
**REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

among

BOERNE PUBLIC FACILITY CORPORATION,

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee,

and

LIV BOERNE HILLS, LP

Dated as of October 1, 2018

relating to

Boerne Public Facility Corporation
Housing Revenue Bonds
(LIV at Boerne Senior Apartments)
Series 2018

After recording, return to:

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**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as amended from time to time, this “Regulatory Agreement”) dated as of October 1, 2018 is among **BOERNE PUBLIC FACILITY CORPORATION** (the “Issuer”), a nonprofit public facility corporation of the State of Texas (the “State”) incorporated with the approval of the City of Boerne, Texas (the “City”), pursuant to the Texas Public Facility Corporations Act, Chapter 303, Texas Local Government Code, as amended (the “Act”), **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association, as trustee (together with its successors and assigns, the “Trustee”), with its designated corporate trust offices in Dallas, Texas, and **LIV BOERNE HILLS, LP**, a Texas limited partnership (together with its successors and assigns, the “Borrower”).

W I T N E S S E T H :

RECITALS

WHEREAS, pursuant to the Act, the Issuer is authorized to issue bonds and to use the proceeds thereof to provide money to aid in financing the acquisition, construction, and equipping of residential rental property for dwelling units; and

WHEREAS, the Borrower has requested the assistance of the Issuer in financing the senior residential rental housing project to be located on the real property described in Exhibit A hereto and described in Exhibit B hereto and leased by the Borrower (the “Project”), and, as a condition to such financial assistance, the Borrower has agreed to enter into this Regulatory Agreement setting forth certain restrictions with respect to the Project; and

WHEREAS, the Issuer has determined to assist in the financing of the Project by issuing its “Boerne Public Facility Corporation Housing Revenue Bonds (LIV at Boerne Senior Apartments) Series 2018” in the original aggregate principal amount of \$17,000,000 (the “Bonds”) and making a loan to the Borrower of such principal amount (the “Loan”), upon the terms and conditions set forth in the hereinafter defined Loan Agreement for the Bonds; and

WHEREAS, in order for interest on the Bonds to be excluded from the gross income of the owners thereof for federal income tax purposes under the Code (as hereinafter defined), and in order to comply with the Act, the use and operation of the Project must be restricted in certain respects; and

WHEREAS, the Issuer, the Trustee, and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction, equipping, and operation of the Project and in order to ensure that the Project will be acquired, constructed, equipped, and operated in accordance with the Code and the Act.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Issuer, the Trustee (in its capacity as trustee under the hereinafter defined Indenture), and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. In addition to terms defined above, the following terms shall have the respective meanings assigned to them in this Section or the Indenture or the Loan Agreement unless otherwise defined herein or unless the context in which they are used clearly requires otherwise:

“Adjusted Gross Income” means, with respect to a person, the adjusted gross income of such person as set forth on Line 31 of Internal Revenue Service Form 1040, Line 16 of Internal Revenue Service Form 1040A or Line 4 of Internal Revenue Service Form 1040EZ (or the corresponding lines of such forms if hereafter amended), as evidenced by a copy of such form or by a sworn statement of such person.

“Adjusted Income” means the adjusted income of a person (together with the adjusted income of all persons who intend to reside with such person in one residential unit) calculated pursuant to section 142(d) of the Code.

“Affiliated Party” means a partner of the Borrower, a Person whose relationship with the Borrower would result in a disallowance of losses under section 267 or section 707(b) of the Code or a Person who, together with the Borrower, is a member 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).

“Bonds” means the Issuer’s Housing Revenue Bonds (LIV at Boerne Senior Apartments) Series 2018 in the original aggregate principal amount of \$17,000,000.

“Bond Counsel” has the meaning set forth in the Indenture.

“Bondholder” or “holder” or “owner” means, when used with respect to the Bonds, the owner of a Bond then Outstanding under the Indenture as shown on the Bond Register maintained by the Trustee pursuant to the Indenture.

“Borrower” means LIV Boerne Hills, LP, a Texas limited partnership, and its successors and assigns.

“Borrower Certificate” means the Borrower’s Tax Representation Letter dated the Closing Date for the Bonds, delivered to the Issuer by the Borrower.

“Certificate of Continuing Program Compliance” means the Certificate of Continuing Program Compliance and accompanying Occupancy Summary (and/or such other certification required by the Code and/or applicable Regulations to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of section 142(d) of the Code) to be filed by the Borrower with the Trustee at the times specified in Section 4(c) and (e) of this Regulatory Agreement, such report to be in substantially the form attached hereto as Exhibit C or such other form as may be prescribed in accordance with this Regulatory Agreement and the Loan Agreement.

“Closing Date” or “Bond Closing Date” means the date of initial delivery of the Bonds.

“Code” has the meaning set forth in the Indenture.

“Costs of Issuance” means costs of issuing the Bonds.

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

“Income Certification” means a Verification of Income in the form attached hereto as Exhibit D or in such other form as may from time to time be prescribed in accordance with the terms of this Regulatory Agreement.

“Indenture” means the Trust Indenture dated as of the date hereof between the Issuer and the Trustee, and any indenture supplemental thereto.

“Inducement Date” means _____, 2018.

“Investment Proceeds” is defined in Section 1.148-1 of the Regulations and generally consists of any amounts actually or constructively received from investing Proceeds.

“Investor” means AHP Housing Fund 205 LLC, a Delaware limited liability company.

“Loan” means the loan made by the Issuer to the Borrower pursuant to the Loan Agreement for the purpose of financing the acquisition, construction, and equipping of the Project.

“Loan Agreement” means the Loan Agreement dated as of the date hereof among the Issuer and the Borrower, as it may be amended or supplemented from time to time (to the extent permitted by the Indenture), relating to the Bonds.

“Low Income Tenant” means a tenant whose Adjusted Income is 60% or less of median gross income, as determined under section 142(d)(2)(B) of the Code, for the area in which the Project is located, adjusted for family size. If all the occupants of a unit are students (as defined under section 151(c) of the Code), no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a tenant’s status as a Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in the Project by such Tenant and annually thereafter, on the basis of an Income Certification executed by the Tenant; however, once a tenant qualifies as a Low Income Tenant, such tenant shall continue to qualify, except as provided in Section 4(b).

“Low Income Units” means the units in the Project required to be rented to, or held available for occupancy by, Low Income Tenants pursuant to Section 4(a).

“Person” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“Proceeds” means any Sale Proceeds and Investment Proceeds of the Bonds.

“Project” means the Project Facilities and the Project Site.

“Project Costs” means, to the extent authorized by the Act, any and all costs incurred by the Borrower with respect to the acquisition, construction, and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the date of this Regulatory Agreement, including, without limitation, costs for site preparation, the planning of housing and improvements, the removal or demolition of existing structures, 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 Borrower’s overhead and supervisor’s fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof.

“Project Facilities” means the senior housing structures and related buildings and other improvements constructed on the Project Site by the Borrower, and all fixtures and other property owned

by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project as more fully set forth in Exhibit B.

“Project Site” means the parcels of real property leased by the Borrower and described in Exhibit A attached hereto, and all rights and appurtenances appertaining thereunto.

