

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

by and between the

CITY AND COUNTY OF SAN FRANCISCO

and

BERNAL GATEWAY 2, LP

Dated as of August 1, 2019

Relating to:

City and County of San Francisco
Multifamily Housing Revenue Note
(Bernal Gateway Apartments),
Series 2019_

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REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the “Regulatory Agreement”) is made and entered into as of August 1, 2019, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation and chartered city and county, duly organized and validly existing under its City Charter and the Constitution and laws of the State of California (together with any successor to its rights, duties and obligations, the “City”) acting by and through the Mayor’s Office of Housing and Community Development, and Bernal Gateway 2, LP, a California limited partnership (the “Owner”), owner of a fee simple interest in the land described in Exhibit A attached hereto.

RECITALS

A. WHEREAS, pursuant to the Charter of the City, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as now in effect and as may be amended and supplemented (collectively, the “Act”), the City is authorized to issue revenue bonds, notes and other evidences of indebtedness to finance development of multifamily rental housing; and

B. WHEREAS, the Board of Supervisors of the City has authorized the execution and delivery of multifamily housing revenue notes under the Act in connection with the acquisition and rehabilitation of an affordable multifamily residential rental housing project located on the site described in Exhibit A hereto and to be known as Bernal Gateway Apartments (the “Project”), which Project shall be subject to the terms and provisions hereof; and

C. WHEREAS, simultaneously with the delivery of this Regulatory Agreement, the City is entering into a Funding Loan Agreement (the “Funding Loan Agreement”) with Capital One, National Association (the “Funding Lender”) pursuant to which the Funding Lender (i) will advance funds (the “Funding Loan”) to or for the account of the City, and (ii) the City will apply the proceeds of the Funding Loan to make one or more loans (collectively, the “Project Loan”) to the Owner to finance the construction and rehabilitation of the Project; and

D. WHEREAS, in furtherance of the purposes of the Act and to evidence its obligation to make the payments due to the Funding Lender under the Funding Loan, the City is executing and delivering to the Funding Lender its Note designated “City and County of San Francisco Multifamily Housing Revenue Note (Bernal Gateway Apartments), Series 2019__” (the “Note”) pursuant to a Resolution adopted by the City on [July __], 2019 (the “Resolution”); and

E. WHEREAS, simultaneously with the delivery of this Regulatory Agreement, the City and the Owner will enter into a Project Loan Agreement dated as of the date hereof (the “Project Loan Agreement”), whereby the City will make the Project Loan to the Owner and the Owner agrees to make loan payments to the City in an amount which will be sufficient to enable the City to repay the Funding Loan and to pay all costs and expenses related thereto when due;

F. WHEREAS, the Federal Home Loan Mortgage Corporation, a shareholder-owned government-sponsored enterprise (“Freddie Mac”) has entered into a commitment with

Bellwether Enterprise Real Estate Capital, LLC whereby Freddie Mac has committed to facilitate the permanent financing of the Project by purchasing the loan made under the Funding Loan Agreement, as evidenced by the Note, from the City upon completion of the rehabilitation of the Project, on such date and subject to the satisfaction of certain conditions as further described in the Funding Loan Agreement [and the Construction Phase Financing Agreement of even date herewith among Freddie Mac, City and Owner;] and

F. WHEREAS, City hereby certifies that all things necessary to make the Note, when executed and delivered as provided in the Resolution, the valid, binding and limited obligations of the City have been done and performed, and the execution and delivery of the Note, in all respects have been duly authorized; and

G. WHEREAS, the Code (as defined herein) and the regulations and rulings promulgated with respect thereto and the Act prescribe that the use and operation of the Project be restricted in certain respects and in order to ensure that the Project will be acquired, constructed, equipped, used and operated in accordance with the Code and the Act, the City and the Owner have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition and rehabilitation of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the City and the Owner agree as follows:

1. Definitions and Interpretation. Capitalized terms used herein have the meanings assigned to them in this Section 1, unless the context in which they are used clearly requires otherwise:

“Act” - The Charter of the City, Article I of Chapter 43 of the Administrative Code of the City and County of San Francisco Municipal Code and, as applicable, Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as now in effect and as it may from time to time hereafter be amended or supplemented.

“Adjusted Income” - The adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) as calculated in the manner prescribed pursuant to Section 8 of the Housing Act, or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act.

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

shareholders (and their spouses and minor children) whose relationship with the Owner would result in a disallowance of losses under Section 267 or 707(b) of the Code.

“Annual Monitoring Report” has the meaning set forth in Section 5(l).

“Area” - The HUD Metro Fair Market Rent Area (HMFA), or the successor area determined by HUD in which the Project is located.

“Authorized Owner Representative” - Any person who at the time and from time to time may be designated as such, by written certificate furnished to the City and the Fiscal Agent containing the specimen signature of such person and signed on behalf of the Owner by the general partner(s) of the Owner, which certificate may designate an alternate or alternates.

“Available Units” - Residential units in the Project (except for not more than one unit set aside for a resident manager) that are actually occupied and residential units in the Project that are vacant and have been occupied at least once after becoming available for occupancy, provided that (a) a residential unit that is vacant on the later of (i) the date the Project is acquired or (ii) the date of the execution and delivery of the Note is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an Available Unit and does not become an Available Unit until it has been occupied for the first time after the renovations are completed.

“CDLAC” - The California Debt Limit Allocation Committee.

“CDLAC Requirements” - The requirements described in Section 27 of this Regulatory Agreement.

“CDLAC Resolution” - The Resolution described in Section 27 of this Regulatory Agreement.

“Certificate of Continuing Program Compliance” - The Certificate with respect to the Project to be filed by the Owner with the City and the Program Administrator, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit D, or such other form as is provided by the City and executed by an Authorized Owner Representative.

“City” - The City and County of San Francisco, California.

“City Median Income” - the “Maximum Income by Household Size” derived by the Mayor’s Office of Housing and Community Development and published annually, based on the unadjusted area median income for the Area, as determined annually by HUD in a manner consistent with determinations of area median gross income under Section 8 of the Housing Act and Section 3009a of the Housing and Economic Recovery Act of 2008 or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination, and being adjusted for family size but unadjusted for high housing costs.

“Closing Date” - The date of the execution and delivery of the Note, [August _], 2019.

“Code” - The Internal Revenue Code of 1986, as in effect on the execution and delivery of the Note or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of the execution and delivery of the Note, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Completion Certificate” - The certificate of completion of the construction of the Project required to be executed by an Authorized Owner Representative and delivered to the City and the Funding Lender by the Owner pursuant to Section 2(e) of this Regulatory Agreement, which shall be substantially in the form attached to this Regulatory Agreement as Exhibit C.

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

“Costs of Issuance” means the issuance costs for purposes of Section 147(g) of the Code incurred with respect to the issuance of the Note but does not include fees charged by the City with respect thereto.

“CTCAC” - The California Tax Credit Allocation Committee.

“Displaced Tenant Preference Certificate Holder” - A person or household that has been issued a certificate under the Displaced Tenant Preference Program, as further described in the Operational Rules attached as Exhibit J.

“Existing Tenant” - means any Tenant lawfully residing at, or legally entitled to return to, the Site, as of the Closing Date.

“Facilities” - The multifamily buildings, structures and other improvements on the Site to be acquired, constructed, improved, rehabilitated and equipped with the proceeds of the Project Loan, and all fixtures and other property owned by the Owner and located on the Site, or used in connection with, such buildings, structures and other improvements. The Facilities do not include any commercial space.

“Fiscal Agent” – U.S. Bank, National Association and its successors and assigns.

“Funding Lender” – Capital One, N.A. and its successors and assigns.

“Funding Loan” – The loan by the Funding Lender to the City, the proceeds of which are loaned by the City to the Owner pursuant to the Project Loan Agreement.

“Funding Loan Agreement” – The Funding Loan Agreement of even date herewith, among the City, the Fiscal Agent and the Funding Lender, pursuant to which the Funding Loan was made.

”Housing Act” – 42 U.S.C. Section 1437, known as the United States Housing Act of 1937, as amended.

“Housing Authority” - The Housing Authority of the City and County of San Francisco and any of its successors.

“Housing Law” - Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as amended.

“HUD” - The United States Department of Housing and Urban Development, its successors and assigns.

“Income Certification Form” – A fully completed and executed Income Certification Form substantially in the form designated in Exhibit B, or such other form as may be provided by the City.

“Inducement Date” – July 24, 2018, the date of adoption of the Inducement Resolution.

“Inducement Resolution” – Resolution No. 270-18 adopted by the Board of Supervisors of the City on the Inducement Date and approved by the Mayor, indicating its intention to issue tax-exempt obligations to finance a portion of the Project.

“Investor Limited Partner” – Wincopin Circle LLLP, a Maryland limited liability limited partnership, and any of its successors that have been admitted as a limited partner in Owner in accordance with the Owner’s Governing Agreement, together with its successors and assigns.

“Low Income Tenant” – Any Tenant in the Project whose Adjusted Income does not exceed sixty percent (60%) of the lower of City Median Income or Median Income for the Area; provided, however, if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code or who fail to be described in Section 42(i)(3)(D) of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a Tenant’s status as a Low Income Tenant shall initially be made by the Owner on the basis of an Income Certification Form (a form of which is attached hereto as Exhibit B) executed by the Tenant upon such Tenant’s occupancy of a Restricted Unit in the Project and upon annual recertification thereafter. In determining if any Tenant is a Low Income Tenant for purposes of any requirement of the City hereunder, the maximum Adjusted Income shall be based on the applicable percentage of the lower of the City Median Income or Median Income for the Area.

“Low Income Units” – The dwelling units in the Project required to be rented to, or designated for occupancy by, Low Income Tenants pursuant to Section 4 of this Regulatory Agreement.

“Managing General Partner” – RPBG LLC, a California limited liability company, and/or any other Person that the partners of Owner, with the prior written approval of City and the Funding Lender (to the extent required pursuant to the Loan Documents), have selected to be a general partner of Owner, and any successor general partner of the Owner, in each case to the extent permitted under the Loan Documents and hereunder.

“Maturity Date” means _____, being the maturity date of the Note.

“Median Income for the Area” – The median gross income for the Area, as determined in a manner consistent with determinations of area median gross income under Section 8 of the Housing Act and Section 3009(a) of the Housing and Economic Recovery Act of 2008 (Pub. L.

110-289, 122 Stat 2654) or, if said Section 8 is terminated, as prescribed pursuant to said Section 8 immediately prior to its termination or as otherwise required under Section 142 of the Code and the Act, including adjustments for household size and high housing cost area.

“Note” – the City and County of San Francisco Multifamily Housing Revenue Note (Bernal Gateway Apartments), Series 2019_.

“Owner” – Bernal Gateway 2, LP, a California limited partnership, and its permitted successors and assigns.

“Operational Rules” – The Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities are incorporated by reference in Exhibit J.

“Owner’s Governing Agreement” – The First Amended and Restated Agreement of Limited Partnership relating to Owner, by and among the General Partner, the Investor Limited Partner and Devine Bernal, LLC, as Administrative General Partner.

