

RECORDING REQUESTED BY AND
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ATTENTION: FREDERIC H. MARIENTHAL, ESQ.

TAX REGULATORY AGREEMENT

by and among

CITY OF COLORADO SPRINGS, COLORADO,
as Issuer

FIRSTBANK,
as Purchaser

and

PALOMA GARDEN VOA SENIOR HOUSING LLLP,
as Borrower

Dated [_____, 20__]

Relating to

Not to Exceed \$[PAR]
City of Colorado Springs, Colorado
Multifamily Housing Revenue Bonds
(Paloma Garden Project)
Series 2022

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TAX REGULATORY AGREEMENT

THIS TAX REGULATORY AGREEMENT (this “Agreement” or this “Regulatory Agreement”) is made and entered into as of [_____, 20__], by and among the **CITY OF COLORADO SPRINGS, COLORADO** (the “Issuer”), a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado (the “State”) and the home rule charter of the City of Colorado Springs, Colorado (the “Charter”), **FIRSTBANK**, a Colorado state banking corporation (the “Purchaser”), and **PALOMA GARDEN VOA SENIOR HOUSING LLLP**, a Colorado limited liability limited partnership (the “Borrower”).

W I T N E S S E T H :

WHEREAS, pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the “Act”); the Colorado Supplemental Public Securities Act, constituting Article 57, Title 11, Section 201 et seq., Colorado Revised Statutes, as amended (the “Supplemental Act”), and the Charter, the Issuer is empowered to issue bonds to provide residential facilities for low- and middle-income persons or families which promote the public health, welfare, safety, convenience and prosperity; and

WHEREAS, on [_____, 20__], the Issuer indicated its intent to provide for the issuance of revenue bonds for the following plan of finance: (a) to finance a portion of the cost of the acquisition, construction, improvement and equipping of a 127-unit senior multifamily housing project located at 920 South Chelton Road and 3140 Mallard Drive, Colorado Springs 80910, to be known as Paloma Garden (the “Facility”); (b) to fund certain reserve funds, if any; and (c) to pay certain costs of issuance of the Bonds (collectively, the “Project”), and the City Council of the Issuer subsequently passed an ordinance on [_____, 20__] (the “Ordinance”) authorizing the issuance of bonds for such purpose; and

WHEREAS, the Borrower owns or will own as of the date of issuance of the Bonds the real property described in Exhibit A hereto; and

WHEREAS, in furtherance of the purposes of the Act, the Supplemental Act, the Charter and the Ordinance, and as a part of the Issuer’s program of financing and promoting affordable housing, the Issuer has issued not to exceed \$[PAR] aggregate principal amount of City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Paloma Garden Project), Series 2022 (the “Bonds”), the proceeds of which will be used to fund a loan (the “Loan”) to the Borrower to finance the Project; and

WHEREAS, in order for interest on the Bonds to be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the “Code”), and the income tax regulations (the “Regulations”) and rulings with respect to the Code, and in order to comply with the Act, the Supplemental Act, the Charter and any policies with respect to the Project imposed by the Issuer, the use and operation of the Property must be restricted in certain respects; and

WHEREAS, the Issuer, the Purchaser 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, improvement and equipping of the Property and in order to ensure that the Property will be used and operated in accordance with the Code, the Act, the Supplemental Act, the Charter and any additional requirements of the Issuer;

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

Section 1. Definitions and Interpretation. Terms not otherwise defined herein shall have the meanings assigned thereto in the Financing Agreement. The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

“*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)(2)(B) of the Code.

“*Affiliated Party*” means a manager or general partner of the Borrower, a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 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).

“*Agreement*” or “*Regulatory Agreement*” means this Tax Regulatory Agreement, as it may be amended from time to time.

“*Area*” means the Colorado Springs, Colorado Metropolitan Statistical Area (MSA).

“*Authorized Borrower Representative*” means any person who, at any time and from time to time, may be designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Bondholder containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates, or in the event that such term shall refer to successors or assigns of the Borrower, any authorized general partner if the successor or the assignee is a general or limited partnership, any authorized managing member if the successor or assignee is a limited liability company or any authorized officer if the successor or the assignee is a corporation. The Issuer and the Bondholder may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate identifying a different person or persons to act in such capacity.

“*Bond Closing Date*” or “*Closing Date*” means the date upon which the Bonds are initially issued and delivered in exchange for the total purchase price of the Bonds paid by the Purchaser, such date being [_____, 20__].

“*Bond Counsel*” means an attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the validity of, and the Tax-exempt nature of interest on, obligations issued by states and their political subdivisions, selected by the Issuer 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, but shall not include counsel for the Borrower.

“*Bond Documents*” means the Financing Agreement, this Regulatory Agreement, the Tax Certificate and any other document now or hereafter executed by the Borrower, the Issuer, or the Bondholder in connection with the Bonds (initially the Purchaser).

“*Bondholders*” or “*Owners*” or “*Holder*” means the party identified as the owner of the Bonds on the registration book maintained by the Issuer. The initial Bondholder is the Purchaser.

“*Bonds*” means the bonds authorized, authenticated and delivered pursuant to the terms of the Financing Agreement, as defined in the Recitals hereto.

“*Borrower*” means Paloma Garden VOA Senior Housing LLLP, a Colorado limited liability limited partnership, and its successors and assigns.

“*Certificate of Continuing Program Compliance*” means the Certificate of Continuing Program Compliance and Statistical Report to be filed by the Borrower with the Issuer at the times specified in Sections 4(d) and (f) of this Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached hereto as Exhibit B or such other form as may from time to time be prescribed by the Issuer.

“*Charter*” means the home rule charter of the City of Colorado Springs, Colorado.

“*Code*” means the Internal Revenue Code of 1986, as amended; each reference to the Code shall be deemed to include (a) any successor internal revenue law and (b) the applicable regulations whether final or temporary under the Code or such successor law.

“*Completion Certificate*” means the certificate of completion of the construction, improvement and equipping of the Property required to be delivered to the Issuer by the Borrower pursuant to Section 2(i) hereof.

“*Completion Date*” means the date of the completion of the construction, improvement and equipping of the Property with respect to the Project, as that date shall be certified as provided in Section 2(i) hereof.

“*Determination of Taxability*” means either (a) refusal by the Borrower to consent to any amendment or supplement hereto or to the Financing Agreement which, in the opinion of Bond Counsel, is necessary or advisable to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes; or (b) any of (i) the enactment of applicable legislation of which the Bondholder has actual knowledge, (ii) a final judgment or order of a court of original or

appellate jurisdiction of which the Bondholder has actual knowledge, (iii) a final ruling or decision of the Internal Revenue Service of which the Bondholder has actual knowledge or (iv) the filing with the Issuer or the Bondholder of an opinion of Bond Counsel, in each case to the effect that the interest on the Bonds (other than interest on any Bonds for any period during which such Bonds is held by a “substantial user” of any facility financed with the proceeds of the Bonds or a “related person,” as such terms are used in Section 147(a) of the Code) is includable in the gross incomes of all recipients thereof for federal income tax purposes. With respect to the foregoing, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal has expired.

“*Equity Investor*” means, initially, Wincopin Circle LLLP, a Maryland limited liability limited partnership, including, without limitation, Enterprise Neighborhood Impact Fund III, LLC, a Maryland limited liability company, and any assignee of its interest.

“*Financing Agreement*” means the Financing Agreement, dated [____, 20__], by and among the Issuer, the Purchaser and the Borrower, as amended or supplemented from time to time.

“*Hazardous Materials*” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Property is prohibited by any federal, state or local authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “contaminant,” or “pollutant” by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

“*Hazardous Materials Laws*” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to Borrower or to the Property. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, *et seq.*, the Toxic Substance Control Act, 15 U.S.C. Section 2601, *et seq.*, the Clean Water Act, 33 U.S.C. Section 1251, *et seq.*, and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 *et seq.*, and their state analogs.

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

“*Income Certification*” means, initially, a Verification of Income in the form attached hereto as Exhibit C or in such other form as may from time to time be provided by the Issuer to the Borrower and, with respect to recertifications, the Income Certification attached hereto as Exhibit D or such other form as may from time to time be provided by the Issuer to the Borrower.

“*Inducement Date*” means [_____, 20__].

“*Issuance Costs*” means costs of issuing the Bonds as set forth in the Financing Agreement.

“*Loan*” means the loan of the sale proceeds of the Bonds by the Issuer to the Borrower as defined in the Financing Agreement for the purpose of providing funds for the Project.

“*Low Income Tenant*” means a tenant whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of lower-income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as lower income shall be 60% of median gross income for the Area with adjustments for family size. Except as otherwise provided herein, the occupants of a unit in the Property shall not be considered to be Low Income Tenants if all the occupants are students (as defined in Section 152(f)(2) of the Code) and any one of those students is not (a) a single parent living with his/her children; (b) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (c) a student enrolled in a job-training program receiving assistance under the Job Training Partnership Act or under other similar federal, State, or local laws; (d) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act) or (e) a student who is married and files a joint return. Single parents described in (a) above may not be dependents of another individual, and their children may not be dependents of another individual other than their parents. 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 Property by such Tenant and annually thereafter and at any time the Borrower has knowledge that the number of occupants in that unit has increased, on the basis of an Income Certification executed by the tenant.

