

**RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:**

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Attention: Paul J. Thimmig, Esq.

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**REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS**

**by and between the**

**COUNTY OF CONTRA COSTA, CALIFORNIA**

**and**

**BAYPOINT FAMILY APARTMENTS, L.P.,  
a California limited partnership**

**dated as of November 1, 2018**

**relating to:**

**\$ \_\_\_\_\_**

**County of Contra Costa, California  
Multifamily Housing Revenue Note  
(Baypoint Family Apartments) Series 2018B-1**

**and**

**\$3,500,000**

**County of Contra Costa, California  
Multifamily Housing Revenue Note  
(Baypoint Family Apartments) Series 2018B-2**

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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"), dated as of November 1, 2018, is by and between the COUNTY OF CONTRA COSTA, CALIFORNIA, a public body, corporate and politic, duly organized and existing under the laws of the State of California (together with any successor to its rights, duties and obligations, the "Governmental Lender"), and BAYPOINT FAMILY APARTMENTS, L.P., a 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 "Borrower").

### **R E C I T A L S :**

WHEREAS, pursuant to Chapter 7 of Part 5 of Division 31 (commencing with Section 34200) of the California Health and Safety Code (the "Act"), the Governmental Lender proposes to enter into a Loan Agreement, dated as of November 1, 2018 (as supplemented and amended from time to time, the "Bank Loan Agreement"), between the Governmental Lender and Pacific Western Bank (the "Bank") pursuant to which the Bank will make a loan to the Governmental Lender (the "Bank Loan"), to be evidenced by a County of Contra Costa, California Multifamily Housing Revenue Note (Baypoint Family Apartments) Series 2018B-1 (the "Governmental Lender Note"); and

WHEREAS, the proceeds of the Bank Loan will be used by the Governmental Lender to fund a loan (the "Borrower Loan") to the Borrower pursuant to a Loan Agreement, dated as of November 1, 2018, between the Governmental Lender and the Borrower (as supplemented and amended from time to time, the "Borrower Loan Agreement"), to provide, in part, financing for the acquisition and construction of the multifamily rental housing project to be known as Baypoint Family Apartments, and to be located on the real property site described in Exhibit A hereto (as further described herein, the "Project"); and

WHEREAS, in order to provide additional financing for the Project and also pursuant to the Act, the Governmental Lender also proposes to enter into a Funding Loan Agreement, dated as of November 1, 2018 (as supplemented and amended from time to time, the "Funding Loan Agreement"), between the Governmental Lender and Baypoint Family Apartments, LLC ("Baypoint") pursuant to which Baypoint will make a loan to the Governmental Lender (the "Baypoint Loan"), to be evidenced by a County of Contra Costa, California Multifamily Housing Revenue Note (Baypoint Family Apartments) Series 2018B-2 (the "Funding Loan Note" and, together with the Governmental Lender Note, the "Governmental Lender Obligations"); and

WHEREAS, the proceeds of the Baypoint Loan will be used to fund a loan to the Borrower (the "Subordinate Borrower Loan") pursuant to the terms of the Loan Agreement, dated November 1, 2018 (as supplemented and amended from time to time, the "Subordinate Borrower Loan Agreement"), between the Governmental Lender and the Borrower, in order to provide the Borrower with a credit against the purchase price by the Borrower of the Project site; and

WHEREAS, in order to assure the Governmental Lender, the Bank and Baypoint that interest on the Governmental Obligations 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 Bank Loan and the Baypoint Loan are authorized to be incurred under the Act, and to satisfy the purposes of the Governmental Lender in determining to incur the Bank Loan and the Baypoint Loan, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met.

#### A G R E E M E N T :

NOW, THEREFORE, in consideration of the issuance of the Governmental Lender Note and the Funding Loan Note by the Governmental Lender and the mutual covenants and undertakings set forth herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Governmental Lender and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto, in this Section 1, or in the Bank 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 administrator appointed by the Governmental Lender.

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

“Affordable Rents” means thirty percent (30%) of an amount equal to sixty percent (60%) of the median gross income for the Area, adjusted for household size (as described in the definition of “Low Income Unit” in this Section 1), less a utility allowance calculated as set forth in U.S. Treasury Regulation Section 1.42-10.

“Area” means the Metropolitan Statistical Area or County, as applicable, in which the Project is located, as defined by the United States Department of Housing and Urban Development.

“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 Governmental Lender Obligations 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.

“Bank” means Pacific Western Bank, as owner of the Governmental Lender Note, or any subsequent owner of the Governmental Lender Note, in each case as shown on the registration books for the Governmental Lender Note maintained pursuant to Section 4.2 of the Bank Loan Agreement.

“Bank Loan” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Bank Loan Agreement” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Baypoint” means Baypoint Family Apartments, LLC, a California limited liability company, as owner of the Funding Loan Note, or any subsequent owner of the Funding Loan Note, in each case as shown on the registration books for the Funding Loan Note maintained pursuant to Section 4.2 of the Funding Loan Agreement.

“Baypoint Loan” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Borrower Loan” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Borrower Loan Agreement” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Borrower Loan Documents” means, collectively, the Senior Borrower Loan Documents and the Subordinate Borrower Loan Documents.

“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. 18-101 attached hereto as Exhibit E, adopted on September 19, 2018 and relating to the Project, as such resolution may be modified or amended from time to time.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Borrower with 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 Borrower, or as otherwise approved by the Governmental Lender.

“Closing Date” has the meaning given to such term in the Bank Loan Agreement.

“Completion Certificate” means the certificate of completion of the construction of the Project required to be delivered to the Governmental Lender by the Borrower pursuant to Section 2(i) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit D.

“Completion Date” means the date of completion of the construction of the Project, as that date shall be certified as provided in Section 2(i) of this Regulatory Agreement.

“Compliance Period” means the period beginning on the first day of the Qualified Project Period and ending on the later of the end of the Qualified Project Period or such later date as set forth in Section 29(c) of this Regulatory Agreement.

“Conversion Date” has the meaning given to such term in the Continuing Covenant Agreement referred to in the Borrower Loan Agreement.

“County” means the County of Contra Costa, California.

“Equity Investor” has the meaning given to such term in the Bank Loan Agreement.

“FOCUS Program” means (a) the FOCUS Compliance Verification Program (user’s guide located at [focus.housingcompliance.org](http://focus.housingcompliance.org)) utilized by the Governmental Lender to verify the Borrower’s compliance with various requirements of this Regulatory Agreement; or (b) any similar program used by the Governmental Lender, in the substitution for the program described in the preceding clause (a), to verify the Borrower’s compliance with various requirements of this Regulatory Agreement.

“Funding Loan Agreement” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Funding Loan Note” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Governmental Lender Annual Fee” means: for the period from the Closing Date to but not including November 1, 2019, an amount equal to one-eighth of one percent (1/8%) of the maximum principal amount of the Governmental Lender Obligations; and, thereafter, on each November 1 during the remainder of the Compliance Period commencing November 1, 2019, an amount equal to the greater of (a) one-eighth of one percent of the then outstanding principal amount of the Governmental Lender Obligations, or (b) \$5,000.

“Governmental Lender Issuance Fee” means an amount equal to one-eighth of one percent (1/8%) of the maximum principal amount of the Governmental Lender Obligations.

“Governmental Obligations” means, collectively, the Governmental Lender Note and Funding Loan Note, which evidence the Bank Loan and the Baypoint Loan, respectively.

“Gross Income” means the gross income of a person (together with the gross income of all persons who intend to reside with such person in one residential unit) as calculated in the manner prescribed in under section 8 of the Housing Act.

“Housing Act” or “Housing Law” means the United States Housing Act of 1937, as amended, or its successor.

“Income Certification” means a Tenant Income Certification and a Tenant Income Certification Questionnaire in the form attached as Exhibit B hereto or in such other comparable form as may be provided by the Governmental Lender to the Borrower, or as otherwise approved by the Governmental Lender.

“Inducement Date” means July 10, 2018, being the date on which the Board of Supervisors of the Governmental Lender adopted Resolution No. 2018/432, expressing its intent to incur debt obligations (constituting the Bank Loan and the Baypoint Loan) to provide financing for the Project.

“Low Income Tenant” means a tenant occupying a Low Income Unit.

“Low Income Unit” means any Available Unit if the aggregate Gross Income of all tenants therein 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 hereunder shall be sixty percent (60%) of median gross income for the Area, with adjustments for family size. A unit occupied by one or more students shall only constitute a Low Income Unit if such students meet the requirements of Section 142(d)(2)(C) of the Code. The determination of an Available Unit’s status as a Low Income Unit shall be made by the Borrower upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant.

“Manager” means a property manager meeting the requirements of Section 28 hereof. Cambridge Real Estate Services, Inc. is the initial Manager.

“Project” means the 193-unit multifamily rental housing development (including two manager’s units) located in the unincorporated Bay Point area of the County on the real property site described in Exhibit A hereto, consisting of those facilities, including a [fee interest] in the real property, structures, buildings, fixtures or equipment situated thereon, as it may at any time exist, the acquisition and construction of which facilities is to be financed, in whole or in part, from the proceeds of the Bank Loan, the Baypoint Loan or the proceeds of any payment by the Borrower pursuant to the Borrower Loan Agreement or the Subordinate Borrower 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.

“Project Costs” means, to the extent authorized by the Act, any and all costs and expenses incurred by the Borrower with respect to the acquisition, financing, construction and/or operation of the Project, whether paid or incurred prior to or after the Closing Date, including, without limitation, costs for the acquisition of property, the cost of consultant, accounting and legal services, appraisal costs, other expenses necessary or incident to the acquisition and construction of the Project, and administrative expenses, and interest on the Borrower Loan and on the Subordinate Borrower Loan.

“Qualified Project Costs” means Project Costs that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general Federal income tax principles and in accordance with United States Treasury Regulations §1.103-8(a)(1), provided, however, that only such portion of interest accrued during the construction of the Project shall be eligible to be a Qualified Project Cost as is so capitalizable and as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs; and provided further that interest accruing after the date of completion of the construction of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out-of-pocket costs incurred by such Affiliated Party in constructing the Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (C) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project; (ii) the costs are paid with respect to a qualified residential rental project or projects within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of 60 days prior to the Inducement Date or

the Closing Date, and (iv) if the Project Costs were previously paid and are to be reimbursed with proceeds of the Borrower Loan or the Subordinate Borrower Loan, such costs were (A) costs of issuance of the Governmental Lender Note, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations §1.139-2(f)(2)) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of the construction of the Project that do not exceed twenty percent (20%) of the issue price of the Governmental Obligations (as defined in United States Treasury Regulations §1.148-1), or (C) were capital expenditures with respect to the Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid).

“Qualified Project Period” means the period beginning on the first date on which at least ten percent (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.

“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 and amended from time to time.

“Rental Payments” means the rental payments paid by the occupant of a unit, excluding any supplemental rental assistance to the occupant from the State, the federal government, or any other public agency, but including any mandatory fees or charges imposed on the occupant by the Borrower as a condition of occupancy of the unit.

“Senior Borrower Loan Documents” has the meaning given to the term “Loan Documents” in Section 1.1 of the Borrower Loan Agreement, but excluding the Bank Loan Agreement and the Governmental Lender Note.

“Subordinate Borrower Loan” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Subordinate Borrower Loan Agreement” has the meaning given to such term in the recitals to this Regulatory Agreement.