“Permitted Encumbrances” – Has the definition given to it in the Security Instrument.

“Program Administrator” - A governmental agency, a financial institution, a certified public accountant, an apartment management firm, a mortgage insurance company or other business entity performing similar duties or otherwise experienced in the administration of restrictions on bond financed multifamily housing projects, which shall be the City initially and, at the City’s election, any other person or entity appointed by the City who shall enter into an administration agreement in a form acceptable to the City.

“Project” - The Facilities and the Site.

“Project Costs” - To the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Owner with respect to the rehabilitation of the residential component of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site acquisition, preparation, the planning of housing and related facilities and improvements, the removal or demolition of existing structures, the rehabilitation of housing and related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractor’s and Owner’s overhead and supervisors’ fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), and interest on financing for the Project.

“Project Loan” – The Loan of the proceeds of the Project Loan Agreement to provide financing for the acquisition and rehabilitation of the Project.

“Project Loan Agreement” – The Project Loan Agreement of even date herewith, among the City, the Owner and the Fiscal Agent pursuant to which the loan of the proceeds of the Note is made to the Owner to provide financing for the acquisition and rehabilitation of the Project.

“Qualified Project Costs” - The Project Costs incurred after the date which is sixty (60) days prior to the Inducement Date and that are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Owner or but for the proper election by the Owner to deduct those amounts, within the meaning of Regulations Section 1.103-8(a)(1); provided, however, that only such portion of the interest accrued during rehabilitation of the Project shall constitute a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs, and provided further that such interest shall cease to be a Qualified Project Cost on the Completion Date, and provided still further that if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), “Qualified Project Costs” shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in rehabilitating the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Affiliated Party, and (c) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof).

“Qualified Project Period” - The period beginning on the Closing Date as specified in Section 2(p) of this Agreement and ending on the later of the following:

- (a) the date that is fifteen (15) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied;
- (b) the first date on which no Tax-Exempt private activity bonds or notes with respect to the Project are Outstanding;
- (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates;
- (d) the date that is seventy-five (75) years after the Closing Date; or
- (e) such later date as may be provided in Section 5 or Section ___ hereof.

“Qualified Tenant” – An Existing Tenant or a Very-Low Tenant or a Low Income Tenant.

“Regulations” - The income tax regulations promulgated by the United States Department of the Treasury pursuant to the Code (or its predecessor) from time to time.

“Regulatory Agreement” - This Regulatory Agreement and Declaration of Restrictive Covenants, together with any amendments hereto or supplements hereof.

“Restricted Unit” – A Low (or Very Low) Income Unit or a Unit occupied by an Existing Tenant. “Section 8” – Section 1437f of the Housing Act, unless explicitly referring to a section of this Regulatory Agreement (e.g., “Section 8 hereof”).

“Security Instrument” – The Construction Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of the date hereof, executed by Owner in favor of the City, and assigned to the Funding Lender to secure the Funding Loan, encumbering the Project.

“Site” - The parcel or parcels of real property described in Exhibit A, which is attached hereto, and all rights and appurtenances thereto.

“SSI” – Supplemental Security Income administered pursuant to P.L. 74-271, approved August 14, 1935, 49 Stat. 620, as now in effect and as it may from time to time hereafter be amended or supplemented.

“State” - The State of California.

“TANF” – The Temporary Assistance for Needy Families program administered pursuant to 42 U.S.C. Sections 601-687.

“Tax Certificate” – The Tax Certificate and Agreement dated as of the Closing Date executed and delivered by the City and the Owner.

“Tax Counsel” – An attorney or a firm of attorneys of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, who is selected by the City and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Tax-Exempt” – With respect to the status of interest on the Note the exclusion of interest thereon from gross income of the Noteholder for federal income tax purposes pursuant to Section 103(a) of the Code (other than interest on any portion of the Note owned by a “substantial user” of the Project or a “related person” within the meaning of Section 147 of the Code).

“Tenant” – At any time of determination thereof, all persons who together occupy a single residential unit in the Project, and upon the occupancy of a unit by any individual in addition to the previous Tenant of such unit, such unit shall be deemed to be occupied by a new Tenant.

“Very Low Income Tenant” – Any Tenant whose Adjusted Income does not exceed fifty percent (50%) of the lower of City Median Income or Median Income for the Area; provided, however, if all the occupants of a unit are students (as defined under Section 152(0)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Very Low Income Tenants. The determination of a Tenant’s status as a Very Low Income Tenant shall initially be made by the Owner on the basis of the Income Certification Form (a form of which is attached hereto as Exhibit B) executed by the Tenant upon such Tenant’s occupancy of a unit in the Project and upon annual recertification thereafter.

“Very Low Income Unit” - A dwelling unit in the Project required to be rented to, or designated for occupancy by, Very Low Income Tenants pursuant to Section 4 of this Regulatory Agreement.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender used in this Regulatory Agreement shall be construed

to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1 notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

2. Rehabilitation of the Project. The Owner hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

(a) The Owner has incurred, or will incur within six (6) months after the Closing Date, a substantial binding obligation to a third party to commence the construction of the Project, pursuant to which the Owner is or will be obligated to expend at least the lesser of (i) five (5) percent of the aggregate principal amount of the Note or (ii) \$100,000 for the payment of Qualified Project Costs.

(b) The Owner's reasonable expectations respecting the total cost of rehabilitation of the Project and the disbursement of Note proceeds are accurately set forth in the Tax Certificate delivered to the City on the Closing Date.

(c) The Owner will proceed with due diligence to complete the acquisition and rehabilitation of the Project and expects to expend the maximum authorized amount of the Project Loan for Project Costs within three (3) years of the Closing Date.

(d) The Owner shall prepare and submit to the City a final allocation of the proceeds of the Note to the payment of Qualified Project Costs, which allocation shall be consistent with the cost certification (as defined in the Owner's Governing Agreement) within 60 days after the Completion Date, but in any event no later than the earlier of (1) 18 months from the placed in service date for the Project, (2) the Maturity Date or (3) the fifth anniversary of the Closing Date.

(e) Within thirty (30) days of the Completion Date, the Owner will submit to the City and the Funding Lender a duly executed and completed Completion Certificate.

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

(g) The Owner (and any person related to it within the meaning of Section 147(a)(2) of the Code) will not take or omit to take any action if such action or omission would in any way cause the proceeds from the sale of the Note to be applied in a manner contrary to the requirements of the Funding Loan Agreement, the Project Loan Agreement or this Regulatory Agreement.

(h) On or concurrently with the final draw by the Owner of amounts representing proceeds of the Note, the expenditure of such draw, when added to all previous disbursements representing proceeds of the Note, will result in not less than ninety-seven percent (97%) of all disbursements of the proceeds of the Note having been used to pay or reimburse the Owner for Qualified Project Costs and less than twenty-five (25%) percent of all disbursements having been used to pay for the acquisition of land or any interest therein.

(i) The statements made in the various certificates delivered by the Owner to the City on the Closing Date are true and correct.

(j) All of the amounts received by the Owner from the proceeds of the Note and earnings from the investment of such proceeds will be used to pay Project Costs; and no more than two percent (2%) of the proceeds of the Note shall be used to pay Costs of Issuance of the Note.

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

(l) The Owner will take such action or actions as may be necessary, in the written opinion of Tax Counsel to the City, to comply fully with the Act, the Code and all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service to the extent necessary to maintain the Tax-Exempt status of the interest on the Note.

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

(n) In accordance with Section 147(b) of the Code, the average maturity of the Note does not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the facilities being financed by the Note.

(o) The Owner agrees not to acquire the Note or any portion thereof or interest therein so long as it is the owner or substantial user (within the meaning of the Code) of the Project.

(p) The Owner hereby represents that, as of the Closing Date, not less than 50% of the dwelling units in the Project are occupied.

3. Qualified Residential Rental Property. The Owner hereby acknowledges and agrees that the Project will be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code). The City hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code and the Owner hereby elects and covenants that it shall comply with Section 142(d)(1)(B) of the Code. To that end, and for the term of this Regulatory Agreement, the Owner hereby represents, as of the date hereof, and covenants, warrants and agrees as follows:

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

(b) All of the residential dwelling units in the Project will be similarly constructed units, and, to the extent required by the Code and the Regulations, each residential dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range (which may be a countertop cooking range), refrigerator and sink.

(c) None of the residential dwelling units in the Project will at any time be used on a transient basis (e.g., subject to leases that are less than thirty (30) days in duration) (including use as a corporate suite), or be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, retirement house or trailer court or park.

(d) No part of the Project will at any time be owned as a condominium or by a cooperative housing corporation, nor shall the Owner take any steps in connection with a conversion to such ownership or uses. Other than obtaining a final subdivision map on the Project and a Final Subdivision Public Report from the California Department of Real Estate, the Owner shall not take any steps in connection with a conversion of the Project to a condominium ownership except with the prior written opinion of Tax Counsel that the Tax-Exempt status of the interest on the Note will not be adversely affected thereby.

(e) All of the residential dwelling units in the Project will be available for rental on a continuous basis to members of the general public and the Owner will not give preference to any particular class or group in renting the residential dwelling units in the Project, except to the extent required by (i) this Regulatory Agreement, (ii) any regulatory or restrictive use agreement to which the Project is or becomes subject pursuant to Section 42 of the Code, (iii) any additional tenant income and rent restrictions imposed by any other federal, State or local governmental agencies, and (v) any other legal or contractual requirement not excepted by clauses (i) through

(iii) of this subsection, upon receipt by the Owner, the Funding Lender and the City of an opinion of Tax Counsel to the effect that compliance with such other requirement will not adversely affect the Tax-Exempt status of interest on the Note.

(f) The Site consists of a parcel or parcels that are contiguous and all of the Facilities will comprise a single geographically and functionally integrated project for residential rental property (including the portions of the common areas allocated to the Project), as evidenced by the ownership, management, accounting and operation of the Project.

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

(h) The Owner shall not discriminate on the basis of race, creed, religion, color, sex, source of income (*e.g.*, TANF, Section 8 or SSI), physical disability (including HIV/AIDS), age, national origin, ancestry, marital or domestic partner status, sexual preference or gender identity in the rental, lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the rehabilitation, operation and management of the Project, except to the extent required hereby.

(i) Should involuntary noncompliance with the provisions of Section 1.103-8(b) of the Regulations be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the City from enforcing the requirements of the Code and the Regulations, or condemnation or similar event, the Owner covenants that, within a "reasonable period" determined in accordance with the Regulations, it will either prepay the Note or, if permitted under the provisions of the Security Instrument, apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the Regulations.

(j) The Owner agrees to maintain the Project, or cause the Project to be maintained, during the term of this Regulatory Agreement (i) in a reasonably safe condition and (ii) in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof such that the Project shall be substantially the same condition at all times as the condition it is in at the time of the completion of the rehabilitation of the Project with the proceeds of the Note. Notwithstanding the foregoing, the Owner's obligation to repair or rebuild the Project in the event of casualty or condemnation shall be subject to the terms of the Project Loan Agreement and the Security Instrument.