“*Low Income Units*” means the units in the Property required to be rented to, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a), 4(b) and 7(b) hereof.

“*Net Proceeds*” means the total proceeds derived from the issuance, sale and delivery of the Bonds, representing the total purchase price of the Bonds, including any premium paid as part of the purchase price of the Bonds, but excluding the accrued interest, if any, on the Bonds paid by the initial purchaser(s) of the Bonds.

“*Owner Cost Certificate*” means the Owner Cost Certificate, dated the Closing Date, executed and delivered by the Borrower.

“*Partnership Agreement*” means that certain Amended and Restated Agreement of Limited Partnership, dated as of [_____, 20__], by and between Paloma Garden SH GP LLC, a Colorado limited liability company, as managing general partner; the Equity Investor, as investor limited partner; and VOANS Preservation and Development Holding Corporation, as administrative general partner.

“*Project*” has the meaning given to such term in the Recitals hereto.

“*Project Costs*” means, to the extent authorized by the Code, the Regulations, the Act and the Supplemental Act, any and all costs incurred by the Borrower with respect to the construction, improvement and equipping and the credit enhancement fees, if any, attributable to the period of

the construction and improvement of the Property, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site preparation, the planning of housing, related facilities and improvements, the acquisition of property, the removal or demolition of existing structures, the construction and improvement of housing and related facilities and improvements and all other work in connection therewith, including Qualified Project Costs, 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, contractors' and developer'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 other entity for expenditures made, with the approval of the Issuer, for the Project).

“Project Facility” means the buildings, structures and other improvements on the Project Site to be constructed or improved 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 Property. The Project Facility does not include retail sales facilities, commercial facilities or recreational, fitness or business facilities available to members of the general public.

“Project Site” means the parcel or parcels of real property having the street address of 920 South Chelton Road and 3140 Mallard Drive, Colorado Springs, Colorado 80910, as more particularly described in Exhibit A hereto.

“Property” means the Project Facility and Project Site.

“Qualified Project Costs” means the Project Costs incurred not earlier than the date 60 days prior to the Inducement Date, except as otherwise permitted under Section 1.150-2 of the Regulations, which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code, or 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; provided, however, that only such portion of the interest accrued on the Bonds during the construction or improvement of the Property shall constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs; and provided, further, that interest accruing on or after the Completion Date shall not be Qualified Project Costs; and provided, finally, that if any portion of the Property is being constructed or improved 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 and constructing or improving the Property (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 Property 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 or improvement of the Property or payments received by such Affiliated Party due to early completion of the construction or improvement of the Property (or any portion thereof). Qualified Project Costs do not include

Issuance Costs. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Property or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Property) shall constitute “Qualified Project Costs” unless, at the time Bond proceeds are expended to pay such costs, the Borrower and the seller of such assets are not “related persons” as such term is defined in Section 147(a)(2)(A) of the Code.

“*Qualified Project Period*” means the period beginning on the first day on which 10% of the dwelling units in the Property are first occupied and ending on the latest of (a) the date which is 15 years after the date on which 50% of the dwelling units in the Property are first 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 Property is outstanding or (c) the date on which any assistance provided with respect to the Property under Section 8 of the Housing Act terminates.

“*Qualified Rehabilitation Expenditures*” means any amount properly chargeable to capital account which is incurred no earlier than 60 days prior to the Inducement Date by the person acquiring the building or property (or additions or improvements to property) or by the seller of the property under a sales contract between the Borrower and the seller or sellers of a Project Site to the Borrower in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. “Qualified Rehabilitation Expenditures” do not include any amount which is incurred after the date two years after the later of the date on which the building was acquired by the Borrower or the date on which the Bond was issued. “Qualified Rehabilitation Expenditures” do not include any expenditure described in Section 47(c)(2)(B) of the Code. All amounts constituting Qualified Rehabilitation Expenditures must be depreciated on a straight line basis over 30 years (unless otherwise provided in the Code).

“*Regulations*” means the Income Tax Regulations promulgated or proposed (if deemed appropriate in the opinion of Bond Counsel) by the Department of the Treasury pursuant to the Code from time to time.

“*Supplemental Act*” means the Supplemental Public Securities Act, constituting Part 2, Article 57 of Title 11, Colorado Revised Statutes, as the same may be amended from time to time (but only to the extent any such amendments, by their terms or by appropriate election of the Issuer, apply to the Bonds outstanding as of the effective date of such amendments).

“*Tax Certificate*” means the Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986 dated the Closing Date, executed and delivered by the Issuer and the Borrower, as amended, modified, supplemented or restated from time to time.

“*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 for federal income tax purposes (other than interest on any Bonds for any period during which such Bonds are held by a “substantial user” of any facility financed with the proceeds of the Bonds or a “related person,” as such terms are used in Section 147(a) of the Code); provided, however, that such

interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

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 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.

Section 2. The Construction, Improvement and Equipping of the Property. The Borrower hereby represents, as of the date hereof, and covenants and agrees with the Issuer and the Purchaser as follows:

(a) The Borrower has incurred, or will incur within six months after the Closing Date, a substantial binding obligation to commence the construction, improvement and equipping of the Property, pursuant to which the Borrower is or will be obligated to expend at least 5% of the proceeds of the Loan financed from proceeds of the Bonds.

(b) The Borrower's reasonable expectations respecting the total cost of the construction, improvement and equipping of the Property are accurately set forth in the Owner Cost Certificate submitted to the Issuer on the Closing Date.

(c) By the Bond Closing Date, the Borrower has acquired or will acquire a fee simple interest in the Project Site and will, within six months following the Bond Closing Date, commence the construction and improvement of the Property and will proceed with due diligence to complete the same. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Property or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Property) shall constitute Qualified Project Costs unless, at the time Bond proceeds are expended to pay such costs, the Borrower and the seller of such assets are not "related persons" as such term is defined in Section 147(a)(2)(A) of the Code. The Borrower reasonably expects to complete the construction, improvement and equipping of the Property and to expend the full amount of the proceeds of the Loan for Project Costs prior to the date which is 36 months after the Closing Date.

(d) The Borrower agrees that the full amount of each disbursement of Bond proceeds pursuant to the Financing Agreement will be applied to pay or to reimburse the

Borrower for the payment of Project Costs and that, after taking into account each such disbursement, (i) the aggregate disbursements of Bond proceeds will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an aggregate amount equal to 97% or more of the aggregate disbursements of the Loan; provided, however, that if the Borrower provides the Issuer and the Purchaser with an opinion of Bond Counsel to the effect that the Tax-exempt status of interest on the Bonds will not be adversely affected if less than the aforesaid percentage, but not less than 95%, is disbursed for such purpose, then the certificate may refer to such lesser percentage as may be specified by Bond Counsel; and (ii) less than 25% of the proceeds of the Loan expended with respect to the Project Site will be disbursed to pay or to reimburse the Borrower for the cost of acquiring land or rights with respect to land relative to the Project Site.

For purposes of determining the use of proceeds of the Bonds, all of the Bond proceeds shall be allocated solely to the expenditure of eligible costs (constituting capital costs properly chargeable to capital of the Property or costs that would be so chargeable as capital costs with a proper election under federal tax principles) of qualified facilities under Section 142(d) of the Code, including the acquisition price of the land. This allocation constitutes the final allocation of the proceeds of the Bonds to expenditures for purposes of Treasury Regulation 1.148-6(d) unless otherwise directed by the Borrower with the approval of Bond Counsel.

(e) On the Completion Date of the construction, improvement and equipping in service of the Property with respect to the Project, the Borrower will submit to the Issuer and the Purchaser a duly executed and completed Completion Certificate as provided in, and meeting the requirements of, Sections 2(i) and (j) hereof.

(f) Except as otherwise permitted under Section 1.150 of the Regulations, no proceeds of Bonds will be used to pay or reimburse any cost (i) incurred more than sixty days prior to the Inducement Date or (ii) incurred more than three years prior to such payment or reimbursement and any allocation of Bond proceeds to the reimbursement of previously incurred costs shall be made not later than 18 months after the later of (i) the date the original expenditure was paid or (ii) the date the Property is placed in service or abandoned. The construction, improvement and equipping by the Borrower of the Property, with respect to which an original expenditure is being reimbursed from the proceeds of the Bonds, commenced less than 60 days prior to the Inducement Date, and as of 60 days prior to the Inducement Date, except as otherwise permitted under Section 1.150-2 of the Regulations, (A) neither the Borrower nor any related person (as such phrase is used in Section 142(d)(2) of the Code) has made any expenditure in connection with the construction, improvement and equipping of the Property, (B) no on-site work has been commenced by the Borrower or any related person in connection with the construction or improvement of the Property, and (C) no off-site fabrication of any portion of the construction, improvement and equipping of the Property has been commenced by the Borrower or any related person. The Property consists of property which is land or is subject to the allowance for depreciation provided in Section 167 of the Code.

