the Issuer pursuant to paragraph (f) of this Section 4.

(d) The Borrower shall make a good faith effort to verify that the income information provided by an applicant in a Verification of Income is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Issuer.

(e) The Borrower will maintain complete and accurate records pertaining to the Low Income Units, and will permit any duly authorized representative of the Issuer, 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 will prepare and submit to the Issuer, the Administrator (if other than the Issuer) and the Trustee, at the end of each calendar quarter until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Borrower. On or before each March 1 during the Qualified Project Period, the Borrower will submit to the Issuer and the Trustee a draft of the completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, which form shall be submitted to the Secretary of the Treasury on or before March 31 of each year (or such other date as may be required by the Code); provided that at any point when no Tax-Exempt private activity bonds are Outstanding with regards to the Project, but before the end of the Qualified Project Period, the Owner may submit to the Issuer (in the same manner specified above) such other annual certification as the Issuer may reasonably require.

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(g) Within 30 days after the date on which 10% of the dwelling units in the Project are occupied, the Borrower shall deliver to the Issuer and the Trustee a written notice specifying such date, and within 30 days after the date on which 50% of the dwelling units in the Project are occupied, the Borrower shall deliver to the Issuer and the Trustee a written notice specifying such date and the beginning and ending dates of the Qualified Project Period. The Borrower shall cause a copy of such notice to be recorded in the Official Records of the County of Santa Clara, California.

(h) For the Qualified Project Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement and the Security Instrument. All leases pertaining to Low Income Units shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Verification of Income; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Trustee, the Issuer or the Administrator on behalf of the Issuer, and that the failure to provide accurate information in the Verification of Income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the Verification of Income 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 or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) and that if upon any such certification such tenant's Adjusted Income exceeds the applicable income limit under Section 4(b), such tenant may cease to qualify as a Low Income Tenant and such tenant may be evicted.

Section 5. Tax-Exempt Status of Bonds. The Borrower and the Issuer, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Borrower and the Issuer will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Bonds and, if either of them should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the Issuer will file of record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Issuer and the Trustee, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not

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limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County of Santa Clara, California.

Section 6. Additional Requirements of the Act. The Borrower hereby further agrees with the Issuer and the Trustee that it shall comply with each of the requirements of Section 52080 of the Act, including (but not limited to) the following:

(a) Not less than 40% of the total number of units in the Project shall be available for occupancy on a priority basis to Low Income Tenants. The units made available to meet this requirement shall be of comparable quality (including comparable amenities, furnishings and appliances) and offer a range of sizes and numbers of bedrooms comparable to the units that are available to other tenants in the Project.

(b) The rental payments for the Low Income Units paid by the tenants thereof (excluding any supplemental rental assistance from the State, the federal government or any other public agency to those tenants or on behalf of those units) shall not exceed 30% of an amount equal to 60% of the median adjusted gross income for the Area.

(c) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, low-income persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act. The Borrower shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that is more burdensome than the criteria applied to all other prospective tenants.

(d) The units reserved for occupancy as required by subsection (a) of this Section shall remain available on a priority basis for occupancy at all times during the Qualified Project Period.

(e) During the three (3) years prior to the expiration of the Qualified Project Period, the Borrower shall continue to make available to eligible households Low Income Units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(f) Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units reserved for occupancy as required by subsection (a) of this Section shall remain available to any eligible tenant occupying a reserved unit at the date of such expiration or termination, at the rent determined by subsection (b) of this Section, until the earliest of (1) the household's income exceeds 140% of the maximum eligible income specified above, (2) the household voluntarily moves or is evicted for good cause (as defined in the Act), (3) 30 years after the date of the commencement of the Qualified Project Period, or (4) the

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Borrower pays the relocation assistance and benefits to households as provided in Section 7264(b) of the California Government Code.

Section 7. Additional Requirements of the Issuer. In addition to the requirements set forth above and to the extent not prohibited thereby, the Borrower hereby agrees with the Issuer and the Trustee to comply with each of the requirements of the Issuer set forth in this Section 7, as follows:

(a) The Borrower shall pay or cause to be paid to the Issuer on the Closing Date, the "Initial City Fee" in an amount equal to $59,000.00; and thereafter, without demand or notice, the Borrower shall pay to the Issuer (or other Administrator designated in writing by the Issuer) an annual monitoring fee (the "Annual City Fee"). The Annual City Fee shall be in an amount equal to $17,000.00, representing .125% of the aggregate principal amount of the Bonds issued on the Closing Date, payable in equal semiannual installments of $8,500.00, in advance, on each May 1 and November 1, commencing May 1, 2010. Under no circumstances shall the Annual City Fee exceed any limitation under Section 148 of the Code. The Annual City Fee shall be payable until the end of the Qualified Project Period. In the event that the principal of and the interest on the Bonds are paid in full and the Indenture is discharged prior to the termination of this Regulatory Agreement (other than by reason of the issuance of refunding bonds), the Borrower shall pay to the Issuer, if so requested by the Issuer, an amount equal to the remaining Annual City Fees, at a present value to the date of payment (using a discount rate equal to the greater of (i) the true interest cost of the Bonds in the preceding six month period, or (ii) seven percent (7%)). Such payment shall be due to the Issuer at such time as the Bonds are paid in full and the Indenture is discharged.