“Qualified Project Costs” means the Project Costs incurred not earlier than 60 days prior to the Inducement Date (or which are qualifying preliminary expenditures) which 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 Borrower or but for the proper election by the Borrower to deduct those amounts; however, only such portion of the interest accrued on the Bonds during the construction of the Project shall constitute Qualified Project Costs as bear the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs; and provided, further, that if any portion of the Project is being constructed by the Borrower or 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 the Borrower or such Affiliated Party in acquiring, constructing, and equipping the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Borrower or such Affiliated Party (but excluding any profit component) and (c) any overhead expenses incurred by the Borrower or such 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 Costs do not include Costs of Issuance.

“Qualified Project Period” means the period beginning on the first date ten percent (10%) of the units in the Project are occupied and ending on the latest of (a) the date which is fifteen (15) years after the date on which fifty percent (50%) of the units in the Project are occupied, (b) the first date on which no Tax-Exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Project is Outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Regulations” means any proposed, temporary or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and section 103 of the Internal Revenue Code of 1954, that are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any temporary or final Income Tax Regulation designed to supplement, amend, or replace the specific Regulation referenced.

“Sale Proceeds” is defined in Section 1.148-1 of the Regulations and generally consists of any amounts actually or constructively received from the sale (or other disposition) of any Bond, including amounts used to pay underwriters’ discount or compensation and accrued interest other than pre-issuance accrued interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any Bond and that is described in Section 1.148-4(b)(4) of the Regulations.

“Tax-Exempt” means, with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from gross income of the owners thereof for federal income tax purposes under section 103 of the Code; however, such interest may constitute an item of tax preference or otherwise be includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax, under the Code.

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

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

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

Section 2. Acquisition, Construction, and Equipping of the Project. The Borrower hereby represents as of the date hereof and covenants and agrees as follows:

(a) The Borrower has incurred, or will incur within six (6) months after the Closing Date, a substantial binding obligation to acquire, construct, or equip the Project, pursuant to which the Borrower is or will be obligated to expend at least five percent (5%) of the principal amount of the Bonds.

(b) The Borrower's reasonable expectations respecting the total cost of the acquisition, construction, and equipping of the Project are set forth in the Borrower Certificate.

(c) The Borrower will promptly commence the acquisition, construction, and equipping of the Project and will proceed with due diligence to complete the same.

(d) The Borrower reasonably expects to complete the acquisition, construction, and equipping of the Project and to expend the full amount of the Loan prior to the date which is three (3) years after the Closing Date.

(e) Not more than twenty-five percent (25%) of the net proceeds of the Bonds will be used (directly or indirectly) for the acquisition of land or an interest therein.

(f) None of the net proceeds of the Bonds will be used to pay or reimburse the cost of providing an airplane, skybox, or other private luxury box, any health club facility, any facility primarily for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(g) The statements made in the various certificates delivered by the Borrower to the Issuer or the Trustee on the Closing Date are true and correct in all material respects as of the Closing Date.

(h) The Borrower will submit, or cause to be submitted, to the Trustee, on or before the date of each disbursement of Proceeds of the Bonds from the Bond Proceeds Account of the Bond Mortgage Loan Fund held by the Trustee under the Indenture, a certificate certifying that the full amount of such disbursement will be applied to pay or to reimburse the Borrower for the payment of Project Costs and that, after taking into account the proposed disbursement, the aggregate of disbursements of Bond proceeds from the Bond Mortgage Loan Fund will have been applied to reimburse the Borrower for the payment of Qualified Project Costs in an amount equal to ninety-five percent (95%) or more of the aggregate disbursements of Bond proceeds from such Fund except with regard to the initial advance from the Bond Mortgage Loan Fund.

(i) The Borrower (and any Affiliated Party) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the Sale Proceeds to be applied in a manner contrary to the requirements of the Indenture, the Loan Agreement, or this Regulatory Agreement. The Borrower acknowledges that such requirements have been designed for the purpose of ensuring compliance with the provisions of the Act or the Code applicable to the Borrower or the Project.

(j) All of the amounts received by the Issuer from the Proceeds of the Bonds and earnings from the investment of such proceeds will be used to pay Project Costs; at least ninety-five percent (95%) of such amounts will be used to pay or reimburse the Borrower for payment of Qualified Project Costs as certified by the Borrower on requisitions in the form required by the Loan Agreement, except with regard to the initial advance from the Bond Mortgage Loan Fund; and no more than two percent (2%) of the Sale Proceeds of the Bonds shall be used to pay, or reimburse the Borrower for payment of, Costs of Issuance of the Bonds, within the meaning of section 147(g) of the Code.

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

(a) The Project will be constructed and improved for the purpose of providing senior residential rental property, and the Borrower will own, manage and operate the Project Facilities and lease the Project Site as a project to provide senior residential rental property comprising a building or structure or several interrelated buildings or structures (consisting of one or more discrete edifices and other man-made construction with an independent foundation, outer walls, and roof, containing five or more units), together with any functionally related and subordinate facilities, and no other facilities, in accordance with 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 dwelling units in the Project will be similarly constructed units, and each dwelling unit in the Project will contain complete, separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park. No unit within the Project will be rented for a period of less than thirty (30) days.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. The Borrower shall not take any steps in connection with a conversion of the Project to condominium ownership during the Qualified Project Period.

(e) All of the dwelling units will be available for rental on a continuous basis to members of the general public (subject to rent, income, and other restrictions), and the Borrower will not give preference to any particular class or group in renting the dwelling units in the

Project, except to the extent that dwelling units are required to be leased or rented to tenants where at least one of which is 62 years of age, Low Income Tenants.

(f) The Project Site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and the Project Facilities on the Project Site comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in the Project shall be occupied by the Borrower; however, if the Project contains five or more dwelling units, this subsection shall not be construed to prohibit occupancy of not more than two (2) dwelling units each by one or more resident managers or maintenance personnel, any of whom may be affiliated with the Borrower.

Section 4. Low Income Tenants; Records and Reports. Pursuant to the requirements of the Code and the Issuer, the Borrower hereby represents as of the date hereof and covenants and agrees as follows:

(a) During the Qualified Project Period, no less than forty percent (40%) of the total number of units of the Project shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this paragraph (a), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, at which time the character of such unit shall be redetermined.

(b) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants; however, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low Income Tenant of the same family size and such Low Income Tenant constitutes a portion of the forty percent (40%) requirement of paragraph (a) of this Section, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant and such new Low Income Tenant will then constitute a portion of the forty percent (40%) requirement of paragraph (a) of this Section; and provided, further, that, until such next available unit is rented to a tenant who is a Low Income Tenant, the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the forty percent (40%) requirement of paragraph (a) of this Section.