(g) 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 proceeds from the Loan to be applied in a manner contrary to the requirements of this Regulatory Agreement, nor will it take or omit to take any such action if the Borrower (or any Affiliated Party) knows that such action or omission may cause the proceeds from the sale of the Bonds to be applied in a manner contrary to the Financing Agreement, the Act, the Supplemental Act, the Charter or the Code.

(h) The Borrower has incurred or shall incur, prior to the date which is 36 months after the Closing Date, Qualified Rehabilitation Expenditures (whether paid from the Loan or other sources) with respect to the Property (and the equipment therefor) in an amount equal to or greater than 15% of the portion of the cost of acquiring each building on the Project Site (and related equipment), if any, financed with the Net Proceeds of the Bond. Qualified Rehabilitation Expenditures incurred by the seller of the Property to the Borrower under a sales contract between the Borrower and such seller shall qualify as Qualified Rehabilitation Expenditures of the Borrower for this purpose. If the Property consists of two or more buildings, this provision shall apply to the Property as a whole.

(i) The Borrower shall, within thirty days (30) from the Completion Date, but no later than thirty-six (36) months after the date hereof, evidence the Completion Date for the Property by providing a Completion Certificate to the Purchaser and the Issuer, signed by the Authorized Borrower Representative, stating the total cost of the construction, improvement and equipping of the Property with respect to the Project and identifying the total acquisition cost (which shall specify the costs attributable to land and the costs attributable to buildings) and the total Qualified Project Costs and Qualified Rehabilitation Expenditures and further stating that (A) construction and improvement of the Property has been completed substantially in accordance with the plans, specifications and work orders therefor, and all labor, services, materials and supplies used in construction and improvement have been paid for and (B) all other facilities necessary in connection with the Project have been acquired, constructed, rehabilitated and installed substantially in accordance with the work write-up and work orders therefor and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights of the Borrower against third parties for the payment of any amount not then due and payable which exist at the date of such certificate or which may subsequently exist.

(j) The foregoing certificate evidencing the Completion Date of the Property shall be delivered to the Purchaser no later than the date 36 months from the Closing Date unless the Borrower delivers to the Purchaser a certificate of the Issuer consenting to an extension of such date, accompanied by an opinion of Bond Counsel to the effect that such extension will not result in interest on the Bonds being included in gross income for federal income tax purposes. The Borrower agrees to spend additional moneys for payment of any costs of the Project sufficient to reduce the portion of Bond proceeds (A) spent on land by the Borrower relative to the Property to an amount that is less than 25% of the amount of Bond proceeds spent by the Borrower relative to the Property for all purposes and (B) spent on costs of the Project paid or incurred by or on account of the Borrower or any Related Person on or after the date 60 days prior to the Inducement Date or otherwise permitted

under Section 1.150-2 of the Regulations, and chargeable to the capital account of the Property (or so chargeable either with a proper election by the Borrower to deduct such amounts, within the meaning of Treasury Regulation Section 1.103-8(a)(1)) so that the amount of Bond proceeds expended on such costs of the Project are at least 97% of the amount of Bond proceeds spent for all purposes related to the Project, except that, upon receipt by the Borrower, the Purchaser and the Issuer of an approving opinion of Bond Counsel, the percentage of such amounts so used may be 95%.

(k) No Bond proceeds shall be expended to acquire any structures other than buildings within the meaning of Section 147(d) of the Code.

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

(a) The Property will be developed for the purpose of providing multifamily residential rental property, and the Borrower will have a fee simple interest in the Project Site and will manage and operate the Property as a project to provide multifamily residential rental property comprising a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities in accordance with Section 142(d) of the Code and Section 1.103-8(b) of the Regulations, the Act, the Supplemental Act and the Charter, and in accordance with such requirements as may be imposed thereby on the Property from time to time. For purposes of this Section 3(a), the term “functionally related and subordinate facilities” includes facilities for use by the tenants (for example, swimming pools, other recreational facilities and parking areas) and other facilities which are reasonably required for the Property, for example, heating and cooling equipment, trash disposal equipment and units for resident managers and maintenance personnel. Substantially all of the Property will contain such units and functionally related and subordinate facilities.

(b) All of the dwelling units in the Property will be similarly constructed units, and each Low Income Unit in the Property 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 and oven, a sink and a refrigerator.

(c) None of the dwelling units in the Property 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. Notwithstanding the foregoing, single-room occupancy units provided under Section 42(i)(3)(B)(iv) of the Code shall not be considered to be utilized on a transient basis.

(d) No part of the Property 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 use.

(e) All of the dwelling units will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Property, except (i) to the extent that dwelling units are required to be leased or rented to Low Income Tenants, and (ii) except as further provided in any regulatory agreement executed between the Borrower and a subordinate lender (including the Issuer) in connection with the Project and except to the extent the Borrower gives preference to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law.

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

(g) No dwelling unit in the Property shall be occupied by the Borrower; provided, however, that if the Property contains five or more dwelling units, this paragraph shall not be construed to prohibit occupancy of not more than one dwelling unit by one or more resident managers or maintenance personnel any of whom may be the Borrower.

(h) The Property shall be maintained in conformity with the habitability and fire codes of the City of Colorado Springs, Colorado.

(i) The Property shall be managed in a manner consistent with prudent property management standards and in compliance with all state and local laws, ordinances and regulations relating thereto.

(j) Should involuntary noncompliance with the provisions of Regulations Section 1.103-8(b) 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 Issuer from enforcing the requirements of the Regulations, or condemnation or similar event, the Borrower covenants that, within a “reasonable period” determined in accordance with the Regulations and subject to the provisions of the Financing Agreement, it will either prepay the Loan or apply any proceeds received as a result of any of the preceding events to reconstruct the Property to meet the requirements of Section 142(d) of the Code and the Regulations.

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

(a) The Property will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Property as a project to provide multifamily residential rental property comprising 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 the Act, the Supplemental Act and the Charter, and in accordance with such requirements as may be imposed thereby on the Property from time to time. Within 30 days after each of (i) the date on which 10% of the dwelling units in the Property are occupied and (ii) the date on which 50% of dwelling units in the Property are occupied, the Borrower shall execute and deliver to the Issuer and the Bondholder a certificate identifying such dates and the beginning date and earliest ending date of the Qualified Project Period.

(b) Commencing on the first day of the Qualified Project Period, Low Income Tenants shall occupy at least 40% of the completed and occupied units in the Property (excluding units occupied by property managers) before any additional units are occupied by persons who are not Low Income Tenants; and following the date upon which 40% of the completed units are occupied by Low Income Tenants, for the balance of the Qualified Project Period, no less than 40% of the total number of completed units of the Property shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this paragraph (b), 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, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined. In determining whether the requirements of this subsection (b) have been met, fractions of units shall be treated as entire units.

(c) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Property because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants; provided, however, that 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, to the extent necessary to meet the requirement that at least 40% of the occupied units be occupied by Low Income Tenants, 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 provided further that, until such next available unit is rented to a tenant who is not 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 40% requirement of paragraph (b) of this Section 4 (if applicable). If the Property consists of more than one building, this requirement shall apply on a building-by-building basis.

(d) The Borrower will obtain, complete and maintain Income Certifications from each Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the Property and, in the case of tenants residing in the Property as of the date of acquisition thereof (if applicable), dated immediately prior to the disbursement of Bond proceeds to fund acquisition of the Property and (ii) thereafter, annual Income Certifications dated as of the anniversary date of each initial Income Certification. The Borrower will obtain such additional information as may be required in the future by the State of Colorado, by the Issuer and 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 with the Issuer) shall be attached to the Certificate of Continuing Program Compliance which is to be filed with the Issuer no later than the fifteenth day of each February and August until the end of the Qualified Project Period. The Borrower shall make a good-faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by obtaining the acceptable forms of verification enumerated in Chapter 3 of the most current, amended edition of HUD Handbook 4350.3, or such instruction by HUD that may supersede this handbook, and any additional documentation that the Issuer shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification satisfactory to the Issuer.

(e) The Borrower will use its best efforts to maintain complete and accurate records pertaining to the Low Income Units and will with reasonable notice permit any duly authorized representative of the Issuer, the Bondholder, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project during regular business hours, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower will prepare and submit to the Issuer and the Bondholder, no later than February 15 of each calendar year until the end of the Qualified Project Period, a Certificate of Continuing Program Compliance executed by the Borrower stating (i) the percentage of the dwelling units of the Property which were occupied or deemed occupied, pursuant to paragraph (b) of this Section 4, by Low Income Tenants during such period; (ii) that either (A) no unremedied default has occurred under this Regulatory Agreement, or (B) a default has occurred, in which event the certificate shall describe the nature of the default in detail and set forth the measures being taken by the Borrower to remedy such default; and (iii) that, to the knowledge of the Borrower, no Determination of Taxability has occurred, or if a Determination of Taxability has occurred, setting forth all material facts relating thereto.