(b) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Issuer, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Issuer (including the Administrator).

(c) The Borrower shall submit to the Issuer, within fifteen (15) days after receipt of a request therefor, any information or completed forms requested by the Issuer in order to comply with reporting requirements of the Internal Revenue Service or the State.

(d) The Borrower shall not discriminate on the basis of race, creed, color, religion, sex, source of income, sexual orientation, marital status, national origin, ancestry or handicap in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the construction, operation or management of the Project, and will not discriminate on the basis of household size as long as the tenants meet the household size standards of Section 8 of the Housing Act.

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Further, the Borrower shall not permit occupancy in any unit in the Project by more persons than is permissible under the Section 8 household size standards.

(e) The Borrower acknowledges that the Issuer may appoint an Administrator other than the Issuer to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any reasonable request by the Issuer to deliver to any such Administrator, in addition to or instead of the Issuer, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Issuer.

(f) To the extent permitted by law, the Borrower will make the units reserved pursuant to Section 6(a) available on a priority basis to households comprised of persons whom (i) the Issuer has informed the Borrower have been displaced by the Issuer or its political subdivisions from other development located within San José or (ii) are currently living or working in San José or who can demonstrate they previously resided in San José. The Borrower shall not discriminate against 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 such tenant's ability to pay the applicable rent for the unit to be occupied (ability to pay shall be demonstrated if the tenant can show that the tenant has paid on time the same percentage or more of the tenant's income for rent as the tenant would be required to pay for the rent applicable to the unit to be occupied); provided that such tenant paid the same percentage or more of such tenant's income for rent as such tenant will be paying under the proposed lease. The Borrower may consider such factors as it deems important when reviewing and approving a tenant's application for occupancy and an existing tenant's continued occupancy.

(g) If a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceeds 140% of the of the applicable income limit for a Low Income Tenant of the same family size, the tenancy of such Low Income Tenant shall, to the extent permitted by law, be terminated as soon as legally possible and the available unit shall within a reasonable time be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant.

(h) Each of the requirements of Sections 3, 4 and 6 hereof is hereby incorporated as a specific requirement of the Issuer, whether or not required by California or federal law, and shall be in force for the term of this Regulatory Agreement.

(i) In addition, the Borrower shall comply with the conditions set forth in Exhibit A to CDLAC Resolution No. 09-60, adopted on July 22, 2009 (the "CDLAC Conditions"), as they may be modified or amended from time to time, which conditions are incorporated herein by reference and made a part hereof. The Borrower will prepare

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and submit to CDLAC, not later than each anniversary of the Closing Date until the end of the Qualified Project Period, a Certification of Compliance, in substantially the form attached to the CDLAC Conditions, executed by an authorized representative of the Borrower. The Issuer and the Administrator shall have no obligation to monitor the Borrower's compliance with the CDLAC Conditions.

(j) In addition, the Borrower shall comply with the Affordability Restriction.

(k) The Borrower agrees to maintain the Project, or cause the Project to be maintained, during the term of this Regulatory Agreement (i) in a reasonably safe condition and (ii) in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof such that the Project shall be substantially the same condition at all times as the condition it is in at the time of the completion of the construction of the Project with the proceeds of the Bonds.

(l) The requirements of this Section 7 shall be in effect for the term of this Regulatory Agreement; provided that any of the foregoing requirements of the Issuer may be expressly waived by the Issuer, in its sole discretion (except (i) above, which may be expressly waived by CDLAC), in writing, but (i) no waiver by the Issuer of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Issuer and the Borrower have received an opinion of Bond Counsel (a copy of which shall be filed by the Borrower with the Trustee) that any such other provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Bonds for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Issuer and the Borrower receive a written opinion of Bond Counsel (a copy of which shall be filed by the Borrower with the Trustee) to the effect that compliance with any such requirement would cause interest on the Bonds to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other state or federal law.

Section 8. Modification of Covenants. The Borrower, the Trustee and the Issuer hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, retroactively impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

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(b) To the extent that the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, at its sole discretion, the Trustee and the Borrower, and only upon receipt by the Issuer of the written opinion of Bond Counsel (a copy of which shall be filed with the Trustee) to the effect that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds or violate the requirements of the Act, and otherwise in accordance with Section 22 hereof.

(c) The Borrower, the Issuer and, if applicable, the Trustee, shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8, and each of the Borrower and the Issuer hereby appoints the Trustee as their true and lawful attorneys-in-fact (jointly or individually) to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Issuer, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if either the Borrower or the Issuer defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Issuer or the Borrower, the Trustee shall not take any action under this subsection (c) without first notifying the Borrower or the Issuer, or both of them, as is applicable, and without first providing the Borrower or the Issuer, or both, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Trustee to execute an amendment to this Regulatory Agreement on behalf of the Issuer.

Section 9. Indemnification; Other Payments. The Borrower hereby covenants and agrees that it shall indemnify and hold harmless the Issuer and the Trustee and their respective officers, employees and agents as set forth in Section 6.1 of the Financing Agreement, which Section 6.1 is, by this reference, incorporated herein.

