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9/27/2002 Page 1 of 51 4:29PM

### LOAN AND REGULATORY AGREEMENT

Grantor: AHA-Bayview Apartments Limited Partnership, a  
Washington limited partnership  
Additional names on pg. N/A

Grantee: Housing Authority of the City of Anacortes  
U.S. Bank, N.A.,  
as Trustee  
Additional names on pg. N/A

Legal Description: ~~PTN BLOCK 6, GRIFFINS 1ST ADD AND PTN BLOCK~~  
~~PTN NE SE 24-35-T 5, WHITE 1ST ADD:~~  
Official Legal Description on Exhibit A attached

Assessor's Tax Parcel ID#: P57254; P60597

Reference # (If applicable): N/A

UNOFFICIAL DOCUMENT

LOAN AND REGULATORY AGREEMENT

Between

HOUSING AUTHORITY OF THE CITY OF ANACORTES

and

AHA-BAYVIEW APARTMENTS LIMITED PARTNERSHIP

Dated as of

September 15, 2002

HOUSING AUTHORITY OF THE CITY OF ANACORTES  
HOUSING REVENUE BONDS, 2002  
(BAYVIEW APARTMENTS PROJECT)

HOUSING AUTHORITY OF THE CITY OF ANACORTES  
(BAYVIEW APARTMENTS PROJECT)

LOAN AND REGULATORY AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
Parties.....	1
Recitals.....	1
ARTICLE I DEFINITIONS AND INTERPRETATION.....	3
Section 1.01    Definitions.....	3
Section 1.02    Resolution of Conflicting Provisions .....	7
Section 1.03    Governing Law; Venue .....	7
ARTICLE II REPRESENTATIONS AND WARRANTIES .....	7
Section 2.01    Representations and Warranties of the Authority .....	7
Section 2.02    Representations and Warranties of the Borrower.....	8
ARTICLE III ISSUANCE OF OBLIGATIONS; LOAN TO THE BORROWER;	
LOAN PAYMENTS; LIMITATION OF LIABILITY .....	13
Section 3.01    Authorization to Issue Bondss.....	13
Section 3.02    Loan to the Borrower .....	13
Section 3.03    Loan Payments; Costs of Issuance. ....	13
Section 3.04    Prepayment of Loan Payments.....	14
Section 3.05    Payments Required Upon Acceleration.....	14
Section 3.06    Rebate Deposits.....	15
Section 3.07    Payments to Authority.....	15
Section 3.08    Nature of Borrower's Obligations; Limitation of Liability.....	16
Section 3.09    Replacement of Authority as General Partner.....	16
ARTICLE IV SECURITY FOR BONDS.....	17
ARTICLE V APPLICATION OF PROCEEDS OF BONDS .....	17
Section 5.01    Application of Proceeds of Bonds.....	17
Section 5.02    Property to Be Kept Free From Liens .....	17
ARTICLE VI INSURANCE; DAMAGE, DESTRUCTION AND CONDEMNATION.....	18
Section 6.01    Insurance .....	18
Section 6.02    Damage, Destruction, Condemnation or Insured Loss of Title.....	18
ARTICLE VII OTHER COVENANTS OF THE BORROWER.....	19
Section 7.01    Maintenance of Existence .....	19
Section 7.02    Sale, Transfer or Assignment of Assets .....	19
Section 7.03    Permitted Leases and Operating Contracts.....	20



Section 7.04	Maintenance of Facilities; Management Contract.....	21
Section 7.05	Compliance with Laws.....	21
Section 7.06	Taxes and Other Governmental Charges.....	21
Section 7.07	Use of Facilities.....	22
Section 7.08	Certificate of Compliance.....	25
Section 7.09	No Discrimination.....	25
Section 7.10	Notice of Default.....	25
Section 7.11	Tax-Exempt Status of the Bonds.....	25
Section 7.12	Program Investments.....	26
Section 7.13	Indemnification.....	26
Section 7.14	Covenants Run With the Land; Term.....	27
Section 7.15	Borrower's Performance Under Indenture.....	28
Section 7.16	Compliance with Secondary Disclosure Requirements of the Securities and Exchange Commission.....	28
Section 7.17	Debt Service Coverage Ratio.....	29
Section 7.18	Advertising.....	29
ARTICLE VIII EVENTS OF DEFAULT; REMEDIES.....		29
Section 8.01	Events of Default.....	29
Section 8.02	Remedies on Default.....	30
Section 8.03	No Remedy Exclusive.....	31
Section 8.04	No Implied Waiver.....	32
Section 8.05	Agreement to Pay Attorneys' Fees and Expenses.....	32
ARTICLE IX MISCELLANEOUS.....		32
Section 9.01	Notices.....	32
Section 9.02	Uniformity; Common Plan.....	33
Section 9.03	Compliance; Authority's Obligations.....	33
Section 9.04	Binding Effect.....	33
Section 9.05	Severability.....	34
Section 9.06	Amendments; Recordation.....	34
Section 9.07	Release or Termination.....	34
Section 9.08	Limitation of Authority Liability.....	35
Section 9.09	Authority Shall Not Unreasonably Withhold Consents and Approvals.....	35
Section 9.10	Waiver of Breach.....	35
Section 9.11	All Obligations Due on Business Days.....	35
Section 9.12	Authority Observance of Covenants and Terms.....	36
Section 9.13	No Rights Created in Third Parties.....	36
Section 9.14	Time of Essence.....	36
Section 9.15	Benefit of Owners.....	36
Section 9.16	References to Bonds Ineffective After Payment.....	36
Section 9.17	Execution in Counterparts.....	36



ARTICLE X ASSIGNMENT OF AUTHORITY'S RIGHTS.....37

EXHIBIT A - LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B - FORM OF CERTIFICATE OF COVERAGE



## LOAN AND REGULATORY AGREEMENT

THIS LOAN AND REGULATORY AGREEMENT (this "Agreement"), made as of the 15th day of September, 2002, by and between the Housing Authority of the City of Anacortes (the "Authority"), a public body corporate and politic of the State of Washington (the "State"), and AHA-Bayview Apartments Limited Partnership, a Washington limited partnership of which the Authority is the sole general partner, and its successors or assigns (the "Borrower");

### WITNESSETH:

WHEREAS, the Authority is authorized to issue revenue bonds and to make the proceeds thereof available to private entities for the purpose of providing housing for low-income persons; and

WHEREAS, the Borrower has applied to the Authority for financial assistance for the purpose of providing a part of the funds with which to provide permanent financing for the acquisition and rehabilitation of a 46-unit apartment complex known as the Bayview Apartments on land owned by the Authority and located at 810 29<sup>th</sup> Street, Anacortes, Washington (the "Project"), which property will be leased to the Borrower to provide housing for low income persons within the City of Anacortes, and to pay all or a portion of the costs of issuing the Bonds (defined below); and

WHEREAS, the Authority has determined that the financial assistance requested by the Borrower is important for the feasibility of the Project and that it is in the best interest of the Authority to issue its Housing Revenue Bonds, 2002 (Bayview Apartments Project) (the "Bonds"), in the principal amount of \$1,450,000, and to use a portion of the proceeds of the Bonds to acquire the Project for lease to the Borrower and the remaining proceeds of the Bonds to make a loan to the Borrower, all to provide part of the funds required to accomplish the Project, to fund a reserve for the Bonds and to pay costs of issuing the Bonds; and

WHEREAS, the Bonds are secured by a first lien against the money and investments held pursuant to the Trust Indenture dated as of September 15, 2002 (the "Indenture"), between the Authority and U.S. Bank, N.A., as Trustee for the Bonds (the "Trustee"), and by a leasehold deed of trust (the "Deed of Trust") encumbering the Borrower's interest in the Property; and



WHEREAS, this Agreement will require the Borrower to make payments in amounts and at times sufficient, when combined with the payments made by the Borrower under the Lease, to pay the principal of and premium, if any, and interest on the Bonds when due; and

WHEREAS, the Authority and the Borrower intend to restrict the use of the Property as provided herein to comply with State law and to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds; and

WHEREAS, in order to secure the payment of all the principal of and premium, if any, and interest on the Bonds, the rights of the Authority arising under this Agreement (with certain exceptions and reservations described in Article X) will be assigned to the Trustee, without recourse, for the benefit of the Bondowners; and

WHEREAS, the execution and delivery of this Agreement, the assignment of this Agreement to the Trustee and the issuance of the Bonds have been in all respects duly and validly authorized by the Authority pursuant to Resolution No. 343 adopted July 18, 2002 (the "Resolution");

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto covenant and agree as follows, and the Borrower does hereby impose upon the Property the following covenants, restrictions, charges and easements, which shall run with the land and shall be binding and a burden upon the Property and all portions thereof, and (except as otherwise provided in Section 9.07) upon any purchaser, grantee or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of any portion of the Property and any other person or entity having any right, title or interest therein, for the length of time that this Agreement shall be in full force and effect.



## ARTICLE I

### Definitions and Interpretation

Section 1.01 Definitions. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above and the following terms shall have the respective meanings set forth below for the purposes hereof. Capitalized terms not defined herein shall have the meanings given them in the Resolution and in the Indenture.

“Act” means chapter 35.82 of the Revised Code of Washington, as amended.

“Adjusted Net Operating Income” means Project Revenues other than Insurance Proceeds (but including proceeds of business interruption insurance), Condemnation Awards, refundable security deposits, and less Operating and Maintenance Costs.

“Bondowners” means the Owners of the Bonds as defined in the Indenture.

“Bonds” means the Housing Revenue Bonds, 2002 (Bayview Apartments Project), of the Authority in the principal amount of \$1,450,000 issued under the authority of and for the purposes provided in the Resolution.

“Code” means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable provisions of the Internal Revenue Code of 1954, as amended, as such statutes apply to the Bonds, and together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States. All references herein to sections, paragraphs or other subdivisions of the Code or the regulations promulgated thereunder shall be deemed to be references to correlative provisions of any successor code or regulations promulgated thereunder.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement between the Borrower and the Trustee, as Dissemination Agent, relating to the Bonds, as such agreement may be supplemented or amended.

“Coverage Ratio” means the ratio of Adjusted Net Operating Income to Required Net Debt Service.

“Date of Issue” means the date on which the Bonds are issued and delivered to the initial purchasers thereof.





“Deed of Trust” means the Leasehold Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing under which the Borrower is the grantor and the Trustee is the beneficiary, constituting a lien on the Borrower’s interest in the Property.

“Dwelling Units” means the residential living units within the Property.

“Extended Use Agreement” means the Regulatory Agreement (Extended Use Agreement) required by the Washington State Housing Finance Commission under its Low Income Housing Tax Credit Program.

