

RECORDING REQUESTED BY
THE CITY OF SAN JOSE

WHEN RECORDED RETURN TO:
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Attention: Justin S. Cooper

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

By and Between

CITY OF SAN JOSE

and

ALUM ROCK, L.P.

Dated as of May 1, 2023

Relating to:

CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE NOTE
(1860 ALUM ROCK APARTMENTS)
SERIES 2023A-1 (TAX-EXEMPT)

And

CITY OF SAN JOSE
MULTIFAMILY HOUSING REVENUE NOTE
(1860 ALUM ROCK APARTMENTS)
SERIES 2023A-2 (TAXABLE)

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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 May 1, 2023, by and between 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 “**Governmental Lender**”), and ALUM ROCK, L.P., a California limited partnership duly organized, validly existing and in good standing under the laws of the State of California (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the “**Owner**”).

W I T N E S S E T H:

WHEREAS, pursuant to Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended (the “**Act**”), and the Funding Loan Agreement, the Governmental Lender proposes to execute and deliver its City of San José Multifamily Housing Revenue Note (1860 Alum Rock Apartments) Series 2023A-1 (Tax-Exempt), in the original aggregate face amount (maximum principal amount) of \$[29,468,877] (the “**Tax-Exempt Note**”) and its City of San José Multifamily Housing Revenue Note (1860 Alum Rock Apartments) Series 2023A-2 (Taxable), in the original aggregate face amount (maximum principal amount) of \$[2,502,522] (the “**Taxable Note**” and together with the Tax-Exempt Note, the “**Notes**”);

WHEREAS, the Notes will be executed and delivered pursuant to a Funding Loan Agreement, dated as of May 1, 2023 (as amended and supplemented from time to time, the “**Funding Loan Agreement**”), among the Governmental Lender, Citibank, N.A., a national banking association, as funding lender (together with any successor to its rights, duties and obligations, the “**Funding Lender**” or “**Lender**” as defined herein) and U.S. Bank Trust Company, National Association, a national banking association, as fiscal agent (the “**Fiscal Agent**”);

WHEREAS, the proceeds of the Notes will be used to fund a loan (the “**Borrower Loan**” or the “**Loan**” as defined herein) as defined in the Funding Loan Agreement to the Owner pursuant to a Borrower Loan Agreement, dated as of May 1, 2023 (as amended and supplemented from time to time, the “**Borrower Loan Agreement**” or the “**Loan Agreement**” as defined herein), among the Governmental Lender and the Owner, to finance the acquisition and construction of a 60-unit (including one manager’s unit) multifamily rental development to be generally known as 1860 Alum Rock Apartments, located on the real property site described in Exhibit A hereto, subject to the Ground Lease (as more particularly defined herein, the “**Project**”);

WHEREAS, to assure the Governmental Lender and the Noteowners of the Tax-Exempt Note that interest in respect of the Tax-Exempt Note will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “**Code**”), and to satisfy the public purposes for which the Notes are authorized to be executed and delivered under the Act, and to satisfy the purposes of the Governmental Lender in determining to execute and deliver the Notes, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met;

NOW, THEREFORE, in consideration of the execution and delivery of the Notes and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Governmental Lender and the Owner 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 the Funding Loan Agreement and the Borrower Loan Agreement.

“Administrator” means the Governmental Lender or any administrator or program monitor appointed by the Governmental Lender to administer this Regulatory Agreement, and any successor so appointed.

“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 Delivery Date.

“Annual Governmental Lender Fee” has the meaning given such term in Section 7(a) of this Regulatory Agreement.

“Area” means the San José Primary Metropolitan Statistical Area.

“Available Units” means residential units in the Project that are actually occupied and residential units in the Project that are vacant and have been occupied at least once after becoming available for occupancy, provided that (a) a residential unit that is vacant on the later of (i) the date the Project is acquired or (ii) the issue date of the Notes (i.e., the Delivery Date) is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

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

“CDLAC Conditions” has the meaning given such term in Section 29(a).

“CDLAC Resolution” means CDLAC Resolution No. 22-273 relating to the Project, attached hereto as Exhibit D, adopted by CDLAC on November 30, 2022, and as such resolution may be further modified or amended from time to time, including as amended by the letter dated [____], 2023.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Owner with the Governmental Lender and the Administrator (if other than the Governmental Lender) 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 Governmental Lender to the Owner.

“Conversion Date” shall have the meaning given such definition in the Loan Agreement.

“County” means the County of Santa Clara, California.

“Deed of Trust” means the “Security Instrument” as defined in the Loan Agreement, or any deed of trust (or similar security instrument) containing a power of sale clause reflecting a valid, perfected first priority lien on the fee or the leasehold interest in the Project delivered by the Owner to secure the Owner’s obligations to a third-party lender.

“Delivery Date” means the date the Notes are executed and delivered to the initial purchaser thereof, which is expected to be on or about May [], 2023.

“Ground Lease” means that certain Ground Lease, dated as of May [1], 2023 between the Ground Lessor, as lessor, and the Owner, as lessee, pursuant to which the Owner holds a leasehold estate in the real property site described in Exhibit A hereto.

“Ground Lessor” means the County or any successor thereto as lessor under the Ground Lease.

“HAP Contract” means any “Housing Assistance Payments Basic Renewal Contract Multi-Year Term” or similar relating to the Project.

“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 Governmental Lender to the Owner.

“Investor Limited Partner” means Hudson Alum Rock LP, a Delaware limited partnership, as investor limited partner, and Hudson SLP LLC, a Delaware limited liability company, as special limited partner, and their lawful successors and assigns.