(g) On or before each February 15 during the Qualified Project Period, the Borrower will submit to the Issuer a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Property continues to meet the requirements of Section 142(d) of the Code. On or before each March 31 during the Qualified Project Period, the Borrower will submit such completed form to the Secretary of the Treasury, regardless of whether or not the Issuer has responded to such draft.

(h) Subject to the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Property, each lease or rental agreement pertaining to a Low Income Unit 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 Low Income Unit and that any material misstatement in such certification (whether or not intentional) will be cause for immediate

termination of such lease or rental agreement. Each such lease or rental agreement shall also provide that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof and to recertification if the number of occupants in the units changes for any reason (other than the birth of a child to an occupant of such unit).

Section 5. Tax-exempt Status of the Bonds. The Borrower and the Issuer make the following representations, warranties and agreements for the benefit of the holders of the Bonds from time to time:

(a) The Borrower and the Issuer will not knowingly take or permit actions within their control, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-exempt nature of the interest on the Bonds, and if either 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, provided that the Borrower shall not have violated these covenants if the interest on any of the Bonds becomes taxable to a person solely because such person is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code.

(b) The Borrower and the Issuer will take such action or actions as may be necessary, in the written opinion of Bond Counsel filed with the Issuer and the Bondholder, with a copy to the Borrower, 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 or record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Issuer and the Bondholder, with a copy to the Borrower, in order to insure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Property, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of El Paso County, Colorado.

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

(e) Subject to Section 14 hereof, the Borrower hereby covenants to include the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Property prior to the expiration of the Qualified Project Period 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 transferee to abide by all requirements and restrictions of this Regulatory Agreement; provided, however, that so long as any former Borrower has no remaining interest in the Property, such former Borrower shall have no obligation to monitor such transferee's compliance with such restrictions, and such former Borrower shall incur liability if such transferee fails to comply with such restrictions only in proportion to its then remaining interest.

(f) The Borrower and any related person (as defined in Section 147(a)(2) of the Code) thereto shall not acquire any Bonds in an amount related to the amount of the Loan.

Section 6. Report of Bonds Outstanding. Upon the request of Issuer, the Bondholder shall report to the Issuer in writing semiannually, within 10 Business Days of each [_____ 1 and _____ 1], the amount of Bonds outstanding as of such [_____ 1 and _____ 1], as appropriate.

Section 7. Additional Requirements of the Issuer. In addition to, and not in derogation of, the requirements set forth in the preceding and following sections of this Regulatory Agreement, each of which is hereby incorporated in this Section as a specific requirement of the Issuer, whether or not required by Colorado or federal law, the Borrower represents, warrants, covenants and agrees as follows:

(a) The Borrower shall promptly provide to the Issuer such information with respect to the Project or the Bonds as the Issuer shall from time to time reasonably request. The Borrower shall provide written notice to the Issuer of receipt of a certificate of occupancy or other official authorization to occupy the Property immediately upon receipt.

(b) The Low Income Units shall be of comparable quality to all other units in the Property, shall be dispersed throughout the Property, and shall offer a range of size and number of bedrooms comparable to those units which are available to other tenants at the Property; and Low Income Tenants shall have access to and enjoyment of all common areas and facilities of the Property on the same basis as tenants of other units.

(c) The Borrower agrees that it will not discriminate in the rental of units or in its employment practices against any employee or applicant for employment because of the applicant's race, creed, religion, national origin or ancestry, sex, age, sexual orientation or preference, marital status, color, physical disability, familial status and disability, mental condition or medical condition, including pregnancy, childbirth or related condition. All material contracts entered into by the Borrower which relate to the Project shall contain a like provision.

(d) The lease to be utilized by the Borrower in renting any residential units in the Property to Low Income Tenants shall provide for termination of the lease and consent by such person to immediate eviction, subject to applicable provisions of Colorado law, for any tenant who fails to qualify as a Low Income Tenant and who has made a material misrepresentation on the Income Certification as to such tenant's qualification as a Low Income Tenant. All such leases shall contain clauses, among others, wherein each individual lessee (i) certifies the accuracy of the statements made in the Income Certification and (ii) agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of his tenancy; that he will comply promptly with all requests for information with respect thereto from the Borrower or the Issuer; and that his failure to provide accurate information in the Income Certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his tenancy and shall be a default thereunder.

(e) All Income Certifications will be maintained at the Property or, with the prior written consent of the Issuer, at the principal place of business of the Borrower or the property manager of the Property, so long as this Regulatory Agreement is in effect and for five years thereafter with respect to each Low Income Tenant who occupied a residential unit in the Property during the Qualified Project Period.

(f) The Borrower will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the Housing Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants.

(g) The Borrower shall submit to the Issuer (i) at the times specified in Sections 4(d) and (e) herein, a Certificate of Continuing Program Compliance, which shall include the information called for therein, including occupancy records for all units in the Property, and (ii) within 15 days after receipt of a written request, any other information or completed forms requested by the Issuer, in each case, in order to comply with reporting requirements of the Internal Revenue Service or the State of Colorado, including, without limitation, information necessary for the Issuer to file any periodic report, or any other information concerning the Property as the Issuer may reasonably request.

(h) The Issuer may, at its option and at its expense, at any time appoint an administrator to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. Following any such appointment, the Borrower shall comply with any request by the Issuer to deliver to such administrator, in addition to or instead of the Issuer, any reports, notices or other documents required to be delivered pursuant hereto, and upon reasonable notice to the Borrower to make the Project and the books and records with respect thereto available for inspection during regular business hours by such administrator as an agent of the Issuer.

(i) If upon the annual certification or recertification required in Section 4(d) a tenant's Adjusted Income exceeds 140% of the then applicable income limit for a Low Income Tenant of the same family size, all rental limits herein previously applicable to the unit occupied for such tenant shall continue to apply until the next available unit is rented to a tenant who is a Low Income Tenant.

(j) The Borrower shall pay the Issuer its then-current fees in connection with any consent, approval, transfer, amendment or waiver requested of the Issuer, together with any expenses incurred by the Issuer in connection therewith.

(k) The Borrower shall promptly provide the Issuer such information with respect to the Project or the Bonds as the Issuer shall from time to time request.

(l) The Borrower shall include the Issuer as an additional insured on all liability insurance policies relating to the Borrower or the Project.

Any of the foregoing requirements of the Issuer may be expressly waived by the Issuer in writing in the Issuer's sole discretion, but (i) no waiver by the Issuer of any requirement of this

Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement, including particularly but without limitation the provisions of Sections 2 through 6 hereof, except to the extent the Issuer has received an opinion of Bond Counsel that any such provision is not required by the Supplemental Act or the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Bonds for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Issuer and the Borrower receive a written opinion of Bond Counsel to the effect that compliance with any such requirement would cause interest on the Bonds to become includable in gross income for federal income tax purposes, if such opinion is accompanied by a copy of a ruling from the Internal Revenue Service to the same effect, or to the effect that compliance with such requirement would be in conflict with the Supplemental Act or the Act.

Section 8. Modification of Covenants. The Borrower, the Purchaser and the Issuer hereby agree as follows:

(a) To the extent any amendments to the Act, the Supplemental Act, the Charter, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the Issuer, the Bondholder and the Borrower, impose requirements upon the ownership or operation of the Property more restrictive than those imposed by this Regulatory Agreement in order to maintain the Tax-exempt status of interest on the Bonds, this Regulatory Agreement shall be deemed to be automatically amended, without the consent or approval of any other person, 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 Supplemental Act, the Charter, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the Issuer, the Bondholder and the Borrower, impose requirements upon the ownership or operation of the Property less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Bondholder and the Borrower and approved by the written opinion of Bond Counsel to the effect that such amendment is permitted by the Act and the Supplemental Act and will not affect the Tax-exempt status of interest on the Bonds. The Issuer shall be under no obligation to agree to any such amendment, it being understood that each of the requirements of this Regulatory Agreement is a specific requirement of the Issuer, whether or not required by Colorado or federal law.

(c) The Borrower, the Issuer and, if applicable, the Bondholder shall execute, deliver and, if applicable, file or record any and all documents and instruments necessary to effectuate the intent of this Section 8, and the Issuer hereby appoints the Bondholder as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file or record on behalf of the Issuer, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if the Issuer defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Issuer, the Bondholder shall take no action under this subsection (c) without first notifying the Issuer and without first providing the Issuer an opportunity to comply with

the requirements of this Section 8. Nothing in this Section 8(c) shall be construed to allow the Bondholder to execute an amendment to this Regulatory Agreement on behalf of the Issuer.