(c) After the date of this Regulatory Agreement, the Borrower will obtain, complete, and maintain on file Income Certifications from each Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of each new Low Income Tenant in the Project, and (ii) thereafter, annual Income Certifications which must be obtained on or before the anniversary of such Low Income Tenant's occupancy of the unit, and in no event less than once in every 12-month period following each Low Income Tenant's occupancy of a unit in the Project. For administrative convenience, the Borrower may establish the first date that an Income Certification for the Project is received as the annual recertification date for all tenants. The Borrower will obtain such additional information as may be required in the future by section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations which are Tax-Exempt under section 142(d) of the Code. A copy of the most recent Income Certification for Low Income

Tenants commencing or continuing occupation of a Low Income Unit (and not previously filed) shall be attached to the Certificate of Continuing Program Compliance to be filed with the Trustee no later than each April 15 (for the quarter ending March 31), July 15 (for the quarter ending June 30), October 15 (for the quarter ending September 30), and January 15 (for the quarter ending December 31) (commencing on the date referenced above following the first date on which 10% of the units in the Project are occupied) until the end of the Qualified Project Period. The Borrower shall make a diligent and good-faith effort to determine that the income information provided by an applicant in an Income Certification is accurate by taking one or more of the following steps, as a part of the verification process: (1) obtain pay stubs for the most recent one-month period; (2) obtain income tax returns for the most recent two (2) tax years; (3) conduct a consumer credit search; (4) obtain an income verification from the applicant's current employer; (5) obtain an income verification from the Social Security Administration, or (6) if the applicant is self-employed, unemployed, does not have income tax returns or is otherwise not reasonably able to provide other forms of verification as required above, obtain another form of independent verification as would, in the Borrower's reasonable commercial judgment, be satisfactory and will comply with the terms of this Regulatory Agreement.

(d) The Borrower will maintain complete and accurate records pertaining to the Low Income Units and will permit, at all reasonable times and upon reasonable notice during normal business hours, any duly authorized representative of the Issuer, the Trustee, the Department of the Treasury, or the Internal Revenue Service (the Department of the Treasury and the Internal Revenue Service shall nevertheless be required to comply with all applicable laws and rules) to enter upon the Project Site to examine and inspect the Project and to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(e) The Borrower will prepare and submit to the Trustee quarterly on each April 15 (for the quarter ending March 31), July 15 (for the quarter ending June 30), October 15 (for the quarter ending September 30), and January 15 (for the quarter ending December 31) (commencing on the date referenced above following the first date that 10% of the units in the Project are occupied) until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance for the Project covering the last three calendar months in substantially the form attached hereto as Exhibit C executed by the Borrower.

(f) On or before each March 31 (commencing **March 31, 2019**) (or such other date as shall be specified by the Secretary of the Treasury) during the Qualified Project Period, the Borrower will submit a completed Internal Revenue Service Form 8703 (or such other annual certification required by the Code and/or applicable Regulations to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of section 142(d) of the Code) to the Secretary of the Treasury and provide a copy thereof to the Trustee.

(g) Each lease or rental agreement shall contain a provision to the effect that the Borrower has relied on the Income Certification and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the unit and that any material misstatement in such certification (whether or not intentional) may be cause for immediate termination of such lease or rental agreement. Each such lease or rental agreement shall also provide (and shall so disclose to the tenant) that the tenant's income is subject to annual certification in accordance with Section 4(c).

(h) The Borrower covenants and agrees to prepare and submit to the Trustee and the Issuer, within sixty (60) days prior to the last day of the Qualified Project Period, a certificate

setting forth the date on which the Qualified Project Period will end, which certificate shall be in recordable form.

(i) Anything in this Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Issuer and the Trustee may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Borrower in order to establish the existence of any fact or statement of affairs not otherwise within the knowledge of the Issuer or the Trustee, and which is required to be noticed, represented or certified by the Borrower hereunder or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Bonds.

(j) The Borrower shall provide to the Issuer and the Trustee a certificate certifying (i) within ninety (90) days thereof, the date on which ten percent (10%) of the Units are first occupied; and (ii) within ninety (90) days thereof, the date on which fifty percent (50%) of the Units are first occupied.

Section 5. Tax-Exempt Status of the Bonds. The Borrower and the Issuer (each on behalf of itself) make the following representations as of the date hereof and covenant and agree for the benefit of the holders of the Bonds from time to time as follows:

(a) Neither the Borrower nor the Issuer shall knowingly take or permit, or knowingly omit to take or cause to be taken, as is appropriate, by parties within its respective control any action that would adversely affect the Tax-Exempt nature of the interest on the Bonds, and, if either should become aware that it has taken or permitted, or omitted to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the Issuer will take such action or actions as may be necessary to comply fully with 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 pertaining to obligations the interest on which is Tax-Exempt under section 142(d) of the Code.

(c) The Borrower and the Issuer will file of record such documents and take such other steps as are necessary in order to provide that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of Kendall County.

(d) The Borrower will not enter into any agreements which would result in the payment of principal of or interest on the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code.

(e) The Borrower hereby reaffirms the certifications and representations made by it in the Borrower Certificate and in Sections 2.2, 2.4, and 2.5 of the Loan Agreement, and such certifications and representations are hereby incorporated herein as covenants of the Borrower by this reference.

(f) Other than with respect to various easements, the Borrower hereby covenants to include the requirements and restrictions contained in this Regulatory Agreement in any

documents transferring any interest in the Project to another Person to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any such transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 6. Modification of Covenants. The Borrower, the Trustee, and the Issuer hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations, or the Code shall, in the written opinion of Bond Counsel filed with the Issuer and the Trustee, who shall deliver a copy thereof to the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as shall be necessary to document such automatic amendment hereof.

(b) To the extent that the Act, the Regulations, or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the Issuer, the Trustee, and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than those imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Trustee, and the Borrower and the written opinion of Bond Counsel to the effect that such amendment is permitted by the Act and will not affect the Tax-Exempt status of interest on the Bonds.

(c) The Borrower, the Issuer, and, if applicable, the Trustee shall execute, deliver, and, if applicable, file of record any and all documents and instruments reasonably necessary in the opinion of Bond Counsel delivered to the Borrower, the Issuer, and the Trustee to effectuate the intent of this Section, and each of the Borrower and the Issuer hereby appoints the Trustee as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Issuer, as is required in the opinion of Bond Counsel, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if either the Borrower or the Issuer materially defaults in the performance of its obligations under this subsection (c); **HOWEVER, UNLESS DIRECTED IN WRITING BY THE ISSUER, THE TRUSTEE SHALL TAKE NO ACTION UNDER THIS SUBSECTION (C) WITHOUT FIRST NOTIFYING THE BORROWER OR THE ISSUER, OR BOTH OF THEM, AS IS APPLICABLE, AND WITHOUT FIRST PROVIDING THE BORROWER OR THE ISSUER, OR BOTH, AS IS APPLICABLE, AN OPPORTUNITY TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.**

(d) All reasonable costs including fees and reasonable out-of-pocket expenses actually incurred by the Issuer and the Trustee, including the reasonable fees and expenses of Bond Counsel and counsel to the Trustee, in connection with compliance with the requirements of this Section shall be paid by the Borrower and its successors in interest.

Section 7. Consideration. The Issuer has issued the Bonds to provide funds to make the Loan to finance the Project, all for the purpose, among others, of inducing the Borrower to acquire, construct, and operate the Project. In consideration of the issuance of the Bonds by the Issuer, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Project can be put on the terms and conditions set forth herein.