In addition thereto, the Borrower will pay upon demand all of the fees and expenses paid or incurred by the Trustee and/or the Issuer in enforcing the provisions of this Regulatory Agreement.

The provisions of this Section 9 shall survive the term of the Bonds, the Financing Agreement and this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Trustee, survive the term of this Regulatory Agreement or the resignation or removal of the Trustee, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Trustee's tenure as Trustee under the Indenture, and shall, in the case of the Issuer, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

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Section 10. Consideration. The Issuer has agreed to issue the Bonds to provide funds to lend to the Borrower to finance the Project, all for the purpose, among others, of inducing the Borrower to acquire and operate the Project. In consideration of the issuance of the Bonds by the Issuer, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which this Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Issuer and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Bonds, in the exemption from California personal income taxation of interest on the Bonds and in the Tax-Exempt status of the interest on the Bonds. In performing their duties and obligations hereunder, the Issuer, the Administrator and the Trustee may rely upon statements and certificates of the Low Income Tenants, and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Issuer and the Trustee 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 the Issuer or the Trustee hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Trustee shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Trustee by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

Section 12. Sale or Transfer of the Project. For the Qualified Project Period, the Borrower shall not, except as provided below, sell, transfer or otherwise voluntarily dispose of the Project, in whole or in part, without the prior written consent of the Issuer and the Trustee, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the Issuer and the Trustee have received evidence, reasonably acceptable to the Issuer and the Trustee, that (1) the Borrower shall not be in default hereunder or under the Financing Agreement (which may be evidenced by a Certificate of Continuing Program Compliance) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Issuer; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) either (a) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects, or (b) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (a) above, or (c) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and (4) the person or entity which is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and

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regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the purchaser or assignee of any document reasonably requested by the Issuer or the Trustee with respect to the assumption of the Borrower's obligations under this Regulatory Agreement and, if the Bonds are outstanding at the time of transfer, the Financing Agreement, including without limitation an instrument of assumption hereof and thereof, and delivery to the Issuer of an opinion of such purchaser or assignee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee, subject to bankruptcy and other standard limitations affecting creditor's rights; (C) receipt by the Issuer of an opinion of Bond Counsel to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Bonds; and (D) receipt by the Issuer and Trustee of all fees and/or expenses then currently due and payable to the Issuer and Trustee under any of the Issuer Documents.. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 12, other than pursuant to a foreclosure or deed in lieu of foreclosure following a default under the Financing Agreement or the Reimbursement Agreement, shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project.

The written consent of the Issuer to any transfer of the Project shall constitute conclusive evidence that the transfer is not in violation of this Section 12. Upon any sale or other transfer that complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder to the extent such obligations have been fully assumed in writing by the transferee of the Project. Except as otherwise provided herein, any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 12, except as provided immediately below.

Interests in the Borrower may be transferred without the consent of the Issuer. The Borrower acknowledges that a sale or exchange of fifty percent (50%) or more of the capital and profits interests in the Borrower in any twelve-month period will be treated for federal tax purposes as a change in ownership of the Project at the time the fifty percent (50%) transfer occurs. The Borrower further acknowledges that there is a possibility of some or all of the Bonds being reissued at various points in the financing, including any in connection with any remarketing, and that a change in ownership of the Project within six months of a reissuance or refunding of the Bonds will cause the interest paid on the reissued or refunding bonds not to be excluded from gross income for federal tax purposes.

For the Qualified Project Period, the Borrower shall not: (1) except pursuant, or subordinate, to the provisions of this Regulatory Agreement and the Bond Mortgage (and upon receipt by the Borrower of an opinion of Bond Counsel (a copy of which shall be filed by the Borrower with the Trustee) that such action will not adversely affect the Tax-Exempt status of

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interest on the Bonds), or except upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement, the Financing Agreement or the Bond Mortgage encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement and all and several of the terms hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bonds and discharge of the Indenture and the Financing Agreement.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect (i) in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date, which prevents the Issuer and the Trustee from enforcing such provisions, or condemnation or (ii) foreclosure, transfer of title by deed in lieu of foreclosure (whereby a third party shall take possession of the Project), exercise of power of sale or a similar event, but only if, in the case of either (i) or (ii), within a reasonable period, either the Bonds are retired or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; 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 the foreclosure, the delivery of a deed in lieu of foreclosure, exercise of power of sale, or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure, exercise of power of sale or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee and the Borrower, upon receipt by the Issuer and the Trustee of an opinion of Bond Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes. Upon the termination of the terms of this 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 Regulatory Agreement in accordance with its terms.

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Section 14. Covenants to Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Issuer and the Borrower 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 the Borrower's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire without the necessity of further action. Each and every 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.

Section 15. Burden and Benefit. The Issuer and the Borrower hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Issuer and the Borrower hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued.

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 of the site on which the Project is located.

Section 17. Default; Enforcement. (a) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the Issuer or the Trustee to the Borrower, or for a period of 60 days from the date the Borrower should, with reasonable diligence, have discovered such default, then the Issuer or the Trustee shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Bond Counsel (filed with the Trustee and the Issuer), the failure to cure said default within 60 days will not adversely affect the Tax-Exempt status of interest on the Bonds. The Issuer and the Trustee shall have the right to enforce the obligations of the Borrower under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary to insure compliance with the Act or the Code.