“Extraordinary Maintenance Expenses” means the cost of those unforeseen repairs and improvements, and other expenses, that are necessary, in the opinion of the Borrower (or, if a Trustee has appointed a receiver for the Property, in the opinion of that Trustee or its agent), for the viability of the Property.

“Fiscal Year” means the fiscal year of the Borrower, initially the period from the Date of Issue to December 31, 2002, and the 12-month period ending on December 31 of each year thereafter.

“Functionally Related and Subordinate” means and includes facilities for use by residents; for example, laundry facilities, parking areas, hallways and recreational facilities, provided that the same are of a character and size commensurate with the character and size of the Property.

“Hazardous Substances Agreement” means, collectively, the Hazardous Substances Warranty/Indemnity Agreements between the Borrower and the Trustee and the Borrower and the Authority, relating to the use of the Property by the Borrower.

“Indenture” means the Trust Indenture between the Authority and the Trustee dated as of September 15, 2002, relating to the Bonds.

“Investor Limited Partner” means Key Community Development Corporation as the investor limited partner under the Partnership Agreement or any other person who is admitted as an Investor Limited Partner under the terms of the Partnership Agreement.

“Lease” means the Lease Agreement between the Authority and the Borrower providing for the lease of the Property by the Authority to the Borrower, as such agreement may be supplemented or amended.

"Lease Payments" means the payments required or permitted to be made under the Lease and allocable to the payment of principal of and/or interest on the Bonds.

"Loan" means the loan by the Authority to the Borrower of \$677,700 of proceeds of the Bonds to provide a portion of the financing for the Project, including money required to fund a reserve for the Bonds and to pay costs of issuing the Bonds.

"Loan Documents" means this Agreement, the Lease, the Indenture, the Continuing Disclosure Agreement, the Deed of Trust, the Hazardous Substances Agreement, UCC Financing Statements and any other document relating to the Loan to which the Borrower is a party or to which it has consented in writing.

"Loan Payments" means the payments required or permitted to be made under the Loan and allocable to the payment of principal of and/or interest on the Bonds.

"Occupancy Date" means the later of the Date of Issue or the first date on which at least 10% of the Dwelling Units in the Property are occupied.

"Operation and Maintenance Costs" means all necessary costs to the Borrower of operating and maintaining the Property, including but not limited to administrative and general expenses, costs of insurance (including reasonable contributions for self-insurance reserves, if any), consulting and technical services and repairs and replacements (to the extent not properly classifiable as capital costs) and reasonable reserves therefor, but excluding depreciation (or reserves therefor), amortization of intangibles or other bookkeeping entries of a similar nature and debt service on the Bonds and any other obligations of the Borrower relating to the Property. For purposes of computing the Coverage Ratio, Operation and Maintenance Costs shall not include Extraordinary Maintenance Expenses, payments in lieu of taxes, or costs paid from reserves, Insurance Proceeds or money disbursed from the Project Fund maintained pursuant to the Indenture.

"Owner" means the owner of the Bonds registered as such on the registration books maintained by the Bond Registrar.

"Partnership Agreement" means the Amended and Restated Limited Partnership Agreement of AHA-Bayview Apartments Limited Partnership, a Washington limited partnership, dated as of September 26, 2002, as such agreement may be amended or supplemented.

"Permitted Encumbrances" means, as of any particular time, the following liens and encumbrances against the Property: this Agreement; the Lease; the Extended Use



Agreement; the Deed of Trust; the State Deed of Trust; the State Regulatory Agreement; and all other liens and encumbrances approved in writing by or in favor of the Authority.

"Project" means, depending on the context, (i) the acquisition and rehabilitation of a 46-unit apartment complex known as the Bayview Apartments located at 810 29<sup>th</sup> Street, Anacortes, Washington, and the rental of at least 50% of the dwelling units therein to low-income persons, or (ii) the Bayview Apartments.

"Property" means the land and improvements constituting the Project, legally described in Exhibit A hereto, and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed or located thereon.

"Qualified Tenants" means and includes individuals and families of low or moderate income determined in a manner consistent with determinations of lower-income families under Section 8 of the United States Housing Act of 1937, as amended, except that the percentage of area median gross income which qualifies as low or moderate income shall not exceed 60% and such calculation shall be adjusted for family size. Occupants of a unit are considered individuals or families of low or moderate income only if their adjusted income (computed in the manner prescribed by the Treasury Regulations) does not exceed 60% of the median gross income for the area. However, occupants of a unit shall not be considered Qualified Tenants if all the occupants are students (as defined in Section 151(c)(4) of the Code), none of whom is entitled to file a joint income tax return. The method of determining low or moderate income in effect on the Date of Issue will be determinative, even if such method is subsequently changed.

"Regulatory Period" means, unless this Agreement is modified or terminated sooner as provided herein, the period commencing on the Date of Issue and ending on the later of the date the Bonds are no longer Outstanding or the date that is 20 years after the Date of Issue.

"Required Debt Service" means the amount required to pay principal of and interest on the Bonds when due, including amounts required for the mandatory redemption of Bonds pursuant to Section 3.2(2) of the Indenture.

"Required Net Debt Service" means, for any period, Required Debt Service plus Trustee Fees for that period, less known earnings for that period on amounts in the Reserve Account, to the extent not required to replenish the Reserve Account to the Reserve Requirement.

"Resolution" means Resolution No. 343 of the Authority authorizing the issuance of the Bonds.



"State" means the state of Washington.

"State Deed of Trust" means the leasehold deed of trust encumbering the Partnership's interest in the Property securing payment of the State Loan.

"State Loan" means the loan in the amount of \$1,000,000 from the State Office of Housing to the Partnership relating to the Project.

"State Regulatory Agreement" means the low income covenant agreement between the State and the Authority executed in connection with the State Loan and relating to the use of the Project.

"Transferee" means any person to whom the Borrower sells, transfers to or disposes of its interest in the Property or any portion thereof (other than by entering into a residential agreement for individual resident use as contemplated in this Agreement), including a "related person" pursuant to the provisions of Section 267 or 707(b) or under Section 1563(a) of the Code.

"Treasury Regulations" means the regulations of the Department of the Treasury under the Code.

Section 1.02 Resolution of Conflicting Provisions. If any of the provisions of this Agreement (including the definitions of terms herein) conflict in any respect with those in the Indenture and cannot be reconciled, the provisions in the Indenture shall control over provisions in this Agreement.

Section 1.03 Governing Law; Venue. This Agreement is governed by and shall be construed in accordance with the laws of the State and shall be liberally construed so as to carry out the purposes hereof. Except as otherwise required by applicable law, any action under this Agreement shall be brought in the Superior Court of the State in and for Skagit County and/or in the United States District Court for the Western District of Washington in Seattle, Washington.

## ARTICLE II

### Representations and Warranties

Section 2.01 Representations and Warranties of the Authority. As of the date hereof, the Authority hereby represents and warrants as follows:



(a) The Authority is a public body corporate and politic of the State, duly organized and validly existing under and pursuant to the constitution and laws of the State, and has full power and authority under the Constitution and laws of the State to enter into the transactions contemplated on its part by this Agreement, the Lease, the Indenture and the Resolution, and to carry out its obligations hereunder and thereunder. By the Resolution, the Authority has duly authorized the execution and delivery of this Agreement, the Lease and the Indenture, the sale, issuance, execution and delivery of the Bonds, and the performance of its obligations under this Agreement, the Lease, the Indenture and the Bonds.

(b) Neither the Authority's execution and delivery of the Bonds, the Indenture, this Agreement or the Lease, the Authority's consummation of the transactions contemplated on its part hereby and thereby, nor the Authority's fulfillment of or compliance with the terms and conditions or provisions of the Bonds, the Indenture, this Agreement or the Lease conflicts with or results in the breach of any of the terms, conditions or provisions of any constitutional provision or statute of the State or of any agreement, instrument, judgment, order or decree to which the Authority is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance of any nature upon any property or assets of the Authority prohibited under the terms of any instrument or agreement.

(c) There is no litigation pending or, to the best of the Authority's knowledge, threatened against the Authority questioning the Authority's execution, sale, issuance, delivery or payment of the Bonds, or the Authority's execution, delivery or performance of its obligations under this Agreement, the Lease or the Indenture, or the organization, powers or authority of the Authority, or the right of the officers of the Authority to hold their respective offices.

(d) Simultaneously herewith, the Authority's rights, title and interests in and under this Agreement will be assigned and conveyed to the Trustee (with certain reservations and exceptions described in Article X), without recourse, as security for payment of the principal of and premium, if any, and interest on the Bonds.

(e) The Authority had full legal authority to become and has full legal authority to act as the general partner of the Borrower.

Section 2.02 Representations and Warranties of the Borrower. As of the date hereof, the Borrower hereby represents and warrants as follows:



(a) The Borrower (1) is a limited partnership duly organized under the laws of the State, (2) is qualified, licensed and authorized to conduct affairs in the State; (3) has full power and authority to lease and operate the Property, to carry on its business as now conducted and to enter into the Loan Documents to which it is a party; and (4) has duly authorized the execution and delivery of the Loan Documents to which it is a party by proper Borrower action. The Loan Documents to which the Borrower is a party constitute or will upon their execution constitute valid and legally binding obligations of the Borrower, enforceable in accordance with their terms, except as may be limited by laws relating to bankruptcy, insolvency, reorganization or moratorium or other similar laws affecting creditors' rights, and by public policy, principles of equity and the discretion of any court.

(b) Neither the Borrower's execution and delivery of the Loan Documents to which it is a party and the Borrower's consummation of the transactions contemplated by the Loan Documents, nor the Borrower's fulfillment of or compliance with the provisions of the Loan Documents conflicts with, violates or will result in a material breach of any of the material terms, conditions or provisions of any Borrower restriction or any agreement, instrument, statute, governmental rule or regulation, court order, judgment or decree to which the Borrower is now a party or by which it or any of its property is bound, or constitutes a material default under any of the foregoing which has not been waived or consented to in writing by the appropriate party or parties, or results in the creation or imposition of any lien, charge, security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower prohibited under the terms of any such restriction, agreement, instrument, statute, governmental rule or regulation, court order, judgment or decree. The Borrower will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof throughout the Regulatory Period.

(c) To the best of the Borrower's knowledge, the proceeds of the Bonds to be lent to the Borrower hereunder, together with any other funds to be contributed by the Borrower in accordance with this Agreement and by other parties, will be sufficient and will not exceed the amount necessary to pay costs of rehabilitating the Project and the costs of issuing the Bonds.