“Subordinate Borrower Loan Documents” has the meaning given to the term “Borrower Loan Documents” in recital D to the Subordinate Borrower Loan Agreement.

“Tax-Exempt” means with respect to interest on any obligations of a state or local government, including the Governmental Lender Obligations, that such interest is excluded from gross income for federal income tax purposes of the respective owners of the Governmental Obligations; 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.

“Transfer” means the conveyance, assignment, sale or other disposition of all or any portion of the Project; and shall also include, without limitation to the foregoing, the following: (a) an installment sales agreement wherein Borrower agrees to sell the Project or any part thereof for a price to be paid in installments; and (b) an agreement by the Borrower leasing all



or a substantial part of the Project to one or more persons or entities pursuant to a single or related transactions.

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

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

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

Section 2. Representations, Covenants and Warranties of the Borrower.

(a) The statements made in the various certificates delivered by the Borrower to the Governmental Lender, the Bank and/or Baypoint on the Closing Date are true and correct.

(b) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds of the Borrower Loan or of the Subordinate Borrower Loan to be applied in a manner contrary to the applicable requirements of the Bank Loan Agreement, the Borrower Loan Agreement, the Funding Loan Agreement, the Subordinate Borrower Loan Agreement and this Regulatory Agreement.

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

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

(e) The acquisition by the Borrower of an interest in the site on which the Project is located and the commencement of the construction of the Project occurred after the date which was 60 days prior to the Inducement Date. The Borrower has incurred a substantial binding obligation to expend proceeds of the Borrower Loan and of the Subordinate Borrower Loan

pursuant to which the Borrower is obligated to expend an amount at least equal to five percent (5%) of the \$\_\_\_\_\_ maximum principal amount of the Governmental Lender Obligations.

(f) The Borrower will proceed with due diligence to complete the construction of the Project and the full expenditure of the proceeds of the Borrower Loan. The Borrower reasonably expects to complete the acquisition and construction of the Project and to expend the full maximum \$\_\_\_\_\_ aggregate principal amount of the Borrower Loan and the Subordinate Borrower Loan by \_\_\_\_\_, 20\_\_.

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

(h) Notwithstanding the provisions of Section 6.14(j) of the Borrower Loan Agreement and Section 2.19(i) of the Subordinate Borrower Loan Agreement, and in addition thereto, the Borrower agrees to obtain a written report from an independent firm with experience in calculating excess investment earnings for purposes of Section 148(f) of the Code, not less than once on or about each five year anniversary of the Closing Date and within thirty (30) days of the date the Governmental Lender Obligations have both been paid in full, determining that either (i) no excess investment earnings subject to rebate to the federal government under Section 148(f) of the Code have arisen with respect to the Governmental Lender Obligations in the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Obligations, have arisen since the last five-year report); or (ii) excess investment earnings have so arisen during the prior five-year period (or, with respect to the final such report following the repayment of the Governmental Lender Obligations, have arisen since the last five-year report), and specifying the amount thereof that needs to be rebated to the federal government and the date by which such amount needs to be so rebated. The Borrower shall provide a copy of each report prepared in accordance with the preceding sentence to the Governmental Lender, each time within one week of its receipt of the same from the independent firm that prepared the respective report.

(i) As soon as practicable after the Completion Date, the Borrower shall deliver to the Governmental Lender, the Bank and Baypoint a duly executed Completion Certificate.

(j) The Borrower acknowledges that the Governmental Lender has appointed the Administrator to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. The Borrower shall comply with any reasonable request by the Governmental Lender or the Administrator 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.

(k) Within thirty (30) days after the date on which fifty percent (50%) of the dwelling units in the Project are first occupied, the Borrower will submit to the Governmental Lender (with a copy to the Bank and to Baypoint), and will cause to be recorded in the County

Recorder's office, a duly executed and completed Certificate as to Commencement of Qualified Project Period in the form of Exhibit F hereto.

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

(m) All of the proceeds of the Borrower Loan and of the Subordinate Borrower Loan and earnings from the investment of such proceeds will be used to pay Project Costs; and no more than two percent (2%) of the proceeds of the Borrower Loan and of the Subordinate Borrower Loan will be used to pay issuance costs of the Governmental Lender Obligations, within the meaning of Section 147(g) of the Code.

(n) No portion of the proceeds of the Borrower Loan or of the Subordinate Borrower Loan shall be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. No portion of the proceeds of the Borrower Loan or of the Subordinate Borrower Loan shall be used for an office unless the office is located on the premises of the facilities constituting the Project and unless not more than a de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

(o) In accordance with Section 147(b) of the Code, the average maturity of each of the Governmental Lender Obligations does not exceed 120% of the average reasonably expected economic life of the facilities being financed by the Borrower Loan and the Subordinate Borrower Loan.

(p) The Borrower shall comply with all applicable requirements of Section 65863.10 of the California Government Code pertaining to the Project, including the requirements for providing notices in Sections (b), (c), (d) and (e) thereof, and with all applicable requirements of Section 65863.11 of the California Government Code pertaining to the Project.

(q) The Borrower shall pay all of the Costs of Issuance (as defined in the Bank Loan Agreement) and all of the costs of issuance of the Baypoint Loan.

(r) The Borrower hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Borrower contained in the Tax Certificate and the Borrower Loan Agreement and the Subordinate Borrower Loan Agreement relating to the Project.

(s) The Borrower hereby represents and warrants that the Project is located entirely within the unincorporated area of the County.

(t) The Borrower agrees to comply with the provisions of Sections 6.14, 6.16, 6.17 and 6.18 of the Borrower Loan Agreement and of Sections 2.13, 2.19, 2.21, 2.22, 2.23, 5.15, 5.16, 5.17, 5.18 and 5.20 of the Subordinate Borrower Loan Agreement, each as in effect on the Closing Date.

(u) The Borrower acknowledges, represents and warrants 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 Borrower Loan Documents 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 issue the Governmental Lender Obligations in order to provide funds to assist the Borrower in acquiring and constructing the Project.

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

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

(b) All of the dwelling units in the Project (except for not more than one unit set aside for a resident manager or other administrative use) will be similarly constructed units, and each dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

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

(d) No part of the Project will at any time during the Compliance Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project to condominium ownership during the Compliance Period (except that the Borrower may obtain final map approval and the Final Subdivision Public Report from the California Department of Real Estate and may file a condominium plan with the County).

(e) All of the Available Units in the Project will be available for rental during the period beginning on the date hereof and ending on the termination of the Compliance Period on a continuous, “first-come, first-served” basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except (i) not more than one unit may be set aside for a resident manager or other administrative use, or (ii) to the extent that dwelling units are required to be leased or rented in such a manner that they constitute Low Income Units

or otherwise as necessary to comply with Section 6(a), (b) and (c), (iii) to the extent required under any “extended low-income housing commitment” (an “Extended Use Agreement”) applicable to the Project, (iv) to the extent required by the provisions of any documents related to the provision of State or federal low income housing tax credits for the Project, or (v) to the extent required under the Subordinate Loan Documents.

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

(h) No dwelling unit in the Project shall be occupied by the Borrower. Notwithstanding the foregoing, if the Project contains five or more dwelling units, this paragraph shall not be construed to prohibit occupancy of dwelling units by one or more resident managers or maintenance personnel any of whom may be the Borrower; provided that the number of such managers or maintenance personnel is not unreasonable given industry standards in the area for the number of dwelling units in the Project.

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

(j) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Governmental Lender from enforcing the requirements of the Code and the Regulations as applicable to the Project, or condemnation or similar event, the Borrower covenants that, within a “reasonable period” determined in accordance with the applicable Regulations, it will either prepay the Borrower Loan and the Subordinate Borrower Loan or, if permitted under the provisions of the Bank Loan Agreement and the Funding Loan Agreement, apply any proceeds received as a result of any of the preceding events to rehabilitate the Project to meet the requirements of Section 142(d) of the Code and the applicable Regulations.

(k) During the Qualified Project Period, the Borrower shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project 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).

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

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

(a) During the Compliance Period, no less than forty percent (40%) of the total number of completed units in the Project shall at all times be Low Income Units. For the purposes of this paragraph (a), a vacant unit that was most recently a Low Income Unit is treated as a Low Income Unit 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 Gross 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 Gross 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 Gross 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 Compliance Period, the Borrower will obtain, complete and maintain on file Income Certifications for each Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the unit and a second Income Certification dated one year after the Low-Income Tenant's initial move-in date, and (ii) thereafter, an annual Income Certification with respect to each Low Income Tenant. In lieu of obtaining the annual Income Certifications required by clause (ii) of the preceding sentence, the Borrower may, with respect to any particular twelve-month period ending each February 1, deliver to the Administrator no later than fifteen days after such date a certification that as of each February 1, no residential unit in the Project was occupied within the preceding twelve months by a new resident whose income exceeded the limit applicable to Low Income Tenants upon admission to the Project. The Administrator may at any time and in its sole and absolute discretion notify the Borrower in writing that it will no longer accept certifications of the Borrower made pursuant to the preceding sentence and that the Borrower will thereafter be required to obtain annual Income Certifications for tenants. The Borrower will also 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. Upon request of the Administrator or the Governmental Lender, copies of Income Certifications for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be submitted to the Administrator or the Governmental Lender, as requested.

(d) The Borrower shall make a good faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain pay stubs for the three most recent pay periods, (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 Administrator.

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

(f) The Borrower will prepare and submit to the Administrator, on behalf of the Governmental Lender, not less than semi-annually, commencing not less than six months after the Closing Date, a Certificate of Continuing Program Compliance executed by the Borrower in substantially the form attached hereto as Exhibit C. During the Compliance Period, the Borrower shall submit a completed Internal Revenue Code Form 8703 or such other annual certification as required by the Code with respect to the Project, 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).

(g) For the Compliance Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement. 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 by such tenant in the Income Certification; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower, the Governmental Lender or the Administrator on behalf of the Governmental Lender, and that the failure to provide accurate information in the Income Certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Borrower has relied on the statements made by such tenant in the Income Certification and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of a 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 the aggregate Gross Income of tenants in such unit exceeds the applicable income limit under Section 4(b), the unit occupied by such tenant may cease to qualify as a Low Income Unit and such unit's rent may be subject to increase.

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 Governmental Lender Obligations. The Borrower and the Governmental Lender, as applicable, each hereby represents, warrants and agrees as follows:

(a) The Borrower 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 Governmental Lender Obligations and, if either of them should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the 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 (with a copy to the Borrower), in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

Section 6. Requirements of the Act. In addition to the other requirements set forth herein, the Borrower hereby agrees that it shall comply with each of the requirements of the Act, including the following:

(a) As provided in Section 52080(a)(1)(B) of the Act, forty percent (40%) or more of the completed residential units in the Project shall be occupied by, or held vacant and available for occupancy by, individuals whose income is 60 percent or less of area median income, within the meaning of Section 52080(a)(1) of the Act (it being acknowledged that units required to be set aside for Low Income Tenants pursuant to Section 4(a) may be counted for purposes of satisfying the requirements of this Section 6(a) if the related Low Income Tenants otherwise satisfy the requirements of this Section 6(a)).

(b) The rental payments paid by the occupants of the units described in paragraph (a) of this Section (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed thirty percent of sixty percent of area median income, within the meaning of Section 52080(a)(1) of the Act.