Section 9. Indemnification. The Borrower shall indemnify and hold harmless the Issuer and the Bondholder and the respective officers, members, supervisors, directors, officials and employees, counsel, attorneys and agents, past present and future of each of them (collectively, 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) directly or indirectly resulting from or arising out of or related to (a) the design, construction, installation, operation, use, occupancy, maintenance, financing or ownership of the Property (including compliance with laws, ordinances and rules and regulations of public authorities relating thereto), (b) any written statements or representations with respect to the Borrower, the Project or the Bonds made or given to the Issuer or the Bondholder, or any underwriters or purchasers of any of the Bonds, or any tenants or applicants for tenancy in the Property or any other person, by the Borrower, or any Authorized Officer of the Borrower, including, but not limited to, statements or representations of facts, financial information or limited liability company affairs, (c) the Bonds or the Tax-exempt status of interest on the Bonds, or any actual or alleged violation of any Hazardous Materials Law or with respect to the presence of Hazardous Materials on or under the Property or in any of the improvements or on or under any property of the Borrower that is adjacent to the Property; provided, however, that this provision shall not require the Borrower to indemnify the Indemnified Parties from any claims, costs, fees, expenses or liabilities arising from the fraud or willful misconduct or, in the case of the Bondholder and the Indemnified Parties, the gross negligence of the Indemnified Parties. The Borrower also shall pay and discharge and shall indemnify and hold harmless the Issuer and the Bondholder from (i) any lien or charge upon payments by the Borrower to the Issuer and the Bondholder hereunder or under the Bond Documents 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 Property. 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 Issuer or the Bondholder shall give prompt notice to the Borrower and the Borrower shall, as provided in the following paragraph, have the right to assume the defense thereof, with full power to litigate, compromise or settle the same in its sole discretion, provided that the Issuer and the Bondholder shall have the right to review and approve or disapprove any such compromise or settlement. In addition thereto, the Borrower will pay upon demand all of the reasonable fees and expenses paid or incurred by the Bondholder and/or the Issuer in enforcing the provisions hereof against the Borrower. The Borrower shall also pay the Issuer its standard fees and reimburse the Issuer for its expenses in connection with any consent, approval, amendment, waiver or other action taken at the request or for the benefit of the Borrower in connection with this Regulatory Agreement, the Bonds or any other document or agreement relating thereto. In the event of any audit or inquiry regarding the Bonds or the Project from any governmental entity, the Borrower shall, at the election of the Issuer, be responsible for responding to and resolving such audit or inquiry at the expense of the Borrower.

Promptly after receipt by any party entitled to indemnification under this Section 9 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 indemnifying party under this Section 9, notify

the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any Indemnified Party otherwise than under this Section 9 or from any liability under this Section 9 unless the failure to provide notice prejudices the defense of such suit, action or proceeding. In case any such action is brought against any Indemnified Party, and it notifies the indemnifying party, the indemnifying party 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; provided, however, if the defendants in any such action include both the Indemnified Party and the indemnifying party 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 indemnifying party, 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 indemnifying party to such Indemnified Party of its election so to assume the defense of such action and approval by the Indemnified Party of counsel, the indemnifying party shall not be liable to such Indemnified Party under this Section 9 for any attorneys' fees or expenses subsequently incurred by such Indemnified Party for the engagement of separate counsel 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 immediately preceding sentence, or (ii) the indemnifying party shall not have employed counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party or shall not have employed such counsel within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized the employment of separate counsel to represent the Indemnified Party at the expense of the indemnifying party.

Section 10. Consideration. The Issuer has issued the Bonds to provide funds to finance the Project, all for the purpose, among others, of inducing the Borrower to acquire and complete construction of the Property. 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 Property can be put on the terms and conditions set forth herein.

Section 11. Reliance. In performing their duties and obligations hereunder, the Issuer and the Bondholder may rely upon statements and certificates of the Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Issuer and the Bondholder 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 Issuer or the Bondholder hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Bondholder may, but shall not be required to, conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Bondholder by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

Section 12. Property in the City of Colorado Springs, Colorado. The Borrower hereby represents and warrants that the Property will be located entirely within the City of Colorado Springs, Colorado, as of the Completion Date.

Section 13. [Sale or Transfer of the Property; Equity Interests. The Borrower hereby covenants and agrees not to voluntarily (which term shall not be interpreted to include a foreclosure of the Loan, the granting by the Borrower of a deed in lieu of foreclosure or any other comparable conversion of the Loan or transfer after foreclosure, deed in lieu of foreclosure or other comparable conversion of the Loan) sell, transfer or otherwise dispose of the Property, or any portion thereof (other than for individual tenant use as contemplated hereunder) without consent of Issuer and any lender, or convey equity interests in the Borrower aggregating more than 50% of the equity interest in the Borrower (other than removal and replacement of the general partner of the Borrower in accordance with the terms of the Partnership Agreement of the Borrower [and transfers of non-managing interests in the Borrower]), in each case to the extent such Transfer would constitute an Event of Default under the Loan Documents, without obtaining the prior written consent of the Issuer or any lender, which consent shall not be unreasonably withheld by the Issuer and shall be given by the Issuer if (a) the Borrower is not in default hereunder or under the Financing Agreement; (b) the purchaser or assignee is not in default under any obligations it may have to the Issuer and is not the subject of any legal or enforcement actions by the Issuer, and the purchaser or assignee certifies that the continued operation of the Property will comply with the provisions of this Regulatory Agreement; (c) evidence reasonably satisfactory to the Issuer is presented to establish that the purchaser or assignee is willing to comply and capable of complying with the terms and conditions of this Regulatory Agreement; (d) either (i) evidence reasonably satisfactory to the Issuer is presented to establish that the purchaser or assignee has at least three years' experience in the ownership, operation and management of rental housing projects, without any record of material violations of discrimination restrictions or other state or federal laws or regulations applicable to such projects or (ii) the purchaser or assignee agrees to retain a property management firm which the Issuer reasonably determines has the experience and record described in subclause (i) above, or (iii) the Issuer determines that it has no reason to believe that the purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee and relating to the Project; (e) the Issuer and the Bondholder shall have received (i) with respect to any transfer of the Property, reasonable evidence satisfactory to the Issuer and the Bondholder that the Borrower's purchaser or transferee has assumed in writing and in full the Borrower's duties and obligations under this Regulatory Agreement and the Financing Agreement, (ii) with respect to any transfer of the Property to a new Borrower, an opinion of counsel to the transferee that the transferee has duly assumed the obligations of the Borrower under this Regulatory Agreement and that such obligations and this Regulatory Agreement are binding on the transferee, (iii) unless waived by the Issuer, an opinion of Bond Counsel that such transfer will not adversely affect the Tax-exempt nature of the interest on the Bonds, (iv) from the Borrower, a Certificate of Continuing Program Compliance (and a "bring-down" certificate, if necessary) current as of the date of transfer and (v) evidence satisfactory to the Issuer that the purchaser or assignee does not have pending against it building or fire code violations as identified by Issuer, the State of Colorado or federal regulatory agencies; (f) the Borrower or transferee pays all costs of the transfer of title, including, but not limited to, the cost of meeting the conditions specified in this Section 13; and (g) such other conditions are met as the Issuer may reasonably impose to assure compliance by the Project with the requirements of this Regulatory Agreement. It is hereby expressly stipulated and

agreed that, except for any such sale, transfer or disposition agreed to by the Issuer in a separate writing, any sale, transfer or other disposition of the Property in violation of this Section 13 shall be null, void and without effect, shall cause a reversion of title to the Borrower, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Upon any sale or other transfer which complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder, but only to the extent such obligations have been assumed by the transferee of the Property, without the necessity of further documentation. Any transfer of the Property to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 13.

Notwithstanding the foregoing, the respective interests of Borrower's general partners shall, with prior written notice to the Issuer, be transferable under this Regulatory Agreement in connection with estate planning of a general partner of the Borrower or as a result of the death of a general partner of the Borrower; provided that such transfers will not be permitted without an approving opinion of Bond Counsel if, in the previous six months, any portion of the Bonds have been refunded. The Borrower agrees that no Bonds may be refunded within the six-month period after any transfer of a general partner's interest in the Borrower, unless an approving opinion of Bond Counsel is obtained. Furthermore, the Issuer hereby approves, without further compliance with the requirements of this Section 13 (i) a sale, transfer or change in the general partner or a manager of the general partner of the Borrower (the "Manager"), including the addition, removal or withdrawal of the Manager or a partner of the Borrower in accordance with the Partnership Agreement; (ii) the sale, transfer, conveyance or pledge of Equity Investor interests in Borrower; (iii) the sale, transfer, conveyance or pledge of any membership interest or partnership interest in the Equity Investor; (iv) the pledge to the Equity Investor of the General Partner's interest in the Partnership Agreement, as security for the performance of all of the General Partner's obligations under the Partnership Agreement; (v) a foreclosure or a deed in lieu of foreclosure or the subsequent transfer of the Facility following foreclosure or a deed in lieu of foreclosure; (vi) any transfer resulting from exercise of any of the Bank's rights or remedies under the Security or any Loan Document; or (vii) the events specifically excluded from Issuer consent described in the procedures and policies of the Issuer. In addition, the execution and delivery of a right of the first refusal agreement or purchase option agreement pertaining to the transfer of the Project following expiration of the tax credit compliance period (regardless of whether such agreement is contained in the Borrower's Partnership Agreement) and any proper exercise of transfer rights granted by such agreement shall not require compliance with the provisions of this Section 13, or constitute a default or event of default hereunder. Notwithstanding anything to the contrary herein and for the avoidance of doubt, the Borrower shall not transfer the Property without complying with the terms of any mortgages encumbering the Property.]