(k) The Project has and will continue to have fifty-five (55) residential dwelling units, one of which is a manager's unit.

(l) The Owner will not sell dwelling units within the Project.

4. Restricted Units. The Owner hereby represents, as of the date hereof, and warrants, covenants and agrees as follows:

(a) Income and Rent Restrictions. In addition to the requirements of Section 5, hereof, the Owner shall comply with the income and rent restrictions of this Subsection 4(a), and any conflict or overlap between any two (2) or more of such provisions shall be resolved in favor of the most restrictive of such provisions, that is, in favor of the lowest income and rent restriction.

(i) Very-Low Income Units. A total of [forty-two (42)] of the Available Units in the Project shall be rented to and continuously occupied by Tenants who qualify as Very Low-Income Tenants. The monthly rent charged for all the Very Low Income Units, shall not exceed one-twelfth (1/12) of the amount obtained by multiplying thirty percent (30%) times fifty percent (50%) of the lower of City Median Income or the Median Income for the Area, less the utility allowance. The monthly rent charged for all Very Low Income Units receiving the Section 8 subsidy shall be as determined by [HUD pursuant to the HAP Contract].

(ii) Low Income Units. A total of [twelve (12)] of the Available Units in the Project shall be rented to and continuously occupied by Tenants who qualify as Low-Income Tenants. The monthly rent charged for all the Low Income Units, shall not exceed one-twelfth (1/12) of the amount obtained by multiplying thirty percent (30%) times sixty percent (60%) of the lower of City Median Income or the Median Income for the Area, less the utility allowance. The monthly rent charged for all Low Income Units receiving the Section 8 subsidy shall be as determined by [HUD pursuant to the HAP Contract].

(iii) Income Restrictions Pursuant to the Code. Pursuant to the requirements of Section 142(d) of the Code, for the Qualified Project Period, not less than forty percent (40%) of the total number of completed units in the Project (excluding the manager's unit), or twenty-two (22) units, shall be designated as affordable units and during the Qualified Project Period shall be rented to and continuously occupied by Tenants whose Adjusted Income does not exceed sixty percent (60%) of the Median Income for the Area; provided, however, if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code who fail to be described in Section 42(i)(3)(D) of the Code, such occupants shall not be qualified Tenants pursuant to this sentence.

(iv) Income and Rent Restrictions Pursuant to the Housing Law. Pursuant to the requirements of Section 52080(a)(1)(B) of the Housing Law, for the Qualified Project Period, not less than forty percent (40%) of the total number of completed units in the Project (excluding the manager's unit), or twenty-two (22) units, shall be designated as affordable units and during the Qualified Project Period shall be rented to and continuously occupied by Tenants whose Adjusted Income does not exceed sixty percent (60%) of the Median Income for the Area; provided, however, that if all the occupants of a unit are students (as defined under Section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under Section 6013 of the Code who fail to be described in Section 42(i)(3)(D) of the Code, such occupants shall not be qualified Tenants pursuant to this sentence. Pursuant to the requirements of Section 52080(a)(1)(B) of the Housing Law, the monthly rent charged for such units shall not exceed (a)

one-twelfth (1/12th) of the amount obtained by multiplying thirty percent (30%) times sixty (60%) of the Median Income for the Area, (b) less the utility allowance.

(v) CDLAC Requirements. To the extent the income and rent restrictions contained in the CDLAC Requirements are more restrictive than any of the foregoing requirements, the Owner shall comply with the CDLAC Requirements.

(b) Over-Income Tenants. Notwithstanding the foregoing provisions of Section 4(a), no Very Low Income Tenant or Low Income Tenant shall be denied continued occupancy of a Restricted Unit in the Project because, after admission, the aggregate Adjusted Income of all Tenants in the Restricted Unit increases to exceed the qualifying limit for such Restricted Unit.

(c) Because all of the units in the Project (except the manager's unit) are required to be Restricted Units pursuant to Section 4(a), hereof, any Available Unit not required to be rented to an Existing Tenant must be rented to or held vacant for a Very Low Income Tenant or Low Income Tenant, including a unit vacated by an Existing Tenant.

(d) Income Certifications. For all occupied Available Units, the Owner will obtain, complete and maintain on file Income Certification Forms for each Tenant (i) immediately prior to the initial occupancy of a Restricted Unit by such Tenant, and (ii) thereafter, annually, together with such information, documentation and certifications as are required therein or by the City, in its discretion, to substantiate the Tenant's income. In addition, the Owner will provide such further information as may be required in the future by the State, CDLAC, the City (on a reasonable basis), the Program Administrator and by the Act, Section 142(d) of the Code or the Regulations, as the same may be amended from time to time, and in such other form and manner as may be required by applicable rules, rulings, policies, procedures or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(d) of the Code.

(e) Certificate of Continuing Program Compliance. Upon the commencement of the Qualified Project Period, and on each February 1st thereafter (or such other date as shall be requested in writing by the City or the Program Administrator) during the term of this Regulatory Agreement, the Owner shall advise the Program Administrator of the status of the occupancy of the Project by delivering to the Program Administrator (with a copy to the Fiscal Agent) a Certificate of Continuing Program Compliance (a form of which is attached hereto as Exhibit D). The Owner shall also timely provide to the City such information as is requested by the City to comply with any reporting requirements applicable to it with respect to the Note or the Project under any federal or State law or regulation, including without limitation, CDLAC regulations (Division 9.5 of Title 4 of the California Code of Resolutions).

(f) Recordkeeping. The Owner will maintain complete and accurate records pertaining to the Restricted Units, and will permit any duly authorized representative of the City, the Program Administrator (if other than the City), the Fiscal Agent, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Owner pertaining to the Project upon reasonable notice during normal business hours, including those records pertaining to the occupancy of the Restricted Units, but specifically excluding any material which may be legally privileged.

(g) Annual Certification to Secretary of Treasury. The Owner shall submit to the Secretary of the Treasury annually on or before March 31 of each year, or such other date as is required by the Secretary of the Treasury, a completed Internal Revenue Service Form 8703, and shall provide a copy of each such form to the Program Administrator and the Fiscal Agent. Failure to comply with the provisions of this Subsection will subject the Owner to penalty, as provided in Section 6652(j) of the Code.

(h) Lease Provisions Regarding Income Certification Reliance. All leases pertaining to Restricted Units do and shall contain clauses, among others, wherein each Tenant who occupies a Restricted Unit: (1) certifies the accuracy of the statements made in the Income Certification Form, (2) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such Tenant, that such Tenant will comply promptly with all requests for information with respect thereto from the Owner or the Program Administrator on behalf of the City, and that the failure to provide accurate information in the Income Certification Form or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such Tenant; (3) acknowledges that the Owner has relied on the Income Certification Form and supporting information supplied by the Tenant in determining qualification for occupancy of the Restricted Unit, and that any material misstatement in such certification (whether intentional or otherwise) will be cause for immediate termination of such lease or rental agreement; and (4) agrees that the Tenant's income is subject to annual certification in accordance with Subsection 4(c) hereof and that failure to cooperate with the annual recertification process reasonably instituted by the Owner pursuant to Subsection 4(d) above may provide grounds for termination of the lease.

(i) Maintenance of Tenant Lists and Applications. All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business which is unrelated to the Project and shall be maintained, as required from time to time by the Program Administrator on behalf of the City, in a reasonable condition for proper audit and subject to examination during normal business hours by representatives of the Project, the City or the Fiscal Agent. Failure to keep such lists and applications or to make them available to the City or the Fiscal Agent shall be a default hereunder.

(j) Tenant Lease Subordination. All tenant leases or rental agreements shall be subordinate to this Regulatory Agreement.

(k) No Encumbrance, Demolition or Non-Rental Residential Use. The Owner shall not take any of the following actions:

(i) other than Permitted Encumbrances or as otherwise previously approved by the City, encumber any portion of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases), except (a) pursuant to the provisions of this Regulatory Agreement and on a basis subordinate to the provisions of this Regulatory Agreement, to the extent applicable, (b) upon receipt by the Owner, the Fiscal Agent and the City of an opinion of Tax Counsel that such action will not adversely affect the Tax-Exempt status of interest on the Note, or (c) upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement;

(ii) demolish any part of the Project or substantially subtract from any real or personal property of the Project (other than in the ordinary course of business); or

(iii) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

(l) Compliance with Regulatory Agreement. The Owner shall exercise reasonable diligence to comply or cause compliance with the requirements of this Regulatory Agreement and shall notify the City within fifteen (15) days and correct any noncompliance within sixty (60) days after such noncompliance is first discovered by the Owner or would have been discovered by the exercise of reasonable diligence, unless such noncompliance is not reasonably susceptible to correction within sixty (60) days, in which event the Owner shall have such additional time as may be reasonably necessary to effect such correction provided the Owner has commenced such correction after discovery and is diligently prosecuting such correction and is keeping the City updated on its progress.

5. Additional Requirements of the City.

(a) Minimum Lease Term. The term of the lease for any Restricted Unit shall not be less than one year.

(b) Limitation on Rent Increases. Annual rent increases on a Restricted Unit shall be limited to the percentage of the annual increase in the lower of the City Median Income or the applicable Median Income for the Area for that Restricted Unit. Rent increases which are permitted but not made in a given year may not be carried forward and made in any subsequent year.

(c) Appointment of Program Administrator. The Owner acknowledges that the City may appoint a Program Administrator (other than the City), at the sole cost and expense of the City, to administer this Regulatory Agreement and to monitor performance by the Owner of the terms, provisions and requirements hereof. In such event, the Owner shall comply with any reasonable request by the City and the Program Administrator to deliver to any such Program Administrator, in addition to or instead of the City, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection during normal business hours with reasonable notice by the Program Administrator as an agent of the City. The City may change the Program Administrator at its sole and exclusive discretion. The Owner shall have the right to rely on any consent or direction given by the Program Administrator on the same basis as if given by the City.

(d) Management Agent. The Owner shall not enter into any agreement providing for the management or operation of the Project with any party other than Caritas Management Corporation without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

(e) Preference In City Affordable Housing Programs. To the fullest extent permitted by law, the Owner shall comply with the City's Preference in City Affordable Housing Programs pursuant to San Francisco Administrative Code Section 47.1, *et seq.* and the Operational Rules attached hereto as Exhibit J, to the extent such compliance is not in conflict with any other

requirements imposed on the Project pursuant to Sections 42 and 142(d) of the Code, the Act, the CDLAC Resolution, CTCAC negotiations or other Federal or State law.