(c) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, Low Income Tenants who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Law. The selection criteria applied to certificate holders under Section 8 of the Housing Law shall not be more burdensome than the criteria applied to all other prospective tenants.

(d) The Borrower shall ensure that units occupied as required by paragraph (a) of this Section are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(e) As provided in Section 52080(e) of the Act, the Project may be syndicated after prior written approval of the Governmental Lender. The Governmental Lender shall grant that approval only after it determines that the terms and conditions of the syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause any of the



requirements in this Regulatory Agreement to be subordinated to the syndication agreement, or (3) shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement. The Governmental Lender hereby acknowledges that this Section 6(e) does not apply to any syndication of federal tax credits for the Project.

(f) Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Governmental Lender Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to Section 6(a) shall remain available to any eligible household occupying a reserved unit at the date of such expiration or termination, at a rent not greater than the amount required by Section 6(b), until the earliest of any of the following occur:

(1) The household's income exceeds 140 percent of the maximum eligible income specified in Section 6(a).

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

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

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

(g) Except in the event of foreclosure and redemption of the Governmental Lender Obligations, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, during the three years prior to expiration of the Qualified Project Period, the Borrower shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(h) This Section shall not be construed to require the Governmental Lender to monitor the Borrower's compliance with the provisions of paragraph (f), or that the Governmental Lender shall have any liability whatsoever in the event of the failure by the Borrower to comply with any of the provisions of this Regulatory Agreement.

(i) The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Borrower.

(j) This Regulatory Agreement shall be recorded in the office of the County Recorder of the County, and shall be recorded in the grantor-grantee index to the names of the Borrower as grantor and to the name of the Governmental Lender as grantee.

Section 7. Requirements of the Governmental Lender. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 4

through 6 hereof, the Borrower hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 7, as follows:

(a) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination upon reasonable notice (which need not be in excess of three Business Days, as defined in the Bank Loan Agreement) and during business hours by representatives of the Governmental Lender.

(b) The Borrower shall not discriminate on the basis of race, creed, color, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. AFDC and SSI), ancestry or handicap in the lease, use or occupancy of the Project (except as required to comply with Section 3(e)(iii), (iv) or (v)), or in connection with the employment or application for employment of persons for the construction, operation, or management of the Project.

(c) The Borrower shall not, at initial occupancy, permit occupancy in any unit in the Project by more than (i) two persons per bedroom in the unit, plus (ii) one person; and the Borrower shall at all times offer for rent the largest unit then available for the applicable household size (being one bedroom units for 2-3 person households, and two bedroom units for 4-5 person households). The foregoing, however, shall not apply to one unit in the Project occupied by a resident manager or managers.

(d) The Borrower shall pay directly to the Governmental Lender (i) on the Closing Date the Governmental Lender Issuance Fee and the Governmental Lender Annual Fee for the period from the Closing Date to but not including November 1, 2019, and (ii) on each November 1, on and after November 1, 2019, the Governmental Lender Annual Fee; without in either case any requirement for notice or billing of the amount due. In addition, the Borrower shall pay to the Governmental Lender promptly following receipt of an invoice that reasonably identifies the relevant expenses and the amounts thereof, any out of pocket expenses incurred by the Governmental Lender in connection with the Governmental Lender Note, the Funding Loan Note, the Bank Loan Agreement, the Funding Loan Agreement, the Borrower Loan Agreement, the Subordinate Borrower Loan Agreement, this Regulatory Agreement or any of the other Borrower Loan Documents, including but not limited to any costs related to the FOCUS Program.

(e) The rent limits set forth in Sections 6(b) and 6(f) shall apply to all Low Income Units. In addition, the rental payments paid by Low Income Tenants for the Low Income Units shall not exceed Affordable Rents.

(f) The Borrower will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of units by such prospective tenants.

(g) The Borrower shall submit to the Governmental Lender: (i) rent rolls and other information required by the FOCUS Program on a quarterly basis, and (ii) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the Governmental Lender in order to comply with reporting requirements of the Internal Revenue Service or the State.

(h) The Borrower shall indemnify the Governmental Lender as provided in Section 9 hereof, in Section 6.7 of the Borrower Loan Agreement and in Section 2.10 of the Subordinate Borrower Loan Agreement.

(i) The Governmental Lender may, at its option and at its expense, at any time appoint an Administrator to administer this Agreement or any provision hereof and to monitor performance by the Borrower of all or of any of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with any request by the Governmental Lender to deliver to 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 such administrator as an agent of the Governmental Lender.

(j) The Borrower shall submit its written management policies with respect to the Project, if any, to the Governmental Lender for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Regulatory Agreement and the requirements of the existing program under Section 8 of the Housing Law, or its successors. The Borrower shall not promulgate management policies which conflict with the provisions of the addendum to the form of lease for the Project prepared by the Housing Authority of Contra Costa County, and shall attach such addendum to leases for tenants which are holders of Section 8 certificates.

(k) The Borrower shall screen and select tenants for desirability and creditworthiness at its discretion; provided, however, that the Borrower shall consider a prospective tenant's rent history for at least the one year period prior to application as evidence of the tenant's ability to pay the applicable rent.

(l) At least six months prior to the expiration of the Qualified Project Period the Borrower shall provide by first-class mail, postage prepaid, a notice to all tenants in the Low Income Units containing (i) the anticipated date of the expiration of the Qualified Project Period, (ii) any anticipated rent increase upon the expiration of the Qualified Project Period, (iii) a statement that a copy of such notice will be sent to the Governmental Lender, and (iv) a statement that a public hearing may be held by the Governmental Lender on the issue and that the tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Borrower shall also file a copy of the above-described notice with the Community Development Bond Program Manager of the Department of Conservation and Development of the Governmental Lender.

(m) Notwithstanding Section 1461 of the Civil Code, the provisions of this Section shall run with land and may be enforced either in law or in equity by any

resident, local agency, entity, or by any other person adversely affected by the Borrower's failure to comply with the provisions of this Section.

(n) The Borrower shall not participate in any refunding of the Governmental Lender Note, the Funding Loan Note, the Borrower Loan or the Subordinate Borrower Loan by means of the issuance of bonds or other obligations by any governmental body other than the Governmental Lender.

(o) 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.

(p) The requirements of Section 6 and this Section 7 shall be in effect for the Compliance Period.

Any of the foregoing requirements of the Governmental Lender contained in this Section 7 may be expressly waived by the Governmental Lender 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 Bond 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 Governmental Lender Obligations 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 Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on either of the Governmental Lender Obligations to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other State or federal law.

Section 8. Modification of Covenants. The Borrower 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 Borrower, retroactively impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project and compliance therewith is necessary to maintain the validity of, or the Tax-Exempt status of interest on the Governmental Lender Obligations, 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 Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, at its sole discretion, the Borrower, and only upon receipt by the Governmental Lender of the written consent of the Bank and the written opinion of Tax Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Governmental Lender Obligations or violate the requirements of the Act, and otherwise is in accordance with Section 22 hereof.

(c) The Borrower 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, and each of the Borrower and the Governmental Lender hereby appoints the Bank as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved in writing by Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Governmental Lender or the Borrower, the Bank shall take no action under this subsection without first notifying the Borrower or the Governmental Lender, or both of them, as is applicable, in writing and without first providing the Borrower or the Governmental Lender, or both, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Bank to execute an amendment to this Regulatory Agreement on behalf of the Governmental Lender or the Borrower.

Notwithstanding any other provision of this Regulatory Agreement, whenever an opinion of counsel is required or requested to be delivered hereunder after the Closing Date, the Bank, the Governmental Lender and the Borrower shall accept (unless otherwise directed in writing by the Governmental Lender) an opinion of counsel in such form and with such disclaimers as may be required so that such opinion will not be treated as a “covered opinion” for purposes of the Treasury Department regulations governing practice before the Internal Revenue Service (Circular 230), 31 CFR Part 10.

Section 9. Indemnification; Other Payments. To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender and each of its officers, Supervisors, 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 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 Bank Loan, the Baypoint Loan, the Bank Loan Agreement, the Funding Loan Agreement, the Borrower Loan Agreement, the Subordinate Borrower Loan Agreement, this Regulatory Agreement or any of the other Borrower Loan Documents and all documents related thereto, or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale, resale or remarketing of the Bank Loan or the Baypoint Loan;

(ii) any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Subordinate Borrower Loan or the Project, the acquisition, construction or 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 and construction of the Project or any part thereof;

(iii) any lien or charge upon payments by the Borrower to the Governmental Lender 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;

(iv) any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof;

(v) the defeasance and/or prepayment, in whole or in part, of the Bank Loan or the Baypoint Loan;

(vi) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering statement or disclosure document for the Bank Loan or the Baypoint Loan or any of the documents relating to the Bank Loan or the Baypoint Loan, or any omission or alleged omission from any offering statement or disclosure document for the Bank Loan or the Baypoint Loan 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 declaration of taxability of interest on either or both of the Governmental Lender Obligations, or allegations (or regulatory inquiry) that interest on either or both of the Governmental Lender Obligations is taxable for federal tax purposes;

except to the extent such damages are caused by the willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel 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 Borrower 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 Borrower 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 Borrower will pay upon demand all of the fees and expenses paid or incurred by the Governmental Lender in enforcing the provisions hereof.

The provisions of this Section 9 shall survive the final payment or defeasance of the Bank Loan and the Baypoint Loan and the termination of this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Governmental Lender, survive the term of this Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

Nothing contained in this Section 9 shall cause the obligation of the Borrower to pay principal and interest on the Borrower Loan or the Subordinate Borrower Loan to be a recourse obligation of the Borrower.

The obligations of the Borrower under this Section are independent of any other contractual obligation of the Borrower to provide indemnity to the Governmental Lender or otherwise, and the obligation of the Borrower to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the

Borrower. The Governmental Lender shall be entitled simultaneously to seek indemnity under this Section and any other provision under which it is entitled to indemnity.

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

Section 11. Reliance. The Governmental Lender and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons, including but not limited to the Administrator and the Bank, interested in the legality and validity of the Bank Loan and the Baypoint Loan, in the exemption from California personal income taxation of interest on the Governmental Lender Obligations and in the Tax-Exempt status of the interest on the Governmental Lender Obligations. 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 Borrower 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. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Governmental Lender shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Governmental Lender by the Borrower with respect to the occurrence or absence of a default.

Section 12. Transfer of the Project. For the Compliance Period, the Borrower shall not Transfer 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 receipt by the Governmental Lender of evidence acceptable to the Governmental Lender that (1) the Borrower shall not be in default hereunder or under any of the other Borrower Loan Documents in effect, or the transferee undertakes to cure any defaults of the Borrower 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 transferee or its 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 transferee agrees to retain a Manager with the experience and record described in subclause (a) above, or (c) the transferring Borrower or its management company will continue to manage the Project, or another management company reasonably acceptable to the Governmental Lender will manage, for at least one year following such Transfer and, if applicable, during such period the transferring Borrower or its management company will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and (4) the person or entity that 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 transferee of a document reasonably acceptable to the

Governmental Lender with respect to the assumption of the Borrower's obligations under this Regulatory Agreement and the other Borrower Loan Documents in effect, including without limitation an instrument of assumption hereof and thereof, and delivery to the Governmental Lender of an opinion of such transferee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such transferee, 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 Transfer will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Obligations; (D) receipt by the Governmental Lender of all fees and/or expenses then currently due and payable to the Governmental Lender by the Borrower under any of the Borrower Loan Documents; 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 Borrower, and shall be ineffective to relieve the Borrower 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. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to satisfy certain conditions or obtain the prior written consent of such other party in order to Transfer the Project. Upon any Transfer that complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder, but only to the extent such obligations have been fully assumed in writing by the transferee of the Project.