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(b) Following the declaration of an Event of Default hereunder, the Issuer or the Trustee, consistent with the provisions of the Indenture and subject to the provisions of the Intercreditor Agreement, may take any one or more of the following steps, in addition to all other remedies provided by law or equity:

(i) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things that may be unlawful or in violation of the rights of the Issuer or the Trustee hereunder;

(ii) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project;

(iii) require the Borrower to pay to the Issuer an amount equal to the excess rent or other amounts received by the Borrower for any units in the Project that were in violation of this Regulatory Agreement during the period such violation continued (which payment shall not reduce the amount due under the Bond Mortgage Loan);

(iv) declare a default under the Financing Agreement and proceed with any remedies provided therein; and

(v) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Issuer may fully obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder.

(c) The Trustee, acting consistent with the provisions of the Indenture, shall have the right, in accordance with this Section and the provisions of the Indenture, without the consent or approval of the Issuer, to exercise any or all of the rights or remedies of the Issuer hereunder; provided that prior to taking any such action, that Trustee shall give the Issuer written notice of its intended action. After the Indenture has been discharged, the Issuer may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Trustee. The Trustee shall not be deemed to have knowledge of any default hereunder unless the Trustee shall have been specifically notified in writing of such default by the Issuer, the Administrator or by the owners of at least twenty-five percent (25%) of the Bonds outstanding.

(d) All fees, costs and expenses of the Trustee and the Issuer incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

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(e) No breach or default under this Regulatory Agreement shall defeat or render invalid the lien of the Bond Mortgage or any other mortgage or like encumbrance upon the Project or any portion thereof given in good faith and for value.

Section 18. The Trustee. The Trustee shall act as specifically provided herein and in the Indenture and may exercise such additional powers as are reasonably incidental hereto and thereto. The Trustee shall have no duty to act with respect to enforcement of the Borrower's performance hereunder as described in Section 17 unless it shall have actual knowledge of any such default as provided in Section 17 or shall have notice thereof from the Issuer. In connection with any such performance, the Trustee is acting solely as Trustee under the Indenture and not in its individual capacity, and except as expressly provided herein, all provisions of the Indenture relating to the rights, privileges, powers and protections of the Trustee, including without limitation those set forth in Section 10 thereof, shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Trustee in connection with this Regulatory Agreement. Neither the Trustee nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith except for its or their own negligence or willful misconduct.

The Trustee shall not be responsible for the monitoring of the Borrower's compliance with the terms of this Regulatory Agreement.

After the date on which no Bonds remain Outstanding, as provided in the Indenture, the Trustee shall no longer have any rights, duties or responsibilities under this Regulatory Agreement and all references to the Trustee in this Regulatory Agreement shall be deemed references to the Issuer.

Section 19. Recording and Filing.

(a) The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County of Santa Clara, California, and in such other places as the Issuer or the Trustee may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

(b) The Borrower and the Issuer will file of record such other documents and take such other steps as are reasonably necessary, in the opinion of Bond Counsel, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) Except in the case of a foreclosure, deed in lieu of foreclosure or comparable involuntary conversion of the Bond Mortgage Loan, the Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents executed and delivered in connection with a voluntary transfer of any interest in the

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Project to another person to the end that such transferee has notice of, and is bound by, such restrictions and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 20. Payment of Fees. Notwithstanding any prepayment of the Bond Mortgage Loan or the discharge of the Indenture, the Borrower shall continue to pay to the Trustee reasonable compensation for any services rendered by it hereunder and reimbursement for all expenses reasonably incurred by it in connection therewith, and shall continue to pay (or, to the extent allowed under the Code, shall prepay) the Annual City Fee and related expenses as provided in Section 7(a) of this Regulatory Agreement.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of California.

Section 22. Amendments; Waivers.

(a) Except as provided in Section 8(a) hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Santa Clara, California, and only upon receipt by the Issuer and the Trustee of an opinion from Bond Counsel to the effect that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds and is not contrary to the provisions of the Act.

(b) Anything to the contrary contained herein notwithstanding, the Issuer, the Trustee and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Bond Counsel (filed with the Trustee), in order that interest on the Bonds remain Tax-Exempt. The parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Bond Counsel and a request that Bond Counsel render to the Issuer and the Trustee an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Bonds. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

(c) Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses specified in the definition of "Notice Address" in Section 11.04 of the Indenture, or at such other addresses as may be specified in writing by the parties hereto. In addition, a copy of any notice required to be given hereunder to the Issuer shall be provided to the following address:

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

Department of Housing
City of San José
200 East Santa Clara Street, 12th Floor Tower
San Jose, California 95113-1905
Attention: Director of Housing

The Issuer, the Administrator, the Trustee and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission; provided that any telecopy or other electronic transmission received by any party after 4:00 p.m., local time of the receiving party, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day.