(f) Nondiscrimination Based on Section 8, Household Size, or Source of Income. The Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, or any successor program or similar federal, State or local governmental assistance program. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants and the Owner shall not refuse to rent to any tenant on the basis of household size as long as such household size does not exceed two (2) persons for a studio unit; three (3) persons for a one-bedroom unit; five (5) persons for a two-bedroom unit and seven (7) persons for a three-bedroom unit. The Owner shall not collect any additional fees or payments from such a tenant except security deposits or other deposits required of all tenants. The Owner shall not collect security deposits or other deposits from Section 8 certificate or voucher holders in excess of that allowed under the Section 8 program. The Owner shall not discriminate against tenant applicants on the basis of legal source of income (e.g., TANF, Section 8 or SSI), and the Owner shall consider a prospective tenant's previous rent history of at least one year as evidence of the ability to pay the applicable rent (i.e., ability to pay shall be demonstrated if such a tenant can show that the same percentage or more of the tenant's income has been consistently paid on time for rent in the past as will be required to be paid for the rent applicable to the unit to be occupied, provided that such tenant's expenses have not increased materially). Further, Owner shall comply with all notice provisions set forth in the Housing Act prior to terminating any lease to which any Tenant previously certified by the Owner as a Very Low Income Tenant is a party. The Owner acknowledges that (i) federal notice requirements under the Housing Act are distinct from those under State law or City law and the Owner shall comply with all federal, State and local laws in connection with any such notice requirements, and (ii) compliance with the law of one jurisdiction shall not be deemed compliance with the laws of all jurisdictions.

(g) Over-income Provisions after Expiration of Qualified Project Period. Notwithstanding the provisions of Subsection 4(b), from and after the expiration of the Qualified Project Period, in the event that Owner's certification of the Qualified Tenant's income, pursuant to Subsection 4(c), indicates that the Qualified Tenant's income exceeds one hundred twenty percent (120%) of the lower of the City Median Income or the Median Income for the Area, the Owner shall terminate such lease upon one hundred twenty (120) days prior written notice to the Tenant, and the lease for each Restricted Unit shall contain a statement to the foregoing effect. Notwithstanding the foregoing, the Owner shall not be required to terminate the Qualified Tenant's lease if any regulation or statute governing the Project or the financing thereof prohibits the termination of the Tenant's lease in this manner.

(h) Consideration for Restrictions. It is hereby acknowledged and agreed that any restrictions imposed on the operation of the Project herein and which are in addition to those imposed pursuant to Section 142(d) of the Code or the Act are agreed to by the Owner, in consideration of financial assistance from the City.

(i) Amendment or Waiver by City; Conflicting Provisions. The requirements of Section 5 hereof may be amended, modified or waived (but not increased or made more

onerous), at the City's sole discretion, by written amendment signed by the City and the Owner, or expressly waived by the City in writing, but no such waiver by the City shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the City and the Fiscal Agent have received an opinion of Tax Counsel to the effect that any such provision is not required by the Code or the Act and may be waived without adversely affecting the Tax-Exempt status of interest on the Note. Any requirement of Section 5 shall be void and of no force and effect if the City, the Fiscal Agent and the Owner receive a written opinion of Tax Counsel to the effect that compliance with such requirement would be in conflict with the Act or any other applicable state or federal law.

(j) Extension of Qualified Project Period. Notwithstanding any other provision herein, the Qualified Project Period shall not expire earlier than, and the requirements of this Section 5 shall be in effect until the date that is seventy-five (75) years after the Closing Date; subject to those certain provisions, if any, that shall survive and remain in full force and effect following the end of the Qualified Project Period, as specified in Section 11 hereof.

(k) Marketing and Tenant Selection Plan. Owner will market the Restricted Units in accordance with the Marketing and Tenant Selection Plan approved by the City, which shall be substantially in the form attached hereto as Exhibit K.

(l) Annual Reporting. Owner must file with the City annual report forms (the "Annual Monitoring Report") no later than one hundred twenty (120) days after the end of Owner's fiscal year. The Annual Monitoring Report must be in substantially the form attached as Exhibit I as may be updated by the City from time to time.

6. [Reserve].

7. Additional Requirements of State Law. In addition to the requirements set forth herein pursuant to Section 52080 of the Housing Law, the Owner hereby agrees that it shall also comply with each of the following requirements in each case for the term of this Regulatory Agreement as set forth in Section 11 hereof:

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

(b) Availability on Priority Basis. The Restricted Units shall remain available on a priority basis for occupancy at all times by Qualified Tenants.

(c) Binding Covenants and Conditions. The covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Owner.

(d) Recordation of Regulatory Agreement. This Regulatory Agreement shall be recorded in the office of the county recorder of the City and County of San Francisco,

California, and shall be recorded in the grantor-grantee index under the name of the Owner as grantor and to the name of the City as grantee.

(e) Restricted Income Units of Comparable Quality. The Restricted Units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants and shall be distributed throughout the Project. Notwithstanding the foregoing, the parties agree that this Subsection 6(e) shall have no practical effect because one hundred percent (100%) of the units (excluding the manager's unit) in the Project are required to be Restricted Units pursuant to Subsection 4(a).

(f) Availability Following Expiration of Qualified Project Period. Following the expiration or termination of the Qualified Project Period, except in the event of foreclosure and redemption of the Note, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units reserved for occupancy as required by Subsection 4(a)(iii) shall remain available to any eligible Tenant occupying a Restricted Unit at the date of such expiration or termination, at the rent determined by Subsection 4(a)(iii), until the earliest of (i) the household's income exceeds one hundred-forty percent (140%) of the maximum eligible income specified therein except as specified in Subsection 5(g), (ii) the household voluntarily moves or is evicted for good cause, as defined in the Housing Law, (iii) seventy-five (75) years after the date of the Commencement of the Qualified Project Period, and (iv) the Owner pays the relocation assistance and benefits to households if required by, and as provided in, Section 7264(b) of the California Government Code.

(g) Availability Preceding Expiration of Qualified Project Period. During the three (3) years prior to the later of (i) the expiration of the Qualified Project Period or (ii) the date that is seventy-five (75) after the date of commencement of the Qualified Project Period, the Owner shall continue to make available to Restricted Units to Qualified Tenants that have been vacated to the same extent that non-Restricted Units, if any, are made available to non-eligible households.

(h) Notice and Other Requirements. The Owner shall comply with all applicable requirements of Section 65863.10 of the California Government Code, including the requirements for providing notices in Sections (b), (c), (d) and (e) thereof, and shall comply with all applicable requirements of Section 65863.11 of the California Government Code.

(i) Syndication of the Project. As provided in Section 52080(e) of the Housing Law, the City hereby approves the syndication of tax credits with respect to the Project, pursuant to Section 42 of the Code, to the Investor Limited Partner, or any affiliate thereof or successor thereto, pursuant to the terms of the Owner's Governing Agreement . Any subsequent syndication of tax credits with respect to the Project to an affiliate of the Investor Limited Partner shall not require the prior written approval of the City so long as the Owner's Governing Agreement will not be amended, modified or supplemented other than in connection with such syndication, except to reflect such transfer or limited partnership interests and other non-material corrections or adjustments; provided, however, that the Owner shall provide to the City, at least five (5) business days prior to the effective date of any such subsequent syndication, written notice of such syndication certifying that no amendment, modification or supplement to the Owner's Governing Agreement will be effected in connection with such syndication except to the extent necessary to reflect such syndication, together with copies of any assignments of limited partnership interests

and any other syndication documents. Any other syndication of the Project shall be subject to the prior written approval of the Director of the Mayor's Office of Housing and Community Development of the City, which approval shall be granted only after the City determines that the terms and conditions of such syndication (1) shall not reduce or limit any of the requirements of the Act or regulations adopted or documents executed pursuant to the Act, (2) shall not cause any of the requirements of the City set forth in this Section 6 hereof to be subordinated to the syndication agreement, and (3) shall not result in the provision of fewer Restricted Units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

8. Indemnification. The Owner hereby releases the City, the Funding Lender and their respective officers, members, directors, officials and employees from, and covenants and agrees to indemnify, hold harmless and defend the City, the Fiscal Agent and the Funding Lender and the officers, members, directors, officials, agents and employees of each of them (collectively, the "Indemnified Parties," and each an "Indemnified Party") from and against any and all claims, losses, costs, damages, demands, expenses, taxes, suits, judgments, actions and liabilities of whatever nature, joint and several (including, without limitation, costs of investigation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments), directly or indirectly (a) by or on behalf of any person arising from any cause whatsoever in connection with transactions contemplated hereby or otherwise in connection with the Project, the Project Loan or the Note, or the execution or amendment of any document relating thereto; (b) arising from any cause whatsoever in connection with the approval of financing for the Project or the making of the Project Loan or the Funding Loan or otherwise, including without limitation, any advances of the Project Loan or the Funding Loan or any failure of the Fiscal Agent to make any advance thereunder; (c) arising from any act or omission of the Owner or any of its agents, servants, employees or licensees, in connection with the Project Loan or the Project; (d) arising in connection with the issuance and sale, resale or reissuance of any vote, bond, including any secondary market transaction with respect thereto, or any certifications or representations made by any person other than the City or the party seeking indemnification in connection therewith and the carrying out by the Owner of any of the transactions contemplated by the Project Loan Agreement, the Funding Loan Agreement and this Regulatory Agreement; (e) arising in connection with the operation and management of the Project, or the conditions, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation, or construction of, the Project or any part thereof; and (f) arising out of or in connection with the exercise by the City or the Funding Lender of their powers or duties under the Project Loan Agreement, the Funding Loan Agreement, this Regulatory Agreement or any other agreements in connection therewith to which either of them is a party; provided, however, that this provision shall not require the Owner to indemnify (i) the Funding Lender from any claims, costs, fees, expenses or liabilities arising from the negligence or willful misconduct of the Funding Lender, or (ii) the City for any claims, costs, fees, expenses or liabilities arising solely from the willful misconduct of the City. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Owner, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the engagement of counsel selected by the Indemnified Party; and the Owner shall assume the payment of all reasonable fees and expenses related thereto (provided however that if the Indemnified Party is the City, the selection of the counsel rests in the sole discretion of the City Attorney and the Owner shall assume the payment of all attorneys' fees and expenses related thereto), with full power to litigate, compromise or settle

the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Notwithstanding the foregoing, no indemnification obligation shall give rise to an obligation to pay principal and interest in the Loan, which is not otherwise set forth in the Funding Loan Agreement, the Loan Agreement, the Note or any other agreement relating to the Note.

Additionally, the Owner also shall pay and discharge and shall indemnify and hold harmless the City and the Funding Lender from (i) any lien or charge upon payments by the Owner to the City and the Funding Lender hereunder and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the City or the Funding Lender shall give prompt notice to the Owner, and the Owner shall have the sole right and duty to assume, and will assume, the defense thereof, including the engagement of counsel approved by the Indemnified Party, and the payments of all reasonable fees and expenses related thereto, provided that if the Indemnified Party is the City, the selection of counsel rests in the sole discretion of the City Attorney, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. If a potential conflict exists between Owner's defense and the interests of an Indemnified Party, then such Indemnified Party shall have the right to engage separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Owner shall pay the reasonable fees and expenses of such separate counsel.

Notwithstanding any transfer of the Project to another Owner in accordance with the provisions of Section 11 of this Regulatory Agreement, the Owner shall remain obligated to indemnify the City pursuant to this Section 8 if such subsequent Owner fails to so indemnify the City, unless at the time of transfer the City has consented to the transfer to the extent such consent is required hereunder.

The provisions of this Section 8 shall survive the term of the Note and this Regulatory Agreement including the terminating of this Regulatory Agent pursuant to the second paragraph of Section 12 herein.