“Loan Agreement” means the “Borrower Loan Agreement” as defined in the Funding Loan Agreement as the same may be modified, amended or supplemented from time to time.

“Lender” means the Funding Lender and its successors, including any subsequent holder or beneficiary of the Deed of Trust.

“Loan” means the “Borrower Loan” as defined in the Borrower Loan Agreement.

“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 the qualifying limits for low income families as established and amended from time to time pursuant to Section 8 of the Housing Act. 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 Owner 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 60-unit (including one manager’s unit) multifamily rental housing development to be known as 1860 Alum Rock Apartments, to be located in the City, on the real property site described in Exhibit A hereto, subject to the Ground Lease, and consisting of those facilities, including leased real property, structures, buildings, fixtures or equipment situated thereon, as may at any time exist, the development of which facilities is to be financed, in whole or in part, from the proceeds of the sale of the Notes or the proceeds of any payment by the Owner pursuant to the Loan Agreement, 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 described in the Loan Agreement. Proceeds of the Tax-Exempt Note will not be used to finance any commercial or retail space in respect of the Project, or any parking or storage facilities not dedicated exclusively for use by residential tenants, and therefore such space is not included in the definition of the term “Project.”

“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 that 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 extend 55 years from the Delivery Date, or such later date as required by the CDLAC Conditions.

“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 and Declaration of Restrictive Covenants, as it may be supplemented or amended from time to time.

“State” means the State of California.

“Tax Counsel” means Orrick, Herrington & Sutcliffe LLP, or any other attorney or firm of attorneys designated by the Governmental Lender as bond or tax counsel in respect of the Notes or this Regulatory Agreement.

“Tax-Exempt” means with respect to interest on any obligations of a state or local government, including the Tax-Exempt Note, 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, or environmental 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 Governmental Lender to the Owner.

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 Owner.

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

(b) The Owner hereby represents and warrants to the Governmental Lender that the Project is located entirely within the City of San José, California.

(c) The Owner acknowledges, represents and warrants to the Governmental Lender that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Notes to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to execute and deliver the Notes in order to provide funds to assist the Owner in acquiring and constructing the Project.

(d) The Owner hereby acknowledges that the Project is encumbered by the HAP Contract, and hereby warrants and covenants to comply with all of the terms and restrictions of the HAP Contract during the period such terms and restrictions apply to the Project. Notwithstanding the foregoing, any termination or cancellation of the HAP Contract by HUD or any failure of HUD to make rental assistance payments under the HAP Contract for reasons outside of the reasonable control of the Owner shall not constitute a breach of this Regulatory Agreement.

Section 3. Qualified Residential Rental Project. The Owner hereby acknowledges and agrees with the Governmental Lender 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 Owner hereby represents, covenants, warrants and agrees with the Governmental Lender as follows:

(a) The Project will be acquired, constructed and operated for the purpose of providing multifamily residential rental property. The Owner will own, manage and operate the 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 (except for not more than one unit set aside for a resident manager or other administrative use) in the Project will be similarly constructed units, and each dwelling unit in the Project will contain complete and 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 (and the parties hereto specifically acknowledge that a tenant's periodic hosting of tenant's personal guests in such tenant's leased unit is not "transient" for this purpose) 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.

(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 Owner take any steps in connection with a conversion to such ownership or use, and the Owner shall not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period.

(e) All of the Available Units in the Project (except for not more than one unit set aside for a resident manager or other administrative use) will be available for rental during the period beginning on the Delivery Date and ending on the termination of the Qualified Project Period on a continuous, "first-come, first-served" basis to members of the general public; except as permitted by applicable law, including Section 1.103-8(a)(2) of the Regulations, and the Owner will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or rented in such a manner that they constitute Low Income Units.

(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 Owner; however, if the Project contains five (5) or more dwelling units, this provision shall not be construed to prohibit occupancy of not more than one dwelling unit by a resident manager or maintenance personnel any of whom may be the Owner.

(h) The Owner shall deliver to the Administrator and the Lender, (i) within 30 days after the date on which 10% of the dwelling units in the Project are occupied, a written notice specifying such date, and (ii) within 30 days after the date on which 50% of the dwelling units in the Project are occupied, a written notice specifying such date.

Section 4. Low Income Tenants; Reporting Requirements. Pursuant to the requirements of the Code, the Owner hereby represents, warrants and covenants with the Governmental Lender 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, the aggregate Adjusted Income of all tenants in the unit occupied by such Low Income Tenant increases to exceed the qualifying limit for a Low Income Unit. However, should the aggregate Adjusted Income of tenants in a Low Income Unit, as

of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for a Low Income Unit occupied by the same number of tenants, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) Low Income Tenant(s). The unit occupied by such tenants whose aggregate Adjusted Income exceeds such applicable income limit shall continue to be treated as a Low Income Unit for purposes of the 40% requirement of Section 4(a) hereof unless and until an Available Unit of comparable or smaller size is rented to persons other than Low Income Tenants.

(c) For the Qualified Project Period, the Owner 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 Owner will provide such additional information as may be required in the future by the Code, the State or the Governmental Lender, 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 Governmental Lender pursuant to paragraph (f) of this Section 4.

(d) The Owner 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 Governmental Lender.

(e) The Owner will maintain complete and accurate records pertaining to the Low Income Units, and will permit any duly authorized representative of the Governmental Lender, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Owner pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(f) The Owner will prepare and submit to the Governmental Lender and the Administrator (if other than the Governmental Lender), at the end of each calendar quarter until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Owner. On or before each February 1 during the Qualified Project Period, the Owner will submit to the Governmental Lender 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 in respect of the Project, but before the end of the Qualified Project Period, the Owner may submit to the Governmental Lender (in the same manner specified above) such other annual certification as the Governmental Lender may reasonably require.