The foregoing notwithstanding, the Project may be transferred pursuant to a foreclosure, exercise of power of sale or deed in lieu of foreclosure or comparable conversion under any deed of trust without the consent of the Governmental Lender or compliance with the provisions of this Section 12. The Governmental Lender hereby approves the transfer of limited partnership interests in the Borrower to affiliates of the investor limited partner of the Borrower, including, without limitation, the transfer of membership interests in the Borrower from the investor limited partner and non-managing membership interests in the limited partner of Borrower.

For the Compliance Period, the Borrower 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 for (A) encumbrances permitted under the Continuing Covenants Agreement and the Subordinate Borrower Loan Agreement, or (B) a Transfer in accordance with the terms of this Regulatory Agreement, in each case 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 Governmental Lender Obligations (provided that such opinion will not be required with respect to any encumbrance, lease or transfer relating to a commercial operation or ancillary facility that will be available for tenant use and is customary to the operation of multifamily housing developments similar to the Project); (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 demolished or removed is replaced with comparable property or such demolition or removal is otherwise permitted by the Borrower Loan Agreement and the Subordinate Borrower Loan Agreement; 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 Compliance Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bank Loan and the Baypoint Loan and discharge of the Bank Loan Agreement, the Borrower Loan Agreement, the Funding Loan Agreement and the Subordinate Borrower 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 in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire or other casualty, seizure, requisition, foreclosure or transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date, which prevents the Governmental Lender from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either (a) the Bank Loan and the Baypoint Loan are fully repaid, fully cancelled or fully forgiven, or (b) 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 Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Governmental Lender and the Borrower, 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 Governmental Lender Obligations for federal income tax purposes and is otherwise permitted under the Act. 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 Borrower hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. 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 Borrower hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Borrower hereby further declare their

understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Governmental Lender Obligations were issued.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

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

Following the declaration of an Event of Default hereunder, the Governmental Lender, the Bank or Baypoint, subject to the terms of the Bank Loan Agreement and the Funding 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 Borrower to perform its obligations and covenants hereunder or enjoin any acts or things that may be unlawful or in violation of the rights of the Governmental Lender hereunder;
- (ii) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project;
- (iii) with the consent of the Bank, take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder;
- (iv) with the consent of the Bank, which consent shall not be unreasonably delayed or withheld, declare a default under the Borrower Loan Agreement and proceed with any remedies provided therein; and
- (v) with the consent of Baypoint and the Bank, which consents shall not be unreasonably delayed or withheld, declare a default under the Subordinate Borrower Loan Agreement and proceed with any remedies therein.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Governmental Lender may fully obtain the benefits of this Regulatory Agreement made by the Borrower herein, and the Borrower

therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder.

Bank shall have the right, in accordance with this Section and the provisions of the Bank Loan Agreement, without the consent or approval of the Governmental Lender but with the prior written consent of the Bank, to exercise any or all of the rights or remedies of the Governmental Lender hereunder; provided that prior to taking any such action the Bank shall give the Governmental Lender and Baypoint written notice of its intended action.

The Baypoint shall have the right, in accordance with this Section and the provisions of the Funding Loan Agreement, without the consent or approval of the Governmental Lender, to exercise any or all of the rights or remedies of the Governmental Lender hereunder; provided that prior to taking any such action the Baypoint shall give the Governmental Lender and the Bank written notice of its intended action.

The Governmental Lender, the Bank and Baypoint hereby agree that cure of any Event of Default made or tendered by any partner of the Borrower shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

All reasonable fees, costs and expenses (including reasonable attorney's fees) of the Bank, Baypoint and the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower; provided, however, that in the event that any action arises hereunder in which the Borrower and the Bank, or the Borrower and Baypoint, as applicable, are adversaries, the prevailing party, if any, shall be entitled to recover legal fees and costs from the other party.

Section 18. The Bank and Baypoint. The Bank shall be entitled, but shall have no duty, to act with respect to enforcement of the Borrower's performance hereunder. The Bank, either on its own behalf or as the agent of and on behalf of the Governmental Lender, may, in its sole discretion, act hereunder and any act required to be performed by the Governmental Lender as herein provided shall be deemed taken if such act is performed by the Bank. In connection with any such performance, all provisions of the Bank Loan Agreement and the Borrower Loan Agreement relating to the rights, privileges, powers and protections of the Bank shall apply with equal force and effect to all actions taken (or omitted to be taken) by the Bank in connection with this Regulatory Agreement. Neither the Bank nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith except for its or their own negligence or willful misconduct. The Bank may consult with legal counsel selected by it (the reasonable fees of which counsel shall be paid by the Borrower) and any action taken or suffered by it reasonably and in good faith in accordance with the opinion of such counsel shall be full justification and protection to it. The Bank may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by or on behalf of the Governmental Lender, or unless it has actual knowledge of noncompliance.

After the date the Bank Loan no longer remains outstanding as provided in the Bank Loan Agreement, the Bank shall have no further rights, duties or responsibilities under this Regulatory Agreement, and all references to the Bank in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Baypoint shall be entitled with the prior written consent of the Bank, but shall have no duty, to act with respect to enforcement of the Borrower's performance hereunder. Baypoint, either on its own behalf or as the agent of and on behalf of the Governmental Lender, may, in its

sole discretion, but with the prior written consent of the Bank, act hereunder and any act required to be performed by the Governmental Lender as herein provided shall be deemed taken if such act is performed by Baypoint. In connection with any such performance, all provisions of the Funding Loan Agreement and the Subordinate Borrower Loan Agreement relating to the rights, privileges, powers and protections of Baypoint shall apply with equal force and effect to all actions taken (or omitted to be taken) by Baypoint in connection with this Regulatory Agreement. Neither Baypoint nor any of its officers, directors or employees shall be liable for any action taken or omitted to be taken by it hereunder or in connection herewith except for its or their own negligence or willful misconduct. Baypoint may consult with legal counsel selected by it (the reasonable fees of which counsel shall be paid by the Borrower) and any action taken or suffered by it reasonably and in good faith in accordance with the opinion of such counsel shall be full justification and protection to it. Baypoint may at all times assume compliance with this Regulatory Agreement unless otherwise notified in writing by or on behalf of the Governmental Lender, or unless it has actual knowledge of noncompliance.

After the date the Baypoint Loan no longer remains outstanding as provided in the Funding Loan Agreement, Baypoint shall have no further rights, duties or responsibilities under this Regulatory Agreement, and all references to Baypoint in this Regulatory Agreement shall be deemed references to the Governmental Lender.

Section 19. Recording and Filing. (a) The Borrower shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County, and in such other places as the Governmental Lender may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

(b) The Borrower 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 insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person to the end that such transferee has notice of, and is bound by, such restrictions, and, except in the case of a foreclosure or comparable involuntary conversion of the Deed of Trust (as defined in the Borrower Loan Agreement or the Subordinate Borrower Loan Agreement), whereby the Bank or Baypoint becomes the owner of the Project, 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 Borrower Loan and discharge of the Borrower Loan Agreement and any prepayment of the Subordinate Borrower Loan and the discharge of the Subordinate Borrower Loan Agreement, the Borrower shall continue to pay (or, to the extent allowed under the Code, shall prepay the present value at such time of) the fees of the Governmental Lender as provided in this Section 20, unless such prepayment is made in connection with a refunding of the Bank Loan and the Baypoint Loan.

The Borrower agrees to pay to the Governmental Lender (i) the Governmental Lender Issuance Fee, which shall be paid on or before the Closing Date, (ii) the Governmental Lender Annual Fee, which shall be payable commencing on the Closing Date and annually on each November 1 thereafter, and continuing throughout the Compliance Period, and (iii) within 30 days after receipt of request for payment thereof, all reasonable out-of-pocket expenses of the Governmental Lender (not including salaries and wages of Governmental Lender employees)

related to the Governmental Lender Obligations, the Borrower Loan, the Subordinate Borrower Loan, the other Borrower Loan Documents and the Project and the financing thereof, including, without limitation, legal fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project, the Governmental Lender Obligations, the Borrower Loan, the Subordinate Borrower Loan or any of the other Borrower Loan Documents.

In the event that the Qualified Project Period terminates prior to the termination of the Compliance Period (other than by reason of the issuance of refunding bonds), and provided that the conditions of this Section are satisfied, the Borrower shall thereafter and for the remainder of the Compliance Period pay to the Governmental Lender annually in advance an amount equal to \$5,000. The full Governmental Lender Annual Fee shall continue to be payable unless and until the Governmental Lender has confirmed receipt of all amounts then due and payable in arrears by the Borrower to the Governmental Lender in connection with the Borrower Loan, at which point the Governmental Lender Annual Fee shall become effective.

If the Borrower fails to make payment of the Governmental Lender Annual Fee for a period of two consecutive years or more, the Governmental Lender may, in its sole discretion, declare the total amount of the Governmental Lender Annual Fee through the end of the Compliance Period immediately due and payable, such amount to be discounted at a rate equal to the then current market rate for U.S. Treasury obligations of a maturity equal to the remaining term of the Compliance Period.

Section 21. Governing Law; Venue. This Regulatory Agreement shall be construed in accordance with and governed by the laws of the State applicable to contracts made and performed in the State. This Regulatory Agreement shall be enforceable in the State, and any action arising hereunder shall (unless waived by the Governmental Lender in writing) be filed and maintained in the Superior Court of California, County of Contra Costa.

Section 22. Amendments; Waivers. (a) Except as provided in Section 8(a) and 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, and only upon (i) receipt by the Governmental Lender of an opinion from Tax Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Governmental Lender Obligations and is not contrary to the provisions of the Act and (ii) the written consent of the Bank and Baypoint, each of whom shall receive a copy of any such amendment.

(b) Anything to the contrary contained herein notwithstanding, the Governmental Lender and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Tax Counsel, in order that interest on the Governmental Lender Obligations remains Tax-Exempt. The party requesting such amendment shall notify the other party to this Regulatory Agreement of the proposed amendment, with a copy of such proposed 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 Governmental Lender Obligations. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

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

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses specified in the Bank Loan Agreement (and in the case of Baypoint, as specified in the Funding Loan Agreement), or at such other addresses as may be specified in writing by the parties hereto. Unless otherwise specified by the Administrator, the address of the Administrator is the same as the address of the Governmental Lender.

Unless otherwise specified by CDLAC, the address of CDLAC is:

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

The Governmental Lender, the Administrator, CDLAC and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission; provided that any telecopy or other electronic transmission received by any party after 4:00 p.m., local time of the receiving party, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day. A copy of each notice of default provided to the Borrower hereunder shall also be provided to the Bank and the Equity Investor at their respective addresses set forth in the Bank Loan Agreement.

