

# City of Bloomington Common Council

## Legislative Packet

**Wednesday, 17 April 2019**

## **Regular Session**

Legislation and background material regarding Appropriations Ordinance 19-02 and Ordinance 19-09, please consult [03 April 2019 Legislative Packet](#).

Legislation and background material regarding Ordinance 19-10 is contained herein.

*For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's [Calendar](#).*

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Bloomington, Indiana 47402  
812.349.3409  
[council@bloomington.in.gov](mailto:council@bloomington.in.gov)  
<http://www.bloomington.in.gov/council>

**City of  
Bloomington  
Indiana**



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401 N. Morton St.  
Post Office Box 100  
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**To: Council Members**  
**From: Council Office**  
**Re: Weekly Packet**  
**Date: 12 April 2019**

## LEGISLATIVE PACKET CONTENTS

### REGULAR SESSION WEDNESDAY, 17 APRIL 2019

- Memo from Council Office
- Agenda
- Notice – PS LIT Committee Meeting - Presentation of Capstone Report
- Ordinance 19-10 Approval to Issue Economic Development Revenue Bonds Up to an Aggregate Principal Amount of \$26,000,000 and Lend the Proceeds for the Renovation of Affordable Housing - Re: Limestone Crossing (formerly Canterbury House) Apartments, 540 S. Basswood Drive (Herman & Kittle Properties, Inc., Petitioner)
  - o Memo from Brian Payne, Assistant Director, Economic & Sustainable Development (ESD);
  - o Memo from Bond Counsel;
  - o PowerPoint Presentation to EDC (and Council);
  - o Economic Development Commission (EDC) Res 19-01 (*with signed version to be delivered after adoption by the EDC on April 17th and before introduction of the ordinance at the Council later that day*)
  - o Report
  - o Form of Bond Ordinance (substantially similar to Ord 19-10)
  - o Financing Documents, including:
    - Finance Agreement,
    - Regulatory Agreement, and
    - Form of the Bonds (*all as approved by the Commission and in substantially final form*)

Contact:

Brian Payne at 812-349-3418 or [payneb@bloomington.in.gov](mailto:payneb@bloomington.in.gov)

Larry Allen at 812-349-3426 or [allenl@bloomington.in.gov](mailto:allenl@bloomington.in.gov)

## **MEETING ON WEDNESDAY, 17 APRIL 2019, AT-A-GLANCE**

### **REGULAR SESSION**

#### *First Reading:*

- Ordinance 19-10 Approval to Issue Economic Development Revenue Bonds Up to an Aggregate Principal Amount of \$26,000,000 and Lend the Proceeds for the Renovation of Affordable Housing – Re: Limestone Crossing (formally Canterbury House) Apartments Project, 540 S. Basswood Drive (Herman & Kittle Properties, Inc., Petitioner)

#### *Second Reading and Resolutions:*

- Appropriation Ordinance 19-02 To Specially Appropriate from the General Fund, Parks General Fund, Local Road & Street Fund, Motor Vehicle Highway Fund, Risk Management Fund, and Housing Development Fund Expenditures Not Otherwise Appropriated (Appropriating a Portion of the Amount of Funds Reverted to Various City Funds at the End of 2018 for Unmet Needs in 2019)
  - Ordinance 19-09 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” - Re Amending Chapter 15.04 (Definitions), 15. 56 (Bicycles, Skateboards, and Other Foot-Propelled Vehicles), 15.60 (Miscellaneous Traffic Rules), 15.64 (Traffic Violations Schedule) and Adding a New Chapter 15.58 (Motorized Scooters and Shared Use Motorized Scooters) to Provide for Regulations Governing Motorized Scooters, Shared-Used Motorized Scooters, and Shared-Use Motorized Scooter Operations
- ➔ *For the above legislation under Second Reading, please see the legislation and supporting material issues in the packet for [03 April 2019 Legislative Packet](#).*

### **Preliminary Matters – Reminders, Etc.**

#### **Reminders:**

- Council Work Session scheduled for Thursday, April 18<sup>th</sup> at noon
- City offices will be closed on Friday, 19 April 2019.