Section 14. Term. This Regulatory Agreement and all and each of the provisions hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section 14, shall terminate in its entirety at the end of the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bonds, discharge of the Loan and termination of the Financing Agreement.

Notwithstanding the foregoing, the provisions of Section 9 hereof shall, in the case of the Bondholder, survive the term of this Regulatory Agreement or the permitted transfer of the Bonds,

but only as to claims arising from events occurring during the term of this Regulatory Agreement, and shall, in the case of the Issuer, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

The terms of this Regulatory Agreement to the contrary notwithstanding, this Regulatory Agreement and all the requirements set forth herein (except Section 9 as aforesaid) shall terminate and be of no further force and effect in the event of (a) involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date which prevents the Issuer or the Bondholder from enforcing the provisions hereof, or (b) condemnation, foreclosure, or deed in lieu thereof, or a similar event, but only if, within a reasonable period thereafter, either the portion of the Bonds attributable to the Property is 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 6 of this Regulatory Agreement and provided that, in either case, an opinion of Bond Counsel (unless waived by the Issuer) is delivered to the Bondholder to the effect that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected thereby. Bondholder hereby waives, and nothing in the foregoing is meant to be interpreted to require, an opinion of Bond Counsel be issued in the event the Bondholder forecloses or takes a deed in lieu thereof and in such event this Regulatory Agreement shall automatically terminate. The provisions of the preceding two sentences 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 147(a)(2) of the Code) obtains an ownership interest in the Property for tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any related person as described above will obtain an ownership interest in the Property for tax purposes.

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

Section 15. Covenants to Run With the Land. The Borrower hereby subjects its interest in the Property to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Issuer 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 Property; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property 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 security instrument, deed of trust or like encumbrance made in good faith and for value encumbering the Property or any portion thereof.

Section 16. Burden and Benefit. The Issuer and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land and that the Borrower's legal interest in the Property may be rendered less valuable thereby. The Issuer and the Borrower 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 Property 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. Notwithstanding the foregoing or any other provision of this Regulatory Agreement, no person, other than the parties hereto, shall have any rights of enforcement of this Regulatory Agreement.

Section 17. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the Project Site in order to establish and carry out a common plan for the use, development and improvement of the Project Site.

Section 18. Default; Enforcement. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the Issuer to the Borrower, then the Issuer shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) in the opinion of Bond Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-exempt status of interest on the Bonds. The Bondholder hereby consents to any correction of the default by the Issuer on behalf of the Borrower.

Following the declaration of an Event of Default hereunder, the Issuer may, at its option, take any one or more of the following steps:

- (a) 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 Bondholder hereunder;
- (b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Project; and
- (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 Borrower hereunder.

After the Bonds shall have paid in full, the Issuer may act on its own behalf to declare an "Event of Default" to have occurred and to take any one or more of the steps specified hereinabove to the same extent and with the same effect as if taken by the Bondholder.

The obligations of the Borrower hereunder are not secured by a lien on the Property and the Loan shall not be accelerated as a result of any default hereunder. The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Issuer 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 default by the Borrower hereunder.

If practicable, any party, including the Manager and Equity Investor, may, but is not obligated to, cure an action or inaction of another party that, if uncured within the applicable time period, would become an Event of Default hereunder and such cure shall be accepted or rejected on the same basis as if made or tendered by the party.

The occurrence of a Determination of Taxability shall not, in and of itself, constitute a default hereunder.

Section 19. [Reserved].

Section 20. 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 El Paso County, Colorado, and in such other places as the Issuer or the Bondholder may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement shall be recorded in the grantor-grantee index to the name of the Borrower as grantor and the Issuer as Grantee.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of Colorado.

Section 22. Amendments. 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 El Paso County, Colorado, and only upon receipt by the Issuer 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, the Supplemental Act, or the Charter and with the written consent of the Bondholder.

The Issuer, the Bondholder and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Bond Counsel (subject to the approval of the Issuer), in order that interest on the Bonds remain Tax-exempt. The party or parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Bond Counsel and the Issuer and a request that such Bond Counsel render to the Issuer an opinion as to the effect of such proposed amendment upon the Tax-exempt status of interest on the Bonds.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

to the Issuer: City of Colorado Springs, Colorado
30 South Nevada Avenue
Suite 202
Colorado Springs, Colorado 80903
Attention: Chief Financial Officer

with copies to: City Attorney
30 South Nevada Avenue
Suite 501
Colorado Springs, Colorado 80903

Community Development
30 South Nevada Avenue
Suite 701
Colorado Springs, Colorado 80903
Attention: Steve Posey,
Community Development Division Manager
Telephone: (719) 385-6880
Email: Steve.Posey@coloradosprings.gov

Kutak Rock LLP
1801 California Street, Suite 3000
Denver, CO 80202
Attention: Frederic H. Marienthal, Esq.
Email: Frederic.Marienthal@kutakrock.com

to Borrower: Paloma Garden VOA Senior Housing LLLP
c/o Volunteers of America National Services
1660 Duke Street
Alexandria, VA 22314
Attention: General Counsel

with a copy to: Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 80202
Attention: J. William Callison, Esq.
Email: wcallison@hollandhart.com

with a copy to: Wincopin Circle LLLP
c/o Enterprise Neighborhood Impact Fund III, LLC
70 Corporate Center
Suite 700
Columbia, MD 21044
Attention: General Counsel

with a copy to: Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
Attention: Dayna Hutchins, Esq.
Email: dayna.hutchins@hklaw.com

to Purchaser: FirstBank
4350 Wadsworth Blvd.
Wheat Ridge, CO 80033
Attention: Brandon Friedman, Senior Vice President
Telephone: (303) 742-3014
Email: Brandon.Friedman@efirstbank.com

with a copy to: Lewis Roca Rothgerber Christie LLP
1200 17th Street, Suite 3000
Denver, CO 80202
Attention: Lindsay McKae, Esq.
Telephone: (303) 628-9511
Email: lmckae@lewisroca.com

Notice shall be deemed given three Business Days after the date of mailing.

A duplicate copy of each notice, certificate or other communication given hereunder by any party hereto to another party hereto shall also be given to all of the parties specified above. Failure to provide any such duplicate notice pursuant to the foregoing sentence or any defect in any such duplicate notice so provided shall not constitute a default hereunder. All other documents required to be submitted to any of the foregoing parties shall also be submitted to such party at its address set forth above. 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.

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

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

Section 26. Affirmative Action. The Borrower shall not discriminate in their employment practices against any employee or applicant for employment because of the applicant's race, creed, religion, national origin or ancestry, sex, age, sexual orientation or preference, marital status, color, physical disability, familial status and disability, mental condition or medical condition, including pregnancy, childbirth or related condition. All subcontracts awarded under this Regulatory Agreement shall contain a like provision.

Section 27. Financial Obligations Personal to Borrower. The Issuer acknowledges that the Property shall be encumbered by the Loan Documents. Notwithstanding any provisions of this Regulatory Agreement to the contrary, all 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, including indemnification obligations, shall not be a lien on the Property and no Person shall have the right to enforce such obligations other than directly against the Borrower as provided in Section 18 of this Regulatory Agreement, except that the Issuer shall have the right at all times to enforce the rights contained in the third paragraph of Section 18 hereof. No subsequent Borrower of the Project shall be liable or obligated for the breach or default of any obligations of the Borrower under this Regulatory Agreement on the part of any prior Borrower, including, but not limited to, any payment or indemnification obligation. Such obligations are personal to the Person who was the Borrower 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 Borrower. Each Borrower shall comply with and be fully liable for all obligations of an "owner" hereunder during its period of ownership.

Section 28. Americans With Disabilities Act. The Borrower hereby certifies that it will comply with the Americans with Disabilities Act 42 U.S.C. 12101 et seq., and its implementing regulations and the American Disabilities Act Amendments Act (ADAAA) Pub. L.110-325 and all subsequent amendments (the "ADA"). The Borrower will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the ADA. The Borrower will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Borrower, relating to this Regulatory Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

[Signatures on the following pages]

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

[SEAL]

**CITY OF COLORADO SPRINGS,
COLORADO**

By _____
John W. Suthers
Mayor

Attest:

By _____
Sarah B. Johnson
City Clerk

FIRSTBANK, a Colorado state banking
corporation, as Purchaser

By _____
Brandon Friedman
Senior Vice President

[Purchaser Signature Page to Tax Regulatory Agreement]

**PALOMA GARDEN VOA SENIOR HOUSING
LLLP**, a Colorado limited liability limited
partnership

By: Paloma Garden SH GP LLC, a Colorado limited
liability company, its general partner

By: Volunteers of America National Services, a
Minnesota nonprofit corporation, its manager

By: _____
Name: Kimberly Black King
Title: Asst. Secretary/Asst. Treasurer

[Borrower Signature Page to Tax Regulatory Agreement]

NOTARY ACKNOWLEDGMENT STATEMENT

State of Colorado)

County of El Paso)

On _____, 20__, the foregoing instrument was acknowledged before me by John W. Suthers,
Mayor of the City of Colorado Springs, Colorado.