(d) There is no litigation pending or, to the best of the Borrower's knowledge, threatened against the Borrower affecting its ability to accomplish the Project or the performance of its obligations under the Loan Documents.

(e) No consent, approval, authorization or order of any governmental body is required to be obtained by the Borrower for the execution and delivery of the Loan Documents to which it is a party, the fulfillment of and compliance with the provisions of



the Loan Documents, or the accomplishment of the Project, except such as have already been obtained or will be obtained in a timely manner and except such as may be required under federal and state securities laws in connection with the purchase of the Bonds by the initial purchaser thereof.

(f) The Borrower has or will have a valid leasehold interest in the Property and the structures thereon and personal property included therein, and there are no liens or encumbrances against such property other than Permitted Encumbrances.

(g) The information and documents submitted to the Authority in or with the Borrower's application for financing and any supplements thereto were true and complete in all material respects on the date of submission and will be true and complete in all material respects on the Date of Issue.

(h) All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes, if any, shown thereon to be due, including interest and penalties, have been paid, except such, if any, as are being actively contested by the Borrower and as to which adequate reserves have been made for the payment thereof.

(i) The average maturity of the Bonds does not exceed 120% of the reasonably expected weighted average economic life of the portions of the Project financed with the proceeds of the Bonds.

(j) Any expenditures that the Borrower has heretofore made for purposes of accomplishing the Project and for which the Borrower will seek reimbursement from Bond proceeds were paid or incurred after August 19, 2001, the date that is 60 days prior to the date upon which the Authority passed a resolution of intention agreeing to issue the Bonds for the purpose of financing the Project costs, in anticipation of the issuance of the Bonds and reimbursement from the proceeds thereof.

(k) At least 95% of the net proceeds of the Bonds, when used to acquire the Project and/or to make a loan to the Borrower, will be used to provide "qualified residential rental property" within the meaning of Section 142(d) of the Code.

(l) The Borrower will take all action necessary to ensure that the Property is used exclusively as "qualified residential rental property" within the meaning of Section 142(d) of the Code.

(m) The portions of the Property financed with proceeds of the Bonds will be leased by the Borrower, and, except as and to the extent described in the Tax Exemption

Certificate executed or to be executed in connection with the issuance of the Bonds, the Borrower will use the portions of the Property financed with proceeds of the Bonds for the purposes contemplated hereby, and no such portion of the Property is (or is expected to be) used by the Borrower for any other purpose.

(n) The proceeds of the sale of the Bonds to be lent to the Borrower will be devoted to and used with due diligence solely for the purpose of paying, or reimbursing the Borrower for, costs of rehabilitating, improving, installing and equipping the Property, paying costs of issuing the Bonds, and funding a debt service reserve for the Bonds.

(o) Money on deposit in any fund or account with the Trustee in connection with the Bonds, whether or not such money was derived from proceeds of sale of the Bonds, will not be used by or under the direction of the Borrower or any user of the Property in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, as the same exists on this date or may from time to time hereafter be amended, supplemented or revised, and the Borrower specifically agrees that the investment of money in any fund created by the Indenture shall be restricted if necessary to prevent the Bonds from being "arbitrage bonds" under the Code.

(p) The Borrower's tax certifications to be delivered to the Authority and Bond Counsel on the Date of Issue will be true and correct as of the Date of Issue, and will not contain any material misrepresentation or omit any information necessary to be contained therein for the purpose for which such certifications are delivered.

(q) No more than 2% of the proceeds of the Bonds will be used to pay costs of issuance of the Bonds within the meaning of Section 147(g) of the Code.

(r) Less than 25% of the proceeds of the Bonds will be used (directly or indirectly) for the acquisition of land or any interest therein, and no portion of the proceeds of the Bonds will be used (directly or indirectly) for the acquisition of land (or an interest thereon) to be used for farming purposes.

(s) No proceeds of the Bonds will be used for the acquisition of any property (or an interest therein) unless the first use of such property is pursuant to such acquisition or unless rehabilitation expenditures (within the meaning of Section 147(e)(3) of the Code) are paid or incurred with respect to a building (and equipment which was part of an integrated operation contained in the building before its acquisition), in an amount equal to or exceeding 15% of the portion of the cost of acquiring such building or facilities financed with proceeds of the Bonds, not later than the date which is two years after the later of the date of acquisition of the Property or the Date of Issue.





(t) Not more than 3% of the net proceeds of the Bonds (or the portions of the Property financed with proceeds of the Bonds) shall be used, directly or indirectly, for any "private business use" within the meaning of Section 141 of the Code other than use by the Borrower for the purposes contemplated by the Resolution and this Agreement.

(u) No proceeds of the Bonds will be used to finance or refinance 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.

(v) The Borrower will not permit the Property to be used or the proceeds of the Bonds to be invested in such a manner as to cause the Bonds to be considered guaranteed (in whole or in part) by the United States (or by an agency or instrumentality) within the meaning of Section 149(b) of the Code.

(w) The Borrower will provide to the Authority prior to the Date of Issue the information required to complete an IRS Form 8038 with respect to the Bonds.

(x) To the best of the Borrower's knowledge after due inquiry and due consultation with the Borrower's counsel and Bond Counsel, there are no facts or circumstances existing which have resulted or would result in the interest on the Bonds being or becoming includable for federal income tax purposes in the gross incomes of the owners of the Bonds.

(y) There is no issue of tax-exempt obligations that has been, or will be, sold or issued at substantially the same time as the Bonds, the payment of the principal of or interest on which is secured, directly or indirectly, by any obligation of the Borrower.

(z) The Borrower will take such action or actions, including being a party to or consenting to such amendments of this Agreement, the Lease, the Deed of Trust and the Indenture or such other documents pertaining to the Bonds, as may be necessary, in the opinion of Bond Counsel, to comply fully with all applicable rules, rulings, regulations policies, procedures or other official statements promulgated or proposed by the Internal Revenue Service pertaining to obligations the interest on which is excludable from gross income under Section 103 of the Code, and which pertain to the Bonds.

(aa) In addition, to ensure compliance with the requirements of Section 42 of the Code, the Borrower hereby represents, covenants and warrants that at least 95% of the proceeds of the Bonds will be used exclusively to pay costs which (i) are (A) capital expenditures (as defined in Treasury Regulation Section 1.150-1(a)) and (B) not made for



the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code ("Qualified Project Costs") and that for the greatest number of buildings the proceeds of the Bonds shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed 50% or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B); provided, however, the foregoing representation, covenant and warrant is made for the benefit of the Borrower and its partners and neither the Trustee nor the Authority shall have any obligation to enforce this statement nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty.

### ARTICLE III

#### Issuance of Obligations; Loan to the Borrower; Loan Payments; Limitation of Liability

Section 3.01 Authorization to Issue Bonds. The Authority agrees to sell, issue and cause the Bonds to be delivered to the initial purchasers thereof for the purpose (in part) of providing all or part of the funds required to accomplish the Project, to fund a reserve for the Bonds and to pay the costs of issuing the Bonds. The Borrower hereby approves the sale, issuance and delivery of the Bonds and all the terms and provisions of the Indenture, the Lease and this Agreement, including the assignment to the Trustee, without recourse, of the Authority's rights, title and interests in and under this Agreement (with certain exceptions and reservations noted in Article X) and the Lease (with certain exceptions and reservations noted therein).

Section 3.02 Loan to the Borrower. The Authority hereby agrees to lend to the Borrower the principal sum of \$677,700 derived from the proceeds of the sale of the Bonds, and the Borrower agrees to borrow that sum from the Authority pursuant to this Agreement, all for the purpose of financing a portion of the costs of the Project, funding a reserve for the Bonds and paying costs of issuing the Bonds.

#### Section 3.03 Loan Payments; Costs of Issuance.

(a) The Borrower agrees to repay the Loan, together with interest thereon, in Loan Payments delivered to the Trustee in immediately available funds in amounts that shall be sufficient, together with Lease Payments and other money, if any, in the Bond Fund, to pay in full all of the principal of and premium, if any, and interest on the Bonds



10 days in advance of the date on which the same shall come due, whether at maturity, earlier redemption or acceleration pursuant to the Indenture. If at any time the Trustee withdraws money from the Reserve Account to pay debt service on the Bonds, the Borrower shall immediately deliver to the Trustee an amount sufficient, together with the amount delivered pursuant to Section 5.1 of the Lease, to replenish the Reserve Account to the Reserve Requirement. Any amounts so delivered to the Trustee shall be credited against the Loan Payments. The ratio of Loan Payments to the sum of Loan Payments and Lease Payments shall be the ratio of the principal amount of the Bonds used to make the Loan to the total original principal amount of the Bonds (i.e., \$677,700 to \$1,450,000).

(b) The Borrower shall pay all costs of issuing the Bonds in excess of the amount of proceeds of the Bonds used for that purpose.

(c) The Trustee shall apply all amounts delivered to it pursuant to paragraph (a) of this section for deposit into the Principal and Interest Account and the Reserve Account for the Bonds as required under the Indenture. The Borrower shall designate to the Trustee in writing the purpose for which any other money delivered by the Borrower to the Trustee pursuant to this Section 3.03 is so delivered.

(d) All payments of the final installment(s) of principal of and interest on the Bonds made from money in the Reserve Account pursuant to Section 4.3(2)(c) of the Indenture shall be credited against the amounts due under Section 3.03(a).

Section 3.04 Prepayment of Loan Payments. The Borrower, at its option, may pay the remaining balance of the Loan or any part thereof in advance at the times and prices and after notice to the Authority and the Trustee and with subsequent notice to the Bondowners, in the manner provided in the Indenture, the Bonds and the Loan Documents. Subject to the proviso in paragraph 3.03(c), any such prepayment shall be on a pro rata basis with prepayment of Lease Payments pursuant to Section 5.2 of the Lease, so that the ratio of the Borrower's Loan Payments to the total debt service on the Bonds remains unchanged.

Section 3.05 Payments Required Upon Acceleration. In the event of acceleration of payment of the principal of and interest on any of the Bonds, the Borrower shall pay to the Trustee an amount sufficient, together with accelerated Lease Payments and other money held by the Trustee under the Indenture (but not including money in the Rebate Fund), to pay the entire principal of and accrued interest on the Bonds so accelerated to the date of payment.