**Notices** - There is one notice in this packet regarding a Public Safety Local Income Tax (PS-LIT) Committee meeting being held for an O’Neill School SPEA Capstone presentation on Tuesday, 23 April 2019.

## **Regular Session (Second Readings and Resolutions) - Summary**

### **Item 1:**

#### **Appropriation Ordinance 19-02 – Appropriating from Various Funds a Portion of Reversions in 2018 to Address Unmet Needs in 2019 - Questions and Answers (Forthcoming)**

Note that, as a result of discussion last Wednesday, Council members have forwarded questions to the Controller, who intends to present them and the answers to the Council and public next Wednesday.

### **Item 2:**

#### **Ordinance 19-09: Regulating Motorized Scooters, Shared-Use Motorized Scooters, and Shared-Use Motorized Scooter Operators - Amendments (Forthcoming)**

A number of substantive amendments are anticipated to be proposed on the 17<sup>th</sup>. These amendments are in process and include, but may not be limited to: reducing the maximum speed at which scooters may operate; prohibiting scooters from operating on sidewalks; setting an absolute cap on the number of scooters allowed to operate within City limits; expanding the dismount zone; prohibiting parking in the dismount zone; and, provisions to add staff to enforce the scooter ordinance, paid for by fees paid levied on the scooter companies.

## **Regular Session (First Reading) - Summary**

### **Item 1:**

#### **Ordinance 19-10 – Authorizing Issuance of Economic Development Revenue Bonds for Purchase and Rehabilitation of Limestone Crossing (formerly Canterbury House) Apartments at 540 S. Basswood Drive**

**Ord 19-10** authorizes the issuance of a maximum of \$26 million in tax-exempt Economic Development Revenue Bonds for the purchase and renovation of Limestone Crossing Apartments (formerly known as Canterbury House) at 540 S. Basswood Drive which currently sets aside housing in 80% of its all of its 208 units to households at or below 60% of Area Median Income (AMI). These units include a mix of 1-, 2- & 3-bedroom configurations. Rents for the units that are set aside for qualified households are no more than 30% of the household income. The attached *Memo* from Brian Payne, Assistant Director, Economic and Sustainable Development, indicates that this financing is being done on behalf of Limestone Crossing, LP, which was formed by Herman & Kittle Properties, Inc., the current owner of this property.

## Legislative History

The City adopted an inducement resolution (Res 18-27) for this project last year and the State<sup>1</sup> approved the associated tax credits in March of this year. The legislation, summary and background material for that resolution can be found in the 12 December 2018 Council Legislative Packet.

## Financing

These bonds are a large part of the financing for this approximately \$27 million project. They are advantageous for developers and investors for two primary reasons: first, the interest rate is lower than conventional bonds and is not considered taxable income for investors; and, second, there is an associated tax credit. Please note that while the ordinance authorizes as much as \$26 million in bonds, the actual amount will be closer to \$15 million (as indicated on the Financing Agreement). In response to an inquiry, Ice Miller provided the following description of the financing: "The total project is estimated at approx[imately] \$27M to be financed with \$15M in bonds, \$8M in equity, \$1.5M in deferred developer fee and \$2.5M in income."

## Project and Participants

**Project:** Limestone Crossing Apartments – Affordable Housing – Project  
*(per memo)* "Post rehabilitation, 100% of units will be reserved for those at or below 60% of Area Median Income. Rehabilitations will include site improvements: new roofs, trash enclosures, parking lot repair, enhanced site lighting and accommodations for accessibility; unit improvements: new flooring, countertops, windows, doors, HVAC and appliances (including washer and dryers in units); and safety improvements: enhanced site lighting, larger and clearly visible building identification (per BFD), enhanced security system and fencing separating adjacent apartment communities. Herman & Kittle Properties, Inc., will continue to manage the property."