Section 8. Reliance. The Issuer and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all Persons interested in the legality

and validity of the Bonds, and in the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds. In performing their duties and obligations hereunder, the Issuer and the Trustee may rely upon statements and certificates of the Low Income Tenants, and the Borrower, and the Issuer may rely upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Issuer and the Trustee may consult with counsel at the reasonable expense of the Borrower, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Issuer or the Trustee hereunder in good faith and in conformity with such opinion. In determining whether any default by the Borrower exists under this Regulatory Agreement, the Trustee shall not be required to conduct any investigation into or review of the operations, books, or records of the Borrower. The Trustee may presume no default of the Borrower has occurred unless (i) the Trustee has failed to receive reports or certificates required to be received pursuant to this Agreement, (ii) such reports are incomplete or incorrect on their face, or (iii) the Trustee has been notified in writing by any Person that the Borrower is in default. The Trustee may rely on any written report, notice or certificate delivered to the Trustee by any Person retained to review the Borrower's compliance with this Regulatory Agreement or by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it has actual knowledge that the report, notice, or certificate is erroneous or misleading.

Section 9. Project in Boerne. The Borrower hereby represents that the Project is located entirely within Boerne, Texas.

Section 10. Sale or Transfer of the Project. The Borrower hereby covenants and agrees not to voluntarily sell, transfer, or otherwise dispose of the Project, or any leasehold interest therein or portion thereof (other than leases for individual tenant use as contemplated hereunder and easements necessary for the ordinary course of business and obsolete personal property), without obtaining the prior written consent of the Issuer which consent shall not be unreasonably withheld or delayed by the Issuer and shall be given by the Issuer if (a) the purchaser or transferee shall covenant to operate the Project in such a manner as to comply with the provisions of this Regulatory Agreement; (b) the Issuer and the Trustee shall have received (i) evidence reasonably satisfactory to the Issuer that the Borrower's purchaser or transferee has assumed in writing and in full and is capable of performing the Borrower's duties and obligations under this Regulatory Agreement, the Loan Agreement, and the Indenture, (ii) a certificate of the Borrower to the effect that no Event of Default has occurred and is continuing under the Loan Agreement or this Regulatory Agreement, unless the purpose of such transfer is to cure such a default, (iii) payment to the Issuer by the Borrower or its purchaser or transferee of an assumption fee in an amount established by the Issuer from time to time for such purpose, (iv) evidence reasonably satisfactory to the Issuer that the transferee has agreed to any restrictions imposed by Bond Counsel in order to maintain the treatment of interest on the Bonds as excludable from gross income for federal income tax purposes, (v) an opinion of counsel to the transferee addressed to the Issuer and the Trustee that the transferee has duly assumed such obligations of the Borrower under this Regulatory Agreement and the Loan Agreement and that such obligations and this Regulatory Agreement and the Loan Agreement are binding on the transferee, (vi) an opinion of Bond Counsel that such transfer shall not adversely affect the Tax-Exempt status of the interest on the Bonds, and (vii) a Certificate of Continuing Program Compliance current as of a date no more than 45 days prior to delivery thereof; and (c) as among the Issuer, the Trustee, and the Borrower, the Borrower shall pay all costs of the transfer of title, including, but not limited to, the cost of meeting the conditions specified in this Section. The foregoing requirements relating to the voluntary sale, transfer or other disposition of the Project shall not apply in the event of foreclosure or the delivery of a deed in lieu of foreclosure. **IT IS HEREBY EXPRESSLY STIPULATED AND AGREED THAT ANY SALE, TRANSFER OR OTHER DISPOSITION OF THE PROJECT IN VIOLATION OF THIS SECTION SHALL CONSTITUTE A DEFAULT HEREUNDER AND SHALL BE INEFFECTIVE TO RELIEVE THE BORROWER OF ITS OBLIGATIONS UNDER THIS REGULATORY AGREEMENT.** Nothing contained in this Section shall affect any provision of any other document or instrument between the Borrower or any other party which requires the Borrower to obtain the consent of such other party as a precondition to sale,

transfer, or other disposition of the Project. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder to the extent such obligations have been assumed by the transferee of the Project. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section.

The Borrower hereby covenants and agrees that it shall not change its general partner by transfer, sale, or otherwise without the prior written consent of the Issuer, which consent will not be unreasonably delayed or withheld; however, the consent of the Issuer shall not be required with respect to the withdrawal, removal, and/or replacement of the Borrower's general partner in accordance with the terms of the Partnership Agreement. A change in the Borrower's general partner includes any transfer of any controlling ownership interests in the general partner other than by death or incapacity. In addition, any transfers of or changes in a limited partnership interest are permitted without the consent of the Issuer.

Notwithstanding any other provisions of this Agreement, this Section shall be subject to Section 28(d).

Section 11. Term. This Regulatory Agreement and all and each of the provisions hereof shall become effective upon its execution and delivery, shall remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section, shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and understood that certain provisions hereof are intended to survive the retirement of the Bonds, discharge of the Loan, termination of the Loan Agreement, and defeasance or termination of the Indenture.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements set forth herein shall terminate, without the requirement of any consent by the Issuer and the Trustee, and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, foreclosure or transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Issuer or the Trustee from enforcing the provisions hereof, or condemnation or a similar event, but only if, within a reasonable period thereafter, either the Bonds are retired or amounts received as a consequence of such event are used to provide a project which meets the requirements of the Code set forth in Sections 2 through 4 of this Regulatory Agreement. The provisions of the preceding sentence shall cease to apply and the requirements referred to therein shall be reinstated if, at any time during the Qualified Project Period after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any related Person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for tax purposes. The Issuer shall not be required to consent to termination of this Regulatory Agreement for any reason other than those specified above.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; however, 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. All costs, including reasonable fees and expenses of the Issuer and the Trustee, incurred in connection with the termination of this Regulatory Agreement shall be paid by the Borrower and its successors in interest.

Section 12. Covenants To Run With the Land. The Borrower hereby subjects the Project (including the Project Site) to the covenants, reservations, and restrictions set forth in this Regulatory Agreement. The Issuer, the Trustee, and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; however, on the

termination of this Regulatory Agreement said covenants, reservations, and restrictions shall expire. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instruments.

No breach of any of the provisions of this Regulatory Agreement shall impair, defeat, or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Project or any portion thereof.

Section 13. Burden and Benefit. The Issuer, the Trustee, and the Borrower hereby declare their understanding and (as to the Issuer and the Borrower) their intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Issuer, the Trustee, and the Borrower hereby further declare their understanding and (as to the Issuer and the Borrower) their 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 Tenants, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the Bonds were issued.

Section 14. 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 Project Site.

Section 15. Default; Enforcement. Subject to the limitations, if any, in the Loan Agreement, if the Borrower defaults in the performance or observance of any covenant, agreement, or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of sixty (60) days after written notice thereof shall have been given by the Issuer or the Trustee to the Borrower and the Investor, then the Trustee, provided the Trustee is aware of such default, shall declare an "Event of Default" to have occurred hereunder; however, if the default stated in the notice is of such a nature that it cannot be corrected within sixty (60) days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said sixty (60) days and diligently pursues such action until the default is corrected and (ii) in the opinion of Bond Counsel, the failure to cure said default within sixty (60) days will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notwithstanding anything to the contrary contained in this Regulatory Agreement, the Trustee and the Issuer hereby agree that any cure of any default made or tendered by the Borrower's special limited partner, and/or the Investor shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower. Copies of all notices that are sent to the Borrower under the terms of the Regulatory Agreement shall also be sent to the Investor at 10250 Constellation Boulevard, Suite 1270, Los Angeles, California 90067.

