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Skagit County Auditor

9/20/2012 Page 1 of 17 2:28PM

WHEN RECORDED, RETURN TO:

Callister Nebeker & McCullough
10 East South Temple, Suite 900
Salt Lake City, Utah 84133
Attn: John B. Lindsay

CHICAGO TITLE REGULATORY AGREEMENT
620012545 (Woodgate)

Grantor(s)/Borrower(s): APD Housing Partners 16, LP, a Washington limited partnership

Grantee/Beneficiary: Bonneville Mortgage Company, a Utah corporation, Beneficiary
Chicago Title Company, Trustee

Legal Description Lot 2, Burlington Short Plat BU-~~2-78~~¹⁸⁻²; being a ptn. of Lot 50,
Abbreviated: Burlington Acreage

Additional legal description is on Exhibit A of this document.

Assessor's Tax Parcel ID #: P62662 and 3867-000-050-01904 ~~1904~~

Reference No. of Documents Released or Assigned: N/A

THIS REGULATORY AGREEMENT (the "Agreement") is made and entered into this 20th day of September, 2012 (the "Closing Date"), by and between Bonneville Mortgage Company, a Utah corporation ("Lender"), and APD Housing Partners 16, LP, a Washington limited partnership ("Borrower").

PRELIMINARY STATEMENT

Borrower has requested that Lender make a loan to Borrower in the amount of One Million Eight Hundred Ninety Thousand Dollars (\$1,890,000.00) (the "Loan") for a 40-unit low income multifamily rental housing project known as the Woodgate Apartments, located in Skagit County, State of Washington, on a site more particularly described in Exhibit A and by this reference made a part hereof (the "Land"). The Loan will be evidenced by a Multifamily Note dated the Closing Date, executed by Borrower and payable to Lender (the "Note") and will be secured by, among other things, a Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated the Closing Date (the "Security Instrument"), to be recorded in the land records of Skagit County, State of Washington.

Lender is agreeable to making the Loan to Borrower if the Loan is the subject of a ninety percent (90%) guarantee from the United States Secretary of Agriculture, acting through the United States Department of Agriculture, Rural Housing Service ("RHS") under Section 538 of the Housing Act of 1949, 12 U.S.C., Section 1490p-2 (the "RHS Guarantee"). As a condition precedent to providing the RHS Guarantee, RHS requires that Borrower enter into this Agreement.

NOW, THEREFORE, in consideration of Lender making the Loan to Borrower, and of the mutual undertakings set forth below, Lender and Borrower agree as follows:

1. Definitions. As used in this Agreement, "**Lender**" means the entity identified as "Lender" in the first paragraph of this Agreement, or any subsequent holder of the Note. Any other capitalized terms that are used in this Agreement but not defined in this Agreement shall have the meanings assigned to them by the Security Instrument.

2. Covenants of Borrower. Borrower shall do all of the following:

- a. Make all payments due under the Note, all deposits to escrows required for Impositions as required by the Security Instrument, and all deposits to required escrows and reserves in the Loan Agreement for future capital needs.
- b. Maintain the Mortgaged Property in good physical and financial condition at all times.
- c. Maintain a complete set of books and financial records for the Mortgaged Property, as required by the Security Instrument.



- d. Provide Lender audited financial statements, in accordance with generally accepted government auditing standards, for each fiscal year of Borrower within ninety (90) days of calendar year end as required by the Security Instrument, and simultaneously provide RHS a copy of such statements.
- e. Make the Mortgaged Property's books and financial records available for review by the United States Department of Agriculture Inspector General, RHS and the General Accounting office or their representatives, upon appropriate notification.
- f. Comply with the Affirmative Fair Housing Marketing Plan provided to Lender in conjunction with the Loan and with all other applicable federal, state and local laws regarding fair housing, including but not limited to provisions of such laws that are applicable to federally assisted multifamily or seniors housing.
- g. Comply with civil rights laws affecting federally assisted multifamily or seniors housing programs and the American Disabilities Act.
- h. Comply with all other applicable federal, state and local environmental laws.
- i. Intentionally Deleted.
- j. Manage the Mortgaged Property in a manner that complies with the Security Instrument and is satisfactory to RHS, including but not limited to compliance with the management plan and agreement submitted by Borrower to Lender in conjunction with the Loan and Mortgaged Property.
- k. Provide management satisfactory to RHS and comply with the Lender-approved management plan and agreement submitted to Lender under the preceding Subsection 2.j.
- l. Give written notice to Lender of any violation of Borrower's obligations under this Agreement within five (5) days after first discovering any such violation.
- m. Cooperate and work with Lender concerning any workout situation involving the Mortgaged Property.
- n. Obtain and maintain property insurance and any other insurance coverage required to protect the Mortgaged Property and all other collateral and security securing the Loan.