**Issuer:** City of Bloomington

**Borrower:** Limestone Crossing, LP (a subsidiary of Herman & Kittle Properties, Inc.)

**Bondholder:** Cedar Rapids Bank and Trust Company

## Legislative Process – Ordinance Contents

Indiana statute (I.C. 36-7-11.9 [Economic Development and Pollution Control - Definitions] and 12 [Economic Development and Pollution Control]) allows municipalities to help developers obtain financing for economic development facilities after the local Economic Development Commission has held a legally advertised public hearing, adopted a resolution, and submitted the requisite records to the Council. That hearing will be held on April 17<sup>th</sup> and the signed resolution

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<sup>1</sup> The State acts through the Indiana Community Housing Development Authority (IHCDA) which approved the tax credit application based upon the "distressed" status of the underlying qualified census tract as of 2018. As noted in the Memo, as part of the process, the IHCDA is also involved in the terms set forth in Financing Agreement between the City, Borrower, and the Bondholder.

will be delivered to the Clerk before the meeting later that day. *Please note that a copy of unsigned resolution along with other submissions are included in this packet.*

After specifying the statutory authority to bond for economic development projects, describing the Project, identifying the participants, acknowledging financing documents and the form of the ordinance, reciting the prerequisite steps<sup>2</sup> taken by the EDC (culminating with the adoption and submission of EDC Resolution 19-01), the ordinance:

- finds that the Project will be of benefit to the health and welfare of the community by “promoting the substantial likelihood of retaining opportunities for gainful employment” and “further the public purpose ... through, among other things, the provision of quality, affordable, multifamily housing;”
- approves the Financing Documents (which are included in the packet and are in substantially final form<sup>3</sup>) and incorporates them by reference into the ordinance (with two copies kept in the City Clerk and Council Office for public inspection);
- authorizes the issuance of no more than \$26 million in tax exempt bonds with a maturity date that cannot exceed 40 years (with an optional redemption within 11 years of issuance) and an interest rate that cannot exceed 12%;<sup>4</sup>
- authorizes the Mayor and City Clerk to execute the Financing Documents, which are approved by the ordinance, on behalf of the City in order to facilitate this transaction;
- declares that the ordinance and Financial Documents are a contract between the City and bond holders and cannot be repealed (and repeals any legislation inconsistent with these documents);
- requires the City (subject to certain obligations of the Borrower) to use its best efforts to assure that the use of the proceeds comply with IRS regulations regarding tax exempt bonding;
- relieves City and its officers and employees of any liability for the issuance;<sup>5</sup>
- states that the bonds do not constitute a debt of the City;
- based upon representation of the Borrower, finds that the tax credits allocated to the Project does not exceed what is necessary for its feasibility and its viability as a qualified housing project for the requisite period; and
- declares that all actions of the Council were done in conformance with the Open Door Law.

#### Disclosure of any Financial Conflict of Interest.

Under IC 36-7-12-16, members of the Council may have “a pecuniary interest employment, financing agreement, or other contract made under this chapter if the member discloses the

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<sup>2</sup> One, among many steps, is consideration of “any adverse competitive impact” of this project on other similar facilities in the community. (Second-to- Whereas clause on first page of the ordinance). Also, please note that a Report has been submitted along with the EDC resolution and that, in November, P&T staff indicated that the project is consistent with the UDO.

<sup>3</sup> These include the following and associated exhibits: Financing Agreement; Regulatory Agreement; Form of Bond Ordinance; and Form of Bond.

<sup>4</sup> Please note that the ordinance authorizes the Clerk and Controller to sell such bonds and sets limits on how much above and below the principal amount they may be sold.

<sup>5</sup> Except as the result of intentional misrepresentation or willful misconduct.

member's pecuniary interest before any action by the fiscal body on it and does not vote on any such matter." *Please let me know if you believe you may have such a pecuniary interest or you have any questions in this regard.*

#### Review by Bond Counsel

The issuance of bonds is a complicated process and, in order to protect the City's interests, the Memo indicates that City Legal and outside Bond Counsel have reviewed and confirmed their conformance with statute and the obligations that are imposed on the City.