Following the declaration of an Event of Default hereunder, the Trustee (subject to being indemnified to its satisfaction with respect to the costs and expenses of any proceeding), or the Issuer, may, at its option, take any one or more of the following steps:

- (i) by mandamus or other suit, action, or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or the Trustee hereunder;

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

(iii) take such other action at law or in equity as may be necessary to enforce the obligations, covenants, and agreements of the Borrower hereunder.

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

All rights and remedies herein given or granted to the Issuer and the Trustee are cumulative, nonexclusive, and in addition to any and all rights and remedies that the Issuer and the Trustee may have or may be given by reason of any law, statute, ordinance, document, or otherwise. Notwithstanding the availability of the remedy of specific performance provided for in this Section, promptly upon determining that a violation of this Regulatory Agreement has occurred, the Issuer shall to the extent that it has actual knowledge thereof, by notice in writing to the Trustee, use its best efforts to inform the Trustee that a violation of this Regulatory Agreement has occurred.

Section 16. The Trustee. The Trustee shall act as specifically provided herein and in the Indenture. The Trustee shall act as the agent of and on behalf of the Issuer when requested in writing by the Issuer to do so, and any act required to be performed by the Issuer as herein provided shall be deemed taken if such act is performed by the Trustee. The Trustee is entering into this Regulatory Agreement solely in its capacity as Trustee under the Indenture, and the duties, powers, rights and obligations of the Trustee in acting hereunder shall be subject to the provisions of the Indenture. The incorporated provisions of the Indenture are intended to survive the retirement of the Bonds, discharge of the Loan, termination of the Loan Agreement, and defeasance or termination of the Indenture.

The Trustee's responsibility for reviewing and monitoring this Regulatory Agreement shall be limited to monitoring whether the Borrower has timely filed all required certificates with the Trustee and reviewing, on their face, the compliance certificates submitted by the Borrower to determine if the Borrower is in compliance hereunder.

Section 17. Recording and Filing. The Borrower shall cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of Kendall County and in such other places as the Issuer or the Trustee may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement is subject to and subordinate to all matters of record as of the date hereof.

Section 18. Reimbursement of Expenses. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Indenture, throughout the term of this Regulatory Agreement, the Borrower shall continue to pay to the Issuer and the Trustee reimbursement for all reasonable out-of-pocket expenses, if any, actually incurred thereby required to be paid to the Issuer and the Trustee by the Borrower pursuant to the Loan Agreement.

Section 19. Governing Law. This Regulatory Agreement shall be governed by the laws of the State, exclusive of choice and conflict of law principles. The Trustee's rights, duties, powers and obligations hereunder are governed in their entirety by the terms and provisions of this Regulatory Agreement and the Indenture.

Section 20. Amendments. Subject to the provisions of Section 6, 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 Kendall County, and only upon receipt by the Issuer, the Trustee, and the Borrower of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds and is not contrary to the provisions of the Act.

Notwithstanding any provision of this Agreement to the contrary, this Section shall be subject to Section 28(g).

Section 21. Notices. Any notice required to be given hereunder to the Issuer, the Trustee, the Borrower, and the Investor shall be given in the manner and to the address set forth in the Indenture and Section 15 of this Regulatory Agreement.

Notwithstanding any provision of this Agreement to the contrary, this Section shall be subject to Section 28(k).

Section 22. Severability. If any provision of this Regulatory Agreement is determined to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 23. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 24. Authorization to Act for Issuer. To the extent allowed by law, the Issuer hereby authorizes the Borrower to exercise, on behalf of the Issuer, any election with respect to the Bonds pursuant to the Code or the Regulations, and the Issuer will cooperate with the Borrower and execute any form of statement required by the Code or the Regulations to perfect any such election.

Section 25. Indemnification. **THE BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE ISSUER, THE CITY, AND THE TRUSTEE AND THE RESPECTIVE OFFICERS, MEMBERS, SUPERVISORS, DIRECTORS, OFFICIALS AND EMPLOYEES AND EACH OF THEM (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), EXCEPT TO THE EXTENT THAT MATTERS RESULT FROM THE BAD FAITH, WILLFUL MISCONDUCT, OR FRAUD OF ANY OF THE INDEMNIFIED PARTIES, AGAINST ALL LOSS, COSTS, DAMAGES, EXPENSES, SUITS, JUDGMENTS, ACTIONS AND LIABILITIES OF WHATEVER NATURE (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, LITIGATION AND COURT COSTS, AMOUNTS PAID IN SETTLEMENT, AND AMOUNTS PAID TO DISCHARGE JUDGMENTS, BUT EXCLUDING CONSEQUENTIAL DAMAGES) DIRECTLY OR INDIRECTLY RESULTING FROM OR ARISING OUT OF OR RELATED TO (A) THE DESIGN, CONSTRUCTION, INSTALLATION, OPERATION, USE, OCCUPANCY, MAINTENANCE, OR OWNERSHIP OF THE PROJECT (INCLUDING COMPLIANCE WITH LAWS, ORDINANCES AND RULES AND REGULATIONS OF PUBLIC AUTHORITIES RELATING THERETO), OR (B) ANY WRITTEN STATEMENTS OR REPRESENTATIONS WITH RESPECT TO THE BORROWER, THE PROJECT OR THE BONDS MADE OR GIVEN TO THE ISSUER, THE CITY OR THE TRUSTEE, OR ANY UNDERWRITERS OR PURCHASERS OF ANY OF THE BONDS, OR ANY TENANTS OR APPLICANTS FOR TENANCY IN THE PROJECT OR ANY OTHER PERSON, BY THE BORROWER, OR ANY AUTHORIZED BORROWER REPRESENTATIVE, INCLUDING, BUT NOT LIMITED TO, STATEMENTS OR REPRESENTATIONS OF FACTS, FINANCIAL INFORMATION OR PARTNERSHIP AFFAIRS. THE BORROWER ALSO SHALL PAY AND DISCHARGE AND SHALL INDEMNIFY AND HOLD HARMLESS THE ISSUER, THE CITY AND THE TRUSTEE FROM (I) ANY LIEN OR CHARGE UPON PAYMENTS BY THE BORROWER TO THE ISSUER, THE CITY AND THE TRUSTEE 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 FOR INDEMNIFICATION DESCRIBED IN THIS SECTION 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 ISSUER, THE CITY OR THE TRUSTEE SHALL GIVE PROMPT NOTICE TO THE BORROWER AND THE BORROWER SHALL HAVE THE SOLE RIGHT AND DUTY TO ASSUME, AND WILL ASSUME, THE DEFENSE THEREOF, WITH FULL POWER TO LITIGATE, COMPROMISE OR SETTLE THE SAME IN ITS SOLE DISCRETION, PROVIDED THAT THE ISSUER, THE CITY AND THE TRUSTEE SHALL HAVE THE RIGHT TO REVIEW AND APPROVE OR DISAPPROVE ANY SUCH COMPROMISE OR SETTLEMENT IN THEIR REASONABLE DISCRETION, WITH NO FURTHER LIABILITY OF THE BORROWER TO SUCH PARTY AFTER SUCH WRITTEN APPROVAL AS TO THE MATTER APPROVED. IN ADDITION THERETO, THE BORROWER WILL PAY UPON DEMAND ALL OF THE REASONABLE FEES AND EXPENSES PAID OR INCURRED BY THE TRUSTEE, THE CITY, AND/OR THE ISSUER IN ENFORCING THE PROVISIONS HEREOF AGAINST THE BORROWER.