Section 24. Severability. If any provision of this 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 25. Multiple Counterparts. This 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 26. Limitation on Liability. Notwithstanding any other provision or obligation to the contrary contained in this Regulatory Agreement, (i) the liability of the Borrower under this Regulatory Agreement to any person or entity, including, but not limited to, the Trustee or the Issuer and their successors and assigns, is limited to the Borrower's interest in the Project, the Trust Estate, including the amounts held in the funds and accounts created under the Indenture, or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Borrower under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to any Project or any other agreement securing the Borrower's obligations under this Regulatory Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Indenture, any rights of the Borrower under the Indenture or any other documents relating to the Bonds or any rights of the Borrower under any guarantees relating to the Project), its partners, members, successors, transferees or assigns and each their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Regulatory Agreement and the Indenture or any agreement securing the obligations of the Borrower under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

Section 27. Third-Party Beneficiary. CDLAC is intended to be and shall be a third-party beneficiary of this Regulatory Agreement. CDLAC shall have the right (but not the obligation) to enforce the CDLAC Conditions and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 17 hereof; provided that any such action or remedy undertaken by CDLAC shall not materially adversely affect the interests and rights of the Issuer or the Bondholders.

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

IN WITNESS WHEREOF, the Issuer, the Trustee and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

CITY OF SAN JOSE

By: _____
Julia H. Cooper,
Assistant Director of Finance

By: _____
Leslye Krutko,
Director of Housing

Approved as to form:

By: _____
Patricia Deignan,
Chief Deputy City Attorney

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

By: _____
Dania Samai, Vice President

BROOKWOOD TERRACE FAMILY APARTMENTS, L.P.,
a California limited partnership

By: Pacific Housing, Inc.,
a California nonprofit public benefit corporation,
its Managing General Partner

By: _____
Mark A. Wiese,
President

By: ROEM Brookwood Terrace Family, LLC,
a California limited liability company,
its Co-General Partner

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By: Roem Development Corporation,
a California corporation,
its Sole Member and Manager

By: _____
Jonathan Emami,
Vice President

19021.13:J10543

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STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____

Signature of Notary Public [Seal]

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____

Signature of Notary Public [Seal]

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____

Signature of Notary Public [Seal]

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

EXHIBIT A
DESCRIPTION OF REAL PROPERTY RELATING TO THE PROJECT

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EXHIBIT B

FORM OF INCOME CERTIFICATION

VERIFICATION OF INCOME

RE: Brookwood Terrace Family Apartments
1338-1350 San Antonio Street
San Jose, California

Apartment Number: _____. Initial Occupancy Date: _____.

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, and truthfully each of the following questions for all persons who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

1. Name of Members of the Household	2. Relationship to Head of Household	3. Age	4. Social Security Number	5. Place of Employment
_____	HEAD	_____	_____	_____
_____	SPOUSE	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

6. The anticipated income of all the above persons during the 12-month period beginning this date, including income described in (a) below, but excluding all income described in (b) below, is $_____.

(a) The amount set forth above includes all of the following income (unless such income is described in (b) below):

(i) all wages and salaries, over-time pay, commissions, fees, tips and bonuses before payroll deductions;

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(ii) 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);

(iii) interest and dividends (include all income from assets as set forth in item 7(b) below);

(iv) 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;

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

(vi) the maximum amount of public assistance available to the above persons;

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

(viii) 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

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

(b) The following income is excluded from the amount set forth above:

(i) casual, sporadic or irregular gifts;

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

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

(iv) amounts of educational scholarships paid directly to a student or an educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes;

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(v) hazardous duty to a member of the household in the armed forces who is away from home and exposed to hostile fire;

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

(vii) income from employment of children (including foster children) under the age of 18 years;

(viii) foster child care payments;

(ix) the value of coupon allotments under the Food Stamp Act of 1977;

(x) payments to volunteers under the Domestic Volunteer Service Act of 1973;

(xi) payments received under the Alaska Native Claims Settlement Act;

(xii) income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;

(xiii) payments on allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;

(xiv) payments received from the Job Partnership Training Act;

(xv) income derived from the disposition of funds of the Grand River Band of Ottawa Indians; and

(xvi) the first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims or from funds held in trust for an Indian tribe by the Secretary of Interior.

7. If any of the persons described in column 1 above (or any person whose income or contributions were included in item 6) has any savings, stocks, bonds, equity in real property or other form of capital investment (excluding interests in Indian trust lands), provide:

(a) the total value of all such assets owned by all such persons: $_____, and

(b) the amount of income expected to be derived from such assets in the 12-month period commencing this date: $_____.

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8. (a) Will all of the persons listed in column 1 above be or have they been full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

Yes _____ No _____

(b) (Complete only if the answer to Question 8(a) is "Yes"). Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____ No _____

We acknowledge that all of the foregoing information is relevant to the status under federal income tax law of the interest on bonds issued to finance the construction and development of the apartment building for which application is being made. We consent to the disclosure of such information to the issuer of such bonds, the holders of such bonds, any trustee acting on their behalf and any authorized agent of the Treasury Department or Internal Revenue Service.

We declare under penalty of perjury that the foregoing is true and correct.

Date: _____ _____

Head of Household

_____

Spouse

FOR COMPLETION BY PROJECT OWNER ONLY:

I. Calculation of eligible income:

(A) Enter amount entered for entire household from 6 above: $_____

(B) If the amount entered in 7(a) above is greater than $5,000, enter:

(i) the product of the amount entered in 7(a) above multiplied by the current passbook savings rate as determined by HUD: $_____

(ii) the amount entered in 7(b) above: $_____

(iii) line (i) minus line (ii) (if less than $0, enter $0): $_____

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(C) TOTAL ELIGIBLE INCOME: $_____
(Line I(A) plus line I(B)(iii))

II. Qualification as individuals or a family of Low Income:

(A) Is the amount entered in line I(C) less than 50% of median gross income for the Area?