**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL  
REGULAR SESSION  
6:30 P.M., WEDNESDAY, 17 APRIL 2019  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON ST.**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES FOR:** *None*

**IV. REPORTS** (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public\***

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS**

1. Appropriations Ordinance 19-02 To Specially Appropriate from the General Fund, Parks General Fund, Local Road & Street Fund, Motor Vehicle Highway Fund, Risk Management Fund, Housing Development Fund, and Vehicle Replacement Fund Expenditures Not Otherwise Appropriated (Appropriating a Portion of the Amount of Funds Reverted to Various City Funds at the End of 2018 for Unmet Needs in 2019)

Committee Recommendation: Do Pass 7 – 0 – 2

2. Ordinance 19-09 To Amend Title 15 of the Bloomington Municipal Code Entitled “Vehicles and Traffic” – Re: Amending Chapter 15.04 (Definitions), 15.56 (Bicycles, Skateboards, and Other Foot-Propelled Vehicles), 15.60 (Miscellaneous Traffic Rules), 15.64 (Traffic Violations Schedule) and Adding a New Chapter 15.58 (Motorized Scooters and Shared Use Motorized Scooters) to Provide for Regulations Governing Motorized Scooters, Shared-Use Motorized Scooters, and Shared-Use Motorized Scooter Operators

Committee Recommendation: Do Pass 3 – 0 – 6

**VII. LEGISLATION FOR FIRST READING**

1. Ordinance 19-10 Approval to Issue Economic Development Revenue Bonds Up to an Aggregate Principal Amount of \$26,000,000 and Lend the Proceeds for the Renovation of Affordable Housing – Re: Limestone Crossing (formerly Canterbury House) Apartments Project, 540 S. Basswood Drive (Herman & Kittle Properties, Inc., Petitioner)

**VIII. ADDITIONAL PUBLIC COMMENT\*** (A maximum of twenty-five minutes is set aside for this section.)

**IX. COUNCIL SCHEDULE**

**X. ADJOURNMENT**

\* Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak. *Auxiliary aids are available upon request with adequate notice. Please call (812) 349 – 3409 or e-mail [council@bloomington.in.gov](mailto:council@bloomington.in.gov).*



**THE MONROE COUNTY LOCAL INCOME TAX COUNCIL  
(TAX COUNCIL)**

**NOTICE**

**THE  
PUBLIC SAFETY LOCAL INCOME TAX COMMITTEE  
(PS LIT COMMITTEE) OF THE TAX COUNCIL**

WILL MEET AS FOLLOWS:

**TUESDAY, 23 APRIL 2019  
9:00 AM – 10:30 AM  
CITY COUNCIL CHAMBERS  
(SUITE 115)  
CITY HALL - SHOWERS BUILDING  
401 NORTH MORTON STREET  
BLOOMINGTON, IN, 47404**

The Tax Council serves as the “adopting body” in regard to certain local income tax rates per IC 6-3.6 et al. It is comprised of four members - the: Bloomington Common Council, Ellettsville Town Council, Monroe County Council, and Stinesville Town Council. Representatives of the members sit on the PS LIT Committee, which will meet as indicated above, for about an hour and half to hear and discuss a Report from a SPEA Capstone class on work done this spring. The Report addresses the application and allocation processes under IC § 6-3.6-6-8(c) (which allows for the provision of funds to rural fire departments, among others, when applying as Qualifying Service Providers under that statute).

The agenda has not been prepared and it is possible that no public comment will be sought at the meeting. Whether or not that is so, the public is welcome to provide written comment to the city council staff at the meeting or to the council office (address set forth below), or to send emails to [council@bloomington.in.gov](mailto:council@bloomington.in.gov) for distribution to the committee.