3. **Covenants of Borrower regarding Occupancy.** Borrower shall do all of the following:

- a. Maintain the Mortgaged Property in accordance with 7 C.F.R. Section 3565.352 and the Deed Restriction.
- b. Without limiting the generality of Subsection (a), make the Mortgaged Property available for occupancy only by families or individuals whose incomes at the time of initial occupancy do not exceed one hundred fifteen percent (115%) of the area median income. After initial occupancy, a tenant's income may exceed these limits.
- c. Lease each dwelling unit in the Mortgaged Property for a rental that does not exceed thirty percent (30%) of one hundred fifteen percent (115%) of area median income, adjusted for family size.
- d. Establish rents for dwelling units in the Mortgaged Property so that, on an annual basis, the average monthly rent for a project, taking into account all individual unit rents, including any tenant-paid utilities, must not exceed 1/12th of thirty percent (30%) of one hundred percent (100%) of area median annual income, adjusted for family size.
- e. Lease dwelling units only to tenants who are United States citizens or a non-citizens who is a qualified alien as defined in 7 C.F.R. Section 3565.3.

"Area median income" shall be determined and adjusted for family size in accordance with guidance on the subject issued by RHS. To the extent utilities are paid by the tenant, "rent" or "rental" shall consist of the rent for the dwelling unit payable under the lease plus an allowance for utilities determined in accordance with administrative guidance issued by RHS.

4. **Income Verification.** Borrower will obtain, complete, and maintain on file a certification by each prospective tenant of its income, using a form acceptable to Lender. Borrower shall make a good faith effort to verify that the income information provided by a prospective tenant is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) conduct a credit report or similar search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification.



5. **Covenants to Run With the Land.** Borrower hereby subjects the Mortgaged Property to the covenants, reservations and restrictions set forth in this Agreement. Lender and Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth in this Agreement shall be deemed covenants running with the land and shall pass to and be binding upon Borrower's successors in title to the Mortgaged Property, until the termination of this Agreement under Section 7 of this Agreement. Every contract, deed or other instrument hereafter executed covering or conveying the Mortgaged Property or any portion of the Mortgaged Property shall be deemed to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in that contract, deed or other instrument.

6. **Burden and Benefit.** Borrower and Lender intend that the burdens of the covenants set forth in this Agreement touch and concern the land in that Borrower's interest in the Mortgaged Property is rendered less valuable as a result of them. Borrower and Lender intend that the benefits of the covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Mortgaged Property by tenants whose incomes are below the levels set forth in Section 3 of this Agreement, who are the intended beneficiaries of the covenants.

7. **Term of Agreement.** This Agreement will apply to the Mortgaged Property during the term of the original Loan unless the housing is acquired by foreclosure or an instrument in lieu of foreclosure, or the United States Department of Agriculture waives the applicability of this Agreement after determining that each of the following three circumstances exist.

- a. There is no longer a need for low-and moderate-income housing in the market area in which the Mortgaged Property is located;
- b. Housing opportunities for low-income households and minorities will not be reduced as a result of the waiver; and
- c. Additional federal assistance will not be necessary as a result of the waiver.