Yes _____ No _____

(B) (i) If line II(A) is "No," then the household does not qualify as a Low Income Tenant; go to item III.

(ii) If line II(A) above is "Yes" and 8(a) above is "Yes" and 8(b) above is "NO," then the household does not qualify as a Low Income Tenant; go to item III.

(iii) If line II(A) above is "Yes" and 8(a) above is "No" or 8(a) above is "Yes," but 8(b) is also "Yes," then the household qualifies as a Low Income Tenant; go to item III.

III. Tenant Eligibility (Check one)

The household does not qualify as a Low Income Tenant. _____

The household qualifies as a Low Income Tenant. _____

IV. Number of apartment unit assigned: _____
(enter here and on page one)

_____
Borrower

NOTE TO PROJECT OWNER: A vacant unit previously occupied by a Low Income Tenant may be treated as occupied by a Low Income Tenant until reoccupied, other than for a period of 31 consecutive days or less, at which time the character of the unit shall be redetermined.

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OCCUPANCY CERTIFICATE

(To be filed with the Administrator along with a Verification of Income upon the rental of a unit in the Project.)

Project: BROOKWOOD TERRACE FAMILY APARTMENTS

The tenant identified in the attached Verification of Income has entered into a lease with respect to a unit in the above-described Project.

Such tenant is / is not (circle one) a Low Income Tenant (as defined in the Regulatory Agreement).

The rental of a unit to such tenant will not result in a violation of any of the requirements of the Financing Agreement or the Regulatory Agreement to which the Borrower is a party.

_____	_____
Witness	Borrower
Date: _____	Date: _____

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EXHIBIT C

FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Witnesseth that on this ____ day of _____, 20__, the undersigned, having borrowed certain funds from the City of San José, California (the "Issuer") for the purpose of financing a multifamily rental housing development known as Brookwood Terrace Family Apartments (the "Project"), does hereby certify that:

1. During the preceding month (i) such Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Issuer, (ii) ___% of the units in the Project were occupied by Low Income Tenants (minimum of 40%).

Set forth below are the names of Low Income Tenants who commenced or terminated occupancy during the preceding month.

Commenced Occupancy	Terminated Occupancy
1.	1.
2.	2.
3.	3.

Attached is a separate sheet listing the number of each unit and indicating which units are occupied by Low Income Tenants, the size, the number of bedrooms of such units and the number of Low Income Tenants who commenced occupancy of units during the preceding month.

2. Select appropriate certification: [No unremedied default has occurred under this Regulatory Agreement, the Financing Agreement or the Bond Mortgage.] [A default has occurred. The nature of the default and the measures being taken to remedy such default are as follows: _____.

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3. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Date: _____ _____

Borrower

Unit No.	Low Income Unit/ Market Unit	Number of Bedrooms	Size (Sq. Ft.)	Total Eligible Income (Low Income Units)

Total Number of Units: _____
Percentage of Low Income Units: _____
Number of Low Income Tenants commencing occupancy this month: _____

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EXHIBIT D

COMPLETION CERTIFICATE

The undersigned hereby certifies that the construction of the Project was substantially completed as of _____.

Brookwood Terrace Family Apartments,
L.P., a California limited partnership

By: _____

Its: _____

The undersigned hereby certifies that:

(1) the aggregate amount disbursed on the Bond Mortgage Loan to date is $_____;

(2) all amounts disbursed on the Bond Mortgage Loan have been applied to pay or reimburse Brookwood Terrace Family Apartments (the "Borrower") for the payment of Project Costs and none of the amounts disbursed on the Bond Mortgage Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs;

(3) at least 97 percent of the amounts disbursed on the Bond Mortgage Loan have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs (as that term is used in the Regulatory Agreement), and not more than 25 percent of all such disbursements have been used for the acquisition of land or an interest therein; and

(4) the Borrower is in compliance with the provisions of Section 2.5 of the Financing Agreement, dated as of November 1, 2009, among the Borrower, Wells Fargo Bank, National Association, as trustee (the "Trustee"), and the City of San José, California (the "Issuer"), and the Borrower is in compliance with the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2009, among the Borrower, the Trustee and the Issuer.

Capitalized terms used above and not defined above have the meanings given to them in the Trust Indenture, dated as of November 1, 2009, between the Issuer and the Trustee.

Brookwood Terrace Family Apartments,
L.P.

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By: _____

Its: _____

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EXHIBIT E

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:
City of San José
Department of Housing
200 East Santa Clara Street, 12th Floor Tower
San Jose, California 95113-1905
Attention: Director of Housing

CERTIFICATE AS TO COMMENCEMENT OF QUALIFIED PROJECT PERIOD

CITY OF SAN JOSE
VARIABLE RATE DEMAND MULTIFAMILY HOUSING REVENUE BONDS
(BROOKWOOD TERRACE FAMILY APARTMENTS),
SERIES 2009B

The undersigned, on behalf of Brookwood Terrace Family Apartments, L.P., a California limited partnership, hereby certifies that: (complete blank information):

10% of the dwelling units in the project financed in part from the proceeds of the captioned Bonds were first occupied on _____, 20____.