Pursuant to Indiana Open Door Law (IC 5-14-1.5), this provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

<b><u>Member</u></b>	<b><u>Address</u></b>	<b><u>Phone / Email</u></b>
Bloomington Common Council	401 N. Morton St. (Room 110) P.O. Box 100 Bloomington, IN 47402	812-349-3409 / <a href="mailto:council@bloomington.in.gov">council@bloomington.in.gov</a>
Ellettsville Town Council	1150 W. Guy McCown Drive P.O. Box 8 Ellettsville, IN 47429	812-876-3860 / <a href="mailto:clerktreasurer@ellettsville.in.us">clerktreasurer@ellettsville.in.us</a>
Monroe County Council	100 W. Kirkwood Ave (Room 306) Bloomington IN 47404 -5140	812-349-7312 / <a href="mailto:mflory@co.monroe.in.us">mflory@co.monroe.in.us</a>
Stinesville Town Council	P.O. Box 66 Stinesville, IN 47464	812-876-8303 / <a href="mailto:stinesville@bluemarble.net">stinesville@bluemarble.net</a>

**ORDINANCE 19-10**

**APPROVAL TO ISSUE ECONOMIC DEVELOPMENT REVENUE BONDS UP TO AN  
AGGREGATE PRINCIPAL AMOUNT OF \$26,000,000 AND LEND THE PROCEEDS  
FOR THE RENOVATION OF AFFORDABLE HOUSING**

**- Re: Limestone Crossing (formerly Canterbury House) Apartments Project,  
540 S. Basswood Drive (Herman & Kittle Properties, Inc., Petitioner)**

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of economic development facilities, for diversification of economic development and creation or retention of opportunities for gainful employment; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, a representative of Limestone Crossing Apartments, LP, an Indiana limited partnership ("Borrower") has requested that the City of Bloomington, Indiana ("Issuer") issue Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) ("Bonds") and lend the proceeds thereof to the Borrower in order to finance the acquisition, renovation and equipping of a multifamily housing facility to be known as Limestone Crossing Apartments, consisting of 208 apartment units, located at 540 S. Basswood Drive, in the City of Bloomington, Indiana ("Project") in Council District I of the Common Council of the City of Bloomington, Indiana ("Council"); and

WHEREAS, on November 21, 2018, the Bloomington Economic Development Commission ("Commission") unanimously voted to approve Commission Resolution 18-05 in support of Petitioner to proceed with its application and to pursue issuing Bonds; and

WHEREAS, in Resolution 18-27, Council gave its support for the Project and preliminary approval for Petitioner to pursue issuance of the Bonds; and

WHEREAS, the Commission has now rendered a report concerning the proposed acquisition, renovation and equipping of economic development facilities for the Borrower and the City of Bloomington Plan Commission has been given the opportunity to comment thereon; and

WHEREAS, the Commission after a public hearing held on April 17, 2019, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended ("Code") found that the acquisition, renovation and equipping of the Project complies with the purposes and provisions of the Act, that such acquisition, renovation and equipping will be of benefit to the health and welfare of the Issuer and its citizens through the requirement that the Project serve persons and families of low and moderate income, that the amount of tax credits to be allocated to the Project under Section 42 of the Internal Revenue Code of 1986, as amended, does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the credit period for the Project and that the Project satisfies the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan; and

WHEREAS, the Commission has considered whether the acquisition, renovation and equipping of the Project will have an adverse competitive effect or impact on any similar facility or facilities of the same kind already constructed or operating in the same market area or in or about Monroe County, Indiana; and

WHEREAS, the Commission has memorialized its findings in the approval of Commission Resolution 19-01; and

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to acquire, renovate and equip the Project and to pay costs related to issuing the Bonds by issuing not to exceed \$26,000,000 aggregate principal amount of the Bonds; and

WHEREAS, the Issuer intends to issue the Bonds in one or more series pursuant to a Bond Financing Agreement ("Financing Agreement"), by and among the Issuer, the Borrower and Cedar Rapids Bank and Trust Company, as bondholder ("Bondholder") in order to obtain funds to lend to the Borrower for the purpose of acquiring, renovating and equipping the Project, provided, however, that the aggregate principal amount of the Bonds shall not exceed \$26,000,000; and

WHEREAS, the Financing Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Bonds pursuant to which the Borrower will agree to make payments sufficient to pay the principal and interest on the Bonds as the same become due and payable and to pay administrative expenses in connection with the Bonds; and