The obligations of the Owner under this Section are independent of any other contractual obligation of the Owner to provide indemnity to the Indemnified Parties or otherwise, and the obligation of the Owner to provide indemnity hereunder shall not be interpreted, construed or limited in light of any other separate indemnification obligation of the Owner. The Indemnified Parties shall be entitled simultaneously to seek indemnity under this Section and any other provision under which they are entitled to indemnification.

In addition thereto, the Owner will pay upon demand all of the fees and expenses paid or incurred by the Indemnified Parties in enforcing the provisions hereof.

9. Consideration. The City has issued the Note and made the Project Loan to provide funds for the purpose of financing the Project, all for the purpose, among others, of inducing the Owner acquired, rehabilitated, equip and operate the Project. In consideration of the making of

the Project Loan by the City, the Owner has entered into this Regulatory Agreement and has agreed to restrict the use of the Project on the terms and conditions set forth herein.

10. Reliance. The City and the Owner hereby recognize and agree that the representations, warranties, covenants and agreements set forth herein may be relied upon by all persons interested in the legality and validity of the Note, and in the Tax-Exempt status of the interest on the Note. In performing its duties and obligations hereunder, the City may rely upon statements and certificates of the Owner, the Low Income Tenants, the Very Low Income Tenants, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the City may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the City hereunder in good faith and in conformity with such opinion.

11. Sale or Transfer of the Project. The Owner intends to hold the Project for its own account, has no current plans to sell, transfer or otherwise dispose of the Project, (except in accordance with the Buyout Option and Right of First Refusal Agreement described in the Owner's Governing Agreement) and, except as otherwise provided herein, hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof (other than for individual tenant use as contemplated hereunder or pursuant to the aforementioned Buyout Option and Right of First Refusal Agreement) or interest therein, including any interest in the Owner, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld, and receipt by the City of (i) evidence satisfactory to the City that the Owner's purchaser or transferee has assumed in writing and in full, the Owner's duties and obligations under this Regulatory Agreement, (ii) an opinion of counsel of the transferee that the transferee has duly assumed the obligations of the Owner under this Regulatory Agreement and that such obligations and this Regulatory Agreement are binding on the transferee, (iii) evidence acceptable to the City that either (A) the purchaser or assignee has experience in the ownership, operation and management of rental housing projects in the City such as the Project without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects, or (B) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subparagraph (A) above or (C) if the purchaser or assignee does not have management experience, the City may cause the Program Administrator to provide on-site training in program compliance if the City determines such training is necessary, (iv) evidence satisfactory to the City that no event of default exists under this Regulatory Agreement, the Project Loan Agreement or any document related to the Project Loan, and payment of all fees and expenses of the City and the Fiscal Agent due under any of such documents is current, and (v) an opinion of Tax Counsel to the effect that such transfer will not, in itself, cause interest on the Note to become includable in the gross income of the recipients thereof for federal income tax purposes except to the extent held by a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 11 shall be null, void and without effect, shall cause a reversion of title to the Owner, and shall be ineffective to relieve the Owner of its obligations under this Regulatory Agreement. Nothing in this Section 11 shall affect any provision of any other document or instrument between the Owner and any other party which requires the Owner to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Not less than sixty (60) days prior to consummating any sale, transfer or disposition of any interest in the Project, the

Owner shall deliver to the City a notice in writing explaining the nature of the proposed transfer and providing relevant information regarding the proposed transfer.

Notwithstanding the foregoing, the provisions of this Section 11 shall not apply to the transfer of all or any portion of (a) the limited partner interest of the Investor Limited Partner in the Owner (which is instead subject to the term of Section 7(i), and (b) the General Partner interest to an affiliate of the General Partner.

The foregoing notwithstanding, the Project may be transferred pursuant to a foreclosure, exercise of power of sale or deed in lieu of foreclosure or comparable conversion under the Deed of Trust without the consent of the City or compliance with the provisions of this Section 11.

12. Term. Subject to the following paragraph of this Section 12, Section 8 hereof and any other provision expressly agreed herein to survive the termination of this Regulatory Agreement, this Regulatory Agreement and all of the terms hereof shall become effective upon its execution and delivery and shall remain in full force and effect for the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement shall terminate and be of no further force and effect in the event of (i) involuntary noncompliance with the provisions of this Regulatory Agreement caused by events such as fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date, which prevents the City from enforcing such provisions, or (ii) foreclosure, exercise of power of sale, transfer of title by deed in lieu of foreclosure, or condemnation or a similar event, but only if, in case of the events described in either clause (i) or (ii) above, within a reasonable period, either the Note is paid in full or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure, exercise of power of sale, or deed in lieu of foreclosure or a similar event, the Owner or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Owner hereby agrees that, following any foreclosure, exercise of power of sale, transfer of title by deed in lieu of foreclosure or similar event, neither the Owner nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provisions of this Regulatory Agreement to the contrary, this entire Regulatory Agreement, or any of the provisions or sections hereof, may be terminated upon agreement by the City and the Owner subject to compliance with any of the provisions contained in this Regulatory Agreement only if there shall have been received by the City an opinion of Tax Counsel that such termination will not adversely affect the Tax - Exempt status of the interest on the Note or the exemption from State personal income taxation of the interest on the Note. The Owner shall provide written notice of any termination of this Regulatory Agreement to the City in the event of the occurrence of any of the events described in clause (i) above.

Upon the expiration or termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of said expired or terminated terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

13. Covenants to Run With the Land. The Owner hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The City and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire except those terms which are expressly intended to survive after termination. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. No breach of any of the provisions of this Regulatory Agreement shall defeat or render invalid the lien of a mortgage made in good faith and for value encumbering the Site.

14. Burden and Benefit. The City and the Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Owner's legal interest in the Project is rendered less valuable thereby. The City and the Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income and Very Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Note was issued.

15. Uniformity: Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Site.

16. Enforcement. If the Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured for a period of sixty (60) days the "Cure Period") after written notice thereof shall have been given by the City to the Owner and the Investor Limited Partner (and a copy of such notice shall also be given to the Fiscal Agent, provided however that the failure of the City to provide such copy to the Fiscal Agent shall have no effect on the sufficiency of the notice to the Owner), the City may, as its sole option, extend the Cure Period (provided, however, that the City may at its sole option extend such period if the default is of the nature which would reasonably require more than 60 days to cure and if the Owner provides the City, if requested by the City, with an opinion of Tax Counsel to the effect that such extension will not adversely affect the Tax-Exempt Status of interest on the Note). Upon the expiration of the Cure Period, as the same may be extended or aforesaid, then the City may declare an "event of default" to have occurred hereunder, and, subject to the provisions of the Project Loan Agreement, may take any one or more of the following steps:

(a) by mandamus or other suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the City hereunder; or

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

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner hereunder, subject, however, to those limits on exercising remedies set forth in Section 7.2 of the Project Loan Agreement.

Notwithstanding anything contained in this Regulatory Agreement to the contrary, the occurrence of an event of default under this Regulatory Agreement shall not be deemed, under any circumstances whatsoever, to be a default under the Security Instrument except as may be otherwise specified in the Security Instrument.

Notwithstanding anything contained in this Regulatory Agreement to the contrary, the City agrees that any cure of any default made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

17. Recording and Filing. The Owner shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the City and County of San Francisco and in such other places as the City may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

18. Payment of Fees. Notwithstanding any prepayment of the Project Loan Agreement and notwithstanding a discharge of the Project Loan Agreement or the Note, the Owner shall continue to pay the City's annual administrative fee as calculated and described below. Upon the occurrence of an event of default hereunder, the Owner shall continue to pay to the City compensation for any services rendered by any of them hereunder and reimbursement for all expenses incurred by it in connection therewith.

The Owner shall pay to the City (i) an initial issuance fee of \$_____ (which is equal to one quarter of one percent (0.25%) of the maximum principal amount of the Note) and (ii) an annual administrative fee not to exceed one eighth of one percent (0.125%) of the principal amount of the Note then outstanding, but no less than \$2,500, commencing on the Closing Date and thereafter on each anniversary date of the Closing Date thereafter during the term of this Regulatory Agreement. The first installment of the annual administrative fee is \$_____ and the initial issuance fee payment due at Closing Date by the Owner to the City is \$_____.

In case any action at law or in equity, including an action for declaratory relief, is brought against the Owner to enforce the provisions of this Regulatory Agreement, the Owner agrees to pay reasonable attorney's fees and other reasonable expenses incurred by the City, the Funding Lender, the Fiscal Agent, CDLAC and/or the Program Administrator in connection with such action.

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

20. Amendments. To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the City, the Fiscal Agent and the Owner, impose requirements upon the ownership or operation of the Project more restrictive than

those imposed by this Regulatory Agreement which must be complied with in order to maintain the Tax-Exempt status of interest on the Note, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements. Otherwise, this Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the City and County of San Francisco, California provided that any amendment to the CDLAC Requirements shall also be subject to the consent of CDLAC, and provided further, that any amendment to Sections 3 and 4 thereof shall require an opinion of Tax Counsel filed with the City, the Fiscal Agent, the Lender and the Owner, to the effect that such amendment will not adversely affect the Tax-Exempt status of interest on the Note.

21. City Contracting Provisions. The Owner covenants and agrees to comply with the provisions set forth in Exhibit H to this Regulatory Agreement, which is incorporated in and made a part of this Regulatory Agreement by this reference.

22. Notice. All notices, certificates or other communications shall be sufficiently given and shall be deemed given on the date personally delivered, or given by telecopier (with proof of transmission and promptly confirmed by mail in the manner described under this Section), or on the second day following the date on which the same have been mailed by first class mail, postage prepaid or the day following delivery by a recognized overnight delivery service, addressed as follows:

If to the City: City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 316
San Francisco, California 94102
Attention: City Controller

With copies to: (None of which copies shall constitute notice) City and County of San Francisco
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 140
San Francisco, California 94102
Attention: City Treasurer

City and County of San Francisco
Mayor's Office of Housing
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attention: Director

Office of the City Attorney
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, California 94102
Attention: Finance Team

If to the Owner:

c/o Bernal Gateway Housing Corporation
515 Cortland Avenue
San Francisco, California 94110
Attention: Gina Dacus, Executive Director
Email: gdacus@bhnc.org
Telephone: (415) 206-2140

c/o Devine & Gong, Inc.
1970 Broadway Street, Suite 920
Oakland, California 94612
Attention: Chan U Lee, President
Email: culee@devinegong.com
Telephone: (510) 925-3992

c/o Hunters Point Affordable Housing, Inc.
140 Cashmere Street
San Francisco, California 94110
Attention: Lauren Brewer

With a copy to (which copy shall not constitute notice):

Lubin Olson & Niewiadomski LLP
600 Montgomery Street, 14th Floor
San Francisco, California 94111
Attention: Charles R. Olson, Esq. and
Elizabeth S. Anderson, Esq.
Email: colson@lubinolson.com and
banderson@lubinolson.com
Telephone: (415) 981-0550

If to the Investor Limited Partner:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, Maryland 21044
Attention: Asset Management

With a copy to (which copy shall not constitute notice):

Gallagher Evelius & Jones LLP
218 North Charles Street, Suite 400
Baltimore, Maryland 21201
Attention: Kenneth S. Gross, Esq.