WITNESS my hand and official seal.

[SEAL]

Notary Public

My Commission Expires:

NOTARY ACKNOWLEDGMENT STATEMENT

State of Colorado)

County of El Paso)

On _____, 20__, the foregoing instrument was acknowledged before me by Sarah B. Johnson,
City Clerk of the City of Colorado Springs, Colorado.

WITNESS my hand and official seal.

[SEAL]

Notary Public

My Commission Expires:

NOTARY ACKNOWLEDGMENT STATEMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

On _____, 20__, the foregoing instrument was acknowledged before me by Brandon Friedman,
Senior Vice President of FirstBank, a Colorado state banking corporation.

WITNESS my hand and official seal.

[SEAL]

Notary Public

My Commission Expires:

NOTARY ACKNOWLEDGMENT STATEMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

On _____, 20__, the foregoing instrument was acknowledged before me by Kimberly Black King, Asst. Secretary/Asst. Treasurer of Volunteers of America National Services, a Minnesota nonprofit corporation, manager of Paloma Garden SH GP LLC, a Colorado limited liability company, the general partner of Paloma Garden VOA Senior Housing LLLP, a Colorado limited liability limited partnership.

WITNESS my hand and official seal.

Signature _____ [SEAL]

I. EXHIBIT A

DESCRIPTION OF PROJECT SITE

All that certain fee simple interest in the property situated in the El Paso County, State of Colorado, described as follows:

[TO BE PROVIDED]

II. EXHIBIT B

FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

FOR THE [MONTH/QUARTER] ENDING

City of Colorado Springs, Colorado
Multifamily Housing Revenue Bonds
(Paloma Garden Project)
Series 2022

The undersigned, being the Authorized Borrower Representative of Paloma Garden VOA Senior Housing LLLP, a Colorado limited liability limited partnership (the “Borrower”), has read and is thoroughly familiar with the provisions of the various loan documents associated with the Borrower’s participation in the multifamily housing program of the City of Colorado Springs (the “Issuer”), a municipal corporation duly organized and existing as a home-rule city under Article XX of the Constitution of the State of Colorado and the home rule charter of the City of Colorado Springs, Colorado, including, without limitation, the Tax Regulatory Agreement, dated [____, 20__], by and among the Borrower, the Issuer, and FirstBank, as purchaser of City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Paloma Garden Project) Series 2022 relative to the Property located at 920 South Chelton Road and 3140 Mallard Drive, Colorado Springs, Colorado 80910. All capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Tax Regulatory Agreement.

As of the date of this Certificate, the following percentages of completed residential units in the Property (i) are occupied by Low Income Tenants (as such term is defined in the Regulatory Agreement) or (ii) 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:	_____ % Unit Nos. _____ and size
Held vacant for occupancy continuously since last occupied by Low Income Tenant:	_____ % Unit Nos. _____ and size
Vacant Units:	_____ %
Low Income Tenants who commenced Occupancy of units during the Preceding [month/quarter]:	Unit Nos. ____

Attached is a separate sheet (the “Occupancy Summary”) listing, among other items, the following information for each unit in the Property: the number of each unit, the occupants of each unit and the size, in square feet, of each unit. It also indicates which units are occupied by Low Income

Tenants and which units became Low Income Units during the preceding [month/quarter]. The information contained thereon is true and accurate.

The undersigned hereby certifies that (1) a review of the activities of the Borrower during such [month/quarter] and of the Borrower's performance under the Financing Agreement has been made under the supervision of the undersigned; (2) to the best of the knowledge of the undersigned, based on the review described in clause (1) hereof, the Borrower is not in default under any of the terms and provisions of the above documents [OR DESCRIBE THE NATURE OF ANY DEFAULT IN DETAIL AND SET FORTH THE MEASURES BEING TAKEN TO REMEDY SUCH DEFAULT]; and (3) to the knowledge of the Borrower, no Determination of Taxability (as such term is defined in the Regulatory Agreement) has occurred [OR, IF A DETERMINATION OF TAXABILITY HAS OCCURRED, SET FORTH ALL MATERIAL FACTS RELATING THERETO].

PALOMA GARDEN VOA SENIOR HOUSING LLLP,
a Colorado limited liability limited partnership

By: Paloma Garden SH GP LLC, its general partner

By _____
[]

III. EXHIBIT C

FORM OF INCOME CERTIFICATION

NOTE TO APARTMENT OWNER: This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development (“HUD”) Regulations (24 C.F.R. Part 5 Subpart F). You should make certain that this form is at all times up to date with the HUD Regulations.

Re: Paloma Garden, Colorado Springs, Colorado.

The undersigned hereby (certify) (certifies) that:

1. This Certification of Tenant Eligibility is being delivered in connection with the undersigned’s application for occupancy of Apartment # _____ in Paloma Garden located at 920 South Chelton Road and 3140 Mallard Drive, Colorado Springs, Colorado.

2. List all the occupants of the apartment, the relationship (if any) of the various occupants and their ages and indicate whether they are students (for this purpose, a student is any individual who has been, or will be, a full-time student at an educational institution during five months (whether consecutive or not) of the year in which this application is submitted, other than a correspondence school, with regular facilities and students).

Occupant	Relationship	Age	Student (Yes or No)	Social Security Number
(a)				
(b)				
(c)				
(d)				
(e)				
(f)				

3. If all of the occupants are students, answer the following questions for each occupant:

(a) Is any student listed in paragraph 2 above married and does he or she file a joint return for federal income tax purposes? List any such students.

Yes _____ Name(s) _____ No _____ Not Applicable _____

(b) Is any student listed in paragraph 2 above (i) a single parent living with his/her children, (ii) not a dependent of another individual and (iii) a person whose children are dependents of an individual other than their parents? List any such students.

Yes _____ Name(s) _____ No _____ Not Applicable _____

(c) Is any student listed in paragraph 2 above a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families)? List any such students.

Yes _____ Name(s) _____ No _____ Not Applicable _____

(d) Is any student listed in paragraph 2 above a student enrolled in a job-training program receiving assistance under the Job Training Partnership Act or under other similar federal, State or local laws? List any such students.

Yes _____ Name(s) _____ No _____ Not Applicable _____

(e) Is any student listed in paragraph 2 a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act)? List any such students.

Yes _____ Name(s) _____ No _____ Not Applicable _____

4. The total anticipated income for each person listed in paragraph 2 above during the 12-month period commencing with the date occupancy will begin including:

full amount, before any payroll deductions, of wages, salaries, overtime, commissions, fees, tips, and bonuses; net 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 of capital indebtedness or any allowance for depreciation of capital assets); interest and dividends (including income from assets excluded below); the full amount of periodic payments from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic payments including any lump sum payment for the delayed start of a periodic payment; payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay; all public assistance income; periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; all regular and special pay and allowances of members of the Armed Forces (whether or not living in the dwelling) who are the head of the family or spouse; and any earned income tax credit to the extent that it exceeds income tax liability;

but excluding:

income from employment of children (including foster children) under the age of 18 years; payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone); 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; amounts which are specifically for reimbursement of medical expenses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; amounts received under training programs funded by HUD; amounts received under Plan to Attain Self-Sufficiency; amounts for out-of-pocket expenditures incurred in connection with other public assistance programs; resident service stipend (not in excess of \$200 per month); amounts from state or local employment training programs; temporary, nonrecurring or sporadic income (including gifts); reparation payments paid by a foreign government to persons who were persecuted during the Nazi era; earnings in excess of \$480 for each full-time student 18 years old or older (excluding head of family and spouse); adoption assistance payments in excess of \$480 per adopted child; deferred periodic payments of supplemental social security income and benefits received in a lump sum; refunds or rebates of property taxes paid on the unit; payments from state agency to allow developmentally disabled family member to stay home; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973; is as follows:

Occupant	Anticipated Annual Income	Source of Income or Employer
(a)	\$	
(b)	\$	
(c)	\$	
(d)	\$	
(e)	\$	
(f)	\$	
TOTAL	\$	

5. (a) Do the persons whose income or contributions are included in Item 4 above have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles and interest in Indian trust land)?

_____ Yes _____ No

(b) Have the persons whose income or contributions are included in Item 4 above disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value?

_____ Yes _____ No

(c) If the answer to (a) or (b) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000?

_____ Yes _____ No

(d) If the answer to (c) above is yes,

(i) insert the total value of all such assets owned or disposed of \$_____; and

(ii) state:

(A) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy in the unit that you propose to rent:

\$_____

(B) the amount of such income, if any, that was included in Item 4 above:

\$_____

6. Neither myself nor any other occupant of the unit I/we propose to rent is the owner of the rental housing project in which the unit is located (hereinafter, the "Borrower"), has any family relationship to the Borrower or owns directly or indirectly any interest in the Borrower. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member, ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member and ownership, direct or indirect, by a partner of the individual.