Section 3.06 Rebate Deposits. The Borrower covenants and agrees to pay or cause to be paid to the Trustee or the Authority, as applicable, to the extent not paid pursuant to Section 5.4 of the Lease, for delivery to the Internal Revenue Service, within 10 days of receipt by the Borrower of a written demand from the Trustee or the Authority therefor, such amounts as have been determined pursuant to the Indenture or otherwise to be necessary to be delivered to the Internal Revenue Service as a rebate amount for the Bond proceeds (and for other amounts treated as "gross proceeds" of the Bonds) pursuant to Section 148 of the Code (the "Rebate Amount"). If the conditions to the six-month expenditure exception to the arbitrage rebate requirement set forth in the Tax Exemption Certificate of the Authority are not met, the Borrower shall determine or cause to be determined in accordance with written instructions of Bond Counsel delivered to the Borrower and the Authority from time to time, the Rebate Amount attributable to the Bonds.

Section 3.07 Payments to Authority. The Borrower will pay, to the extent not paid pursuant to Section 5.5 of the Lease, within 10 days of a request from the Authority therefor, all expenses incurred by the Authority under the Indenture, including but not limited to the fees and expenses of the Trustee and the costs of calculating Rebate Amounts, if any (including the fees of the Rebate Analyst, if any), and of enforcing the provisions of the Indenture, the Lease, the Deed of Trust, the Hazardous Substances Agreements or this Agreement. In particular, if, solely by virtue of its pledge of General Revenues to payment of the Bonds and not by virtue of its obligations to the Borrower pursuant to the Partnership Agreement, the Authority uses its General Revenues to pay any debt service on the Bonds, the amount so used shall be credited against amounts, if any, owed by the Authority to the Borrower pursuant to the Partnership Agreement. After any such amounts have been paid, the balance of the amount of General Revenues used to purchase or pay debt service on the Bonds shall not be credited against the Borrower's obligation to pay the Loan or to pay rent under the Lease, and shall remain payable to the Authority. The Borrower acknowledges that it has the sole obligation to pay the fees and expenses of the Trustee under the Indenture.

In addition, if the Authority ceases to be the sole general partner of the Borrower, the Borrower shall pay to the Authority for each calendar year during the Regulatory Period, to the extent not paid pursuant to Section 5.5 of the Lease, beginning with the calendar year in which the Authority ceases to be the sole general partner of the Borrower, a fee in the amount of the actual cost to the Authority of monitoring the Borrower's compliance with Section 7.07 of this Agreement. Such fee shall be payable immediately upon the removal of the Authority as general partner of the Borrower and on or before January 1 of each year thereafter.

Section 3.08 Nature of Borrower's Obligations; Limitation of Liability.

(a) Notwithstanding anything herein to the contrary, (i) the obligations of the Borrower to make the Loan Payments and to perform and observe the other obligations on its part contained herein and in the other Loan Documents shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise, (ii) the Borrower's obligations to make payments and to perform any other covenants or indemnities or meet any conditions hereunder and under the Lease and the Deed of Trust shall be secured solely by the property pledged hereunder or thereunder; and (iii) no recourse shall be had against any assets of the Borrower not so pledged, or against any of the partners, officers, directors, members or employees of the Borrower in their capacities as such, nor shall any recourse be had against any affiliate of the Borrower, or against any partner, officer, director, commissioner, member or employee of any such affiliate.

(b) The Borrower will not suspend or discontinue any payments provided for in this Agreement, will perform and observe all of its other agreements contained in the Loan Documents, and will not suspend the performance of its obligations thereunder for any cause, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, commercial frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of any of them, or any failure of any other party to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Loan Documents or the Bonds, whether express or implied.

(c) The Borrower hereby waives, to the extent permitted by law, any and all rights it may now have or which at any later time may be conferred upon it, by statute or otherwise, to terminate or cancel, or to limit its liability under, the provisions of the Loan Documents relating to the use of the Property by the Borrower or its successors or assigns, except in accordance with the express terms hereof or thereof.

Section 3.09 Replacement of Authority as General Partner. The Borrower may not replace the Authority as the sole general partner of the Borrower if no event of default described in Section 7.1(1) of the Indenture has occurred unless the Borrower obtains an opinion of Bond Counsel that the replacement of the Authority as general partner will not cause a Determination of Taxability with respect to the Bonds. Nothing contained in this Section 3.09 shall restrict the Investor Limited Partner's rights to remove the general partner of the Borrower in accordance with the provisions of the Partnership Agreement, as long as the replacement general partner appointed by the Investor Limited Partner does



not, in the opinion of Bond Counsel, cause a Determination of Taxability with respect to the Bonds.

#### ARTICLE IV

##### Security for Bonds

To secure its obligation to make the Loan Payments and its other obligations, agreements and covenants to be performed and observed hereunder, the Authority shall cause the Borrower to execute the Deed of Trust in favor of the Trustee for the benefit of the Bondowners, and the Authority shall assign its rights hereunder to the Trustee for the benefit of the Bondowners. The Borrower acknowledges such assignment.

The Borrower shall, at the request of the Authority, execute and cause to be filed contemporaneously with the execution of this Agreement, in accordance with the requirements of the UCC, financing statements in form and substance satisfactory to the Authority and the Trustee, and, from time to time thereafter, shall execute and deliver such other documents (including, but not limited to, continuation statements as required by the UCC) as may be necessary or reasonably requested by the Authority or the Trustee in order to perfect or maintain perfected such security interests or give public notice thereof.

#### ARTICLE V

##### Application of Proceeds of Bonds

Section 5.01 Application of Proceeds of Bonds. The Borrower agrees to apply the proceeds of the Bonds lent to the Borrower hereunder as described in the Resolution and the Indenture.

Section 5.02 Property to Be Kept Free From Liens. The Borrower will keep the Property free from liens and claims of all kinds, whether or not superior to the Deed of Trust, except Permitted Encumbrances.



## ARTICLE VI

### Insurance; Damage, Destruction and Condemnation

Section 6.01 Insurance. During the term hereof, the Borrower will maintain at its sole cost and expense liability insurance, business interruption insurance and insurance against loss and/or damage to the Property and all equipment therein under a policy or policies covering such risks as are ordinarily insured against by like organizations engaged in like activities of comparable size and liability exposure. All insurance required by this section shall be carried by insurers that are financially responsible and capable of fulfilling the requirements of such policies. All policies evidencing insurance shall be in the usual form and shall name the Borrower as the insured party or loss payee and shall also name the Trustee as an insured party and loss payee. The Borrower shall provide to the Authority and the Trustee copies of certificates from an insurance agent or consultant indicating that the insurance required by this section has been obtained within 30 days after the end of each calendar year after the date hereof, and shall provide copies of the insurance policies providing such coverage to the Trustee and the Authority before the date hereof. The Trustee shall not be responsible for the sufficiency or adequacy of any such insurance policies or for determining that such policies comply with the requirements of this section. Neither the Authority nor the Trustee shall be required to hold or maintain insurance policies.

### Section 6.02 Damage, Destruction, Condemnation or Insured Loss of Title.

(a) The Borrower shall be obligated to continue to make the Loan Payments even if the Property or the property therein is destroyed or damaged (in whole or in part) by fire or other casualty, or if title to, or the temporary use of, the Property or the property therein or any part thereof shall be condemned by any governmental body or any Person acting under governmental authority, unless the Borrower shall have theretofore caused all of the principal of and premium, if any, and interest on the Bonds to have been paid or prepaid in full in accordance with their terms. Upon the occurrence of any such event, the Borrower may direct the Trustee to call Bonds for mandatory redemption pursuant to Section 3.2(3)(a) of the Indenture.

(b) If Insurance Proceeds or a Condemnation Award is paid, the Borrower shall forthwith notify the Authority and the Trustee of such fact and of the amount of Insurance Proceeds or Condemnation Award received by the Borrower, and shall deliver such Insurance Proceeds or Condemnation Award to the Trustee for deposit in the Project Fund under the Indenture. Money in the amount of such Condemnation Award or Insurance Proceeds shall be held by the Trustee in trust for a period not exceeding 60 days for the purposes set forth in Section 6.02(c) or (d).



(c) If the Borrower determines to restore the Property (such determination to be made within 60 days after receipt by the Trustee of such Condemnation Award or Insurance Proceeds), such Condemnation Award or Insurance Proceeds shall be used exclusively for such purpose, and the Borrower shall so certify to the Authority and the Trustee. The Trustee shall disburse such funds to pay the costs of the reconstruction of the Property in accordance with the procedures set forth in Subsection 4.4(2) of the Indenture. In such event, the date for completion of the Project set forth in Subsection 4.4(3) of the Indenture shall be adjusted to reflect a reasonable date for completion of such restoration, as determined by the Borrower and the Authority, but in no event later than three years from the date of receipt by the Borrower of the Condemnation Award or Insurance Proceeds.

(d) If the Borrower determines not to restore the Property (the Borrower shall make such determination if, in the opinion of the Borrower, repair could not be completed within 18 months or the restoration and repair of the Property would not be economically practical or desirable), the Borrower shall so certify to the Authority and the Trustee, and the Trustee shall transfer such Condemnation Award or Insurance Proceeds to the Principal and Interest Account in the Bond Fund under the Indenture to be applied to the payment or mandatory redemption of the Bonds in accordance with the provisions of the Indenture.

## ARTICLE VII

### Other Covenants of the Borrower

Section 7.01 Maintenance of Existence. The Borrower covenants and agrees to maintain its existence as a limited partnership duly qualified to do business in the State.

Section 7.02 Sale, Transfer or Assignment of Assets. The Borrower agrees that it will not voluntarily sell, assign or transfer all or substantially all of its interest in the Property except in accordance with the Loan Documents and with the consent of the Authority except that (i) the Borrower may sell the Property to the Authority pursuant to the Option to Purchase, and (ii) limited partners of the Borrower may transfer their interests in the Borrower pursuant to the provisions of the Partnership Agreement. For purposes of this section, a change in the general partner of the Borrower shall be deemed to be a transfer of the Borrower's interest in the Property. The Authority's consent shall not be unreasonably withheld and may be conditioned upon (a) reasonable evidence satisfactory to the Authority that the Borrower is not then in default hereunder; (b) an opinion of Bond Counsel, delivered to the Authority and the Trustee, to the effect that the



transfer of the Property to the Transferee will not adversely affect the exclusion from gross income of interest on the Bonds; (c) an opinion of counsel for the Transferee, delivered to the Authority and the Trustee, to the effect that the Transferee has assumed in writing and in full all duties and obligations of the Borrower under this Agreement and the other Loan Documents and that this Agreement and the other Loan Documents constitute legal, valid and binding obligations of the Transferee; (d) a determination by the Authority that the Transferee has the capacity to assume responsibility for the management of the Property and the payment of the Bonds, and with regard to any project of the Transferee financed by the Authority, that (i) the Transferee is not now in arrears on any payments of fees due and owing to the Authority or in default under a regulatory agreement, (ii) the Transferee does not have a documented history of noncompliance with nonmonetary provisions of any regulatory agreement which are not cured after notice thereof and within the applicable cure period or grace period, and (iii) the Transferee does not have a documented history of failure to pay fees due and owing to the Authority or other public agencies or to the Trustee which are not paid within a reasonable period after notice thereof; and (e) any other conditions which may be reasonably imposed by the Authority to ensure compliance with federal or State law. Any sale, transfer or other disposition of the Property in violation of this Section 7.02 shall be ineffective to relieve the Borrower of its obligations under this Agreement. The Transferee shall provide to the Authority and the Trustee copies of all instruments of assumption referred to in item (c) above.