Promptly after receipt by any party entitled to indemnification under this Section of notice of the commencement of any suit, action or proceeding, such indemnified party shall, if a claim in respect thereof is to be made against the Borrower under this Section, notify the Borrower in writing of the commencement thereof; but the omission so to notify the Borrower shall not relieve it from any liability which it may have to any indemnified party otherwise than under this Section or from any liability under this Section unless the failure to provide notice prejudices in any way the defense of such suit, action or proceeding. In case any such action is brought against any indemnified party, and it notifies the Borrower, the Borrower shall be entitled to participate in, and to the extent that it may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party (but shall not be required), to assume, the defense thereof, with counsel reasonably satisfactory to such indemnified party; however, if the defendants in any such action include both the indemnified party and the Borrower and the indemnified party shall have reasonably concluded that there are legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the Borrower, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and otherwise to participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the Borrower to such indemnified party of the Borrower's election to assume the defense of such action and approval by the indemnified party of counsel, the Borrower shall not be liable to such indemnified party under this Section for any attorneys' fees or expenses subsequently incurred by such indemnified party in connection with defense thereof unless (i) the indemnified party shall have employed separate counsel in connection with the assertion of legal defenses in accordance with the proviso to the next preceding sentence, or (ii) the Borrower shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action, or (iii) the Borrower has authorized the employment of counsel to represent the indemnified party at the expense of the Borrower. Notwithstanding the foregoing or in any other document executed in connection with this Regulatory Agreement, the Trustee shall not be indemnified for its own income tax, franchise tax or similar tax liability. Nothing in this Section shall require the Borrower to satisfy or pay any claims settled by an indemnified party without the prior written consent of the Borrower. The obligations of the Borrower under this Section shall survive the termination of this Regulatory Agreement and the resignation or removal of the Trustee.

Section 26. Borrower Liability. The Borrower's liability to the Issuer and the Trustee hereunder shall be with recourse to the Borrower and shall be unlimited. Notwithstanding any provisions of this Regulatory Agreement to the contrary, the obligations of the Borrower under this Regulatory Agreement for the payment of money and all claims for damages against the Borrower occasioned by breach or alleged breach by the Borrower of its obligations under this Regulatory Agreement are not secured by and shall not in any manner constitute a lien on the Project, and no Person shall have the right

to enforce such obligations other than directly against the Borrower. No subsequent owner of the Project shall be liable or obligated for the breach or default of any obligation of any prior owner under this Regulatory Agreement, including but not limited to any payment or indemnification obligation. Such obligations are personal to the Person who was the owner at the time the default or breach was alleged to have occurred, and such Person shall remain liable for any and all damages occasioned thereby even after such Person ceases to be the owner. Notwithstanding the foregoing, no partner (other than the general partner), shareholder, member, director, governor, manager, officer, employee, or agent of the Borrower shall be liable for any financial obligation of the Borrower and nothing herein shall cause the Borrower or any of its parties to be liable for principal and interest on the Bonds or the Loan.

Section 27. Landlord's Acknowledgment; Landlord's Ownership of the Project Facilities. The Landlord consents to the provisions of this Regulatory Agreement and agrees that it shall not take any measures that will prevent the Borrower from complying with the Regulatory Agreement. The Landlord further agrees to comply with all provisions of this Regulatory Agreement in the event the Landlord takes control of or becomes the owner of the Project Facilities.

Section 28. Property Tax Restrictions. For any period during which the Project claims a property tax exemption, no less than 50% of the Units may be rented to tenants having incomes at the time of initial occupancy that are less than 80% of the area median income for the City of Boerne.

Section 29. HUD Requirements.

(a) In the event of any conflict between any provision contained elsewhere in this Regulatory Agreement and any provision contained in this Section, the provision contained in this Section shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions: "Code" means the Internal Revenue Code of 1986, as amended.

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means **Berkadia Commercial Mortgage LLC**, its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act of 1934, as amended. "Program Obligations" has the meaning set forth in the Security Instrument. "Residual Receipts" has the meaning specified in the HUD Regulatory Agreement.

"Security Instrument" means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in this Regulatory Agreement to the contrary, [except the requirements in 26 U.S.C. 42(h)(6)(E)(ii), to the extent applicable,] the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the “HUD Requirements”). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or this Regulatory Agreement. In the event of any conflict between the provisions of this Regulatory Agreement and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Lender’s ability to enforce the terms of this Regulatory Agreement, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower’s knowledge this Regulatory Agreement imposes no terms or requirements that conflict with the National Housing Act and related regulations.

(d) Borrower and the Issuer acknowledge that Borrower’s failure to comply with the covenants provided in this Regulatory Agreement does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(e) Except for the Issuer’s reporting requirement, in enforcing this Regulatory Agreement, the Issuer will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- (i) Available surplus cash, if the Borrower is a for-profit entity;
- (ii) Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
- (iii) Available residual receipts authorized by HUD, if the Borrower is a non-profit entity.

(f) For so long as the Mortgage Loan is outstanding, Borrower and Issuer shall not further amend this Regulatory Agreement, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD’s prior written consent.

(g) Subject to the HUD Regulatory Agreement, the Lender may require the Borrower to indemnify and hold the Issuer harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Issuer relating to the subordination and covenants set forth in this Regulatory Agreement, provided, however, that Borrower’s obligation to indemnify and hold the Issuer harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

(h) Notwithstanding anything to the contrary contained herein, it is not the intent of any of the parties hereto to cause a recapture of the Low Income Housing Tax Credits or any portion thereof related to any potential conflicts between the HUD Requirements and this Regulatory Agreement. Borrower represents and warrants that to the best of Borrower’s knowledge the HUD Requirements impose no requirements which may be inconsistent with full compliance with this Regulatory Agreement. The acknowledged purpose of the HUD Requirements is to articulate requirements imposed by HUD, consistent with its governing statutes, and the acknowledged purpose of this Regulatory Agreement is to articulate

requirements imposed by Section 42 of the Code. In the event an apparent conflict between the HUD Requirements and this Regulatory Agreement arises, the parties and HUD will work in good faith to determine which federally imposed requirement is controlling. It is the primary responsibility of the Borrower, with advice of counsel, to determine that it will be able to comply with the HUD Requirements and its obligations under this Regulatory Agreement. No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax- exemption, except in strict accord with Program Obligations.

[The remainder of this page intentionally left blank.]