WHEREAS, no member of the Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16; and

WHEREAS, there has been submitted to the Commission for its approval substantially final forms of the Financing Agreement, Land Use Restriction Agreement, the forms of the Bonds (hereinafter referred to collectively as the "Financing Documents") and this proposed form of ordinance which were incorporated by reference in the Commission's Resolution adopted on April 17, 2019, which Resolution has been transmitted hereto; and

WHEREAS, the Borrower will be liable for the debt described in the Financing Agreement; and

WHEREAS, based upon the resolution adopted by the Commission pertaining to the acquisition, renovation and equipping of the Project, the Issuer hereby finds and determines that the funding approved by the Commission for the acquisition, renovation and equipping of the Project will be of benefit to the health and general welfare of the citizens of the Issuer, complies with the provisions of the Act and the amount necessary to finance the costs of the Project, will require the issuance, sale and delivery of one or more series of economic development revenue bonds in an aggregate combined principal amount not to exceed \$26,000,000;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA:**

**SECTION 1.** It is hereby found that the acquisition, renovation and equipping of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Borrower for the purposes of acquiring, constructing and equipping the Project, and the repayment of said loan by the Borrower will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act, including in particular, the requirement of promoting a substantial likelihood of retaining opportunities for gainful employment. Furthermore, it is hereby found that the acquisition, renovation and equipping of the Project will further a public purpose of the Issuer through, among other things, the provision of quality, affordable, multifamily housing.

**SECTION 2.** The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the Council or City Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Financing Documents are on file in the office of the Clerk of the Council for public inspection.

**SECTION 3.** The Issuer shall issue its Bonds in one or more series, as described above, in the aggregate principal amount not to exceed \$26,000,000, for the purpose of procuring funds to loan to the Borrower in order to finance the acquisition, renovation and equipping of the Project which

Bonds will be payable as to principal and interest solely from the payments made by the Borrower pursuant to the Financing Documents to evidence and secure said loan and as otherwise provided in the above-described Financing Documents. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the Issuer.

SECTION 4. The Clerk of the Council and City Controller are authorized and directed to sell such Bonds to the purchasers thereof at a price not less than 97% of the aggregate principal amount thereof plus accrued interest, if any, and at a fixed or initial variable rate of interest not to exceed 12% percent per annum. The Bonds will mature no later than 40 years from the date of their issuance, and shall be subject to optional redemption within 11 years of the date of issuance thereof at a price not in excess of 100% of the principal amount thereof.

SECTION 5. The Mayor and Clerk are authorized and directed to execute those Financing Documents approved herein which require the signature of the Mayor and Clerk and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the Clerk on the Bonds may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the Clerk on the Bonds may be facsimile signatures. The Clerk and City Controller are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and Clerk may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or Clerk without further approval of this Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 6. The provisions of this ordinance and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, this ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

SECTION 7. Subject to the obligations of the Borrower set forth in the Financing Agreement, the Land Use Restriction Agreement and the Tax Representation Certificate, the Issuer will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the purchasers thereof, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations promulgated thereunder. The Mayor and the Clerk, or any other officer having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the Issuer, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 of the Code and the regulations thereunder.

SECTION 8. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this ordinance, the Financing Documents or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Financing Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the Issuer upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Financing Agreement and the issuance, sale and delivery of the Bonds.

SECTION 9. The Borrower will indemnify and hold the Issuer, including its officials, attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability,

disbursement, litigation expenses, attorneys' fees and expenses and other court costs arising out of, or in any way relating to, the execution or performance of the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, including the issuance and sale of the Bonds or failure to issue or sell the Bonds or other actions taken under the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, all as further described in the Financing Agreement, except in any case as a result of the intentional misrepresentation or willful misconduct of the Issuer.