8. **Event of Default.** Any failure by Borrower to perform any of its obligations under this Agreement as and when required, which continues for a period of thirty (30) days after notice of such failure by Lender to Borrower, shall constitute an Event of Default under this Agreement. However:

- a. If the Security Instrument imposes the same obligation and provides for a shorter cure period or no cure period for breach of that obligation, then Borrower, in lieu of the above-specified 30-day cure period, shall be allowed, respectively, the same cure period provided for in the Security Instrument or no cure period. However, if Borrower's failure to perform its obligations is of the nature that it cannot be cured with the thirty (30) day grace period, but reasonably could be cured within ninety (90) days, then Borrower shall have



additional time as determined by Lender in its reasonable discretion, not to exceed an additional sixty (60) days, in which to cure such default, provided that Borrower has diligently commenced to cure such default during the thirty (30) day grace period and diligently pursues the cure of such default; and

- b. No such notice or cure period set forth in this Section 8 shall apply in the case of any such failure which could, in Lender's judgment, absent immediate exercise by Lender of a right or remedy under this Agreement, result in harm to Lender, impairment of this Agreement or the RHS guarantee.

Lender hereby agrees that any cure of any default made or tendered by one or more of Borrower's limited partners shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

9. Remedies of Lender. If an Event of Default under this Agreement has occurred and is continuing, either Lender may, at its option, take any one or more of the following steps, in addition to all other remedies provided at law or in equity:

- a. By mandamus or other proceeding at law or in equity, including but not limited to an action seeking injunctive relief or a declaratory judgment, require Borrower to perform its obligations under this Agreement or enjoin any acts which may be unlawful or in violation of this Agreement.
- b. Declare that an Event of Default has occurred and is continuing under the Security Instrument, as authorized by the Security Instrument, and exercise any and all remedies available to Lender under the Security Instrument and any of the other Loan Documents.
- c. Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations of Borrower under this Agreement.

10. Remedies of RHS. If an Event of Default under this Agreement has occurred and is continuing, RHS, as a third party beneficiary of this Agreement, may by mandamus or other proceeding at law or in equity, including but not limited to an action seeking injunctive relief or a declaratory judgment, require Borrower to perform its obligations under this Agreement or enjoin any acts which may be unlawful or in violation of this Agreement. RHS may assume the role of Lender if necessary to force Borrower to comply with the terms of this Agreement. If RHS ever assumes the Mortgaged Property in the role of a mortgagee-in-possession, this Agreement will remain in force at RHS's sole discretion.

11. Release. Upon termination of this Agreement, Lender shall execute such instruments as Borrower may reasonably request to evidence such termination, so long as such instruments are prepared, delivered and recorded at no expense to Lender.



12. **Notices.** All notices shall be in writing and shall be deemed to have been sufficiently given or served when personally delivered, deposited in the United States mail, by registered or certified mail, or deposited with a reputable overnight mail carrier which provides delivery of such mail to be traced, addressed as follows:

Lender: Bonneville Mortgage Company
111 East Broadway, Suite 200
Salt Lake City, Utah 84111
Attn: Brent H. Peterson

With copies to: Callister Nebeker & McCullough
10 East South Temple, Suite 900
Salt Lake City, Utah 84133
Attn: John B. Lindsay

Borrower: APD Housing Partners 16, LP
c/o APD Housing Management 16, LLC
1700 Seventh Avenue, Suite 2000
Seattle, Washington 98101
Attention: Stephen R. Whyte
Fax: 206.621.7420
stephen.whyte@vitusgroup.com

With copies to: AOF/Pacific Affordable Housing Corp.
7777 Center Avenue, Suite 240
Huntington Beach, California 92647
Attention: Raman Nayar
Fax: 714.891.2098
ray.nayar@aofpacific.com

and

VLP Law Group LLP
548 Market Street
San Francisco, California 94104
Attention: Byron A. Rodriguez
Fax: 415.685.4866
brodriguez@vlplawgroup.com

Limited Partner: Alliant Tax Credit Fund 65, Ltd.
c/o Alliant Capital, Ltd.
340 Royal Poinciana Way, Suite 305
Palm Beach, Florida 33480
Attention: Brian Goldberg



Telephone: (561) 833-5795
Telecopy: (561) 833-3694

with a copy to:

c/o Alliant Asset Management Company LLC
21600 Oxnard Street, Suite 1200
Woodland Hills, California 91367
Attention: Tony Palaigos, Esq.
Telephone: (818) 668-6800
Telecopy: (818) 668-2828

and

Alliant ALP 65, LLC
c/o Alliant Asset Management Company LLC
21600 Oxnard Street, Suite 1200
Woodland Hills, California 91367
Attention: Tony Palaigos, Esq.
Telephone: (818) 668-6800
Telecopy: (818) 668-2828

Such addresses may be changed by notice to the other party given in the same manner provided in this Section.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Mortgaged Property is located.