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

BOERNE PUBLIC FACILITY CORPORATION

By: _____
Jeff Thompson, Executive Director

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF KENDALL §

On this, the ____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared Jeff Thompson, who acknowledged that he is the Executive Director of the Boerne Public Facility Corporation, a Texas non-profit housing finance corporation, and executed this Regulatory Agreement on behalf of such corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public of the State of Texas

My Commission expires: _____

(Notary Seal)

WILMINGTON TRUST, NATIONAL ASSOCIATION, as
Trustee

By: _____
Camilla Lindsey, Vice President

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

On this, the _____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared Camilla Lindsey, who acknowledged that he is a Vice President of Wilmington Trust, National Association, a national banking association, and executed this Regulatory Agreement on behalf of such association.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public of the State of _____

My Commission expires: _____

(Notary Seal)

LIV BOERNE HILLS, LP

a Texas limited partnership

By: BPFC LIV Boerne GP, LLC,
a Texas limited liability company,
its general partner

By: Boerne Public Facility Corporation,
a Texas nonprofit public facility corporation,
its sole member

By: _____
Jeff Thompson, Assistant Secretary

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF KENDALL §

On this, the ____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared Jeff Thompson, who acknowledged that he is the Assistant Secretary of Boerne Public Facility Corporation, a Texas nonprofit public facility corporation, as the sole member of BPFC LIV Boerne GP, LLC, a Texas limited liability company, as general partner of LIV Boerne Hills, LP, a Texas limited partnership, and executed this Regulatory Agreement on behalf of such nonprofit public facility corporation, limited liability company, and limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public of the State of Texas

My Commission expires: _____

(Notary Seal)

CONSENTED AND AGREED TO AS TO SECTION 27 HEREOF:

BOERNE PUBLIC FACILITY CORPORATION,
a Texas nonprofit public facility corporation

By: _____
Jeff Thompson, Assistant Secretary

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF KENDALL §

On this, the ____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared Jeff Thompson, who acknowledged that he is the Assistant Secretary of Boerne Public Facility Corporation, and executed this Regulatory Agreement on behalf of such nonprofit public facility corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public of the State of Texas

My Commission expires: _____

(Notary Seal)

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT B

PROJECT AND BORROWER

Borrower: LIV Boerne Hills, LP, a Texas limited partnership

Project: The Project is a 162-unit senior housing facility to be known as LIV at Boerne Senior Apartments and to be located at 3 Shooting Club Road, Boerne, Texas 78006. The unit mix will consist of:

92 1-Bedroom and Efficiency Units

69 2-Bedroom Units

162 Total Units

Indoor common areas will include a community area with a computer lab/business center, fitness center, laundry room, and furnished community room/activity lounge. Outdoor common areas to include swimming pool, community patio, and professionally landscaped grounds.

EXHIBIT C

CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

TO: Wilmington Trust, National Association, Trustee

Attention:_____

Boerne Public Facility Corporation
402 E. Blanco Road
Boerne, Texas 78006
Attention: President

Re: Boerne Public Facility Corporation Housing Revenue Bonds (LIV at Boerne Senior Apartments) Series 2018 (the "Bonds")

LIV Boerne Hills, LP, a Texas limited partnership (the "Borrower"), hereby represents and warrants as follows:

1. A review of the activities of the Owner during the period of _____ through _____ (the last three calendar months) and of the Borrower's performance under the hereinafter defined Regulatory Agreement has been made under the supervision of the undersigned.
2. The Borrower owns LIV at Boerne Senior Apartments (the "Project").
3. The Project was financed, in substantial part, as a result of the indirect loan of the proceeds of the Bonds.
4. The undersigned and the Borrower have read and are thoroughly familiar with the provisions of (1) the Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement") dated as of October 1, 2018 among the Borrower, Boerne Public Facility Corporation (the "Issuer"), and Wilmington Trust, National Association, as Trustee; and (2) the Loan Agreement (as defined in the Regulatory Agreement). The Regulatory Agreement was executed, delivered, and recorded against the Project in connection with the issuance of the Bonds. Hereinafter, unless otherwise expressly provided herein or unless the context requires otherwise, the capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Regulatory Agreement.
5. The Project's Qualified Project Period commences on the first date ten percent (10%) of the units in the Project are occupied and will end on the latest of (a) the date which is fifteen (15) years after the date on which fifty percent (50%) of the units in the Project are occupied, (b) the first date on which no Tax-Exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Project is outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

6. Throughout the Qualified Project Period, no less than 40% (or 65 units when complete) of the total number of units of the Project (162 units when complete) shall at all times be rented to and occupied by Low Income Tenants. The Qualified Project Period [check one] ☐ has not begun ☐ began on _____, 20____. (If the Qualified Project Period has not begun, the Borrower is not required to complete paragraph 7 or attach the Occupancy Summary and is not deemed to make the certifications set forth in paragraphs 8 or 9.)
7. As of the date of this Certificate, the following percentages of completed residential units in the Project (excluding units occupied by on-site management) (the "Available Units") are occupied or are currently vacant and being held available for such occupancy and have been so held continuously since the date a Low Income Tenant vacated such unit, as indicated:
- Occupied by Low Income Tenants: _____ percent
- Held vacant for occupancy _____ percent
continuously since last occupied by
Low Income Tenant
8. At no time since the date of filing of the last Continuing Program Compliance Certificate has less than 40% of the Available Units of the units in the Project been occupied by or, if vacant, been last occupied by Low Income Tenants.
9. To the best knowledge of the undersigned, after due inquiry, all units were rented or available for rental on a continuous basis during the immediately preceding calendar quarter to members of the general public, and the Borrower is in compliance with and is not now and has not been in default under the terms of the Regulatory Agreement.
10. If the Borrower is in default under the terms of the Regulatory Agreement such knowledge should be detailed here:
- _____
- _____
- _____
11. The Borrower has not transferred any interest in the Project since the date of submission of the Continuing Program Compliance Certificate last submitted to the Trustee and the Issuer with respect to the Project. If the Borrower has transferred any interest in the Project, such transfer should be detailed here:
- _____
- _____
- _____

Attached is a separate sheet (the "Occupancy Summary") listing, among other items, the following information for each unit in the Project: the number of each unit, the name of the primary occupants of such unit, the number of occupants in the unit, the size of the unit, whether such unit was treated as being occupied or last occupied by a Low Income Tenant, the date of the last Income Certification for the occupants of the unit, and which units became Low Income Units since the filing of the last Certificate of Continuing Program Compliance. The information contained thereon is, to the best

knowledge of the Borrower (based upon information supplied by tenants of the Project), true and accurate.

LIV BOERNE HILLS, LP,
a Texas limited partnership

By: BPFC LIV Boerne GP, LLC,
a Texas limited liability company,
its general partner

By: Boerne Public Facility Corporation,
a Texas nonprofit public facility corporation,
its sole member

By: _____
Title: _____

or

_____, Manager

By: _____
Authorized Representative

**BOERNE PUBLIC FACILITY CORPORATION
HOUSING REVENUE BONDS
(LIV AT BOERNE SENIOR APARTMENTS)
SERIES 2018**

OCCUPANCY SUMMARY

AS OF _____
For Period _____ through _____

PROJECT NAME: LIV at Boerne Senior Apartments

PROJECT LOCATION: _____, Boerne, Texas _____

| | | |
|----|---|--------------|
| a. | Total Number of Units: | 162 |
| b. | Required Units for Low-Income Tenants (40%): | 65 |
| d. | Total Units Occupied or Last Occupied and Held Vacant for Low-Income Tenants: | _____ (___%) |

Number of Low-Income Tenants whose Annual Income exceeded 140% of the applicable income limit for a Low-Income Tenant of the same family size this month/quarter: _____