Nothing contained in this Section 7.02 shall restrict the Investor Limited Partner's rights to remove the general partner of the Borrower in accordance with the provisions of the Partnership Agreement, as long as the replacement general partner appointed by the Investor Limited Partner does not, in the opinion of Bond Counsel, cause a Determination of Taxability with respect to the Bonds.

Upon any transfer of the Property in compliance with this Section 7.02, the Trustee is authorized to execute any documents, including amendments to any Loan Documents, necessary to give effect to such transfer.

Section 7.03 Permitted Leases and Operating Contracts. Subject to Section 7.04 and to any further restrictions contained in the Loan Documents, the Borrower may sublease all or any part of the Property and the property therein or contract for the performance by others of operations or professional services in the Property, or any part thereof, for any lawful purposes, provided that:

(a) The provisions of each such sublease or contract shall be consistent with the provisions of the Loan Documents and the Bonds;



(b) The Borrower shall remain fully obligated and responsible under the Loan Documents to the same extent as if such sublease or contract had not been executed; and

(c) Each such sublease or contract (other than residential leases of individual Dwelling Units) shall require the lessor or contracting party to comply fully with the restrictions imposed on the Borrower by its covenants contained in Section 7.07 and in the Lease and the Deed of Trust.

Section 7.04 Maintenance of Facilities; Management Contract. The Borrower covenants and agrees to carry on and conduct its business in an efficient manner at all times; and to maintain, preserve and keep substantially all of the Property in reasonable repair, working order and condition, reasonable wear and tear excepted. The Borrower further covenants and agrees that it shall at all times during the Regulatory Period contract for the services of a professional property manager for the Property (which may be the Authority) and that, if the Authority is no longer the sole general partner of the Borrower, it will obtain the written consent of the Authority, which consent shall not be unreasonably withheld, to the appointment of such property manager. Further, the Borrower agrees that if the property manager fails to meet the performance criteria established by the Authority, the Authority shall have the right, but not the obligation, to appoint a new property manager (which may be the Authority) for the Property. Any management contract or other contract relating to the use of all or any portion of the Property (other than individual tenant leases or agreements) must be in form and substance reasonably acceptable to the Authority.

Section 7.05 Compliance with Laws. With respect to the Property and any additions, alterations and improvements thereto, the Borrower covenants and agrees to comply at all times with all applicable requirements of federal and State laws and with all applicable lawful requirements of any agency, board, or commission created under the laws of the State or of any other duly constituted public authority; provided, however, that the Borrower shall be deemed in compliance with this section so long as it is contesting in good faith any such requirement by appropriate legal proceedings.

Section 7.06 Taxes and Other Governmental Charges. The Borrower covenants and agrees to pay or cause to be paid all taxes and assessments or other municipal or governmental charges, if any, lawfully levied or assessed upon or with respect to the Property, or upon any part thereof or upon any revenues therefrom, when the same shall become due; provided, however, that the Borrower shall be deemed in compliance with this section so long as it is contesting in good faith any such tax, assessment or other governmental charge.

Section 7.07 Use of Facilities. The Borrower hereby agrees that the Property is to be owned, managed and operated pursuant to the Act at all times during the term of this Agreement and throughout the Regulatory Period. To that end, the Borrower hereby represents, covenants and agrees as follows:

(a) that the Property is being acquired and/or constructed or rehabilitated for the purpose of providing low-income housing under the Act and as "qualified residential rental property" as that term is used in Section 142(d) of the Code, and the Borrower shall lease and operate the Property as a housing project containing Dwelling Units and facilities Functionally Related and Subordinate to such Dwelling Units in compliance with the provisions of the Act, Section 142(d) of the Code and related Treasury Regulations.

(b) that, at all times during the Regulatory Period, Dwelling Units, together with facilities Functionally Related and Subordinate to those Dwelling Units, used exclusively by Qualified Tenants shall occupy at least 50% of the interior space in the Property or shall constitute at least 50% of the Dwelling Units in the Property, whichever produces the larger number of Dwelling Units used by Qualified Tenants;

(c) that each Dwelling Unit in the Property shall contain complete and separate facilities for living, sleeping, eating, cooking and sanitation for a single person or family;

(d) that, throughout the Regulatory Period, not more than 20% of the interior space in any building constituting part of the Property that exceeds four stories in height shall be commercial space;

(e) throughout the Regulatory Period, that none of the Dwelling Units in the Property shall at any time be used on a transient basis; that none of the Dwelling Units in the Property shall be leased or rented for a period of less than six months; and that neither the Property nor any portion thereof shall be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home or trailer park or court, or by a cooperative housing corporation (as defined in Section 216(b)(1) of the Code);

(f) that once available for occupancy, each Dwelling Unit in the Property shall be occupied by or available for residency on a continuous basis to qualified members of the general public for the term of this Agreement and in compliance with applicable Treasury Regulations, the laws of the State and this Agreement;



(g) that substantially all (i.e., not less than 95%) of the Project constituting the Property shall consist of proximate buildings or structures located on a single "tract" of land which have similarly constructed Dwelling Units financed pursuant to a "common plan" together with Functionally Related and Subordinate facilities which shall be owned by the same "person" (as such terms are used in the Treasury Regulations) for federal tax purposes;

(h) that, if at any time during the Regulatory Period the Borrower is unable to rent or lease the Dwelling Units designated in accordance with Sections 7.07(b) and 7.07(m) for use by Qualified Tenants to such tenants, it will hold the unrented Dwelling Units so designated vacant until Qualified Tenants are found to occupy those Dwelling Units, and that it will offer the unrented Dwelling Units so designated for occupancy by Qualified Tenants;

(i) that it will use its best efforts in good faith to maintain, at all times during the Regulatory Period, the highest percentage of Dwelling Units in the Property for occupancy by Qualified Tenants, at rents that are affordable by Qualified Tenants. For purposes of this section, "rents" shall refer to that portion of the charges to residents relating to their occupancy of a Dwelling Unit exclusive of charges for meals and other supportive services, if any. The provisions of this paragraph are in addition to, and not in substitution for, the provisions of paragraph (b) of this Section 7.07;

(j) that, throughout the Regulatory Period, it will obtain at the time each Dwelling Unit is rented to a Qualified Tenant and annually thereafter and maintain on file certifications or verifications of income. Such certifications and verifications of income shall be in the form and manner required by the Treasury Regulations or in such other form and manner as may be required by applicable rules, regulations or policies now or hereafter promulgated by the Department of the Treasury or the Internal Revenue Service. Such forms shall contain information regarding the tenant's anticipated income for the taxable year immediately following the tenant's initial occupancy in the Property, which shall be subject to independent investigation and verification by the Authority. Copies of such documentation shall be submitted to the Authority upon request or at the times required by the Code. An annual rent roll and financial statement for the Property, together with copies of such documentation, shall be submitted to the Authority pursuant to Section 7.08;

(k) that it will obtain and maintain on file, with respect to each Qualified Tenant residing in the Property, the original documentation required in paragraph (j) above;



(l) that it will permit any duly authorized representative of the Authority to inspect, during regular business hours and upon reasonable notice, the books and records of the Borrower pertaining to the incomes of the Qualified Tenants who are residing or have resided in the Property; and

(m) that it will, at all times during the period beginning on the Occupancy Date and ending on the latest of (1) the date that is 15 years after the date on or after later of the Date of Issue on which 50% of the Dwelling Units in the Property are occupied, (2) the first day on which no tax-exempt private activity bond (including the Bonds) issued with respect to the Property is outstanding, or (3) the date on which any assistance provided with respect to the Property under Section 8 of the United States Housing Act of 1937 terminates,

(i) maintain at least 40% of the Dwelling Units (rounded up to the next unit) for occupancy by Qualified Tenants, and advise the Authority in writing as to which units are to be so maintained and of any revision thereof;

(ii) reserve Dwelling Units for Qualified Tenants that have substantially the same equipment and amenities (not including luxury amenities such as fireplaces) as the other Dwelling Units in the Property; and

(iii) reserve Dwelling Units for Qualified Tenants that are not geographically segregated and that are of substantially the same size as other units in the Property, unless otherwise required to comply with a local housing assistance program.

For the purposes of this Agreement, a Dwelling Unit occupied by an individual or family who at the commencement of that occupancy is a Qualified Tenant shall be treated as occupied by a Qualified Tenant during such individual's or family's tenancy in such unit regardless of the future income levels of such individual or family; moreover, a unit shall be treated as occupied by a Qualified Tenant until occupied by another occupant, at which time the character of the unit shall be redetermined. Notwithstanding the foregoing, if during the period described in Section 7.07(m) a Qualified Tenant's income increases to an amount equal to or greater than 140% of the then current income limit for Qualified Tenants and such tenant is required to be a Qualified Tenant for the requirements of Section 7.07(m) to be met, the next available Dwelling Unit shall be rented to a Qualified Tenant.

The provisions of this Section 7.07 shall remain in full force and effect until the end of the Regulatory Period, regardless of whether or not the Bonds remain outstanding throughout that period.

Section 7.08 Certificate of Compliance. The Borrower agrees to prepare and submit to the Authority on March 15 of each year after the Occupancy Date a certificate of the Borrower certifying that it has complied in all respects with the requirements of this Article. In addition, the Borrower shall file with the Internal Revenue Service, for each year during the period described in Section 7.07(m), IRS Form 8703, which form shall be filed by March 31 of the following year. Failure to file Form 8703 will not affect the tax-exempt status of the Bonds or constitute an Event of Default hereunder, but may result in the imposition of a penalty by the Internal Revenue Service.

Section 7.09 No Discrimination. Except as otherwise required or contemplated by this Agreement for the purpose of providing housing for low-income individuals or families, the Borrower shall not discriminate in the provision of housing on the basis of race, creed, color, sex, national origin, religion, family status, age, disability or the receipt of public assistance or housing assistance.