The Borrower shall notify the Governmental Lender and the Administrator in writing of any change to the name of the Project or any change of name or address for the Borrower or the Manager. The Borrower shall further notify CDLAC in writing of any event provided in Section 29(d) hereof.

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 the foregoing or any other provision or obligation to the contrary contained in this Regulatory Agreement, (i) the liability of the Borrower under this Regulatory Agreement to any person or entity, including, but not limited to, the Bank or the Governmental Lender and their successors and assigns, is limited to the Borrower's interest in the Project and the amounts held in the funds and accounts created under the Bank Loan Agreement and the Funding Loan Agreement, or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Borrower under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to any Project or any other agreement securing the Borrower's obligations under this Regulatory Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Regulatory Agreement,

amounts held in the funds and accounts created under the Bank Loan Agreement and the Funding Loan Agreement, any rights of the Borrower under the Bank Loan Agreement and the Funding Loan Agreement or any other documents relating to the Bank Loan or the Baypoint Loan or any rights of the Borrower under any guarantees relating to the Project), its partners, successors, transferees or assigns and each of 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 Bank Loan Agreement and the Funding Loan Agreement or any agreement securing the obligations of the Borrower under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding, except to the extent provided in the Borrower Loan Agreement and/or the Subordinate Borrower Loan Agreement.

Section 27. Third-Party Beneficiary. The Administrator, the Bank, Baypoint and CDLAC are intended to be and shall each be a third-party beneficiary of this Regulatory Agreement. The Administrator shall have the right (but not the obligation) to enforce, separately or jointly with the Governmental Lender and/or the Bank and Baypoint, the terms of this Regulatory Agreement and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 17 hereof. 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 shall not materially adversely affect the interests and rights of the owners of the Governmental Lender Obligations.

Section 28. Property Management. The Borrower agrees that at all times the Project shall be managed by a property manager (i) approved by the Governmental Lender in its reasonable discretion and (ii) who 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 (the "Manager"). The Borrower shall submit to the Governmental Lender from time to time such information about the background, experience and financial condition of any existing or proposed Manager as the Governmental Lender may reasonably require to determine whether such Manager meets the requirements for a Manager set forth herein. The Governmental Lender reserves the right to conduct periodic reviews of the management practices and of the Manager to determine if the Project is being operated and managed in accordance with the requirements and standards of this Agreement. The Borrower agrees to cooperate with the Governmental Lender in such reviews.

If the Governmental Lender determines in its reasonable judgment that the Project is not being operated and managed in accordance with one or more of the material requirements or standards of this Regulatory Agreement, the Governmental Lender may deliver notice to the Borrower, the Bank and Baypoint requesting replacement of the Manager, which notice shall state clearly the reasons for such request. The Borrower agrees that, upon receipt of such notice, it shall within 60 days submit to the Governmental Lender, with a copy to the Bank and Baypoint, a proposal to engage a new Manager meeting the requirements of this Section 28. Each of the Governmental Lender and the Bank shall respond within 30 days to such proposal or such approval shall be deemed given. Upon receipt of such consent or deemed consent, the Borrower shall within 60 days terminate the existing Manager's engagement and engage the new Manager. If such proposal is denied by any of the Governmental Lender or the Bank, the Borrower agrees that upon receipt of notice of such denial, it shall within 60 days submit to the Governmental Lender, with copies to the Bank, a proposal to engage another new Manager

meeting the requirements of this Section 28, subject to the Governmental Lender's, the Bank's consent or deemed consent pursuant to the terms hereof.

Notwithstanding any other provision of this Section 28 to the contrary, the Bank may at any time by written instruction to the Governmental Lender and the Borrower deny the Governmental Lender's request for a replacement Manager and direct that the existing Manager be retained.

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 6 hereof, the Borrower hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 29, as follows:

(a) The Borrower shall comply with the CDLAC Resolution attached hereto as Exhibit E 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 Borrower 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 Compliance 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 Borrower. The Certificate of Compliance II for Qualified Residential Rental Projects shall be prepared pursuant to the terms of the CDLAC Conditions. Additionally, the Borrower 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 Borrower certifying among other things to the substantial completion of the construction of the Project. Following the submission of the Certificate of Completion, the Borrower will prepare and submit to the Governmental Lender, not later than February 1 every three years thereafter until the end of the Compliance 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 Borrower to report to the Governmental Lender.

(b) The Borrower acknowledges that the Governmental Lender and the Administrator will monitor or cause to be monitored the Borrower's compliance with the terms of the CDLAC Conditions. The Borrower acknowledges that the Governmental Lender will prepare and submit to CDLAC, not later than March 1 of each year until the construction of the Project is completed, and on March 1 of every three years thereafter until the end of the Compliance Period, a Self-Certification Certificate in the form provided by CDLAC. The Borrower 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 (i) the date on which at least fifty percent (50%) of the units in the Project are first occupied, or (ii) the date on which the Project is otherwise placed in service.

(d) The Borrower 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 Manager; (iv) any material default under the Bank Loan Agreement,



the Borrower Loan Agreement, the Funding Loan Agreement, the Subordinate Borrower Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of either of the Governmental Lender Obligations, 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 Borrower 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 Bank and Baypoint, 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 the Borrower 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 Borrower 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 37 of Exhibit A to the CDLAC Conditions to any change in terms and conditions requested by Borrower and approved by CDLAC. The Governmental Lender may, in its sole and absolute discretion, require that the Borrower 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 Borrower shall pay any costs and expenses in connection therewith and provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Conditions.

Any of the foregoing requirements of the 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 or the Code and may be waived without adversely affecting the exclusion from gross income of interest on the Governmental Lender Obligations 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 Borrower receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Governmental Lender Obligations to cease to be Tax-Exempt or to the effect that compliance with such requirement would be in conflict with the Act, the Code or any other State or federal law.

Section 30. Limited Liability of Governmental Lender. All obligations of the Governmental Lender incurred Bank Loan or Baypoint this Regulatory Agreement shall be limited obligations, payable solely and only from Bank Loan or Baypoint Loan proceeds and other amounts derived by the Governmental Lender from the Borrower Loan or the Subordinate Borrower Loan or otherwise under the Borrower Loan Agreement or the Subordinate Borrower Loan Agreement.

Section 31. Conflict With Other Affordability Agreements. Notwithstanding any provision in this Regulatory Agreement to the contrary, in the event of any conflict between the provisions of this Regulatory Agreement and any other agreement that imposes affordability requirements on the Project, including those referenced in Section 3(e) hereof, the provisions providing for the most affordable units, with the most affordability, in the Project shall prevail,

so long as at all times the requirements of Section 2, 3, 4, 6, 7 and 29 of this Regulatory Agreement are in any event satisfied. Notwithstanding the foregoing, a breach or default under any agreement referenced in 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, 2019), the Borrower, on behalf of the Governmental Lender, agrees to provide to the California Debt and Investment Advisory Commission, by any method approved by the California Debt and Investment Advisory Commission, with a copy to the Governmental Lender, the annual report information required by section 8855(k)(1) of the California Government Code with respect to the Governmental Lender Obligations. This covenant shall remain in effect until the later of the date (a) the Governmental Lender Obligations are no longer outstanding or (b) the proceeds of the Governmental Lender Obligations have been fully spent.

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

COUNTY OF CONTRA COSTA, CALIFORNIA

By: \_\_\_\_\_  
John Kopchik,  
Director, Department of Conservation  
and Development

BAYPOINT FAMILY APARTMENTS, L.P.,  
a California limited partnership

By: BayPoint Family Apartments, LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Kasey Burke,  
Vice President

By: CHBA Affordable IX, LLC,  
a California limited liability company,  
its managing general partner

By: \_\_\_\_\_  
Graham Espley-Jones,  
President

03007.44:J15306

[Signature page to Regulatory Agreement and Declaration of  
Restrictive Covenants – Baypoint Family Apartments]

## NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of \_\_\_\_\_ } ss.

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared \_\_\_\_\_  
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ [Seal]  
Notary Public

## NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of \_\_\_\_\_ } ss.

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared \_\_\_\_\_  
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ [Seal]  
Notary Public

## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

Real property in the unincorporated area of the County of Contra Costa, State of California, described as follows:

PARCEL 1:

BEING ALL OF PARCELS B AND C, IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AS SHOWN ON THAT CERTAIN PARCEL MAP ENTITLED "PARCEL MAP SUBDIVISION MS 11-84", FILED FOR RECORD DECEMBER 26, 1984 IN BOOK 113 OF PARCEL MAPS, PAGES 42 AND 43, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THE ABOVE LEGAL IS INCLUDED IN THE LOT LINE ADJUSTMENT APPLICATION LL 118-0008 RECORDED AUGUST 7, 2018 AS INSTRUMENT NO. 2018-0126023-00

PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR COMMON DRIVEWAY AND UTILITIES PURPOSES AS AN APPURTENANCE TO PARCEL B OVER THE WESTERLY 12.5 FEET, MEASURED AT RIGHT ANGLES, OF PARCEL D, AS SHOWN ON PARCEL MAP M.S. 11-84, FILED DECEMBER 26, 1984 IN BOOK 113 OF PARCEL MAPS, PAGES 42 AND 43, IN THE OFFICE OF THE CONTRA COSTA COUNTY RECORDER, AS RESERVED IN THE DEED TO WILLOW PASS-120, LTD, AN OREGON LIMITED PARTNERSHIP, RECORDED JANUARY 10, 1986, IN BOOK 12702, PAGE 297, INSTRUMENT NO. 86-4690 AND MODIFIED BY A DOCUMENT(S) DECLARING MODIFICATIONS THEREOF RECORDED OCTOBER 26, 1998 AS INSTRUMENT NO. 98-0265409 BOTH OF OFFICIAL RECORDS.

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR COMMON DRIVEWAY AND UTILITIES PURPOSES AS AN APPURTENANCE TO PARCEL B OVER THE EASTERLY 10.5 FEET OF THE WESTERLY 23 FEET, MEASURED AT RIGHT ANGLES, OF PARCEL D, AS SHOWN AS SAID PARCEL MAP M.S. 11-84, FILED DECEMBER 26, 1984 IN BOOK 113 OF PARCEL MAPS, PAGES 42 AND 43, IN THE OFFICE OF THE CONTRA COSTA COUNTY RECORDER, AS RESERVED IN THE DEED TO WILLOW PASS-120, LTD, AN OREGON LIMITED PARTNERSHIP, RECORDED JANUARY 10, 1986, IN BOOK 12702, PAGE 297, INSTRUMENT NO. 86-4690 AND MODIFIED BY A DOCUMENT(S) DECLARING MODIFICATIONS THEREOF RECORDED OCTOBER 26, 1998 AS INSTRUMENT NO. 98-0265409 BOTH OF OFFICIAL RECORDS.