50% of the dwelling units in the project financed in part from the proceeds of the captioned Bonds were first occupied on _____, 20__.

Dated: _____, 20___

Brookwood Terrace Family Apartments,
L.P., a California limited partnership

By: _____

Its: _____

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EXHIBIT F

FREDDIE MAC RIDER

This Freddie Mac Rider (the "Rider") is attached to and forms a part of the Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement"), dated as of November 1, 2009, by and among the City of San Jose, California (the "Issuer"), Wells Fargo Bank, National Association, as bond trustee (together with any successor in such capacity, the "Trustee"), and Brookwood Terrace Family Apartments, L.P., a California limited partnership (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the "Borrower").

1. Definitions. Terms used in this Rider as defined terms shall have the meanings given those terms in the Regulatory Agreement. In addition, the following terms shall have the following meanings:

"Bonds" means the City of San José, California Variable Rate Demand Multifamily Housing Revenue Bonds (Brookwood Terrace Family Apartments), Series 2009B.

"Bond Mortgage" means the First Multifamily Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, together with all riders, securing the Bond Mortgage Note, to be executed by the Borrower with respect to the Project, as it may be amended, modified, supplemented or restated from time to time.

"Bond Mortgage Loan" means the loan to the Borrower pursuant to the Bond Mortgage Loan Documents, which Bond Mortgage Loan is to be assigned to the Trustee.

"Bond Mortgage Loan Documents" means the Bond Mortgage Note, the Bond Mortgage, the Financing Agreement, the Regulatory Agreement, the Credit Enhancement Agreement, the Freddie Mac Reimbursement Agreement, the Reimbursement Mortgage, the Intercreditor Agreement (as such capitalized terms are defined in the Indenture) and any and all other instruments documenting, evidencing, securing or otherwise relating to the Bond Mortgage Loan.

"Bond Mortgage Note" means the Bond Mortgage Note, including applicable addenda, to be executed by the Borrower in favor of the Issuer, evidencing the Borrower's financial obligations under the Bond Mortgage Loan, and to be endorsed by the Issuer, without recourse, to the order of the Trustee, as the same may be amended, modified, supplemented or restated from time to time.

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"Financing Agreement" means the Financing Agreement, dated as of November 1, 2009, among the Borrower, the Issuer and the Trustee, as such Financing Agreement may from time to time be amended or supplemented.

"Freddie Mac" means the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise organized and existing under the laws of the United States.

"Indenture" means the Trust Indenture, dated as of November 1, 2009, between the Issuer and the Trustee, pursuant to which the Bonds are issued, as amended, modified, supplemented or restated from time to time.

"Servicer" means Citibank, N.A., or a successor Servicer selected by Freddie Mac.

2. Applicability. The provisions of this Rider shall be effective on and after the Conversion Date (as defined in the Indenture) and shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. Indemnification. Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in the Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither Freddie Mac nor any successor in interest to Freddie Mac will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to Freddie Mac, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan. The Borrower shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to Freddie Mac. Freddie Mac shall indemnify the Issuer following acquisition of the Project by Freddie Mac, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan, during, and only during, any ensuing period that Freddie Mac owns and/or operates the Project, provided that Freddie Mac's liability shall be strictly limited to acts and omissions of Freddie Mac occurring during the period of ownership and/or operation of the Project by Freddie Mac. The Borrower shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to Freddie Mac.

4. Sale or Transfer. Restrictions on sale or transfer of the Project or of any interest in the Borrower, Issuer and/or Trustee consents, transferee 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 Freddie Mac or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Bond Mortgage Loan or to any subsequent transfer by Freddie Mac following foreclosure, deed-in-lieu of foreclosure or

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comparable conversion of the Bond Mortgage Loan, except for those requirements in clauses (A), (B) and (C) of the first sentence of Section 12 of the Regulatory Agreement shall apply to any subsequent transfer by Freddie Mac of the Project. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Bond Mortgage or any of the other Bond Mortgage Loan Documents which requires the Borrower to obtain the consent of Freddie Mac 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 the Borrower, excluding transfers permitted by the Bond Mortgage. No covenant obligating the Borrower to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to Freddie Mac upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan by Freddie Mac. Any written consent to a sale or transfer obtained from the Issuer must be deemed to constitute conclusive evidence that the sale or transfer is not a violation of the transfer provisions.

5. Enforcement. Notwithstanding anything contained in the Regulatory Agreement or the Indenture to the contrary:

(i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Bond Mortgage Loan Documents, except as may be otherwise specified in the Bond Mortgage Loan Documents;

(ii) neither the Issuer nor the Trustee may, upon the occurrence of an event of default under the Regulatory Agreement, seek, in any manner, to (a) cause or direct acceleration of the Bond Mortgage Loan, (b) enforce the Bond Mortgage Note, (c) foreclose on the Bond Mortgage, (d) cause the Trustee to redeem the Bonds or to declare the principal of the Bonds and the interest accrued on the Bonds to be immediately due and payable or (e) cause the Trustee to take any other action under any of the Bond Mortgage Loan Documents, any of the Bond Financing Documents or any other documents which action would or could have the effect of achieving any one or more of the actions, events or results described in the preceding clauses (a) through (d); and

(iii) the occurrence of an event of default under this Regulatory Agreement shall not impair, defeat or render invalid the lien of the Bond Mortgage.