Section 7.10 Notice of Default. The Borrower covenants and agrees to notify the Investor Limited Partner, the Authority and the Trustee immediately upon the occurrence of (a) any event described in Section 8.01(a); and (b) any event described in Section 8.01(b) or 8.01(c) without regard to any cure periods mentioned therein which, with the giving of notice or the passage of time or both, might constitute an Event of Default hereunder, and shall state in such notice the measures it intends to take with respect thereto, if any.

Section 7.11 Tax-Exempt Status of the Bonds. It is the parties' intention and agreement that, pursuant to Section 103 of the Code, the interest paid on the Bonds shall be excluded from gross income of the recipients of such interest for federal income tax purposes. In order to confirm and carry out such intention, the Borrower covenants and agrees (1) to provide such certificates, opinions of Bond Counsel and other evidence as may be necessary or requested by the Authority to establish the exemption of the Bonds under Section 103 of the Code and the absence of arbitrage expectation under Section 148 and related sections of the Code; (2) acting alone or with the Trustee or the Authority, to file such information and statements with the Internal Revenue Service as may be required to establish or preserve such exemption or as may be required by Section 103 or related sections of the Code; (3) to comply with arbitrage rebate requirements imposed with respect to the Bonds, including the requirement to calculate and pay to the United States, at the sole expense of the Borrower, all arbitrage rebate amounts in the manner and at the times required by Section 148 of the Code; and (4) if required to prevent a loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds because of any failure to meet applicable arbitrage rebate requirements under Section 148 of the Code, to pay on behalf of the Authority the

penalty and interest thereon as provided in Subsection 148(f)(7)(C) of the Code. The Borrower further covenants and agrees that it will not (a) take any action, (b) fail to take any action or (c) make any use of the Property or the proceeds of the Bonds, which would cause the interest on the Bonds to be or become includable in the gross income of the Owners thereof (other than substantial users of the Property or any other property financed with proceeds of the Bonds) for federal income tax purposes. Without limiting the generality of the foregoing, the Borrower further covenants and agrees that it will take such action or actions, including, without limitation, consenting and agreeing to amendments to this Agreement or any of the other documents as may be necessary, in the opinion of Bond Counsel, so that the Borrower and all subsequent owners of the Property comply fully and continuously with the Code, as applicable to the Bonds from time to time, and all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service pertaining to qualified residential rental property (as defined in the Code), including, without limitation, the Treasury Regulations.

Section 7.12 Program Investments. Neither the Borrower nor any Person related to the Borrower shall purchase, whether pursuant to a formal or informal arrangement, any bonds or other obligations issued by the Authority, if the purchase is in an amount related to the amount of any purpose investments (such as this Agreement) acquired by the Authority from the Borrower to carry out the Authority's program of providing housing to low-income persons.

Section 7.13 Indemnification.

(a) The Borrower covenants and agrees, at its expense, to pay and to indemnify and hold the Authority and the Trustee and their commissioners, directors, officers, agents and employees harmless of, from and against any and all claims, damages, demands, expenses, liabilities and taxes of any character or nature whatsoever relating to the Loan, the Bonds or the Property, including, but not limited to, claims for loss or damage to any property or injury to or death of any person, asserted by or on behalf of any person and arising out of, resulting from, or in any way connected with the Property, or the conditions, occupancy, use, possession, conduct or management of or any work done in or about the Property or from the planning, design, acquisition or construction, rehabilitation, improvement and financing of the Property, or any part thereof; or any untrue statement or alleged untrue statement of any material fact or the omission or alleged omission to state a material fact necessary to make the statements made in any statement, information or material furnished by or on behalf of the Borrower to the Authority or the Trustee including, but not limited to, any information for use in any official statement used by the Authority in connection with the sale of the Bonds, not

misleading; provided that this covenant shall be subject to the provisions of Section 7.13(c).

(b) The Borrower further covenants and agrees, at its expense, to pay and to indemnify and hold the Authority and the Trustee and their commissioners, directors, officers, agents and employees harmless of, from and against all fees, costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim or demand described in Section 7.13(a). In the event that any action or proceeding is brought against the Authority or the Trustee or their commissioners, directors, officers, agents or employees by reason of any such claim or demand, the Borrower, upon notice from the Authority or the Trustee, as applicable, covenants and agrees to resist and defend such action or proceeding on behalf of the Authority or the Trustee or their commissioners, directors, officers, agents or employees; provided that this covenant shall be subject to the provisions of Section 7.13(c).

(c) The Borrower shall not be obligated to indemnify the Authority or the Trustee or their commissioners, directors, officers, agents or employees in the circumstances described in Sections 7.13(a) and 7.13(b) against liability for damages arising out of bodily injury to persons or damage to property caused by the negligence or willful and malicious acts of the Authority or the Trustee, respectively.

(d) The Borrower covenants and agrees, at its expense, to pay and to indemnify and hold the Trustee harmless of, from and against all costs, reasonable counsel fees, expenses and liabilities incurred without negligence or willful misconduct by the Trustee and arising out of or in connection with its acting as trustee and bond registrar under the Indenture and this Agreement or as beneficiary under the Deed of Trust.

(e) The provisions of this Section 7.13 are subject to the provisions of Section 3.08(a) and shall, to the extent permitted by law, survive termination of this Agreement.

(f) For purposes of this Section 7.13, the "Authority" refers to the Authority solely in its capacity as lender hereunder and as issuer of the Bonds, and not in its capacity as general partner of the Borrower.

#### Section 7.14 Covenants Run With the Land; Term.

(a) The Borrower represents and warrants that the issuance and sale of the Bonds by the Authority and the lending by the Authority of a portion of the proceeds of the Bonds to the Borrower are necessary for the Project. The Borrower hereby



acknowledges that the restrictions, covenants and provisions contained herein are necessary to ensure that (i) the Property will be operated to provide low-income housing in accordance with the Act and (ii) the interest on the Bonds in the hands of the Owners thereof remains excluded from gross income subject to federal income taxation pursuant to Section 103 of the Code. Therefore, the Borrower covenants, agrees and acknowledges that the Authority and the Bondowners are the beneficiaries of this Agreement, that the Authority has relied on this Agreement in determining to issue and sell the Bonds and that the Bondowners have relied on this Agreement in determining to purchase or otherwise become the Owners thereof.

(b) The Borrower hereby declares its express intent that the covenants, restrictions, charges and easements set forth herein shall be deemed covenants running with the land throughout the Regulatory Period, and, except as otherwise provided in Section 9.07, shall pass to and be binding upon the Borrower's successors in title including any purchaser, grantee or lessee of the Borrower's interest in any portion of the Property (other than lessees of individual Dwelling Units) and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee of the Borrower's interest in any portion of the Property (other than lessees of individual Dwelling Units) and any other person or entity having any right, title or interest therein. Each and every contract, deed or other instrument hereafter executed conveying the Borrower's interest in the Property or any portion thereof or interest therein (other than leases of individual Dwelling Units) shall contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

Section 7.15 Borrower's Performance Under Indenture. The Borrower shall, for the benefit of the Bondowners and the Trustee, do and perform all acts and things that are to be done or performed by it, either directly on its own behalf or on behalf of the Authority, under the terms of the Indenture, all of which terms are incorporated herein by this reference.

Section 7.16 Compliance with Secondary Disclosure Requirements of the Securities and Exchange Commission. The Borrower has entered into a Continuing Disclosure Agreement with the Trustee, as dissemination agent, pursuant to Rule 15c2-12(b)(5)(i) of the Securities Exchange Act of 1934, as amended. Failure of the Borrower or the Trustee, as the dissemination agent, to comply with its obligations under the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder



or under the Indenture; however the Trustee, as the dissemination agent, may (and, at the request of the underwriter for the Bonds or the owners of at least a majority in aggregate principal amount of the Bonds Outstanding and upon receipt of satisfactory indemnification for its fees, expenses and liability, shall) or any Owner may, take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Borrower or Trustee, as the dissemination agent, to comply with its obligations under the Continuing Disclosure Agreement.

Section 7.17 Debt Service Coverage Ratio. The Borrower covenants and agrees to operate the Property in such manner as to produce, in each Fiscal Year beginning on or after January 1, 2004, a Coverage Ratio of at least 1.10 to 1. The Borrower shall deliver to the Authority on each March 31, commencing March 31, 2005, a certificate in the form set forth in Exhibit B hereto stating whether the Borrower has maintained the Coverage Ratio set forth herein.

The failure of the Borrower to maintain the Coverage Ratio set forth herein shall not constitute an Event of Default under this Agreement.

Section 7.18 Advertising. If so requested by the Authority, the Borrower shall include in any advertising, signs or promotional materials relating to the source of financing for the Project a statement that the Project is financed in part with proceeds of tax-exempt bonds issued by the Authority.

## ARTICLE VIII

### Events of Default; Remedies

Section 8.01 Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) Failure of the Borrower to make any payment required to be made by the Borrower under Section 3.03(a) when due, or to make any other payment required to be made by the Borrower under any other provision of Article III or Section 7.13 of this Agreement within 30 days after written notice of such failure has been delivered to the Borrower by the Authority or the Trustee;

(b) Except as otherwise provided herein, any other material failure on the part of the Borrower to perform or observe any of the other duties, provisions or obligations required of it pursuant to this Agreement, if such failure shall have continued for a period of 30 days after written notice thereof has been delivered to the Borrower by the



Authority or the Trustee, unless the Authority or the Trustee, as applicable, has determined that the Borrower is then taking steps reasonably calculated to cure such failure and the Trustee has received an opinion of Bond Counsel that such noncompliance will not result in a Determination of Taxability; and/or

(c) The occurrence of any Event of Default under the Indenture, the Lease or the Deed of Trust.