PARCEL 4:

AN EXCLUSIVE EASEMENT FOR SANITARY SEWER PURPOSES AS AN APPURTENANCE TO PARCEL B, AS RESERVED IN THE DEED TO WILLOW PASS-120, LTD, AN OREGON LIMITED PARTNERSHIP, RECORDED JANUARY 10, 1986, IN BOOK 12702, PAGE 297, INSTRUMENT NO. 86-4690 AND MODIFIED BY A DOCUMENT(S) DECLARING MODIFICATIONS THEREOF RECORDED OCTOBER 26, 1998 AS INSTRUMENT NO. 98-0265409 BOTH OF OFFICIAL RECORDS, OVER THE FOLLOWING DESCRIBED PORTION OF PARCEL D, AS SHOWN ON SAID PARCEL MAP M.S., 11-84, FILED DECEMBER 26, 1984 IN BOOK 113 OF PARCEL MAPS, PAGES 42 AND 43, IN THE OFFICE OF THE CONTRA COSTA COUNTY RECORDER:

COMMENCING AT THE NORTHWESTERLY CORNER OF SAID PARCEL D; THENCE FROM SAID POINT OF COMMENCEMENT ALONG THE NORTHERLY LINE OF SAID PARCEL D, SOUTH 88° 49' 24" EAST 23.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHERLY LINE, SOUTH 88° 49' 24" EAST 109.23 FEET; THENCE SOUTH 86° 50' 23" WEST 109.50 FEET; THENCE NORTH 00° 55' 16" EAST 8.28 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 5:

A NON-EXCLUSIVE EASEMENT FOR COMMON DRIVEWAY AND UTILITIES PURPOSES OVER THE EAST 12.5 FEET OF PARCEL A AS SHOWN ON THE PARCEL MAP M.S. 11-84, FILED DECEMBER 26, 1984 IN BOOK 113 OF PARCEL MAPS, PAGES 42 AND 43, IN THE OFFICE OF THE CONTRA COSTA COUNTY RECORDER, AS RESERVED IN THE DEED TO CIRCLE K CONVENIENCE STORES, INC., RECORDED FEBRUARY 5, 1985 AS INSTRUMENT NO. 85-14281 IN BOOK 12172, PAGE 15, OFFICIAL RECORDS.

APN Nos: 098-240-058-2 and 098-240-059-0

**EXHIBIT B**

**FORM OF INCOME CERTIFICATION**

**TENANT INCOME CERTIFICATION**

Initial Certification     1+ Recertification     Other:

Effective Date: Move-in Date: (YYYY-MM-DD)
--

**PART I - DEVELOPMENT DATA**

Property Name: Baypoint Family Apartments	County:	BIN #:
Address: _____, _____, California	Unit Number:	# Bedrooms:

**PART II. HOUSEHOLD COMPOSITION**

Vacant

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (YYYY/MM/DD)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							

**PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)**

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
<b>TOTALS</b>	\$	\$	\$	\$

Add totals from (A) through (D), above

**TOTAL INCOME (E):** \$  

**PART IV. INCOME FROM ASSETS**

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
<b>TOTALS:</b>			\$	\$
Enter Column (H) Total If over \$5000	\$	X	Passbook Rate 2.00%	= (J) Imputed Income \$
Enter the greater of the total of column I, or J: imputed income				<b>TOTAL INCOME FROM ASSETS (K)</b> \$ <span style="border: 1px solid black; padding: 2px 20px;"> </span>
<b>(L) Total Annual Household Income from all Sources [Add (E) + (K)]</b>				\$ <span style="border: 1px solid black; padding: 2px 20px;"> </span>

Effective Date of Move-in Income Certification:  
Household Size at Move-in Certification:



**HOUSEHOLD CERTIFICATION & SIGNATURES**

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Date)

**PART V. DETERMINATION OF INCOME ELIGIBILITY**

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1	\$ _____	Unit Meets Income Restriction at: <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> %	<b>RECERTIFICATION ONLY:</b> Current Income Limit x 140%: \$ _____ Household Income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
Current Income Limit per Family Size:	\$ _____		
Household Income at Move-in:	\$ _____	Household Size at Move-in:	_____

**PART VI. RENT**

Tenant Paid Rent     \$ _____ Utility Allowance     \$ _____	Rent Assistance:                     \$ _____ Other non-optional charges:         \$ _____	
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)	\$ _____	Unit Meets Rent Restriction at: <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> %
Maximum Rent Limit for this unit:	\$ _____	

**PART VII. STUDENT STATUS**

ARE ALL OCCUPANTS FULL TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no	If yes, Enter student explanation* (also attach documentation)	<b>*Student Explanation:</b> 1 AFDC / TANF Assistance 2 Job Training Program 3 Single Parent / Dependent Child 4 Married / Joint Return 5 Former Foster Care
	Enter 1-5	

**PART VIII. PROGRAM TYPE**

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit <input type="checkbox"/> See Part V above.	b. HOME <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	c. Tax Exempt <input type="checkbox"/> <b>Income Status</b> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	d. AHDP <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	e. _____ <input type="checkbox"/> (Name of Program) <i>Income Status</i> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI**
---	--	--	---	---

\*\* Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

\_\_\_\_\_  
SIGNATURE OF OWNER/REPRESENTATIVE

\_\_\_\_\_  
DATE

## INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

### Part I - Project Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

- |                 |   |
|-----------------|---|
| *Move-in Date   | Enter the date the tenant has or will take occupancy of the unit. (YYYY-MM-DD)  |
| *Effective Date | Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. (YYYY-MM-DD) |
| Property Name   | Enter the name of the development.  |
| County          | Enter the county (or equivalent) in which the building is located.  |
| BIN #           | Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).   |
| Address         | Enter the address of the building.  |
| Unit Number     | Enter the unit number.  |
| # Bedrooms      | Enter the number of bedrooms in the unit.   |
| *Vacant Unit    | Check if unit was vacant on December 31 of requesting year.   |

### Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

Head of Household	Spouse
Adult co-tenant	Other family member
Child	Foster child(ren)/adult(s)
Live-in caretaker	None of the above

**Enter the date of birth, student status, and last four digits of social security number or alien registration number for each occupant. If tenant does not have a Social Security Number (SSN) or alien registration number, please enter the numerical birth month and last two digits of birth year (e.g. birthday January 1, 1970, enter "0170"). If tenant has no SSN number or date of birth, please enter the last 4 digits of the BIN.**

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

### Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

- |            |  |
|------------|--|
| Column (A) | Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business. |
| Column (B) | Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.  |
| Column (C) | Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).  |
| Column (D) | Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.                               |
| Row (E)    | Add the totals from columns (A) through (D), above. Enter this amount.   |

### Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

- |            |  |
|------------|--|
| Column (F) | List the type of asset (i.e., checking account, savings account, etc.)   |
| Column (G) | Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification). |
| Column (H) | Enter the cash value of the respective asset.  |
| Column (I) | Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).   |
| TOTALS     | Add the total of Column (H) and Column (I), respectively.  |

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

- |   |   |
|---|---|
| Row (K)                                 | Enter the greater of the total in Column (I) or (J)   |
| Row (L)                                 | Total Annual Household Income From all Sources     Add (E) and (K) and enter the total  |
| *Effective Date of Income Certification | Enter the effective date of the income certification corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the effective date listed in Part I. |
| *Household Size at Certification        | Enter the number of tenants corresponding to the total annual household income entered in Box L. If annual income certification is not required, this may be different from the number of tenants listed in Part II.                      |

## HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

### Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. <b>140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc.</b> Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.
*Units Meets Income Restriction at	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

### Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

### Part VII - Student Status

If all household members are full time\* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

*Full time is determined by the school the student attends.*

### Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

- |            |  |
|------------|--|
| Tax Credit | See Part V above.  |
| HOME       | If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.                    |
| Tax Exempt | If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation.  |
| AHDP       | If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation. |
| Other      | If the property participates in any other affordable housing program, complete the information as appropriate.   |

### SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.*

### PART IX. SUPPLEMENTAL INFORMATION

- |                             |   |
|-----------------------------|---|
| Tenant Demographic Profile  | Complete for each member of the household, including minors, for move-in. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status. |
| Resident/Applicant Initials | All tenants who wish not to furnish supplemental information should initial this section. Parent/guardian may complete and initial for minor child(ren).    |

*\* Please note areas with asterisks are new or have been modified. Please ensure to note the changes or formats now being requested.*

## TENANT INCOME CERTIFICATION QUESTIONNAIRE

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

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

(     )

<input type="checkbox"/>	Initial Certification	BIN #
<input type="checkbox"/>	Re-certification	
<input type="checkbox"/>	Other	Unit #

### INCOME INFORMATION

Yes	No		MONTHLY GROSS INCOME
<input type="checkbox"/>	<input type="checkbox"/>	I am self employed. (List nature of self employment)	(use <u>net</u> income from business) \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you: <u>Name of Employer</u> 1) _____ 2) _____ 3) _____	\$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive unemployment benefits.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic social security payments.	\$
<input type="checkbox"/>	<input type="checkbox"/>	The household receives <u>unearned</u> income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive Supplemental Security Income (SSI).	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive disability or death benefits other than Social Security.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive Public Assistance Income (examples: TANF, AFDC)	\$
<input type="checkbox"/>	<input type="checkbox"/>	I am entitled to receive child support payments.	\$
<input type="checkbox"/>	<input type="checkbox"/>	I am currently receiving child support payments.  If yes, from how many persons do you receive support? _____	\$
<input type="checkbox"/>	<input type="checkbox"/>	I am currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	
<input type="checkbox"/>	<input type="checkbox"/>	I receive alimony/spousal support payments	\$
<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings.  If yes, list sources: 1) _____ 2) _____	\$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I receive income from real or personal property.	(use <u>net</u> earned income) \$
<input type="checkbox"/>	<input type="checkbox"/>	Student financial aid (public or private, not including student loans)  Subtract cost of tuition from Aid received	\$



### Asset information

YES	NO		INTEREST RATE	CASH VALUE
<input type="checkbox"/>	<input type="checkbox"/>	I have a checking account(s). If yes, list bank(s) 1) 2)	 % %	 \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a savings account(s) If yes, list bank(s) 1) 2)	 % %	 \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a revocable trust(s) If yes, list bank(s) 1)	 %	 \$
<input type="checkbox"/>	<input type="checkbox"/>	I own real estate. If yes, provide description:		\$
<input type="checkbox"/>	<input type="checkbox"/>	I own stocks, bonds, or Treasury Bills If yes, list sources / bank names 1) 2) 3)	 % % %	 \$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources / bank names 1) 2) 3)	 % % %	 \$ \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have an IRA / Lump Sum Pension / Keogh Account / 401K. If yes, list bank(s) 1) 2)	 % %	 \$ \$
<input type="checkbox"/>	<input type="checkbox"/>	I have a whole life insurance policy. If yes, how many policies		\$
<input type="checkbox"/>	<input type="checkbox"/>	I have cash on hand.		\$
<input type="checkbox"/>	<input type="checkbox"/>	I have disposed of assets (i.e. gave away money / assets) for less than the fair market value in the past 2 years.  If yes, list items and date disposed: 1) 2)		 \$ \$

**STUDENT STATUS**

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who are <u>full-time</u> students (Examples: College/University, trade school, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who have been a <u>full-time</u> student in the previous 5 months?
<input type="checkbox"/>	<input type="checkbox"/>	Does your household anticipate becoming an all full-time student household in the next 12 months?
<input type="checkbox"/>	<input type="checkbox"/>	If you answered yes to any of the previous three questions are you:
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> <li>• Receiving assistance under Title IV of the Social Security Act (AFDC/TANF/Cal Works - <b>not</b> SSA/SSI)</li> <li>• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program</li> <li>• Married and filing (or are entitled to file) a joint tax return</li> <li>• Single parent with a dependent child or children and neither you nor your child(ren) are dependent of another individual</li> <li>• Previously enrolled in the Foster Care program (age 18-24)</li> </ul>
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

**UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUTES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.**

\_\_\_\_\_  
PRINTED NAME OF APPLICANT/TENANT

\_\_\_\_\_  
SIGNATURE OF APPLICANT/TENANT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE)

\_\_\_\_\_  
DATE

EXHIBIT C

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

BAYPOINT FAMILY APARTMENTS

Witnesseth that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the undersigned, having borrowed certain funds from the County of Contra Costa, California (the "Governmental Lender") for the purpose of financing the above-listed multifamily rental housing development (the "Project"), does hereby certify that:

A. During the preceding twelve-months (i) the Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Governmental Lender, and (ii) \_\_\_\_% of the units in the Project were occupied by Low Income Tenants (minimum of 40%).