14. Captions, Cross References and Exhibits. The captions assigned to provisions of this Agreement are for convenience only and shall be disregarded in construing this Agreement. Any reference in this Agreement to an "Exhibit", a "Section", a "Subsection" or a "Paragraph" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Agreement, a section of this Agreement, a subsection of the section of this Agreement in which the reference appears and a paragraph of the subsection within this Agreement in which the reference appears. All Exhibits attached to or referred to in this Agreement are incorporated by reference into this Agreement.

15. Number and Gender. Use of the singular in this Agreement includes the plural, use of the plural includes the singular, and use of one gender includes all other genders, as the context may require.

16. Statutes and Regulations. Any reference in this Agreement to a statute or regulation shall include all amendments to and successors to such statute or regulation, whether adopted before or after the date of this Agreement.



17. **No Partnership.** This Agreement is not intended to, and shall not, create a partnership or joint venture among the parties, and no party to this Agreement shall have the power or authority to bind any other party except as explicitly provided in this Agreement.

18. **Successors and Assigns.** Borrower may not assign its rights or delegate its obligations under this Agreement without the prior written consent of Lender. Lender, however, may freely assign its rights or delegate its obligations under this Agreement without the consent of Borrower. This Agreement shall be binding upon and shall inure to the benefit of Borrower and Lender and their respective heirs, successors, and permitted assigns, including any subsequent lender for the duration set forth in Section 7 of this Agreement.

19. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect.

20. **Integration.** This Agreement represents the final agreement between the parties with respect to the matters addressed in this Agreement, and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements. There are no unwritten oral agreements between the parties. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement.

21. **Waiver; No Remedy Exclusive.** Any forbearance by a party to this Agreement in exercising any right or remedy given under this Agreement or existing at law or in equity shall not constitute a waiver of or preclude the exercise of that or any other right or remedy. Unless otherwise explicitly provided, no remedy under this Agreement is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or existing at law or in equity.

22. **Attorneys' Fees.** If either party to this Agreement brings suit against the other as a result of any alleged breach of this Agreement by the other or failure by the other to perform its obligations under this Agreement or under any other instrument delivered pursuant to this Agreement, or to seek declaratory relief as to the rights or obligations of either party to this Agreement, then the prevailing party in such action, in addition to any other relief which may be granted in such action, shall be entitled to judgment for reasonable attorneys' fees incurred by reason of such action and all costs of such action (including but not limited to reasonable fees of expert witnesses) and costs incurred in preparation of such action, at both trial and appellate levels.

23. **Further Assurances and Corrective Instruments.** To the extent permitted by law, the parties shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements to this Agreement and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement. Without limiting the generality of the foregoing, Borrower shall executed such



amendments to this Agreement as may be required by RHS in order to ensure the validity of the RHS Guarantee.

24. No Party Deemed Drafter. No party shall be deemed the drafter of this Agreement, and this Agreement shall not be construed against either party as the drafter of the Agreement.

25. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Agreement shall be sufficient for all purposes without producing or accounting for any other counterpart.

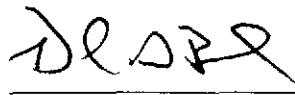


DATED: September 20, 2012.

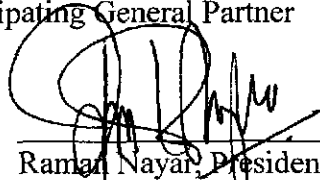
BORROWER

APD HOUSING PARTNERS 16, LP,
a Washington limited partnership

By: APD Housing Management 16, LLC,
a Washington limited liability company,
Its: Administrative General Partner

By: 
David A. Beacham, Authorized Signatory

By: AOF/Pacific Affordable Housing Corp.,
a California nonprofit public benefit corporation
Its: Participating General Partner

By: 
Raman Nayar, President




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Skagit County Auditor

DATED: September 20, 2012.