(g) For the Qualified Project Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement and the Deed of Trust. 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 Owner, the Governmental Lender or the Administrator on behalf of the Governmental Lender, 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 Owner 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 unit's rent may be subject to increase.

(h) For purposes of this Section 4, no unit occupied by a residential manager shall be treated as a rental unit during the time of such occupation.

Section 5. Tax-Exempt Status of the Tax-Exempt Note.

(a) The Owner and the Governmental Lender 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 Tax-Exempt Note 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 Owner and the Governmental Lender will file of record such documents and take such other steps as are necessary, in the written opinion of Tax Counsel filed with the Governmental Lender, to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

(c) Except as set forth in Section 13 hereof, the covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Owner.

(d) This Regulatory Agreement shall be recorded in the office of the County recorder, and shall be recorded in the grantor-grantee index under the name of the Owner as grantor and under the name of the Governmental Lender as grantee.

Section 6. Additional Requirements of the Act. The Owner hereby further agrees 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 Owner 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 Owner 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 Owner 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, prepayment and redemption of the Notes, 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 Owner 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 Governmental Lender. In addition to the requirements set forth above and to the extent not prohibited thereby, the Owner hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 7 (and acknowledges that non-compliance with the provisions of this Section 7 could adversely affect the ability of the Governmental Lender to issue housing bonds), as follows:

(a) The Owner shall pay or cause to be paid to the Governmental Lender on the Delivery Date, the "Initial Governmental Lender Fee" in an amount equal to \$[Initial Governmental Lender Fee]; and thereafter, without demand or notice, the Owner shall pay or cause to be paid to the Governmental Lender (or other Administrator designated in writing by the Governmental Lender) an annual monitoring fee (the "Annual Governmental Lender Fee"). The Annual Governmental Lender Fee shall be in an amount equal to 0.125% per annum of the aggregate face amount (maximum principal amount) of the Tax-Exempt Note; provided, however, that, following the Conversion Date, such Annual Governmental Lender Fee shall be 0.125% of the aggregate principal amount of the Tax-Exempt Note not otherwise repaid on or before the Conversion Date, subject to a minimum annual fee of \$7,500. The Annual Governmental Lender Fee shall be payable annually, in advance, commencing on the Delivery Date and on each [May] 1 thereafter. Prior to each such payment due date, the Owner shall provide to the Governmental Lender a written calculation of such Annual Governmental Lender Fee. The Annual Governmental Lender Fee shall be paid on parity with debt service on the Notes, and during the term of this Regulatory Agreement, the Owner shall not otherwise restrict contractually its obligation hereunder to pay the Annual Governmental Lender Fee.

(b) Under no circumstances shall the Annual Governmental Lender Fee exceed any limitation under Section 148 of the Code. In the event that the Notes are paid in full and the Funding Loan Agreement discharged prior to the termination of this Regulatory Agreement (other than by reason of the issuance of refunding bonds), the Governmental Lender may, at its option, require the prepayment of the Annual Governmental Lender Fee (a "Fee Prepayment") at such time as the Notes are paid in full and the Funding Loan Agreement is discharged; provided, however, that the Governmental Lender shall not require a Fee Prepayment in the event any such repayment of the Notes

involves a repayment of the Tax-Exempt Note financed with the proceeds of Tax-exempt private activity refunding bonds or notes (i.e., no new CDLAC allocation is required and no re-syndication is simultaneously occurring) issued by the Governmental Lender pursuant to which the Governmental Lender receives a new annual Governmental Lender fee for the duration of the Qualified Project Period in an annual amount acceptable to the Governmental Lender in its sole discretion. The amount due upon a Fee Prepayment will be a lump sum amount calculated by the Governmental Lender as the present value of the Annual Governmental Lender Fees due from the date of the Fee Prepayment through the end of the Qualified Project Period (the “Forgone Fees”), using a discount rate equal to the most recent Local Agency Investment Fund (LAIF) Quarterly Apportionment Rate published by the Office of the California State Treasurer. For clarity and consistency, the Forgone Fees will be calculated assuming that there are no changes to the definition of Qualified Project Period.

Notwithstanding the foregoing paragraph, the Governmental Lender will, in the event the Governmental Lender issues new Tax-exempt private activity bonds in connection with a re-syndication of the Project, consider the financial impacts of a Fee Prepayment in establishing the annual fees for the re-syndicated transaction (taking into consideration the fee discounts previously given by the Governmental Lender at the time of issuance of the Notes), and may, in its sole and absolute discretion, waive any or all of the Fee Prepayment. For the avoidance of doubt, this paragraph is not applicable when the Governmental Lender is not the issuer of bonds in connection with a re-syndication of the Project.

(c) 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 Owner and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Governmental Lender (including the Administrator).

(d) The Owner shall submit to the Governmental Lender, within fifteen (15) days after receipt of a request therefor, any information, records or completed forms reasonably requested by the Governmental Lender, including, but not limited to, information relating to the occupancy of the Project, grant applications, or information necessary to comply with reporting requirements of the Internal Revenue Service or the State. This includes but is not limited to, a rent roll on the Governmental Lender’s form as well as certifications and other information to demonstrate the Owner’s compliance with Exhibit A of the CDLAC Resolution to the Governmental Lender’s reasonable satisfaction.

(e) The Owner shall not discriminate on the basis of race, creed, color, religion, sex, 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. Further, the Owner shall not permit occupancy in any unit in the Project by more persons than is permissible under the Section 8 household size standards.