B. Set forth below is certain information regarding occupancy of the Project as of the date hereof.

- 1. Total Units: \_\_\_\_\_
- 2. Total Units Occupied: \_\_\_\_\_
- 3. Total Units Held Vacant and Available for Rent to Low Income Tenants \_\_\_\_\_
- 4. Total Low Income Units Occupied: \_\_\_\_\_
- 5. % of Low Income Units to Total Units % \_\_\_\_\_%  
(equals the Total of Lines 3 and 4, divided by the lesser of Line 1 or Line 2)

C. The units occupied by Low Income Tenants are of similar size and quality to other units and are dispersed throughout the Project.

D. Select appropriate certification: [No unremedied default has occurred under the Regulatory Agreement, the Bank Loan Agreement, the Funding Loan Agreement, the Borrower Loan Agreement, the Subordinate Borrower Loan Agreement, or any of the other Borrower Loan Documents.] [A default has occurred under the \_\_\_\_\_. The nature of the default and the measures being taken to remedy such default are as follows: \_\_\_\_\_.]

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

Capitalized terms used in this Certificate and not otherwise defined herein have the meanings given to such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2018, between the Governmental Lender and Baypoint Family Apartments, L.P., a California limited partnership.

Date: \_\_\_\_\_

BAYPOINT FAMILY APARTMENTS, L.P.,  
a California limited partnership

By: BayPoint Family Apartments, LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Kasey Burke,  
Vice President

By: CHBA Affordable IX, LLC,  
a California limited liability company,  
its managing general partner

By: \_\_\_\_\_  
Graham Espley-Jones,  
President

**EXHIBIT D**

**FORM OF COMPLETION CERTIFICATE**

The undersigned hereby certifies that the acquisition and construction of the Project was substantially completed as of \_\_\_\_\_.

The undersigned hereby further certifies that:

(1) the aggregate amount disbursed on the Borrower Loan to date is \$\_\_\_\_\_, and the aggregate amount disbursed on the Subordinate Borrower Loan to date is \$\_\_\_\_\_;

(2) all amounts disbursed on the Borrower Loan and on the Subordinate Borrower Loan have been applied to pay or reimburse the undersigned for the payment of Project Costs and none of the amounts disbursed on the Borrower Loan or on the Subordinate Borrower Loan have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs;

(3) at least ninety-seven percent (97%) of the aggregate amount disbursed on the Borrower Loan and on the Subordinate Borrower Loan have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs, and less than twenty-five percent (25%) of all such disbursements have been used for the acquisition of land or an interest therein; and

(4) the Borrower is in compliance with the provisions of the Regulatory Agreement, the Borrower Loan Agreement and the Subordinate Borrower Loan Agreement.

Capitalized terms used in this Completion Certificate have the meanings given such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2018, between Baypoint Family Apartments, L.P., a California limited partnership and the County of Contra Costa, California.

BAYPOINT FAMILY APARTMENTS, L.P.,  
a California limited partnership

By: BayPoint Family Apartments, LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Kasey Burke,  
Vice President

By: CHBA Affordable IX, LLC,  
a California limited liability company,  
its managing general partner

By: \_\_\_\_\_  
Graham Espley-Jones,  
President

## EXHIBIT E

### CDLAC RESOLUTION

#### THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

#### RESOLUTION NO. 18-101

**A RESOLUTION TRANSFERRING A PORTION OF THE 2018 STATE CEILING  
ON QUALIFIED PRIVATE ACTIVITY BONDS AND  
AUTHORIZING THE MAKING OF A CARRYFORWARD ELECTION FOR A  
QUALIFIED RESIDENTIAL RENTAL PROJECT**

WHEREAS, the California Debt Limit Allocation Committee ("Committee") has received an application ("Application") from the County of Contra Costa ("Applicant") for the transfer to the Applicant of a portion of the 2018 State Ceiling on Qualified Private Activity Bonds under Section 146 of the Internal Revenue Code of 1986, as amended, for use by the Applicant to issue bonds or other obligations ("Bonds") for a Project as specifically described in Exhibit A ("Project") (capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Regulations of the Committee implementing the Allocation of the State Ceiling on Qualified Private Activity Bonds); and

WHEREAS, the Project Sponsor has represented and the Applicant has confirmed in the Application certain facts and information concerning the Project; and

WHEREAS, in evaluating the Project and allocating a portion of the State Ceiling on Qualified Private Activity Bonds to the Applicant for the benefit of the Project, the Committee has relied upon the written facts and information represented in the Application by the Project Sponsor and the Applicant; and

WHEREAS, it is appropriate for the Committee to make a transfer of a portion of the 2018 State Ceiling On Qualified Private Activity Bonds ("Allocation") in order to benefit such Project described in the Application; and

WHEREAS, the Committee has determined that it is appropriate to authorize the Applicant to make an election to carryforward Allocation to calendar year 2019 with respect to the Project described in the Application.

NOW, THEREFORE, the California Debt Limit Allocation Committee resolves as follows:

**Section 1.** There is hereby transferred to the Applicant authorization to use \$67,000,000 of the 2018 State Ceiling on Qualified Private Activity Bonds. Such Allocation may be used only by the Applicant and only for the issuance of Bonds for the Project, as specifically described in Exhibit A. All of the terms and conditions of Exhibit A are incorporated herein as though set forth in full (this resolution, together with Exhibit A are hereafter referred to collectively as this "Resolution").

**Section 2.** The terms and conditions of this Resolution shall be incorporated in appropriate documents relating to the Bonds. The Project Sponsor and the Applicant, and all their respective successors and assignees, will be bound by such terms and conditions. The Applicant shall monitor the Project for compliance with the terms and conditions of this Resolution. In addition, the Project shall be subject to the monitoring provisions of California Code of Regulations, Title 4, Section 10337(c) and Section 5220 of the Committee's Regulations.

**Section 3.** Any modification to the Project made prior to the issuance of the Bonds that impacts the resolution must be reported to the Executive Director and, if the Executive Director determines such modification to be material in light of the Committee's Regulations, shall require reconsideration by the Committee before the Allocation may be used for the Project. After Bonds are issued, the terms and conditions set forth in this Resolution shall be enforceable by the Committee through an action for specific performance or any other available remedy. In addition, after bonds are issued, changes to Items #1, #6, #7, #10 thru #12, #14 thru #16, #18 thru #26, and #37 of the Exhibit A require Committee or Executive Director approval for the term of commitment; changes to item #2, #13, #17, #27, and #39 thru #41 of the Exhibit A cannot be altered; changes to Items #3 thru #5 of the Exhibit A require no Committee or Executive Director approval but any alterations must be reported to CDLAC staff for the affordability period; changes to Items #8 and #9 of the Exhibit A require no CDLAC notification; and changes to Items #28 thru #36 and #38 of the Exhibit A require Committee or Executive Director approval only prior to the Project being Placed in Service by the CA Tax Credit Allocation Committee (TCAC).

**RESOLUTION NO. 18-101**

Page 2 of 3

**Section 4.** Any material changes in the structure of the bond sale prior to the issuance of the Bonds and not previously approved by the Committee shall require approval of the Committee Chair or the Executive Director.

**Section 5.** The transfer of proceeds from the sale of bonds to a project other than the Project subject to this Resolution is allowable only with the prior approval of the Executive Director in consultation with the Chair, except when the Project is unable to utilize any of its allocation and the Applicant is requesting the transfer of the entire Allocation to different project(s). In such case, prior approval of the Committee must be obtained. Any transfer made pursuant to this section may only be made to another/other project(s) of the same issuer that has been previously approved by the Committee.

**Section 6.** The Applicant is authorized to use the Allocation transferred hereby to make a carryforward election with respect to the Project. The Applicant is not authorized to transfer the Carryforward Allocation to any governmental unit in the State other than the Committee.

**Section 7.** The Allocation transferred herein to the Applicant shall automatically revert to this Committee unless the Applicant has issued Bonds for the Project by the close of business on **April 1, 2019**. Upon the discretion of the Executive Director, the expiration may be extended pursuant to the provisions in Chapter 1, Article 8 of the Committee's Regulations.

**Section 8.** Prior to being submitted to the IRS, draft Carryforward Elections must be emailed to CDLAC at [cdlac@treasurer.ca.gov](mailto:cdlac@treasurer.ca.gov) no later than February 1, 2019 for CDLAC approval of election amounts.

**Section 9.** Within twenty-four (24) hours of using the Allocation to issue Qualified Private Activity Bonds, the Applicant shall notify the Committee at [CDLAC@treasurer.ca.gov](mailto:CDLAC@treasurer.ca.gov) that the Allocation has been used. This notice shall identify the Applicant, the project or program, the date the Allocation was used, and the amount of Allocation used.

**Section 10.** Within fifteen (15) calendar days of the Bond closing, the Applicant or its counsel shall formally transmit to the Committee information regarding the issuance of the Bonds by submitting a completed Report of Action Taken in a form prescribed by and made available by the Committee.

**Section 11.** Any differences between the amount of Bonds issued and the amount of the Carryforward Allocation granted in Section 1 of this Resolution shall be retained by the Applicant for the period allowed by Section 146(f)(3)(A) of the Internal Revenue Code regarding carryforward elections. Use of any unused Carryforward Allocation shall be in accordance with Section 5132 of the Committee's Regulations regarding carryforward elections.

**Section 12.** The staff of the Committee is authorized and directed to transmit a copy of this Resolution to the Applicant together with a request that the Applicant retain a copy of this Resolution in the Applicant's official records for the term of the Bonds under this Carryforward Allocation or the term of the income and rental restrictions whichever is longer. The Committee staff is further directed to retain a copy of this Resolution in the files of the Committee (or any successor thereto) for the same period of time.

**Section 13.** In consideration of the Allocation transferred to the Applicant and the Project Sponsor, the Applicant and the Project Sponsor shall comply with all of the terms and conditions contained in this Resolution and ensure that these terms and conditions are included in the documents related to the Bonds. Further, the Applicant and the Project Sponsor expressly agree that the terms and conditions of this Resolution may be enforced by the Committee through an action for specific performance or any other available remedy, provided however, that the Committee agrees not to take such action or enforce any such remedy that would be materially adverse to the interests of Bondholders. In addition, the Applicant and the Project Sponsor shall ensure that the Bond documents, as appropriate, expressly provide that the Committee is a third party beneficiary of the terms and conditions set forth in this Resolution.