If to the Funding Lender: Capital One, National Association
299 Park Avenue, 14th Floor
New York, New York 10171
Attention: Community Finance

With a copy to (which copy shall not constitute notice): Sidley Austin LLP
787 Seventh Avenue
New York, New York 10019
Attention: Aviva Yakren, Esq.

If to the Fiscal Agent: U.S. Bank National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attention: Global Corporate Trust Services

With a copy to (which copy shall not constitute notice): Dorsey & Whitney LLP
600 Anton Boulevard, Suite 200
Costa Mesa, CA 92626-7655
Attention: Dennis Wong, Esq.

Any of the foregoing parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

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

24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

25. Multiple Counterparts. This Regulatory Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

26. Third-Party Beneficiaries. The parties to the Regulatory Agreement recognize and agree that the terms of this Regulatory Agreement and the enforcement of those terms are entered into for the benefit of various parties, including CDLAC. The parties hereto acknowledge that the Funding Lender CDLAC and the Owner is a third-party beneficiary of this Regulatory Agreement. CDLAC shall accordingly have contractual rights in this Regulatory Agreement and shall be entitled (but not obligated) to enforce, in accordance with Section 16 hereof, the terms hereof and the terms of the CDLAC Resolution. In addition, CDLAC is intended to be and shall be a third-

party beneficiary of this Regulatory Agreement. Notwithstanding the above, CDLAC shall be entitled solely to enforce the terms of the CDLAC Resolution, and any enforcement of the terms and provisions of the CDLAC Resolution by CDLAC shall not adversely affect the interests of the Funding Lender, and shall otherwise be subject to the terms, conditions and limitations otherwise applicable to the enforcement of remedies under this Regulatory Agreement.

Pursuant to Section 52080(k) of the Housing Law, the provisions of Sections 4(a) and Section 6 hereof may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by the Owner's failure to comply with that Section.

27. CDLAC Requirements. In addition to the other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 2 through 6 hereof, the Owner hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 27, as follows:

(a) The Owner shall comply with CDLAC Resolution No. 19-016, adopted on January 16, 2019, as revised on June 20, 2019, attached hereto as Exhibit F (the "CDLAC Resolution") and the CDLAC conditions set forth in Exhibit A thereto (collectively the "CDLAC Requirements"), which conditions are incorporated herein by reference and made a part hereof.

(b) The Owner acknowledges that the City shall monitor the Owner's compliance with the terms of the CDLAC Requirements. The Owner will cooperate fully with the City in connection with such monitoring and reporting requirements as provided herein. Compliance with the terms of the CDLAC Requirements not contained within this Regulatory Agreement, but referred to in the CDLAC Requirements are the responsibility of the Owner to report to the City.

(i) The Owner will prepare and submit to the City a Certificate of CDLAC Program Compliance pursuant to the terms of the CDLAC Requirements. The Owner acknowledges that the Owner will prepare and submit to the City, not later than February 1 of each year, until the Owner has submitted to the City and CDLAC a Completion Certificate, and on February 1 every three (3) years thereafter until the end of the term of the CDLAC Requirements, a Certificate of CDLAC Program Compliance in substantially the form attached hereto as Exhibit G, executed by an Authorized Owner Representative.

(ii) The Owner shall prepare and deliver an "On-going Compliance Self-Certification" form pursuant to the terms of the CDLAC Requirements. The Owner acknowledges that the Owner will prepare and submit to the City, not later than February 1 of each year until the Owner has submitted to the City and CDLAC a Completion Certificate, and on March 1 every three (3) years thereafter until the end of the term of the CDLAC Requirements, a Self-Certificate form in the form provided by CDLAC.

(iii) Within thirty (30) days following the completion of the Project, the Owner will prepare and submit to the City, the Fiscal Agent, CDLAC and the Lender, a Completion Certificate, executed by an Authorized Owner Representative, certifying among other things to the substantial completion of the Project.

(c) Except as otherwise provided in Section 12 of this Regulatory Agreement, this Regulatory Agreement shall terminate on the date seventy-five (75) years after the date on which at least 50% of the units in the Project are first occupied or such later date as the Qualified Project Period shall begin, as required by the CDLAC Requirements.

(d) The Owner shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the issuer of the Bonds, (iii) any change in the name of the Project or the Project manager, (iv) any default under the Indenture, the Loan Agreement or this Regulatory Agreement, including, but not limited to, such defaults associated with the Tax-Exempt status of the Bonds and the income and rental requirements as provided in this Regulatory Agreement and the CDLAC Requirements, or (v) termination of this Regulatory Agreement.

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

28. California Debt and Advisory Commission Reporting Requirements.

No later than January 31 of each calendar year (commencing January 31, 2019), the Owner, on behalf of the City, agrees to provide the California Debt and Investment Advisory Commission, by any method approved by such Commission, with a copy to the City, the annual report information required by Section 8855(k)(1) of the California Government Code. This covenant shall remain in effect until the later of the date (i) the Note is no longer outstanding or (ii) the proceeds of the Note and the Funding Loan have been fully spent.

30. Freddie Mac Rider. The Freddie Mac Rider to Regulatory Agreement (the "Freddie Mac Rider") attached to this Regulatory Agreement as Exhibit L forms an integral part of this Regulatory Agreement and the terms thereof are hereby incorporated in this Regulatory Agreement, provided that the Freddie Mac Rider shall not be effective unless and until Conversion (as defined in the Funding Loan Agreement) occurs.

IN WITNESS WHEREOF, the City and the Owner have executed this Regulatory Agreement by their duly authorized representatives, all as of the date first written hereinabove.

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Kate Hartley, Director
Mayor's Office of Housing and Community
Development

Approved as to Form:
DENNIS J. HERRERA
City Attorney

By _____
Deputy City Attorney

[Signatures continue on following page.]

OWNER:

Bernal Gateway 2, LP,
a California limited partnership

By: RPBG LLC,
a California limited liability company,
its managing general partner

By: Bernal Gateway Housing Corporation,
a California nonprofit public benefit corporation,
its managing member

By: _____
Gina Dacus
Executive Director

Devine Bernal, LLC,
a California limited liability company,
its administrative general partner

By: Devine & Gong, Inc.,
a California corporation,
its manager

By: _____
Chan U Lee
President

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

Title(s)

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

Number Of Pages

Date Of Documents

Signer(s) Other Than Named Above

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

All that certain real property situated in the City and County of San Francisco, State of California, more particularly described as follows:

EXHIBIT B

INCOME CERTIFICATION FORM

A current version of the CTCAC form may be downloaded from the State Treasurer's website at the following link: <http://www.treasurer.ca.gov/ctcac/compliance/tic.pdf>.

EXHIBIT C

COMPLETION CERTIFICATE

CITY AND COUNTY OF SAN FRANCISCO
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Re: *City and County of San Francisco Multifamily Housing Note(Bernal Gateway Apartments), Series 2019_*

The undersigned (the "Owner") hereby certifies that all aspects of the construction of the Project (as that term is used in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of August 1, 2019, by and between the City and County of San Francisco and the Owner (the "Regulatory Agreement")) were substantially completed and the Project was fully available for occupancy by tenants in the Project as of _____, 20__ (the "Completion Date"). Capitalized terms not defined herein shall have the meaning ascribed to them under the Regulatory Agreement.

The undersigned hereby certifies that:

(a) the aggregate amount disbursed on the Loan to date is \$_____;
and

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

(c) as shown on the attached sheet (showing the breakdown of expenditures for the Project and the source of the funds which were used to pay such costs), in compliance with Subsection 2(h) of the Regulatory Agreement at least ninety-seven percent (97%) of the amounts disbursed on the Loan have been applied to pay or reimburse the Owner for the payment of Qualified Project Costs. Furthermore, less than twenty-five percent (25%) of the amounts disbursed on the Loan, exclusive of amounts applied to pay the costs of issuing the Note, have been applied to pay or reimburse the Owner for the cost of acquiring land.

[Signatures appear on the next page.]

Date: _____, 20__

OWNER:

Bernal Gateway 2, LP,
a California limited partnership

By: RPBG LLC,
a California limited liability company,
its managing general partner

By: Bernal Gateway Housing Corporation n,
a California nonprofit public benefit corporation,
its managing member

By: _____
Gina Dacus
Executive Director

Devine Bernal, LLC,
a California limited liability company,
its administrative general partner

By: Devine & Gong, Inc.,
a California corporation,
its manager

By: _____
Chan U Lee
President

EXHIBIT D

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Project Name: Bernal Gateway Apartments

CDLAC Application Number(s): 19 – 413

CDLAC Resolution Number(s): 19 - 016

Property Address 3103 Mission Street and 141 and 143 Precita Avenue, San Francisco, California 94110

Project Completion Date (if completed, otherwise mark N/A): _____

Name of Obligation: City and County of San Francisco Multifamily Housing Revenue Note (Bernal Gateway Apartments), Series 2019_

The undersigned, being the authorized representatives of Bernal Gateway 2, LP, a California limited partnership (the “Owner”), hereby certifies that he/she has read and is thoroughly familiar with the provisions of the various documents associated with the Owner’s participation in the City and County of San Francisco (the “City”) Multifamily Housing Program, such documents including:

1. the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of August 1, 2019 (the “Regulatory Agreement”), between the Owner and the City; and
2. the Project Loan Agreement, dated as of August 1, 2019, among the City, the Fiscal Agent and the Owner.

The undersigned further certifies that:

A. There have been no changes to the ownership entity, principals or property management of the Project since the Note was issued and delivered, or since the last certification was provided (as applicable), except as described below:

(If so please attach a request to revise the CDLAC Resolution, noting all pertinent information regarding the change, otherwise state “NONE”)

If Project has not yet been placed in service, mark N/A for the balance of the items below:

B. During the preceding twelve (12) months (i) such Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the City and (ii) ___ of the units in the Project were occupied by Qualified Tenants (minimum of one hundred percent (100%), excluding one manager’s unit).

C. As of the date of this Certificate, the following percentages of completed residential units in the Project (i) are occupied by Qualified Tenants, or (ii) are currently vacant and being held available for such occupancy and have been so held continuously since the date a Bernal Gateway Apartments Qualified Tenant vacated such unit, as indicated below:

TOTAL UNITS:

Occupied by Low Income Tenants:

Studio: _____	Unit Nos. _____
1 bedroom units: _____	Unit Nos. _____
2 bedroom units: _____	Unit Nos. _____
3 bedroom units: _____	Unit Nos. _____

Occupied by Very Low Income Tenants:

Studio: _____	Unit Nos. _____
1 bedroom units: _____	Unit Nos. _____
2 bedroom units: _____	Unit Nos. _____
3 bedroom units: _____	Unit Nos. _____

Total percentage occupied by Qualified Tenants: _____ (minimum of one hundred percent (100%), excluding one manager's unit)

Held vacant for occupancy continuously since last occupied by a Low Income Tenant:

_____%; Unit Nos. _____

Held vacant for occupancy continuously since last occupied by a Very Low Income Tenant:

_____%; Unit Nos. _____

It hereby is confirmed that each tenant currently residing in a unit in the Project has completed an Income Certification Form in the form approved by the City and that since commencement of the Qualified Project Period, not less than all of the occupied units (excluding the manager's unit) in the Project have been rented to (or are vacant and last occupied by) Qualified Tenants. The undersigned hereby certifies that the Owner is not in default under any of the terms and provisions of the above documents.