(f) The Owner acknowledges that the Governmental Lender may appoint an Administrator other than the Governmental Lender to administer this Regulatory Agreement and to monitor performance by the Owner of the terms, provisions and requirements hereof. In such event, the Owner shall comply with any reasonable request by the Governmental Lender to deliver to any such Administrator, in addition to or instead of the Governmental Lender, 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 Governmental Lender.

(g) To the extent permitted by law, the Owner will make the units reserved pursuant to Section 4(a) and Section 6(a) available on a priority basis to households comprised of persons whom (i) the

Governmental Lender has informed the Owner have been displaced by the Governmental Lender or its political subdivisions from other developments located within the City of San José or (ii) are currently living or working in the City of San José or who can demonstrate they previously resided in the City of San José. The Owner shall not discriminate against tenant applicants on the basis of source of income (*i.e.*, TANF or SSI), and the Owner 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 Owner 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.

(h) 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.

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

(j) The Owner agrees to maintain the Project, or cause the Project to be maintained, during the term of this Regulatory Agreement (i) in a safe condition and (ii) in good repair and 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 in substantially the same condition at all times as it was on completion of construction using Loan proceeds.

(k) The Owner will pay the Governmental Lender all of the amounts required by the Loan Agreement, and will indemnify the Governmental Lender as provided in the Loan Agreement.

(l) The requirements of this Section 7 of this Regulatory Agreement shall be in effect for the term of this Regulatory Agreement; provided that any requirements of Section 7 of this Regulatory Agreement may be expressly waived by the Governmental Lender, at its sole discretion, in writing, but (i) no waiver by the Governmental Lender 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 Governmental Lender has received an opinion of Tax Counsel to the effect 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 Tax-Exempt Note for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Governmental Lender and the Owner receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Tax-Exempt Note 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 applicable State or federal law.

(m) The Owner shall deliver to the Governmental Lender, at least 30 days prior to the Conversion Date, information reasonably requested by the Governmental Lender as reasonably necessary for the Governmental Lender to perform its administrative obligations under the CDLAC Resolution, including, but not limited to, final source and uses for the Project, the final rent and income information on the forms provided by the Governmental Lender, any changes to the ownership structure of the Owner and asset management and property management contracts.

Section 8. Modification of Covenants. The Owner and the Governmental Lender hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the Governmental Lender and the Owner, 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 and/or compliance therewith is necessary to maintain the validity of, or Tax-Exempt status of interest on the Tax-Exempt Note, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) To the extent that the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Tax Counsel filed with the Governmental Lender and the Owner, 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 Governmental Lender, at its sole and absolute discretion, and the Owner, and only upon receipt by the Governmental Lender of the written opinion of Tax Counsel to the effect that such amendment will not adversely affect the Tax-Exempt status of interest on the Tax-Exempt Note or violate the requirements of the Act, and otherwise in accordance with Section 22 hereof.

(c) The Owner and the Governmental Lender shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8.

Section 9. Indemnification; Other Payments.

To the fullest extent permitted by law, the Owner agrees to indemnify, hold harmless and defend the Governmental Lender and each of its officers, governing members, directors, officials, employees, attorneys and agents (collectively, the “Indemnified Parties”), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts not paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under or any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) the Notes, the Funding Loan Agreement, the Loan Agreement, the Regulatory Agreement or the Tax Certificate or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the execution, delivery, sale or resale of the Notes;

(ii) any act or omission of the Owner or any of its agents, contractors, servants, employees or licensees in connection with the Project, the operation of the Project, or the condition, environmental or otherwise occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or any part thereof;

(iii) any lien or charge upon payments by the Owner to the Governmental Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Governmental Lender in respect of any portion of the Project (other than income and similar taxes on fees received or earned in connection therewith);

(iv) any violation of any environmental laws or regulations with respect to, or the release of any hazardous substances from, the Project or any part thereof;

(v) the prepayment, defeasance and/or redemption, in whole or in part, of the Notes;

(vi) any untrue statement or misleading statement or alleged untrue statement of a material fact contained in any offering statement or disclosure or continuing disclosure document for the Notes or any of the documents relating to the Notes, or any omission or alleged omission from any offering statement or disclosure or continuing disclosure document for the Notes of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; or

(vii) any Determination of Taxability;

except in the case of the foregoing indemnification of the Governmental Lender or any of its officers, members directors, officials, employees, attorneys and agents, to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that such any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Owner, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Owner shall pay the reasonable fees and expenses of such separate counsel; provided, however that such Indemnified Party may only employ separate counsel at the expense of the Owner if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

In addition thereto, the Owner will pay upon demand all of the fees and expenses paid or incurred by the Governmental Lender in enforcing the provisions of this Regulatory Agreement.

The provisions of this Section 9 shall survive the term of the Notes and this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Governmental Lender, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

The Governmental Lender agrees that no owner of the Project subsequent to the Owner will be liable for, assume or take title to the Project subject to:

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

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

The Owner and each subsequent owner of the Project shall be responsible under this Regulatory Agreement for its own acts and omissions occurring during the period of its ownership of the

Project. All such liability and obligations shall be and remain personal to such person even after such person ceases to be the owner of the Project.

Inasmuch as the covenants, reservations and restrictions of this Regulatory Agreement run with the land, the indemnification obligations of the Owner contained in this Regulatory Agreement will be deemed applicable to any successor in interest to the Owner.