LENDER

BONNEVILLE MORTGAGE COMPANY,
a Utah corporation

By:


Brent H. Peterson
President, Multifamily Division



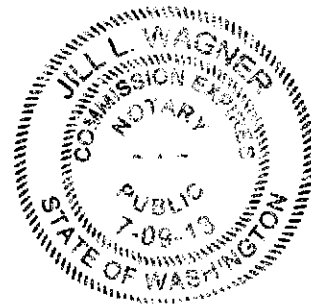
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Skagit County Auditor

STATE OF WASHINGTON)
)
 : ss.
COUNTY OF KING)

On this 17th day of September, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David A. Beacham, to me known to be the Authorized Signatory, of APD Housing Management 16, LLC, a Washington limited liability company, to me known to be the Administrative General Partner of APD Housing Partners 16, LP, a Washington limited partnership, the limited partnership that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act of and deed of said limited partnership, for the uses and purposes therein mentioned, and on oath stated that the limited partnership is authorized to execute the said instrument.

Witness my hand and seal the day and year first above written.

Jill L. Wagner
NOTARY PUBLIC
Printed Name Jill L. Wagner
Notary Public residing at Seattle
My Commission Expires: 7-09-13

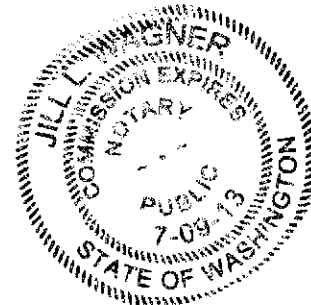


STATE OF WASHINGTON)
)
COUNTY OF KING)
 : ss.

On this 17th day of September, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Raman Nayar, to me known to be the President, of AOF/Pacific Affordable Housing Corp., a California nonprofit public benefit corporation, to me known to be the Participating General Partner of APD Housing Partners 16, LP, a Washington limited partnership, the limited partnership that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act of and deed of said limited partnership, for the uses and purposes therein mentioned, and on oath stated that the limited partnership is authorized to execute the said instrument.

Witness my hand and seal the day and year first above written.

Jill L. Wagner
NOTARY PUBLIC
Printed Name: Jill L. Wagner
Notary Public residing at Seattle
My Commission Expires: 7-09-13



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Skagit County Auditor

STATE OF WASHINGTON

COUNTY OF KING

On this 17th day of September, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brent H. Peterson, to me known to be the President, Multifamily Division of Bonneville Mortgage Company, a Utah corporation, the corporation that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act of and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that the corporation is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

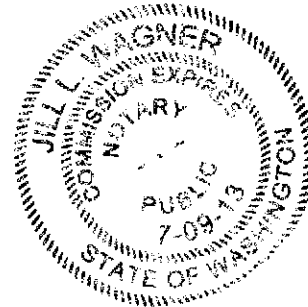
Witness my hand and seal the day and year first above written.

Jill L. Wagner
NOTARY PUBLIC

Printed Name: Jill L. Wagner

Notary Public residing at Seattle

My Commission Expires: 7-09-13



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Skagit County Auditor

EXHIBIT A

REAL PROPERTY DESCRIPTION

The land referred to herein below is situated in the City of Burlington, County of Skagit, State of Washington, and is described as follows:

(See Attached)



Exhibit A

Legal Description

The land referred to herein below is situated in Skagit County, State of Washington, and is described as follows:

Tract 2, Burlington Short Plat No. 78-2, recorded in Volume 3 of Short Plats, page 26, under Auditor's File No. 888920, records of Skagit County, Washington; being a portion of Lot 50, Plat of Burlington Acreage property, according to the Plat thereof recorded in Volume 1 of Plats, page 49, records of Skagit County, Washington.

Situated in Skagit County, Washington.



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Skagit County Auditor