Number of Low-Income Tenants terminating occupancy this month/quarter: _____

1. _____: Number of Low Income Tenants commencing occupancy this month/quarter.
2. _____: Number of Low Income Tenants continuing occupancy this month/quarter for which an Income Certification was not previously attached.
3. _____: **Total** Number of Income Certifications attached hereto as required by the Regulatory Agreement. (sum of Line 1 and Line 2)

PREPARED AND SUBMITTED BY: _____

Phone: _____

Date: _____

EXHIBIT D

**BOERNE PUBLIC FACILITY CORPORATION
HOUSING REVENUE BONDS
(LIV AT BOERNE SENIOR APARTMENTS)
SERIES 2018**

INCOME CERTIFICATE

VERIFICATION OF INCOME

RE: _____

Apartment Number: _____ Building Number: _____ Square footage: _____

Number of Bedrooms: _____

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully and truthfully each of the following questions for all persons who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

| 1. Name of Members of the Household | 2. Relationship to Head of Household | 3. Age | 4. Social Security Number | 5. Place of Employment |
|-------------------------------------|--------------------------------------|--------|---------------------------|------------------------|
| | Head | | | |
| | Spouse | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

6. The anticipated income of all the above persons during the 12-month period beginning on the later of the date on which the above persons first occupy the apartment or sign a lease with respect to the apartment, including income described in (a) below, but excluding all income described in (b) below, is \$_____.

(a) The amount set forth above includes all of the following income (unless such income is described in (b) below):

(i) all wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services, before payroll deductions;

(ii) net annual income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization or capital indebtedness). (An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Include any withdrawal of cash or assets from the operation of a business or profession, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the above persons);

(iii) interest and dividends (include all income from assets as set forth in item 7(b) below and include any withdrawal of cash or assets from an investment, except to

the extent the withdrawal is reimbursement of cash or assets invested by the above persons);

(iv) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;

(v) payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay;

(vi) any welfare assistance: if the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, include as income (a) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus (b) the maximum amount that the welfare assistance agency could in fact allow the above persons for shelter and utilities. (If the welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under clause (b) shall be the amount resulting from one application of the percentage);

(vii) periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling;

(viii) all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household, spouse or other household member whose dependents are residing in the unit; and

(ix) any earned income tax credit to the extent it exceeds income tax liability.

(b) The following income is excluded from the amount set forth above:

(i) income from employment of children (including foster children) under the age of 18 years;

(ii) payment received for the care of foster children or adults;

(iii) lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers' compensation), capital gains and settlement for personal or property losses;

(iv) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(v) income of a live-in aide;

(vi) amounts of student financial assistance paid directly to the student or to the educational institution;

(vii) the special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(viii) (a) amounts received under training programs funded by Housing and Urban Development (“HUD”);

(b) amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (“PASS”);

(c) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(ix) a resident service stipend in a modest amount (not to exceed \$200 per month) received by resident for performing a service for the Owner, on a part-time basis, that enhances the quality of life in the Project, including but not limited to fire patrol, hall monitoring, lawn maintenance and resident initiative coordination;

(x) compensation from state or local employment training programs in training of a family member as resident management staff which is received under employment training programs with clearly defined goals and objectives and excluded by the Department of Housing and Urban Development;

(xi) reparations payment paid by a foreign government pursuant to claims filed under the laws of that government for persons who were persecuted during the Nazi era;

(xii) earnings in excess of \$480 for each full-time student, 18 years old or older but excluding the head of household and spouse;

(xiii) adoption assistance payments in excess of \$480 per adopted child;

(xiv) deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;

(xv) amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

(xvi) amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;

(xvii) temporary, nonrecurring or sporadic income (including gifts); and

(xviii) amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937.

7. If any of the persons described in column 1 above (or any person whose income or contributions were included in item 6) has any savings, stocks, bonds, equity in real property or other form of capital investment (excluding interests in Indian trust lands, but including the value of any assets

disposed of for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the previous two years in excess of the consideration received therefor), provide:

(a) the total value of all such assets owned by all such persons:

\$_____ ; and

(b) the amount of income expected to be derived from such assets in the 12-month period commencing this date: \$_____.

8. (a) Will all of the persons listed in column 1 above be or have they been full-time students during five (5) calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

Yes _____ No _____

(b) (Complete only if the answer to Question 8(a) is "Yes.") Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____ No _____

We acknowledge that all of the above information is relevant to the status under federal income tax law of the interest on bonds issued to finance construction or acquisition of the apartment building for which application is being made. We consent to the disclosure of such information to the issuer of such bonds, the holders of such bonds, any trustee acting on their behalf and any authorized agent of the Treasury Department or Internal Revenue Service.

Date: _____

Head of Household

Spouse

STATE OF TEXAS §
 §
COUNTY OF KENDALL §

Subscribed, sworn to and acknowledged before me this ____ day of _____,
_____.

Notary Public of the State of Texas

(Notary Seal)

NOTE TO PROJECT OWNER: A vacant unit previously occupied by individuals or a family of very low income may be treated as occupied by individuals or a family of very low income until reoccupied (other than for a period of 31 consecutive days or less), at which time the character of the unit shall be redetermined.

FOR COMPLETION BY PROJECT OWNER OR MANAGER ONLY:

I. Calculation of eligible income:

- (A) Enter amount entered for entire household in 6 above: \$ _____
- (B) If the amount entered in 7(a) above is greater than \$5,000, enter:
- (i) the product of the amount entered in 7(a) above multiplied by the current passbook savings rate as determined by HUD: \$ _____
- (ii) the amount entered in 7(b) above: \$ _____
- (iii) line (i) minus line (ii) (if less than \$0, enter \$0): \$ _____
- (C) TOTAL ELIGIBLE INCOME (line I(A) plus line I(B)(iii)): \$ _____

II. Qualification as individuals or a family of low income:

- (A) Is the amount entered in line 1(c) less than 50% of Median Income for the Area with adjustments for smaller and larger families? *
- Yes _____ No _____
- (B) (i) If line II(A) is "No," then the household does not qualify as individuals or a family of low income; skip to item III.
- (ii) If line II(A) above is "Yes" and 8(a) above is "No," then the household qualifies as individuals or a family of low income; skip to item III.
- (iii) If line II(A) above is "Yes" and 8(b) above is "Yes," then the household qualifies as individuals or a family of low income; skip to item III;
- (iv) If neither (ii) nor (iii) is applicable, then the household does not qualify as individuals or a family of low income.

* "Median Income for the Area" means the area median gross income as determined by the Secretary of the Treasury in a manner consistent with determinations of lower-income families and area median gross income under Section 8 of the United States Housing Act of 1937, including adjustments for family size or, if programs under Section 8 are terminated, area median gross income determined under the method in effect immediately before such termination.

III. (Check one)

The household does not qualify as individuals or a family of low income.

The household qualifies as individuals or a family of low income.

IV. Number of apartment unit assigned:
(enter here and on page 1)

Date: _____

LIV BOERNE HILLS, LP,
a Texas limited partnership

By: BPFC LIV Boerne GP, LLC,
a Texas limited liability company,
its general partner

By: Boerne Public Facility Corporation,
a Texas nonprofit public facility corporation,
its sole member

By: _____
Title: _____

or

_____, Manager

By: _____
Authorized Representative