Section 10. Consideration. The Governmental Lender has agreed to execute and deliver the Notes to provide funds to lend to the Owner to finance the Project, all for the purpose, among others, of inducing the Owner to acquire, construct and operate the Project. In consideration of the execution and delivery of the Notes by the Governmental Lender, the Owner 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 Governmental Lender and the Owner 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 Notes, in the exemption from California personal income taxation of interest on the Notes and in the Tax-Exempt status of the interest on the Tax-Exempt Note. In performing their duties and obligations hereunder, the Governmental Lender and the Administrator may rely upon statements and certificates of the Low Income Tenants, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the Governmental Lender 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 Governmental Lender hereunder in good faith and in conformity with such opinion.

Section 12. Sale or Transfer of the Project. For the Qualified Project Period, the Owner shall not, except for a conveyance of the Project to Charities Housing Development Corporation of Santa Clara County or another 501(c)(3) affiliate of the Owner's general partner in accordance with the purchase option or right of first refusal and 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 Governmental Lender, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied: (A) the Governmental Lender shall have received evidence, reasonably acceptable to the Governmental Lender, that (1) the Owner shall not be in default hereunder or under the Loan Agreement (which may be evidenced by a Certificate of Continuing Program Compliance) or the purchaser or assignee undertakes to cure any defaults of the Owner to the reasonable satisfaction of the Governmental Lender; (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 Owner or its management company or another management company reasonably acceptable to the Governmental Lender 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 property 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 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 Governmental Lender with respect to the assumption of the Owner's obligations under this Regulatory Agreement and, if the Notes are outstanding at the time of transfer, the Loan Agreement, including without limitation an

instrument of assumption hereof and thereof, and delivery to the Governmental Lender 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 Governmental Lender of an opinion of Tax Counsel to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Tax-Exempt Note; (D) receipt by the Governmental Lender of all fees and/or expenses then currently due and payable to the Governmental Lender; and (E) receipt by the Governmental Lender of evidence of satisfaction of compliance with the provisions of Section 29(d)(i) related to notice to CDLAC of transfer of the Project.

It is hereby expressly stipulated and agreed that any transfer of the Project in violation of this Section 12 shall be null, void and without effect, shall cause a reversion of title to the Owner, and shall be ineffective to relieve the Owner of its obligations under this Regulatory Agreement. The written consent of the Governmental Lender 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 Owner 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 Owner, shall be subject to the provisions of this Section 12, except as provided immediately below.

Interests in the Owner may not be transferred without the prior written consent of the Governmental Lender, except as follows:

- (a) transfers of the respective interests of the Owner's partners to any entity which is either (a) an affiliate of either limited partner or the General Partner or (b) which is controlled by the Investor Limited Partner, the General Partner or any affiliate thereof;
- (b) transfers of interests within the Owner's limited partners;
- (c) the pledge and encumbrance of the interests of Owner's limited partners to or for the benefit of any financial institution which enables the limited partners to make capital contributions to the Owner;
- (d) the removal, or withdrawal, of a general partner of the Owner by a limited partner for cause and the replacement thereof with an affiliate of the Investor Limited Partner, subject to the prior written consent of the Governmental Lender, which shall not be unreasonably withheld; or
- (e) a transfer to Charities Housing Development Corporation of Santa Clara County or another 501(c)(3) affiliate of the Owner's general partner in accordance with a purchase option or right of first refusal.

The Owner acknowledges that there is a possibility of some or all of the Tax-Exempt Note being "re-issued" 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 Tax-Exempt Note will cause the interest paid on the reissued or refunding notes and bonds not to be excluded from gross income for federal tax purposes.

Restrictions on sale or transfer of the Project or of any interest in the Owner, consents of the Governmental Lender, transfer agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Loan or to any

subsequent transfer following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Loan. No transfer of the Project shall operate to release the Owner from its obligations under this Regulatory Agreement.

For the Qualified Project Period, the Owner shall not: (1) 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 pursuant or subordinate to the provisions of this Regulatory Agreement, and upon receipt by the Governmental Lender of an opinion of Tax Counsel to the effect that such action will not adversely affect the Tax-Exempt status of interest on the Tax-Exempt Note, or except upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement; (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 Notes and discharge of the Funding Loan Agreement and the Loan Agreement.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements of 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 Delivery Date, which prevents the Governmental Lender 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), or a similar event, but only if, in the case of either (i) or (ii), within a reasonable period, either the Notes 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 or the delivery of a deed in lieu of foreclosure or a similar event, the Owner 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 Owner hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Owner 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 Governmental Lender and the Owner, with the consent of CDLAC, upon receipt by the Governmental Lender of an opinion of Tax Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Tax-Exempt Note 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.

Section 14. Covenants to Run with the Land. Notwithstanding Section 1461 of the California Civil Code, the Owner hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner'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 Governmental Lender and the Owner hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Owner's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Owner 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 Notes were executed and delivered.

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 Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after written notice thereof shall have been given by the Governmental Lender to the Owner, or for a period of 60 days from the date the Owner should, with reasonable diligence, have discovered such default, then the Governmental Lender 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 Owner institutes corrective action within said 60 days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Tax Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-Exempt status of interest on the Tax-Exempt Note. The Governmental Lender shall have the right to enforce the obligations of the Owner under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary to ensure compliance with the Act or the Code.

(b) Following the declaration of an Event of Default hereunder, the Governmental Lender, subject to the provisions of the Funding Loan Agreement and the Loan 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 Owner 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 Governmental Lender hereunder;

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

(iii) require the Owner to pay to the Governmental Lender, an amount equal to the excess rent or other amounts received by the Owner 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 Loan);

(iv) with the consent of the Lender, declare a default under the Loan 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 Owner hereunder.