D. The units occupied by Qualified Tenants are of similar size and quality to other units and are dispersed throughout the Project.

E Select appropriate certification: [No unremedied default has occurred under this Regulatory Agreement, the Note, the Loan Agreement or the Security Instrument.] [A default has occurred under the _____. The nature of the default and the measures being taken to remedy such default are as follows: _____.]

F. There has been no change of use for the Project, except as follows: (please describe if any, or otherwise indicate "NONE")

G. Select appropriate certification: The undersigned hereby certifies that the Project [has satisfied all] [except as described below, has satisfied all] of the requirements memorialized in the Exhibit A of the CDLAC Resolution, a copy of which is attached hereto (i.e. qualifying project completion, qualifying depreciable asset purchase, qualifying loan originations, the use of public funds, manager units, income rent restrictions, sustainable building methods, etc., as applicable), and thus has achieved all public benefit requirements (excluding service amenities) as presented to CDLAC.

[Describe any requirements not satisfied: _____]

H. As captured in Exhibit A of the CDLAC Resolution, the Project has committed to and is currently providing the following service amenities for a minimum of ten (10) years, on a regular and ongoing basis, which are provided free of charge (with the exception of day care services): [Confirm]

Please check the services that apply or write N/A where appropriate:

_____ After-school Programs

_____ Educational, health and wellness, or skill building classes

_____ Health and Wellness services and programs (not group classes)

_____ Licensed Childcare provided for a minimum of twenty (20) hours per week (Monday-Friday)

_____ Bona-Fide Service Coordinator/ Social Worker

1) For this reporting period, attached is evidence (i.e. MOUs, contracts, schedules, calendars, flyers, sign-up sheets, etc.) confirming that the above listed services are being provided and have met the requirements of Exhibit A of the CDLAC Resolution.

2) If any of the above services requirements were not met, what corrective action is being taken to comply?

(Please also attach the completed project sponsor certification form as provided in the CDLAC Resolution)

(Please also attach the completed Occupancy and Rent Information form attached hereto)

I. The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief, and the undersigned acknowledges and agrees that the City will be relying solely on the foregoing certifications and accompanying documentation, if any, in making its certification to CDLAC pursuant to Section 5144 of the CDLAC regulations (Division 9.5 of Title 4 of the California Code of Regulations), and agrees to provide to the City such documentation or evidence, in support of the foregoing certifications, as the City or CDLAC may request.

Capitalized terms used in this Certificate and not otherwise defined herein have the meanings given to them in the Regulatory Agreement.

Date: _____, 20__

OWNER:

Bernal Gateway 2, LP,
a California limited partnership

By: RPBG LLC,
a California limited liability company,
its managing general partner

By: Bernal Gateway Housing Corporation,
a California nonprofit public benefit corporation,
its managing member

By: _____
Gina Dacus
Executive Director

Devine Bernal, LLC,
a California limited liability company,
its administrative general partner

By: Devine & Gong, Inc.,
a California corporation,
its manager

By: _____
Chan U Lee
President

EXHIBIT E

CERTIFICATE AS TO COMMENCEMENT OF QUALIFIED PROJECT PERIOD

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:
City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attention: Director

\$ _____
City and County of San Francisco
Multifamily Housing Revenue Note
(Bernal Gateway Apartments), Series 2019_

The undersigned, being the authorized representative(s) of Bernal Gateway 2, L.P., a California limited partnership, hereby certifies that: (complete blank information):

Ten percent (10%) of the dwelling units in the Project financed in part from the proceeds of the above-captioned Note were first occupied on _____;

Fifty percent (50%) of the dwelling units in the Project financed in part from the proceeds of the above-captioned Note were first occupied on _____.

[Signatures appear on the next page.]

Date: _____, 20__

OWNER:

Bernal Gateway 2, LP,
a California limited partnership

By: RPBG LLC,
a California limited liability company,
its managing general partner

By: Bernal Gateway Housing Corporation,
a California nonprofit public benefit corporation,
its managing member

By: _____
Gina Dacus
Executive Director

Devine Bernal, LLC,
a California limited liability company,
its administrative general partner

By: Devine & Gong, Inc.,
a California corporation,
its manager

By: _____
Chan U Lee
President

Acknowledged:
City and County of San Francisco

By: _____
Name, Title

EXHIBIT F
CDLAC RESOLUTION

[See Attached.]

EXHIBIT G
CERTIFICATE OF COMPLIANCE (CDLAC RESOLUTION)

Project Name: Bernal Gateway Apartments
(original project name as well)
Name of Note Issuer: City and County of San Francisco
CDLAC Application No.: 19-413

Pursuant to Section 13 of Resolution No. 19-016 (the "CDLAC Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on January 16, 2019, as revised on June 20, 2019, I, _____, an Officer of the Project Sponsor, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with all of the terms and conditions set forth in the CDLAC Resolution.

I further certify that I have read and understand Section 3 of the CDLAC Resolution, which specifies that once the Note is issued, the terms and conditions set forth in Exhibit A of the CDLAC Resolution shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy (as further explained in Section 13 of the Resolution).

Please check or write N/A to the items listed below:

_____ The project is currently in the Construction or Rehabilitation phase.

_____ The project has incorporated the minimum specifications into the project design for all new construction and rehabilitation projects as evidenced by the attached applicable third party certification (HERS Rater, Green Point Rater or US Green Building Council). For projects under construction or rehabilitation, the information is due following receipt of the verification but in no event shall the documentation be submitted more than two (2) years after the issuance of Note.

_____ For projects that received points for exceeding the minimum requirements please attach the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate standards. The compliance form must be signed by a California Association of Building Consultants, Certified Energy Plans Examiner or HERS Rater as applicable.

Signature of Officer

Date

Printed Name of Officer

Title of Officer

Phone Number

EXHIBIT H

CITY AND COUNTY OF SAN FRANCISCO MANDATORY CONTRACTING PROVISIONS

The following provisions shall apply to this Regulatory Agreement, referred to in this Exhibit as “Agreement,” as if set forth in the text thereof. Capitalized terms used but not defined in this Appendix shall have the meanings given in the Agreement.

1. Nondiscrimination; Penalties.

(a) *Non Discrimination in Contracts.* The Owner shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. The Owner shall incorporate by reference in any subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require any subcontractors to comply with such provisions. The Owner is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

(b) *Nondiscrimination in the Provision of Employee Benefits.* *San Francisco Administrative Code 12B.2.* The Owner does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(c) *Condition to Contract.* As a condition to the Agreement, the Owner shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

2. MacBride Principles—Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated by this reference and made part of this Agreement. By entering into this Agreement, the Owner confirms that it has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

3. Tropical Hardwood and Virgin Redwood Ban. Under San Francisco Environment Code Section 804(b), the City urges the Owner not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

4. Alcohol and Drug-Free Workplace. The City reserves the right to deny access to, or require the Owner to remove from, City facilities personnel of such Owner who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the City’s ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled

substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

5. Compliance with Americans with Disabilities Act. The Owner shall provide the services specified in the Agreement in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

6. Sunshine Ordinance. The Owner acknowledges that this Agreement and all records related to its formation, such Owner's performance of services provided under the Agreement, and the City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

7. Limitations on Contributions. By executing this Agreement, the Owner acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective party to the contract; each member of the Owner's board of directors; the Owner's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in such Owner; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by such Owner. The Owner must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

8. Requiring Minimum Compensation for Covered Employees. The Owner shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. The Owner is subject to the enforcement and penalty provisions in Chapter 12P. By entering into this Agreement, the Owner certifies that it is in compliance with Chapter 12P.

9. Requiring Health Benefits for Covered Employees. The Owner shall comply with San Francisco Administrative Code Chapter 12Q. The Owner shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. The Owner is subject to the enforcement and penalty provisions in Chapter 12Q.

10. Prohibition on Political Activity with City Funds. In performing the services provided under the Agreement, the Owner shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The Owner is subject to the enforcement and penalty provisions in Chapter 12G.

11. Nondisclosure of Private, Proprietary or Confidential Information. If this Agreement requires the City to disclose "Private Information" to the Owner within the meaning of San Francisco

Administrative Code Chapter 12M, the Owner shall use such information consistent with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the services provided under the Agreement. The Owner is subject to the enforcement and penalty provisions in Chapter 12M.

In the performance of services provided under the Agreement, the Owner may have access to the City's proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to the Owner, such information must be held by such Owner in confidence and used only in performing the Agreement. The Owner shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or confidential information.

12. Consideration of Criminal History in Hiring and Employment Decisions. The Owner agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement. The text of Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. A partial listing of some of the Owner's obligations under Chapter 12T is set forth in this Section. The Owner is required to comply with all of the applicable provisions of Chapter 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

The requirements of Chapter 12T shall only apply to the Owner's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco which excludes City property. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

13. Reserved.

14. Submitting False Claims; Monetary Penalties. The full text of San Francisco Administrative Code §§ 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Under San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

15. Conflict of Interest. By entering into the Agreement, the Owner certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter

2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

16. Assignment. The services provided under the Agreement to be performed by the Owner are personal in character and neither this Agreement nor any duties or obligations may be assigned or delegated by the Owner unless first approved by the City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

17. Food Service Waste Reduction Requirements. The Owner shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the provided remedies for noncompliance.

18. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of the City and the Owner, and all parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

19. Laws Incorporated by Reference. The full text of the laws listed in this Appendix, including enforcement and penalty provisions, are incorporated into this Agreement by reference. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Appendix are available at www.sfgov.org under "Open Gov."

20. Sugar-Sweetened Beverage Prohibition. The Owner agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

21. First Source Hiring Program. The Owner must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and the Owner is subject to the enforcement and penalty provisions in Chapter 83.

22. Prevailing Wages. Owner understands and agrees that all provisions of section 1770, et seq., of the California Labor Code are required to be incorporated into every contract for any public work or improvement and are hereby incorporated into this Agreement. Owner also understands and agrees that all provisions of sections 6.22E and 6.22F of the San Francisco Administrative Code are hereby incorporated into this Agreement. Owner also understands and agrees that all applicable provisions of the Davis-Bacon Act (40 U.S.C. §§3141 et seq.) are hereby incorporated into this Agreement.