Section 8.02 Remedies on Default. Upon the occurrence of an Event of Default any one or more of the following steps may be taken:

(a) The Authority, by written notice to the Borrower and the Trustee, may declare the entire principal balance of the Loan (if not then due and payable) to be due and payable immediately, and upon any such declaration the principal of the Loan shall become and be immediately due and payable, together with all interest accrued thereon to the date of such acceleration, anything in this Agreement to the contrary notwithstanding. It is understood and agreed that an acceleration of the Bonds shall constitute an acceleration of the Loan, without further action by the Authority or the Trustee;

(b) The Authority shall be entitled by law or in equity to compel specific performance by the Borrower of its obligations under this Agreement, it being recognized that the beneficiaries of the Borrower's obligations hereunder cannot be adequately compensated by monetary damages in the event of the Borrower's default;

(c) The Authority, upon reasonable advance notice, may have access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Borrower;

(d) The Authority may appoint a manager or managers (which may be the Authority) for the Property;

(e) The Authority may, without being required to give any notice except as provided herein, pursue all remedies of a secured creditor under applicable laws of the State against the Borrower;

(f) The Authority may proceed to protect and enforce its rights in equity or at law, either in mandamus or for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, as it may deem most effectual to protect and enforce any of its rights or interests hereunder against the Borrower;

(g) The Authority may seek the appointment of a receiver of the rents, issues and profits arising from or related to the Property, with such powers as the court making such appointment shall confer, including such powers as may be necessary or usual in such cases for the protection, possession, control, management and operation of the Property in accordance with the provisions of the Indenture, the Lease and the Deed of Trust;

(h) The Authority may terminate the Lease and/or otherwise enforce its rights thereunder;

(i) The Authority may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any violation or attempted violation of any of the provisions hereof, or to recover monetary damages caused by such violation or attempted violation. The provisions hereof are imposed upon and made applicable to the Property and, except as otherwise provided in Section 9.07, shall run with the land and shall be enforceable against the Borrower and each purchaser, grantee or lessee (but not including residents) of the Property or any portion thereof at any time and from time to time throughout the Regulatory Period, and the respective heirs, legal representatives, successors and assigns of the Borrower and each such purchaser, grantee or lessee; and/or

(j) The Trustee may, but shall not be required to, foreclose the Deed of Trust and/or otherwise enforce its rights as beneficiary thereunder.

Notwithstanding the above, the Authority shall not exercise any of its remedies without having given notice of the Event of Default to the Investor Limited Partner, simultaneously with the giving of notice under Section 8.01 to the Borrower. The Investor Limited Partner shall have the same cure period after the giving of a notice as provided to the Borrower, plus (except with respect to the failure to make payments under Section 3.03(a) when due) an additional period of 60 days. If the Investor Limited Partner elects to cure the default (and nothing hereunder binds the Investor Limited Partner to do so), the Authority agrees to accept such performance as though the same had been done or performed by the Borrower.

**Section 8.03 No Remedy Exclusive.** No remedy conferred upon or reserved to the Authority by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute, and the Authority shall be free to pursue, at the same time, each and every remedy, at law or in equity, which it may have under this Agreement, or otherwise.



Section 8.04 No Implied Waiver. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. For the Authority or the Trustee to exercise any remedy, it shall not be necessary to give any notice, other than such notice as may be expressly required herein.

Section 8.05 Agreement to Pay Attorneys' Fees and Expenses. If an Event of Default arises under any of the provisions of this Agreement and the Authority or the Trustee should employ attorneys or incur other expenses, including Trustee's fees, for the collection of Loan Payments or other amounts due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in this Agreement or any other Loan Document, on demand therefor, the Borrower shall pay or reimburse the Authority and/or the Trustee for the reasonable fees of such attorneys and such other expenses and fees so incurred, including fees and disbursements incurred preparatory to and during trial and appeal and in any bankruptcy or arbitration proceeding, but only if the Authority or the Trustee prevails in such proceedings.

## ARTICLE IX

### Miscellaneous

Section 9.01 Notices. Except as otherwise provided herein, all notices, consents or other communications required hereunder shall be in writing and shall be sufficiently given if addressed and mailed by first-class, certified or registered mail, postage prepaid and return receipt requested, as follows:

To the Authority:

Housing Authority of the City of Anacortes  
19 Q Avenue  
Anacortes, WA 98221  
Attention: Executive Director

To the Borrower:



U.S. BANK, N.A.  
AHA-Bayview Apartments Limited Partnership  
c/o Housing Authority of the City of Anacortes  
19 Q Avenue  
Anacortes, WA 98221  
Attention: Executive Director

With copies to:

Key Community Development Corporation  
Mailcode OH-01-27-0700  
127 Public Square, 7<sup>th</sup> Floor  
Cleveland, OH 44114  
Attention: Asset Manager

To the Trustee:

U.S. Bank, N.A.  
1420 Fifth Avenue, 7<sup>th</sup> Floor  
Seattle, Washington 98101  
Attn: Corporate Trust Department

A duplicate copy of each notice, certificate, request or other communication given hereunder to the Authority or the Borrower shall also be given to the other and to the Trustee. The Authority, the Trustee, the Borrower or the Limited Partner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. Notices shall be deemed given as described in Section 1.3(8) of the Indenture.

Section 9.02 Uniformity; Common Plan. The provisions hereof shall apply uniformly to the entire Property to establish and carry out a common plan for the use, development and improvement of the Property.

Section 9.03 Compliance; Authority's Obligations. The Authority shall monitor the Borrower's compliance with the requirements of Sections 7.07 and 7.08 of this Agreement, and in particular will review all reports and certificates delivered by the Borrower relating to compliance with this Agreement and will advise the Borrower and the Trustee in writing promptly upon learning of any default by the Borrower with respect to the covenants, obligations and agreements of the Borrower set forth herein.

Section 9.04 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Authority, the Borrower, the Trustee and their respective successors and assigns, and may be enforced by the Authority and its successors and

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9/27/2002 Page 38 of 51

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assigns during the term of this Agreement, whether or not the Loan is paid in full and whether or not the Bonds are outstanding. Notwithstanding the foregoing, the requirements set forth in this Agreement shall cease to apply to the Property if any of the events specified in Section 9.07 occur.

In determining whether any default or lack of compliance by the Borrower exists under this Agreement, the Authority shall not be required to conduct any investigation or review of operations by the Borrower (other than a review of the income certifications or verifications and certificates of compliance delivered to the Authority pursuant to Sections 7.07 and 7.08) and may rely solely upon any notice delivered to it by the Borrower with respect to the occurrence or absence of a default (except as determined upon that review). The parties hereto agree they will execute and deliver any and all documents and instruments necessary to effectuate the provisions of this Section 9.04.

Section 9.05 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.06 Amendments; Recordation. The provisions hereof shall not be amended, revised or terminated (except as provided in Section 9.07) prior to the expiration of the stated term hereof except by an instrument in writing duly executed by the Authority and the Borrower (or its successors in title) in accordance with the provisions of the Indenture, if the Bonds remain outstanding, and duly recorded. No modification of any of the terms of this Agreement shall be effective until an opinion of Bond Counsel approving the modification has been delivered to the Authority as provided herein and in the Indenture and the instrument evidencing the modification has been recorded in the office of public records in the county where the Property is located. Furthermore, no modification of any of the terms of this Agreement shall be effective until the Investor Limited Partner has approved such modification. Such approval shall not be unreasonably withheld or delayed.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

This Agreement and all amendments shall be duly recorded in the office of the County Auditor or Recorder of the county in which the Property is located as an encumbrance upon the Property.

Section 9.07 Release or Termination. So long as at or following any Lease termination, transfer of lessee's interest in the Lease, foreclosure of the Deed of Trust and



expiration of any statutory redemption period, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any related person (as defined in the Code under Section 267 or 707(b) for the purposes described therein or under Section 1563(a) of the Code) other than the Authority obtains or retains an ownership interest in the Property for federal tax purposes, this Agreement and the covenants hereof shall cease to apply to the Property if the Bonds are retired as a result of foreclosure or transfer of title by deed in lieu of foreclosure, Lease termination or transfer of lessee's interest in the Lease or as a consequence of involuntary noncompliance caused by fire, seizure, requisition or condemnation, or if a change in federal law or an action of a federal agency after the date hereof prevents the Authority or its assigns from enforcing the requirements hereof.

Section 9.08 Limitation of Authority Liability. No provision, covenant or agreement contained in this Agreement, or any obligations herein imposed upon the Authority, or the breach thereof, shall constitute an indebtedness of the Authority within the meaning of any State constitutional or statutory limitation, or shall constitute or give rise to a charge against the general credit of the City or the State. In making the agreements, provisions and covenants set forth in this Agreement, the Authority has not obligated itself except for the application of the revenues, income and all other property from the Borrower as provided herein.

Section 9.09 Authority Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Agreement it is provided that the Authority may give its approval or consent, or execute supplemental agreements, exhibits or schedules, the Authority shall not unreasonably, arbitrarily or unnecessarily withhold or refuse or delay to give such approvals or consents, or refuse or delay to execute such supplemental agreements, exhibits or schedules.

Section 9.10 Waiver of Breach. No waiver of any breach of any covenant or agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults that were in existence at the time such payment or payments or performance were accepted by it.

Section 9.11 All Obligations Due on Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall be a day which is not a Business Day, such payment



may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Agreement.

Section 9.12 Authority Observance of Covenants and Terms. The Authority agrees that it will observe and perform all obligations imposed upon it by the Indenture and the Bonds; however, except as otherwise specifically provided in the Resolution or the Indenture, the Authority has no obligation to use its own funds to perform or cause performance of any such obligations. The Authority further agrees that it will not amend the Indenture or the Bonds in any respect except in accordance with the Indenture.

Section 9.13 No Rights Created in Third Parties. The terms of this Agreement are not intended to establish nor to create any rights in any Persons other than the Authority, the Borrower, the Trustee, the Bondowners and the respective successors and assigns of each.

Section 9.14 Time of Essence. Time and all terms and conditions hereof shall be of the essence of this Agreement.

Section 9.15 Benefit of Owners. This Agreement is executed in part to induce the purchase of the Bonds by the Bondowners and accordingly all covenants and agreements on the part of the Borrower and the Authority as set forth in this Agreement are hereby declared to be for the benefit of the Owners, from time to time, of the Bonds.

Section 9.16 References to Bonds Ineffective After Payment. Upon the payment in full of the principal of and premium, if any, and interest on the Bonds, and the payment of all fees and charges of the Authority and the Trustee with respect thereto, all references in this Agreement to the Bonds, shall be ineffective and neither the Authority, the Trustee, nor the Bondowners, as applicable, shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested and except as otherwise provided herein, including as otherwise provided in Sections 3.08(a) and 7.13. Except as otherwise provided herein, including as otherwise provided in Sections 3.08(c) and 7.13, this Agreement shall terminate at the end of the Regulatory Period, but only if all amounts due hereunder and under the Indenture, including all fees and charges of the Authority and the Trustee, have been paid in full.

Section 9.17 Execution in Counterparts. This document may be executed in counterparts.