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

The Governmental Lender hereby agrees that any cure of any Event of Default validly made or tendered by any partner of the Owner shall be, to the greatest extent possible, accepted or rejected on the same basis as if made or tendered by the Owner.

(c) All reasonable fees, costs and expenses of the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Owner.

The foregoing prohibitions and limitations are not intended to limit the rights of the Governmental Lender to specifically enforce this Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Code and State law. Accordingly, upon any default by the Owner, the Governmental Lender may seek specific performance of this Regulatory Agreement or enjoin acts which may be in violation of this Regulatory Agreement or unlawful, but the Governmental Lender may not seek any form of monetary recovery from the Owner, although the Governmental Lender may seek to enforce a claim for indemnification, provided that no obligation of the Owner under this 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 Owner, occasioned by breach or alleged breach by the Owner of its obligations under this 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 Governmental Lender or any other person, and all such obligations shall be, and by this Regulatory Agreement 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 Funding Loan Documents. Accordingly, the Governmental Lender shall not have the right to enforce any monetary obligation other than directly against the Owner, without recourse to the Project. In addition, any such enforcement must not cause the Owner to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Owner 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 this 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 this 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 this 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 this 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.

Subject to the provisions of the Loan Agreement, under no circumstances shall the Governmental Lender:

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

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

Section 18. [Reserved].

Section 19. Recording and Filing.

(a) The Owner 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 Governmental Lender may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

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

(c) The Owner 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 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 Loan or the discharge of the Funding Loan Agreement, the Owner shall continue to pay (or, to the extent allowed under the Code, shall prepay) the Annual Governmental Lender Fee and related expenses as provided in Section 7(a) and Section 9 of this Regulatory Agreement.

Section 21. Governing Law; Venue. This Regulatory Agreement shall be governed by the laws of the State of California. Any legal action arising hereunder shall be instituted and maintained in a court located within the County, unless the Governmental Lender specifically waives this requirement in writing.

Section 22. Amendments; Waivers.

(a) Except as provided in Section 8(a) and Section 29(e) 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 Governmental Lender of an opinion from Tax Counsel substantially to the effect that such amendment will not, in and of itself, adversely affect the Tax-Exempt status of interest on the Tax-Exempt Note and is not contrary to the provisions of the Act.

(b) Anything to the contrary contained herein notwithstanding, the Governmental Lender and the Owner hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of

Tax Counsel, in order that interest on the Tax-Exempt Note remains 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 Tax Counsel and a request that Tax Counsel render to the Governmental Lender an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Tax-Exempt Note. 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. 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 Funding Loan Agreement, or at such other addresses as may be specified in writing by the parties hereto.

The Governmental Lender, the Administrator, CDLAC and the Owner 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.

- If to the Governmental Lender: City of San José
Finance Department
200 East Santa Clara Street, 13th Floor Tower
San José, California 95113-1905
Attention: Debt Management
- With a copy to: City of San José
Department of Housing
200 East Santa Clara Street, 12th Floor Tower
San José, California 95113-1905
Attention: Director of Housing
Fax: (408) 998-3183
- With a copy to: San José City Attorney's Office
200 East Santa Clara Street, 16th Floor Tower
San José, California 95113-1905
Attention: City Attorney
- If to the Owner: Alum Rock, L.P.
c/o Charities Housing Development Corporation
1400 Parkmoor Avenue, Suite 190
San Jose, CA 95126
Attention: Mark Mikl, Executive Director
- With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Lauren Fechter, Esq.
Fax: (415) 781-6967

With a copy to the Investor Limited Partner:

Hudson Alum Rock LP
Hudson SLP LLC
c/o Hudson Housing Capital LLC
630 Fifth Avenue, 28th Floor
New York, New York 10111
Attention: General Counsel

With a copy to:

Holland & Knight LLP
10 St. James Avenue, 12th Floor
Boston, MA 02116
Attention: Dayna M. Hutchins, Esq.

If to CDLAC:

California Debt Limit Allocation Committee
915 Capitol Mall, Room 311
Sacramento, California 95814
Attention: Executive Director

If to the Funding Lender:

Citibank, N.A.
388 Greenwich Street, Trading 4th Floor
New York, New York 10013
Attention: Transaction and Asset Management Group
Re: 1860 Alum Rock Apartments; Deal ID# 50008254
Facsimile: (212) 723-8209

and

Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Management
Re: 1860 Alum Rock Apartments; Deal ID# 50008254
Facsimile: (805) 557-0924

and

Prior to the Conversion Date:

Citibank, N.A.
388 Greenwich Street, Trading 4th Floor
New York, New York 10013
Attention: Account Specialist
Re: 1860 Alum Rock Apartments; Deal ID# 50008254
Facsimile: (212) 723-8209

Following the Conversion Date:

Citibank, N.A.
c/o Berkadia Commercial Servicing Department
323 Norristown Road, Suite 300
Ambler, Pennsylvania 19002
Attention: Client Relations Manager
Re: 1860 Alum Rock Apartments; Deal ID# 50008254
Facsimile: (215) 328-0305

And a copy of any notices of default: Citibank, N.A.
388 Greenwich Street, 17th Floor
New York, New York 10013
Attention: General Counsel's Office
Re: 1860 Alum Rock Apartments; Deal ID# 50008254
Facsimile: (646) 291-5754

A copy of each notice sent to the Owner shall also be sent to the Investor Limited Partner at the address set forth above, but such copies shall not constitute notice to the Owner, nor shall any failure to send such copies or any defect therein constitute a breach of this Regulatory Agreement or a failure of or defect in notice to the Owner.