7. This Income Certification is made with the knowledge that it will be relied upon by the Borrower to determine maximum income for eligibility to occupy the unit, and I/we declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable and that the statement of total anticipated income contained in paragraph 4 is reasonable and based upon such investigation as the undersigned deemed necessary.

8. I/we will assist the Borrower in obtaining any information or documents required to verify the statements made therein, including either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding calendar year.

9. I/we acknowledge that I/we have been advised that the making of any misrepresentation or misstatement (whether or not intentional) in this Income Certification will constitute a material breach of my/our agreement with the Borrower to lease the unit and will entitle the Borrower to prevent my/our occupancy of the unit and will be cause for immediate termination of such lease.

10. The undersigned hereby acknowledge and agree that on or before February 1 (or upon Lease renewal) of each year the undersigned and any other current residents of such apartment will complete and deliver a new Income Certification, in the form then in use, to the Borrower and that the undersigned's rent is subject to increase 30 days after written notice is given to the undersigned stating that the undersigned no longer qualifies as a Lower Income Tenant under the Tax Regulatory Agreement.

11. RESIDENT(S) STATEMENT: I/We certify that the statements are true and complete to the best of my/our knowledge and belief and are given under penalty of perjury. In the event this Income Certification is executed more than five days prior to the date I/we intend to occupy the unit, I/we hereby agree to update and recertify the accuracy of the information herein provided as of the date I/we first occupy the unit:

- (a) _____ Date:
- (b) _____ Date:
- (c) _____ Date:
- (d) _____ Date:
- (e) _____ Date:
- (f) _____ Date:

[The signatures of all persons over the age of 18 years listed in Number 2 above are required]

12. Calculation of Eligible Income:

- (a) Enter the amount entered for entire household in 4 above: \$ _____
- (b) Enter income derived from assets (line 5(d)(ii)(A)): \$ _____
- (c) Subtract (b) from (a) \$ _____
- (d) Multiply the amount entered in 5(d)(i) by the current passbook savings rate to determine the total annual earnings on assets [5(d)(i)] if invested in passbook savings.

Passbook rate _____% X _____ = \$ _____

- (e) Enter the greater of (b) or (d) \$ _____
- (f) TOTAL ELIGIBLE INCOME (Line (e) + (c)) \$ _____

13. The amount entered in 12(f):

- (a) _____ Qualifies the applicant(s) as a Lower Income Tenant(s).
- (b) _____ Does not qualify the applicant(s) as a Lower Income Tenant(s).

14. Number of apartment unit assigned: _____

Bedroom size: _____ Rent: \$ _____

Tenant-paid Utilities:

Water _____ Gas _____ Electric _____

Trash _____ Other (list type) _____

15. Was this apartment unit last occupied for a period of 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit qualified them as Lower Income Tenants?

_____ Yes _____ No

16. Method used to verify applicant(s) income:

_____ Employer income verification

_____ Social Security Administration verification

_____ Department of Social Services verification

_____ Copies of tax returns

_____ Other (_____)

17. Method used to verify responses, if any, in paragraph 3 of this Income Certification:

_____ Copies of Tax Returns

_____ Evidence of participation in an enumerated program

18. OWNER'S STATEMENT: Based on the representations herein and upon the proofs and documentation submitted pursuant to paragraph 8 hereof, the family or individual(s) named in paragraph 2 of this Income Certification is/are eligible under the provisions of the Tax Regulatory Agreement to live in a unit in the Property.

Date _____

Signature of Authorized Borrower
Representative:

By _____

Name _____

Title _____

EXECUTION OF ITEMS 19 AND 20

_____ IS _____ IS NOT NECESSARY.

Initials: _____.

19. If this Income Certification was executed by me/us more than five days prior to my/our occupancy of the unit, I/we hereby update and recertify the accuracy of the information herein provided as of _____, 20____ and state:

_____ (a) No additional information is required to be provided to make this Income Certification true and correct on the date of this certification.

_____ (b) The following information is provided to update the information previously provided in the Income Certification:

[Remainder of page intentionally left blank]

20. OWNER'S STATEMENT: The family or individual(s) named in paragraph 2 of this Income Certification have, pursuant to paragraph 19 hereof, updated and recertified the information heretofore provided as specifically set forth in paragraph 19 hereof.

Date _____

Signature of Authorized Borrower
Representative

By _____
Name _____
Title _____

[Remainder of page intentionally left blank]

INCOME VERIFICATION
(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed by an issuance of bonds issued by the City of Colorado Springs, Colorado for persons of low or moderate income. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual Wages \$

Overtime \$

Bonuses \$

Commissions \$

Total Current Income \$

I hereby certify that the statements above are true and complete to the best of my knowledge.

Date _____

By _____
Name _____
Title _____

I hereby grant you permission to disclose my income to _____,
in order that it may determine my income eligibility for rental of an apartment located in its project
which has been financed under the _____ by an issuance of bonds issued by the City
of Colorado Springs, Colorado.

Date _____

Signature _____

Please send form to:

[Income verification signature page]

INCOME VERIFICATION
(for self-employed persons)

I hereby attach copies of my individual federal and state (if applicable) income tax returns for the immediately preceding calendar year and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

Date _____

Signature _____

IV. EXHIBIT D

FORM OF ANNUAL TENANT INCOME RECERTIFICATION

COLORADO SPRINGS, COLORADO

ANNUAL TENANT INCOME RECERTIFICATION

Project name: Paloma Garden
Apartment # _____ Date of Original Certification
Resident name

TO THE RESIDENT:

This form is a continuation of the City of Colorado Springs, Colorado Program (the "Program") which was previously discussed with you. In order to keep you on the qualifying list, you will need to update the following information each year when you renew your lease. The Borrower is required by the Internal Revenue Code of 1986 and the Program, to maintain this information in order to maintain the Program.

Household Composition:

- 1) Please list all of those individuals residing in your apartment.
- 2) Please list the anticipated annual income of all occupants of your household who are 18 years of age or older (if housemaker, or unemployed, etc., please list as such).
- 3) If college or technical school student, please list if full-time or part-time student.

	NAME	SS#	AGE	ANTICIPATED ANNUAL INCOME*	OCCUPATION/STUDENT
1)					
2)					
3)					
4)					
5)					
6)					
7)					

*SEE INCOME DEFINITION ATTACHED TO THIS FORM.

DO YOU OWN OR HAVE YOU ACQUIRED OR HAVE YOU DISPOSED OF ANY ASSETS OVER \$5,000.00 IN THE PAST YEAR?

If so, please describe and list amount and annual income expected to be derived from such assets:

If all persons residing in your apartment are full-time students, please indicate for each such person whether they are: (1) a single parent living with his/her children; (2) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job-training program receiving assistance under the Job Training Partnership Act or under other similar federal, state or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act); or (5) a student who is married and files a joint return. Single parents described in (1) above may not be dependents of another individual and their children may not be dependents of another individual other than their parents.

Please have all occupants over the age of 18 sign this certification.

I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Borrower to lease the unit and will entitle the Borrower to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/We declare under penalty of perjury that the foregoing is true and correct.

SIGNATURES:

DATE:

- 1)
- 2)
- 3)
- 4)

MANAGER'S SIGNATURE:

DEFINITION OF INCOME

The full amount, before any payroll deductions, of wages, salaries, overtime, commissions, fees, tips, and bonuses; net 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 of capital indebtedness or any allowance for depreciation of capital assets); interest and dividends (including income from assets excluded below); the full amount of periodic payments from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic payments including any lump sum payment for the delayed start of a periodic payment; payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay; all public assistance income; periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling; all regular and special pay and allowances of members of the Armed Forces (whether or not living in the dwelling) who are the head of the family or spouse; and any earned income tax credit to the extent that it exceeds income tax liability;

but excluding:

income from employment of children (including foster children) under the age of 18 years; payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone); 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; amounts which are specifically for reimbursement of medical expenses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid to a veteran for use in meeting the costs of tuition,

fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; amounts received under training programs funded by HUD; amounts received under Plan to Attain Self-Sufficiency; amounts for out-of-pocket expenditures incurred in connection with other public assistance programs; resident service stipend (not in excess of \$200 per month); amounts from state or local employment training programs; temporary, nonrecurring or sporadic income (including gifts); reparation payments paid by a foreign government to persons who were persecuted during the Nazi era; earnings in excess of \$480 for each full-time student 18 years old or older (excluding head of family and spouse); adoption assistance payments in excess of \$480 per adopted child; deferred periodic payments of supplemental social security income and benefits received in a lump sum; refunds or rebates of property taxes paid on the unit; payments from state agency to allow developmentally disabled family member to stay home; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments to volunteers under the Domestic Volunteer Service Act of 1973.