No person other than Freddie Mac shall have the right to (a) declare the principal balance of the Bond Mortgage Note to be immediately due and payable or (b) commence foreclosure or other like action with respect to the Bond Mortgage. The Issuer and the Trustee acknowledge the foregoing limitations.

The foregoing prohibitions and limitations are not intended to limit the rights of the Issuer or the Trustee to specifically enforce the Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of

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the Internal Revenue Code and State law. Accordingly, upon any default by the Borrower, the Issuer or the Trustee may seek specific performance of the Regulatory Agreement or enjoin acts which may be in violation of the Regulatory Agreement or unlawful, but neither the Issuer nor the Trustee may seek any form of monetary recovery from the Borrower, although the Issuer may seek to enforce a claim for indemnification, provided that no obligation of the Borrower under the Regulatory Agreement, including, without limitation, any indemnification obligation, any other obligation for the payment of money, any claim and any judgment for monetary damages against the Borrower, occasioned by breach or alleged breach by the Borrower of its obligations under the Regulatory Agreement or otherwise, shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Issuer, the Trustee or any other person, and all such obligations shall be, and by this Rider are, subordinate in priority, in right to payment and in all other respects to the obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Bond Mortgage Loan Documents. Accordingly, neither the Issuer nor the Trustee shall have the right to enforce any monetary obligation other than directly against the Borrower, without recourse to the Project. In addition, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

The obligations of any owner under the Regulatory Agreement shall be personal to the person who was the owner at the time that an event, including, without limitation, any default or breach of the Regulatory Agreement, occurred or was alleged to have occurred, and such person shall remain liable for any and all such obligations, including damages occasioned by a default or breach, even after such person ceases to be the owner of the Project. Accordingly, no subsequent owner of the Project shall be liable or obligated for the obligation of any prior owner (including the owner), including, but not limited to, any obligation for payment, indemnification or damages, for default or breach of the Regulatory Agreement or otherwise. The owner of the Project at the time the obligation was incurred, including any obligation arising out of a default or breach of the Regulatory Agreement, shall remain liable for any and all payments and damages occasioned by the owner even after such person ceases to be the owner of the Project, and no person seeking such payments or damages shall have recourse against the Project.

Under no circumstances shall the Issuer or the Trustee:

(i) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Bond Mortgage Loan;

(ii) interfere with or attempt to influence the exercise by Freddie Mac of any of its rights under the Bond Mortgage Loan, including, without limitation, Freddie Mac's remedial rights under the Bond Mortgage Loan Documents upon the occurrence of an event of default by the Borrower under the Bond Mortgage Loan; or

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(iii) upon the occurrence of an event of default under the Bond Mortgage Loan, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Bond Mortgage Loan.

6. Notice of Violations. Promptly upon determining that a violation of the Regulatory Agreement has occurred, the Issuer or the Trustee shall, by notice in writing to the Borrower, the Servicer and Freddie Mac, inform the Borrower, the Servicer and Freddie Mac that such violation has occurred, the nature of the violation and that the violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such violation, neither the Issuer nor the Trustee shall have, and each of them acknowledge that they shall not have, any right to cause or direct acceleration of the Bond Mortgage Loan, to enforce the Bond Mortgage Note or to foreclose on the Bond Mortgage.

7. Amendments. The Regulatory Agreement shall not be amended without the prior written consent of Freddie Mac.

8. Fees; Penalties. Freddie Mac shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Borrower or any subsequent owner of the Project prior to the date of acquisition of the Project by Freddie Mac, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Bond Mortgage Loan.

9. Subordination. The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections 2, 3, 4, 5, 6, 7(b) through (l) and 8, are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Bond Mortgage Loan Documents.

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 Freddie Mac and are entered into for the benefit of various parties, including Freddie Mac. Freddie Mac shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Issuer and/or the Trustee, or to cause the Issuer or the Trustee to enforce, the terms of the Regulatory Agreement. In addition, Freddie Mac is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

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

Citibank, N.A.
c/o Capmark Finance Inc.
116 Welsh Road
P. O. Box 809
Horsham, Pennsylvania 19044
Attention: Servicing-Account Manager
Telephone: 215-328-3866
Facsimile: 215-328-3478

Any notice to be given to Freddie Mac shall be sent to Freddie Mac at the address set forth below or to such other address as Freddie Mac may from time to time designate:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, Mail Stop B4Q
McLean, VA 22102
Attention: Director of Multifamily Loan Accounting
Telephone: 571-382-4798
Facsimile: 703-714-4177

with a copy to:

Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive
McLean, VA 22102
Attention: Managing Associate General Counsel-Multifamily
Legal Division
Telephone: (703) 903-2000
Facsimile: (703) 903-2885

with a copy to:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, Mail Stop B4F
McLean, VA 22102
Attention: Director of Multifamily Loan Servicing
Telephone: (703) 903-2000
Facsimile: (703) 714-3003

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