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 Owner under this Regulatory Agreement to any person or entity, including, but not limited to, the Governmental Lender and its successors and assigns, is limited to the Owner's interest in the Project, including the amounts held in the funds and accounts created under the Funding Loan Agreement, or any rights of the Owner 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 Owner 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 Owner's obligations under this Regulatory Agreement), shall be rendered against the Owner, the assets of the Owner (other than the Owner's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Funding Loan Agreement, any rights of the Owner under the Funding Loan Agreement, the Loan Agreement or any other documents relating to the Notes or any rights of the Owner 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, the Funding Loan Agreement, the Loan Agreement or any agreement securing the obligations of the Owner under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

The obligations of the Owner and any subsequent owner of the Project shall not be secured by or constitute a lien on, or security interest in, the Project.

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 Governmental Lender or the Holders of the Notes.

Section 28. No Limitations on Actions of Governmental Lender in Exercise of Its Governmental Powers. Nothing in this Regulatory Agreement is intended, nor shall it be construed, to in any way limit the actions of the Governmental Lender in the exercise of its governmental powers, as contrasted with any contractual rights or powers. It is the express intention of the parties hereto that the Governmental Lender shall retain the full right and ability to exercise its governmental powers with respect to the Owner and the Project and the transactions contemplated by this Regulatory Agreement to the same extent as if it were not a party to this Regulatory Agreement or the transactions contemplated thereby, and in no event shall the Governmental Lender have any liability in contract arising under this Regulatory Agreement by virtue of any exercise of its governmental powers.

Section 29. Requirements of CDLAC. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 4 through 7 hereof, the Owner hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 29, as follows:

(a) The Owner shall comply with the CDLAC Resolution attached hereto as Exhibit D and the CDLAC Conditions set forth in Exhibit A thereto (collectively, the “CDLAC Conditions”), which conditions are incorporated herein by reference and made a part hereof. The Owner will prepare and submit to the Governmental Lender, not later than February 1 of each year, until the Project is completed, and on February 1 every three years thereafter until the end of the Qualified Project Period, a Certificate of Compliance II for Qualified Residential Rental Projects, in substantially the form required or otherwise provided by CDLAC from time to time, executed by an authorized representative of the Owner. The Certificate of Compliance II for Qualified Residential Rental Projects shall be prepared pursuant to the terms of the CDLAC Conditions. Additionally, the Owner will prepare and submit to the Governmental Lender, a Certificate of Completion, in substantially the form required or otherwise provided by CDLAC from time to time, executed by an authorized representative of the Owner certifying among other things to the substantial completion of the Project. Following the submission of the Certificate of Completion, the Owner will prepare and submit to the Governmental Lender, not later than February 1 every three years thereafter until the end of the Qualified Project Period, a California Tax Credit Allocation Committee Project Status Report or equivalent documentation in substantially the form required or otherwise provided by CDLAC from time to time. Compliance with the terms of the CDLAC Conditions not contained within this Regulatory Agreement, but referred to in the CDLAC Conditions are the responsibility of the Owner to report to the Governmental Lender.

(b) The Owner acknowledges that the Governmental Lender and the Administrator shall monitor the Owner’s compliance with the terms of the CDLAC Conditions. The Owner acknowledges that the Governmental Lender will prepare and submit to CDLAC, not later than March 1 of each year, until the Project is completed, and on March 1 every three years thereafter until the end of the Qualified Project Period, a Self-Certification Certificate in the form provided by CDLAC. The Owner will cooperate fully with the Governmental Lender in connection with such monitoring and reporting requirements.

(c) Except as otherwise provided in Section 13 of this Regulatory Agreement, this Regulatory Agreement shall terminate on the date 55 years after the date on which at least fifty percent (50%) of the units in the Project are first occupied or otherwise after the commencement of the Qualified Project Period.

(d) The Owner shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the Governmental Lender, (iii) any change in the name of the Project or the property manager; (iv) any material default under the Funding Loan Agreement, the Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of the Tax-Exempt Note, and the income and rental requirements as provided in Sections 4 and 6 hereof and the CDLAC Conditions; or (v) termination of this Regulatory Agreement.

(e) CDLAC shall have the right, but not the obligation, to deliver revised CDLAC Conditions to the Owner after the Closing Date, at any time; that are not more restrictive than the original CDLAC Conditions; provided however, that, with the prior written consent of the Lender, which will not be unreasonably withheld: (i) any changes in the terms and conditions of the CDLAC Conditions prior to the recordation against the Project in the real property records of the County of a regulatory agreement between Owner and the California Tax Credit Allocation Committee (“TCAC Regulatory Agreement”) shall be limited to such changes as are necessary to correct any factual errors or to otherwise conform the CDLAC Conditions to any change in facts or circumstances applicable to the Owner or the Project; and (ii) after recordation of the TCAC Regulatory Agreement, any changes in the terms and conditions of the CDLAC Conditions shall be limited to such changes as are necessary to conform Items 1, 6, 7, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 and/or 37 of Exhibit A to the CDLAC Conditions to any change in terms and conditions requested by Owner and approved by CDLAC. The Governmental Lender may, in its sole and absolute discretion, require the Owner enter into an amendment to this Regulatory Agreement reflecting the revised CDLAC Conditions, which amendment shall be executed by the parties hereto or their successor in title and duly recorded in the real property records of the County. The Owner shall pay any costs and expenses in connection therewith and provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Conditions.