EXHIBIT I
Form of Annual Monitoring Report

[See Attached]

EXHIBIT J

OPERATIONAL RULES FOR SAN FRANCISCO HOUSING LOTTERIES AND RENTAL LEASE UP ACTIVITIES

The Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities may be found in the current version of the Housing Preferences and Lottery Procedures Manual which is incorporated herein by this reference and may be downloaded from the Mayor's Office of Housing and Community Development website at the following link:

[https://sfmohcd.org/sites/default/files/Documents/MOH/Lottery Preferences/Lottery Preferences Manual.pdf](https://sfmohcd.org/sites/default/files/Documents/MOH/Lottery%20Preferences/Lottery%20Preferences%20Manual.pdf)

EXHIBIT K

MARKETING AND TENANT SELECTION PLAN

<p>How are utilities paid by the renter?</p>	<p>Renter pays own utility bills directly.</p> <p>-OR-</p> <p>Renter is charged a flat rate of \$___ by a third party vendor for the following utilities: _____ on a monthly basis.</p> <p>-OR-</p> <p>All utilities are paid by the building.</p>
<p>Other fees and/or building rules</p>	<p>Please list any fees for pets, mandatory insurance, bounced check, etc. here.</p>
<p>Contact Person</p>	
<p>Phone</p>	
<p>Email</p>	
<p>Website</p>	
<p>How to obtain an application</p>	
<p>Application deadline</p>	<p>_____, 5pm</p> <p>Applications must be <u>received</u> in paper form (no faxes or emails) by 5pm on the date of the deadline.</p>
<p>Address to which application should be delivered</p>	<p>Office: Rental Manager Name: Address: City/State/Zip Code: Attn:</p>
<p>Open House Dates (if applicable)</p>	<p>Date: Time:</p> <p>Date: Time:</p> <p>Date: Time:</p>
<p>Information Session</p>	<p>Enter date, time and location</p>
<p>Lottery</p>	<p>Enter date, time and location</p> <p>(Consider working with City to rent Main Library Koret Auditorium if a larger lottery is anticipated.)</p>

	Applicants do not need to be present at the lottery. Results will be posted to (place your web URL here) within two weeks of the lottery.
Special Note(s)	

II. Application/Selection Process and Timeline

The City and County of San Francisco’s requirements for the marketing, application process, lottery process, tenant selection process and tenant screening criteria are defined by Exhibits H, I, J, & K.

[Please complete the following timeline as part of your Marketing Plan]

Timeline of Entire Process (add info as needed)

Task Name	Date
Submittal of Marketing Plan to MOHCD	
Marketing period (3 months)	
Copy of Advertisements to required newspapers	
Applications Available to public	
Informational Workshop #1	
Informational Workshop #2	
Additional Community Outreach (if applicable)	
Application Deadline	
Lottery	
Demographic Summary of all Applicants to MOHCD	

Certificate of Preference count to MOHCD	
Application Review / Approval Process- start date	
Lease-up process / timeline	
Initial MOHCD approvals returned	
First Occupancy	
Construction start date- projected	
Project Closing- projected date	

III. Document Review

I/We certify that I/we and all agents involved in the process of renting affordable units have read Exhibits, H, I, J & K.

Representative (sign) _____

Representative (print) - _____

Title (print) - _____

Company (print) - _____

Date (print) - _____

**Flyer Template
(Sample)**

Affordable Homes for Rent in San Francisco

Exterior Photo	Interior Photo
----------------	----------------

**3 two-bedroom + 3 three-bedroom “Below Market Rate” rental units available
Bayside Village, 1125 Laurel Court, San Francisco**

- New Units with Modern Design + Amenities
- (2) Two-bedroom units for ____ available to households at or under 55% of median income
- Renter households must earn no more than the income levels listed below:
-

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
55% of Median Income 2014	\$37,350	\$42,750	\$48,050	\$53,400	\$57,650

Applications must be received by 5pm on Friday, April 13, 2014 to Smith Rentals, 300 Church St., San Francisco, CA 94114.

Contact Smith Rentals at (415) 282-10000 or john@smithrentals.com for application and information on the units and view the full unit posting at www.sfmohcd.org.

Units are monitored through the San Francisco Mayor’s Office of Housing and Community Development and are subject to monitoring and other restrictions. Visit www.sfmohcd.org for program information.

**Information session
Monday, June 2, 2013, 6pm
123 Hyde Street**

Open House Dates

June 2, 5-6pm; June 12, 12-1pm; June 25, 5-6pm All applicants are encouraged to apply. Lottery preference will be given to Residential Certificate of Preference holders¹, Displaced Tenants², and households that live or work in San Francisco.

Unit #	Bedroom Count	Bath Count	Square Feet	Floor	Rent	Income Maximum	Minimum Monthly Household	Deposit Required

¹ Residential Certificate of Preference holders are households that hold a Residential Certificate of Preference under the San Francisco Redevelopment Agency’s Property Owner and Occupant Preference Program. Contact 415-701-5613 for more information.

² Displaced Tenants are those who applied to Mayor’s Office of Housing and Community Development (MOHCD) and is determined by MOHCD to qualify for 1 of 3 categories of tenants formerly residing in San Francisco and who were forced to vacate their residence.

							Income Required	
E113	Studio	1	448	1	\$939	55% of AMI	\$2347.50	\$939
E114	1	1	605	1	\$1066	55% of AMI	\$2665	\$1066
E105	2	1	846	1	\$1192	55% of AMI	\$2980	\$1192



**COP Postcard Template
(sample)**

Affordable Homes for Rent in San Francisco

Exterior Photo	Interior Photo

3 two-bedroom (\$rent amount)+ 3 three-bedroom (\$rent amount) rental units available at Bayside Village, 1125 Laurel Court

- Renter Households must have a minimum monthly income of \$_____
- Renter households must earn no more than the income levels listed below:

Household Size	One Person	Two Person	Three Person	Four Person	Five Person
55% of Median Income 2012	\$39,650	\$45,300	\$51,000	\$56,650	\$61,200



Side Two:
Mayor's Office of Housing & Community Development
1 South Van Ness, 5th Floor
San Francisco, CA 94103

Applications must be received by
5pm on Friday, April 13, 2012 to:
Makras Real Estate, 1193 Church St.
San Francisco, CA 94114.

For more information & to apply Contact JM Rentals
(415) 282-8400 or victor@jmrentals.com or
www.sfmohcd.org

**Information session
Monday, June 2, 2012, 6pm
123 Hyde Street**

EXHIBIT L

FREDDIE MAC RIDER

This Freddie Mac Rider (the “Rider”) is attached to and forms a part of the Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”), dated as of August 1, 2019, by and among the City and County of San Francisco (the “Governmental Lender”), Bernal Gateway 2, LP, (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the “Borrower”).

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

“**Fiscal Agent**” means U.S. Bank, National Association and its successors and assigns.

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

“**Funding Lender**” means the holder of the Governmental Note, initially Capital One, National Association and on the Freddie Mac Purchase Date, Freddie Mac, and any successors or assigns thereof.

“**Funding Loan Agreement**” means the Funding Loan Agreement dated as of August 1, 2019 by and among the Governmental Lender, the Initial Funding Lender set forth therein and the Fiscal Agent, as such Funding Loan Agreement may from time to time be amended or supplemented.

“**Governmental Note**” means the Multifamily Note, dated August __, 2019, delivered by the Governmental Lender pursuant to the Funding Loan Agreement.

“**Project Loan**” means the loan to the Borrower pursuant to the Project Loan Documents, which Project Loan is to be assigned to the Fiscal Agent.

“**Project Loan Agreement**” means the Project Loan Agreement dated as of August 1, 2019, among the Borrower, the Governmental Lender and the Fiscal Agent, as such Financing Agreement may from time to time be amended or supplemented.

“**Project Loan Documents**” means the Security Instrument, the Project Note, the Project Loan Agreement, the Tax Regulatory Agreement, the Assignment, the Continuing Covenant Agreement, any Subordination Agreement(s) and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Project Loan or any portion thereof.

“**Project Note**” means the Project Note, including applicable addenda, to be executed by the Borrower in favor of the Governmental Lender, evidencing the Borrower’s

financial obligations under the Project Loan, and to be endorsed by the Governmental Lender, without recourse, to the order of the Fiscal Agent, as the same may be amended, modified, supplemented or restated from time to time.

“Security Instrument” means the Construction Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, together with all riders thereto, securing the Project Note, to be executed by the Borrower with respect to the Project, as it may be amended, modified, supplemented or restated from time to time.

“Servicer” means _____, or any successor Servicer selected by Freddie Mac.

2. Applicability. The provisions of this Rider shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. Indemnification. Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in the Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither the Funding Lender nor any successor in interest to the Funding Lender will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to Freddie Mac, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan. The Borrower shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to the Funding Lender. The Funding Lender shall indemnify the Governmental Lender following acquisition of the Project by the Funding Lender, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan, during, and only during, any ensuing period that the Funding Lender owns and operates the Project, provided that the Funding Lender’s liability shall be strictly limited to acts and omissions of the Funding Lender occurring during the period of ownership and operation of the Project by the Funding Lender. The Funding Lender shall have no indemnification obligations with respect to the Governmental Note or the Project Loan Documents. The Borrower shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to the Funding Lender.

4. Sale or Transfer. Restrictions on sale or transfer of the Project or of any interest in the Borrower, Governmental Lender and/or Fiscal Agent consents, transferee agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to the Funding Lender or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Security Instrument or any of the other Project Loan Documents that requires the Borrower to obtain the consent of the Funding

Lender as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Borrower, excluding transfers permitted by the Security Instrument. No covenant obligating the Borrower to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to the Funding Lender upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan by the Funding Lender, or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan.

5. Enforcement. Notwithstanding anything contained in the Regulatory Agreement to the contrary: (i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or constitute a default under the Project Loan Documents, except as may be otherwise specified in the Project Loan Documents; and (ii) the occurrence of an event of default under the Regulatory Agreement shall not impair, defeat or render invalid the lien of the Security Instrument. No person other than the Funding Lender shall have the right to (a) declare the principal balance of the Project Note to be immediately due and payable or (b) commence foreclosure or other like action with respect to the Security Instrument. The Governmental Lender and the Fiscal Agent acknowledge and agree that the exercise of any rights and remedies under the Regulatory Agreement is subject to the provisions of the Project Loan Documents.

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

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

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

9. Subordination. The terms, covenants and restrictions of the Regulatory Agreement, other than those set forth in Sections [] through [] [*list section(s) related to affordability restrictions*], are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Project Loan Documents.

10. Third-Party Beneficiary. The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of the Funding Lender and are entered into for the benefit of various parties, including the Funding Lender. The Funding Lender shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Governmental Lender and/or the Fiscal Agent, or to cause the Governmental Lender or the Fiscal Agent to enforce, the terms of the Regulatory Agreement. In addition, the Funding Lender is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

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

[NAME OF SERVICER]
[Street]
[City, State and Zip]
Attention: _____
Facsimile: (____)____ - ____
Telephone: (____)____ - ____

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

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive, MS B4P
McLean, Virginia 22102
Attention: Multifamily Operations - Loan Accounting
Email: mfla@freddiemac.com
Telephone: (703) 714-4177

with a copy to: Federal Home Loan Mortgage Corporation
8200 Jones Branch Drive, MS 210
McLean, Virginia 22102
Attention: Managing Associate General Counsel –
Multifamily Legal Division
Email: joshua_schonfeld@freddiemac.com
Telephone: (703) 903-2000