**RESOLUTION NO. 18-101**

Page 3 of 3

**Section 14.** The Certification of Compliance II or equivalent form is to be submitted by the Project Sponsor to the Applicant by the Applicant's specified deadline, but no later than March 1st annually until the project's Certificate of Completion has been submitted to the Applicant. Following the submission of the Certificate of Completion or equivalent form to the Applicant, the Certification of Compliance II is to be submitted March 1st every three years thereafter. In addition, an Annual Applicant Public Benefits and On-going Compliance Self-Certification (Self Certification) form must be submitted by the Applicant online every year until the Certificate of Completion has been submitted to the Applicant. After the completion of the project has been reported, the Self Certification will be required to be submitted March 1st every three years thereafter pursuant to Section 5144 of the CDLAC Regulations. Verification to CDLAC of income and rental information is not required in advance of the submission of the Certificate of Completion. A copy of the Certification of Compliance II and the Certificate of Completion forms may be found at this website location: <http://www.treasurer.ca.gov/cdlac>. Failure to submit compliance may result in disqualification from future program participation.

**Section 15.** This Resolution shall take effect immediately upon its adoption.


\* \* \*

**CERTIFICATION**

I, Laura A. Whittall-Scherfee, Executive Director of the California Debt Limit Allocation Committee, hereby certify that the above is a full, true, and correct copy of the Resolution adopted at a meeting of the Committee held in the Jesse Unruh Building, 915 Capitol Mall, Room 587, Sacramento, California 95814, on September 19, 2018 at 1:30 p.m. with the following votes recorded:

AYES: Vincent P. Brown for State Treasurer John Chiang  
Jacqueline Wong-Hernandez for Governor Edmund G. Brown Jr.  
Alan LoFaso for State Controller Betty T. Yee

NOES: None  
ABSTENTIONS: None  
ABSENCES: None

  
\_\_\_\_\_  
Laura A. Whittall-Scherfee, Executive Director

Date: September 19, 2018



**RESOLUTION NO. 18-101**  
**(QUALIFIED RESIDENTIAL RENTAL PROJECT)**  
**EXHIBIT A**

1. Applicant: County of Contra Costa
2. Application No.: 18-404
3. Project Sponsor: Baypoint Family Apartments, L.P. (Baypoint Family Apartments, LLC and CHBA Affordable IX, LLC)
4. Project Management Co.: Cambridge Real Estate Services
5. Project Name: Bay Point Family Apartments
6. Type of Project: New Construction/Family
7. Location: Bay Point, CA
8. Private Placement Purchaser: **Pacific Western Bank/Meta Housing Corporation**  
Cash Flow Bond: **Meta Housing Corporation** Evidence: \$100,000 Denominations

All units identified in the CDLAC resolution, including both the Federally Bond-Restricted Units and the Other Restricted Units, will be incorporated into the Bond Regulatory Agreement. Assumptions to be included in the Bond Regulatory Agreement regarding the Other Restricted Units will include the AMI as outlined in the CDLAC resolution, a limitation that tenants pay no more than 30% of their income and 1.5 persons per bedroom occupancy standard to determine the applicable rent.

**Applicable**

9. Public Sale: **Not Applicable**  
Credit Enhancement Provider: **Not Applicable**
10. Total Number of Units: **191** plus **2** unrestricted manager unit(s)
11. Total Number of Restricted Rental Units: **191**
12. The term of the income and rental restrictions for the Project will be at least 55 years from the date 50% occupancy is achieved or when the project is otherwise placed in service.
13. The Regulatory Agreement shall not terminate prior to the end of the CDLAC Resolution affordability term in the event of foreclosure, exercise of power of sale, and/or transfer of title by deed in lieu of foreclosure in connection with a deed of trust directly or indirectly securing the repayment of Cash Flow Permanent Bonds.
14. The Project will utilize Gross Rents as defined in Section 5170 of the Committee's Regulations.  
**Applicable**
15. Income and Rental Restrictions:
  - a. Federally Bond-Restricted Set-aside Units:  
At least **40%** of the total units will be restricted at 60% of the Area Median Income.
  - b. Other Restricted Units  
For the entire term of the income and rental restrictions, the Project will have:  
  
At least **20** Qualified Residential units rented or held vacant for rental for persons or families whose income is at or below 50% of the Area Median Income.  
  
At least **171** Qualified Residential units rented or held vacant for rental for persons or families whose income is at or below 60% of the Area Median Income.

**RESOLUTION NO. 18-101**

**Exhibit A**

Page 2 of 5

16. 10% of the units will be restricted to households with incomes no greater than 50% of the Area Median Income in accordance with Section 5191 of the Committee's Regulations. These units will be distributed as follows:  
**Applicable**

Studios:	0
One-bedroom:	6
Two-bedroom:	3
Three-bedroom:	8
Four-bedroom:	3
Five-bedroom:	0
  
17. For acquisition and rehabilitation projects, a minimum of \$15,000 in hard construction costs will be expended for each Project unit.  
**Not Applicable**
  
18. A minimum of \$0,000 of public funds will be expended for the Project.  
**Not Applicable**
  
19. At a minimum, the financing for the Project shall include a Taxable Tail in the amount of \$0,000. Taxable debt may only be utilized for Project related expenses, not for the cost of issuance for which the Project Sponsor could otherwise have used tax-exempt financing.  
**Not Applicable**
  
20. If the Project received points for having large family units for the entire term of the income and rental restrictions, the Project will have at least 0 three-bedroom or larger units.  
**Not Applicable**
  
21. For a period of fifteen (15) years after the Project is placed in use, the Project will provide to Project residents high-speed Internet or wireless (WiFi) service in each Project unit.  
**Not Applicable**
  
22. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents an after school program of an ongoing nature on-site, or there must be an after school program available to Project residents within 1/2 mile of the Project except where the Project will provide no cost round trip transportation. The program shall include, but is not limited to: tutoring, mentoring, homework club, art, and recreation activities to be provided weekdays throughout the school year for at least ten (10) hours per week.  
**Not Applicable**
  
23. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents instructor-led educational, health and wellness, or skill building classes. The classes shall include, but are not limited to: financial literacy, computer training, home-buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation & preparation, and smoking cessation. Classes shall be provided at a minimum of 84 hours per year (drop-in computer labs, monitoring and technical assistance shall not qualify) and be located within 1/2 mile of the Project or except where Project will provide no cost round trip transportation.  
**Not Applicable**
  
24. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents 20 hours or more per week of licensed childcare on-site or there must be 20 hours or more per week of licensed childcare available to Project residents within 1/2 mile of the Project except where Project will provide no cost round trip transportation.  
**Not Applicable**

**RESOLUTION NO. 18-101**

**Exhibit A**

Page 3 of 5

25. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents health and wellness services and programs within 1/2 mile of the Project or except where Project will provide no cost round trip transportation. Such services and programs shall provide individualized support for tenants (not group classes) but need to be provided by licensed individuals or organizations. The services shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs and senior companion programs. Services shall be provided for a minimum of 100 hours per year.

**Not Applicable**

26. For a period of fifteen (15) years after the Project is placed in use, the Project will offer to Project residents a bona fide service coordinator. The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants with access services through referral and advocacy, and (c) organizing community-building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.).

**Not Applicable**

27. Minimum sustainable specifications will be incorporated into the project design per Section 5205 of the CDLAC Regulations.

**Applicable**

Section Waived:

<input type="checkbox"/>	Energy Efficiency
<input type="checkbox"/>	Landscaping
<input type="checkbox"/>	Roofs
<input type="checkbox"/>	Exterior Doors
<input type="checkbox"/>	Appliances (ENERGY STAR)
<input type="checkbox"/>	Window Coverings
<input type="checkbox"/>	Water Heater
<input type="checkbox"/>	Floor Coverings
<input type="checkbox"/>	Insulation (Greengard Emission Criteria)

28. The Project commits to becoming certified under any one of the following programs upon completion:
- |   |                       |
|---|-----------------------|
| a. Leadership in Energy & Environmental Design (LEED for Homes)               | <b>Not Applicable</b> |
| b. Green Communities  | <b>Not Applicable</b> |
| c. Passive House Institute US (PHIUS)   | <b>Not Applicable</b> |
| d. Passive House  | <b>Not Applicable</b> |
| e. Living Building Challenge  | <b>Not Applicable</b> |
| f. National Green Building Standard ICC / ASRAE – 700 silver or higher rating | <b>Not Applicable</b> |
| g. Green Point Rated Multifamily Guidelines                                   | <b>Not Applicable</b> |
| h. WELL   | <b>Not Applicable</b> |

29. The Project is a New Construction or Adaptive Reuse Project that commits to Energy Efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in Title 24, Part 6 of California Building Code (Percentage Better than the 2016 Standards):

- |        |                       |
|--------|-----------------------|
| a. 7%  | <b>Not Applicable</b> |
| b. 12% | <b>Not Applicable</b> |



**RESOLUTION NO. 18-101**

**Exhibit A**

Page 5 of 5

39. As specified in Section 5144(b) of the Committee's Regulations, sponsors will be required to utilize TCAC's Compliance Manual specifically Section VI: Qualify Tenants for Low Income Housing Tax Credit Units, to verify tenant income in conjunction with initial occupancy. No less than every three (3) years after the project is completed, the Sponsor must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution: TCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, evidence of the verifying income computation and unit lease.

**Applicable**

40. As specified in Section 5144(c) of the Committee's Regulations, compliance with the income and rental requirements of the Federally Bond-Restricted Units identified in the Committee Resolution and the Bond Regulatory Agreement must be demonstrated by the Applicants initial review of 20% of all management files associated with the Federally Bond-Restricted units and subsequent review every three (3) years of 20% of all management files associated with the Federally Bond-Restricted units.

**Applicable**

41. As specified in Section 5144(d) of the Committee's Regulations, applicants are required to ensure an onsite inspection as well as an on-site review of the 20% Federally Bond-Restricted units is performed every three (3) years after the Qualified Project Period has commenced.

The following entity will conduct the site and file inspections:

**Not Applicable**

**EXHIBIT F**

**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

CONTRA COSTA COUNTY  
Department of Conservation and Development  
30 Muir Road  
Martinez, California 94553  
Attention: Community Development Bond Program Manager

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**CERTIFICATE AS TO COMMENCEMENT OF  
QUALIFIED PROJECT PERIOD**

County of Contra Costa, California  
Multifamily Housing Revenue Note  
(Baypoint Family Apartments) Series 2018B-1  
and  
County of Contra Costa, California  
Multifamily Housing Revenue Note  
(Baypoint Family Apartments) Series 2018B-2

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

10% of the dwelling units in the Project financed in part from the proceeds of the captioned financings were first occupied on \_\_\_\_\_, 20\_\_.

50% of the dwelling units in the Project financed in part from the proceeds of the captioned financings were first occupied on \_\_\_\_\_, 20\_\_.

Capitalized terms used in this Certificate as to Commencement of Qualified Project Period have the meanings given such terms in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of November 1, 2018, between Baypoint Family Apartments, L.P., a California limited partnership, and the County of Contra Costa, California.

BAYPOINT FAMILY APARTMENTS, L.P.,  
a California limited partnership

By: BayPoint Family Apartments, LLC,  
a California limited liability company,  
its administrative general partner

By: \_\_\_\_\_  
Kasey Burke,  
Vice President

By: CHBA Affordable IX, LLC,  
a California limited liability company,  
its managing general partner

By: \_\_\_\_\_  
Graham Espley-Jones,  
President