(f) Any of the foregoing requirements of CDLAC contained in this Section 29 may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by CDLAC of any requirement of this Section 29 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel that any such provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Tax-Exempt Note for federal income tax purposes; and (ii) any requirement of this Section 29 shall be void and of no force and effect if the Governmental Lender and the Owner receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest in respect of the Tax-Exempt Note 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 30. Limited Liability of Governmental Lender. All obligations of the Governmental Lender hereunder shall be limited obligations, payable solely from proceeds of the Notes and other amounts derived by the Governmental Lender from the Loan or otherwise under the Loan Agreement.

Section 31. Conflict With Other Affordability Agreements. In the event of any conflict between the provisions of this Regulatory Agreement and any agreement in connection with Section 3(e) hereof, the provisions providing for the most affordable units, with the most affordability (e.g., lowest rents), in the Project shall prevail, so long as at all times the requirements of Sections 2, 3, 4, 5, 6 and 7 of this Regulatory Agreement are in any event satisfied. Notwithstanding the foregoing, a breach or default under any agreement in connection with Section 3(e) hereof shall not, in itself, constitute a breach or a default under this Regulatory Agreement.

Section 32. Annual Reporting Covenant. No later than January 31 of each calendar year (commencing January 31, 2024), the Owner, on behalf of the Governmental Lender, agrees to provide to the California Debt and Investment Advisory Commission (“CDIAC”), by any method approved by CDIAC, with a copy to the Governmental Lender, the annual report information required by Section 8855(k)(1) of the California Government Code. This covenant shall remain in effect until the later of the date (i) the Notes are no longer Outstanding or (ii) the proceeds of the Notes have been fully spent.

IN WITNESS WHEREOF, the Governmental Lender and the Owner have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

CITY OF SAN JOSE

By: _____
Richard G. Bruneau
Director of Finance

By: _____
Jacky Morales-Ferrand
Director of Housing

Approved as to form:

S.Shasta Greene
Sr. Deputy City Attorney

[Regulatory Agreement – 1860 Alum Rock Apartments]

ALUM ROCK, L.P.,
a California limited partnership

By: Alum Rock Charities LLC,
a California limited liability company,
its General Partner

By: Charities Housing Development Corporation of Santa Clara County,
a California nonprofit public benefit corporation,
its Sole Member/Manager

By: _____
Mark J. Mikl, Executive Director

[Owner signature page – Regulatory Agreement – 1860 Alum Rock Apartments]

[Attach Notary Acknowledgements]

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

[To come]

EXHIBIT B

FORM OF INCOME CERTIFICATION

VERIFICATION OF INCOME

RE: [Name of Project]
[Address of Project]

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 of Household			
	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;

(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;

(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: \$ _____.

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 notes and 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 notes and bonds, the holders of such notes and 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): \$ _____
- (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)

Owner

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.

OCCUPANCY CERTIFICATE

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

Project: 1860 ALUM ROCK 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 Loan Agreement).

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

Witness

Owner

Date: _____

Date: _____

EXHIBIT C

FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

MULTIFAMILY HOUSING REVENUE BOND PROJECTS

Certificate of Continuing Program Compliance

Reporting Period:	January 1, _____ to December 31, _____
Project Name:	_____
Project Address:	_____
Project Owner:	_____

The undersigned, who is fully authorized to execute this certificate on behalf of the Project Owner, having borrowed certain funds from the City of San José (the “Governmental Lender”) for the purpose of financing construction [OR CHOOSE acquisition and rehabilitation] of the multifamily rental housing development listed above (the “Project”), does hereby certify the following for this reporting period:

1. The Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Governmental Lender;
2. The Project, its units, and its services comply with all requirements set forth in Exhibit A to the CDLAC Resolution No. _____;
3. The Project met its requirement to provide ___ units for Very Low Income residents and ___ units for Low Income residents;
4. The submitted Rent Roll for (date) _____ is accurate to the best knowledge of the Owner, and the Project’s occupancy as of the final day of this compliance period is:

Total Units in Project: _____
Total occupied Extremely Low-Income Units: _____
Total occupied Very Low-Income Units: _____
Total occupied Low-Income Units: _____
Total Units Held Vacant for Low-Income residents: _____

5. That, as set forth below, the income-qualified tenants who commenced or terminated occupancy during the preceding month are as follows:

Commenced Occupancy		Terminated Occupancy	
Unit #	Residents	Unit #	Residents

6. The Project Owner, or an entity acting on its behalf, has completed an annual Tenant Income Certification for each unit and has received sufficient documentation to support that certification, both at the resident’s initial occupancy and on the anniversary of the occupancy;
7. The Owner understands that transfer of ownership, in part or whole, requires Governmental Lender’s prior written consent and the provision of all required documents per the Governmental Lender’s Regulatory Agreement and as requested in annual bond monitoring;
8. No unremediated default has occurred under the Regulatory Agreement or the Loan Agreement. **[OR CHOOSE A default under the Regulatory Agreement or the Loan Agreement has occurred. The nature of the default and the measures being taken to remedy such default are as follows: [DESCRIBE]]**
9. The Project’s current asset management contact information is provided below:

Owner’s Firm:	
Asset management director:	
Title:	
Address:	
Phone:	
Email:	
Asset manager:	
Title:	
Address:	
Phone:	
Email:	

10. The Project’s current property management contact information is provided below:

Property Management Firm:	
Regional property manager:	
Title:	
Address:	
Phone:	
Email:	

Property manager:	
Title:	
Address:	
Phone:	
Email:	

This certification, along with the Rent Rolls and other information submitted, is herewith attested to be true and accurate information to the best of the undersigned's knowledge and belief.

Submitted by (signature):

Name:

Company:

Title:

Date:

EXHIBIT D
CDLAC RESOLUTION
(to be attached)