## ARTICLE X

### Assignment of Authority's Rights

To secure the payment of the Bonds in accordance with their terms the Authority hereby assigns to the Trustee, for the benefit of the Bondowners, without recourse, all of its rights, title and interest in this Agreement, except for (a) its rights and interests described in Sections 3.06, 6.02, 7.10, 7.11, 7.13(a), (b) and (c), 7.17, 8.02 (except the right to accelerate payment of the Loan pursuant to Section 8.02(a)), 9.01 and 9.06 (the "Concurrent Rights"), all of which rights and interests are held concurrently by both the Authority and the Trustee, and (b) its right to approve liens as Permitted Encumbrances, its rights and interests described in Sections 3.03(b), 3.07, 7.02, 7.04, 7.08, 8.02(i) and 9.03, and the right to accelerate payment of the Loan pursuant to Section 8.02(a), all of which rights and interests shall not be assigned ("Authority Reserved Rights"). The Authority's duties hereunder are not assigned. By such assignment, the Trustee shall succeed to all the rights and privileges of the Authority hereunder to the extent of such assignment. ALL REFERENCES TO THE AUTHORITY HEREIN SHALL BE TREATED AS REFERENCES TO THE TRUSTEE, ACTING AS ASSIGNEE AND DELEGATEE OF THE AUTHORITY TO THE EXTENT THAT THE RIGHTS OF THE AUTHORITY HAVE BEEN ASSIGNED TO THE TRUSTEE, EXCEPT THAT THOSE REFERENCES CONTAINED IN THE CONCURRENT RIGHTS SECTIONS SHALL BE TREATED AS REFERRING TO BOTH THE TRUSTEE AND THE AUTHORITY, OR EITHER OF THEM, AND THOSE REFERENCES CONTAINED IN THE AUTHORITY RESERVED RIGHTS SECTIONS SHALL BE TREATED AS REFERRING TO THE AUTHORITY ONLY.

To the extent any right hereunder is held concurrently, each of the Authority and the Trustee acting alone, and without the necessity of prior notice to or consent by the other, may exercise any such Concurrent Right, but exercise of a Concurrent Right by either the Authority or the Trustee shall be fully and completely binding only as among it, the Owners and the Borrower and shall have no effect upon the other's right to act, or not to act, in connection with any such right. In the event of a conflict between the Authority and the Trustee with respect to the exercise of any Concurrent Right, the Trustee shall have the right to direct any proceedings with respect to that right as long as any Bonds remain outstanding.

The Borrower hereby consents to the assignment of rights set forth in this Article X and agrees to faithfully render the performance of all of its duties and obligations hereunder to the Trustee except for (a) the Concurrent Rights, which shall be rendered to both the Trustee and the Authority, and (b) the Authority Reserved Rights, which shall be rendered only to or at the direction of the Authority.



When all principal of and premium, if any, and interest due on the Bonds and all amounts owed to the Trustee under the Indenture are fully paid, all obligations of the Trustee hereunder shall terminate, and the Trustee shall release and assign to the Authority any remaining interest it has in the Lease, the Deed of Trust and this Agreement.



IN WITNESS WHEREOF, the Authority and the Borrower have caused this Agreement to be executed in their respective names all by their duly authorized officers, and have caused this Agreement to be dated as of the date set forth on page 1 hereof.

HOUSING AUTHORITY OF THE  
CITY OF ANACORTES

By Theresa McCallum  
Theresa McCallum, Executive Director

*Loan Agreement*  
SKAGIT COUNTY WASHINGTON  
Real Estate Excise Tax  
PAID

SEP 27 2002

Amount Paid ~~50~~  
Skagit County Treasurer  
By: mm Deputy

AHA-BAYVIEW APARTMENTS  
LIMITED PARTNERSHIP, a Washington  
Limited Partnership

By HOUSING AUTHORITY OF THE  
CITY OF ANACORTES, Its General  
Partner

By Theresa McCallum  
Theresa McCallum, Executive Director

The undersigned, as Trustee, hereby accepts the assignment by the Housing Authority of the City of Anacortes of its rights, title and interests in this Agreement (with certain reservations and exceptions noted in Article X), without recourse, as of the above date.

U.S. BANK, N.A., as Trustee

By \_\_\_\_\_  
Its: Authorized Signatory

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Skagit County Auditor

IN WITNESS WHEREOF, the Authority and the Borrower have caused this Agreement to be executed in their respective names all by their duly authorized officers, and have caused this Agreement to be dated as of the date set forth on page 1 hereof.

HOUSING AUTHORITY OF THE  
CITY OF ANACORTES

By \_\_\_\_\_  
Theresa McCallum, Executive Director

AHA-BAYVIEW APARTMENTS  
LIMITED PARTNERSHIP, a Washington  
Limited Partnership

By HOUSING AUTHORITY OF THE  
CITY OF ANACORTES, Its General  
Partner

By \_\_\_\_\_  
Theresa McCallum, Executive Director

The undersigned, as Trustee, hereby accepts the assignment by the Housing Authority of the City of Anacortes of its rights, title and interests in this Agreement (with certain reservations and exceptions noted in Article X), without recourse, as of the above date.

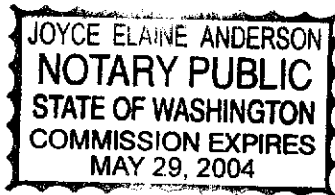
U.S. BANK, N.A., as Trustee

By Carolyn Whalen  
Its: Authorized Signatory

STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF SKAGIT        )

On this day before me, the undersigned Notary Public, duly commissioned and qualified in and for the said State and County, personally came and appeared THERESA McCALLUM, Executive Director of the HOUSING AUTHORITY OF THE CITY OF ANACORTES, a public body, and acknowledged to me that she signed the foregoing instrument on behalf of the Authority, and acknowledged the foregoing instrument to be the free act and deed of that public body.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this  
25<sup>th</sup> day of September, 2002.



Joyce Elaine Anderson  
(Signature of Notary)

Joyce Elaine Anderson  
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of  
Washington, residing at Anacortes

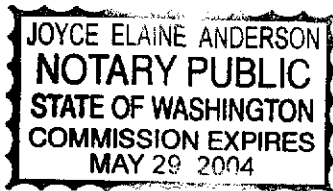
My appointment expires 5-29-2004



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this day before me, the undersigned Notary Public, duly commissioned and qualified in and for the said State and County, personally came and appeared THERESA McCALLUM, Executive Director of the Housing Authority of the City of Anacortes, general partner of AHA-BAYVIEW APARTMENTS LIMITED PARTNERSHIP, a Washington limited partnership, and acknowledged to me that she signed the foregoing instrument on behalf of the Borrower and acknowledged the foregoing instrument to be the free act and deed of the Borrower.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this  
25<sup>th</sup> day of September, 2002.



Joyce Elaine Anderson  
(Signature of Notary)

Joyce Elaine Anderson  
(Legibly Print or Stamp Name of Notary)

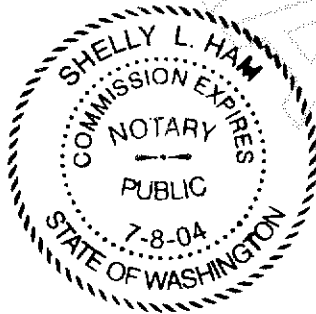
Notary public in and for the state of  
Washington, residing at Anacortes  
My appointment expires 5-29-2004



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this day before me, the undersigned Notary Public, duly commissioned and qualified in and for the said State and County, personally came and appeared Carolyn Whalen as an authorized signatory of U.S. BANK, N.A., as Trustee, and acknowledged to me that (s)he signed the foregoing instrument on behalf of that corporation, as Trustee, and acknowledged the foregoing instrument to be the free act and deed of the corporation, as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 25th day of September, 2002.



Shelly L. Ham  
(Signature of Notary)

SHELLY L HAM

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of  
Washington, residing at Bellevue  
My appointment expires 7/8/04



## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

A parcel of land located in the City of Anacortes, County of Skagit, State of Washington, more particularly described as follows:

Beginning at the intersection of the North line of 30th Street and the West line of "R" Avenue as platted in Whites First Addition to the City of Anacortes;  
thence Northerly along the West line of "R" Avenue 512 feet to the point of intersection with the South line of 28th Street;  
thence West along said South line of 28th Street, a distance of 230 feet;  
thence South and parallel with the West line of R Avenue, a distance of 396 feet to the point of intersection with the North line of the alley in Block 5, Whites First Addition to the City of Anacortes;  
thence East 130 feet along the North line of the alley in said Block 5 to the point of intersection with the West line, produced North, of Lot 21, Block 5, Whites First Addition to the City of Anacortes;  
thence South 116 feet along the West line of said Lot 21 to the point of intersection with the North line of 30th Street;  
thence East 100 feet along said North line of 30th Street to the point of beginning; and situate in the Southwest Quarter of Section 19, Township 35 North, Range 2 East of the Willamette Meridian and the Northwest Quarter of Section 30, Township 35 North, Range 2 East of the Willamette Meridian;

Situated in Skagit County, Washington.

- END OF EXHIBIT "A" -



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Skagit County Auditor

9/27/2002 Page 49 of 51

4:29PM

EXHIBIT B

FORM OF CERTIFICATE OF COVERAGE

This Certificate is presented by the undersigned Authorized Representative of AHA-Bayview Apartments Limited Partnership, a Washington limited partnership (the "Borrower"), pursuant to Section 7.17 of the Loan and Regulatory Agreement (the "Agreement") dated as of September 15, 2002, between the Borrower and the Housing Authority of the City of Anacortes (the "Authority"). All capitalized terms used in this Certificate shall have the meanings assigned to them in the Agreement or the Indenture referenced therein.

The figures on the following pages are supported by the attached financial statements of the Borrower or by the attached projections of the Borrower, as applicable, which projections the Borrower believes to be reasonable.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

AHA-Bayview Apartments Limited  
Partnership, a Washington Limited  
Partnership

By Housing Authority of the City of  
Anacortes, its General Partner

By \_\_\_\_\_  
Its \_\_\_\_\_



**Fiscal Year ended December 31,** \_\_\_\_\_ (preceding fiscal year)

Project Revenues: \$ \_\_\_\_\_  
Less: Operation and Maintenance Costs (\_\_\_\_\_)   
Insurance Proceeds (other than from business interruption insurance) (\_\_\_\_\_)   
Condemnation Awards (\_\_\_\_\_)   
Refundable security deposits (\_\_\_\_\_)

Adjusted Net Operating Income: \$ \_\_\_\_\_

Required Debt Service on Bonds \$ \_\_\_\_\_  
Plus Trustee Fees \$ \_\_\_\_\_  
Less "excess" earnings on Reserve Account (\_\_\_\_\_)

Required Net Debt Service on Bonds \$ \_\_\_\_\_

Coverage Ratio (Adjusted Net Operating Income divided by Required Net Debt Service on Bonds): \$ \_\_\_\_\_