SECTION 10. It is hereby determined that the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the Council has relied solely upon representations of the Borrower. The foregoing determinations shall not be construed to be a representation or warranty by the Issuer as to the feasibility or viability of the Project. The Council hereby authorizes and directs the Auditor of Monroe County to review and make the foregoing determination again for and on behalf of Monroe County at the request of the Borrower, following receipt of supporting materials submitted by the Borrower to the Indiana Housing and Community Development Authority ("IHCDA") and either written representations of the Borrower or of IHCDA to the effect that (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project and (ii) the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the purchasers thereof and on or about the date that each building of the Project is placed in service. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan.

SECTION 11. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 12. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 13. It is hereby determined that all formal actions of the Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Council, that all deliberations of the Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5 *et seq.*, as amended.

SECTION 14. The Mayor and the Clerk are authorized to take all such further actions or to execute, attest and deliver such further instruments and documents in the name of the Issuer as in their judgment shall be necessary or advisable in order fully to consummate the transaction and carry out the purposes of this Ordinance.

SECTION 15. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Title 36, Article 4, Chapter 6, Section 14.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

SYNOPSIS

Approval for the City of Bloomington to Issue Economic Development Revenue Bonds pursuant to Indiana Code 36-7-11.9 and 36-7-12 in an amount not to exceed twenty-six million dollars (\$26,000,000.00). The City would lend the funds from this Economic Development Revenue Bond to Herman and Kittles and its limited partner, Limestone Crossing Apartments, LP, for the rehabilitation and renovation of the affordable housing development Limestone Crossing Apartments (currently known as Canterbury House Apartments) at 540 S Basswood Drive. Herman and Kittles and its partners would fully indemnify the City and take fully responsibility for payment of the bond – the City would bear no cost. As part of the renovation, the development would become all affordable housing.

STATE OF INDIANA, MONROE COUNTY )  
 ) SS:  
CITY OF BLOOMINGTON )

I, Nicole Bolden, Clerk of the Bloomington, Monroe County, Indiana, do hereby certify the above and foregoing is a full, true and complete copy of ORDINANCE 19-10, an ORDINANCE, passed by the Common Council on the \_\_\_\_ day of \_\_\_\_\_, 2019, by a vote of \_\_\_\_ YEAS and \_\_\_\_ NAYS, which was signed by the Mayor on the \_\_\_\_ day of \_\_\_\_\_, 2019, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Bloomington, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2019.

(SEAL)

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Nicole Bolden, Clerk  
City of Bloomington



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**MEMORANDUM**

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To: Members of the Common Council of the City of Bloomington

From: Brian Payne, Assistant Director, Economic and Sustainable Development (ESD)

CC: Alex Crowley, Director, ESD  
Philippa Guthrie, Corporation Counsel  
Dan Sherman and Stacy Jane Rhoads, Attorney Advisors, Common Council

Date: April 8, 2019

Re: Proposed Ordinance 19-10: Council Approval of Bond Issuance and Financing Agreement to Support Renovations to Affordable Housing by Limestone Crossing Apartments, LP

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**Summary**

This Ordinance would approve the City of Bloomington to issue Economic Development Revenue Bonds pursuant to Indiana Code 36-7-11.9 and 36-7-12 in an amount not to exceed twenty-six million dollars (\$26,000,000.00). The Resolution also approves the financing agreement between The City, Limestone Crossing Apartments, LP, and Cedar Rapids Bank and Trust Company, under which the bond proceeds would be lent to Limestone Crossing for the rehabilitation and renovation of the affordable housing development currently known as Canterbury House (thereafter known as Limestone Crossing) at 540 S Basswood Drive. The financing agreement would fully indemnify the City and take full responsibility for payment of the bond – the City would bear no cost.

This Ordinance is the final step in the process, which is outlined in full below. The Economic Development Commission (on November 20, 2018) and Common Council (on December 12, 2018) unanimously passed an inducement resolution to initiate this process. Since then, Limestone Crossing Apartments, LP has secured a financing partner, negotiated a financing agreement, and received Low Income Housing Tax Credits from the Indiana Housing & Community Development Authority (IHCDA) for their proposed renovations.

The public procedure required by state law is the following:

- EDC and Common Council pass inducement resolution (completed)
- H&K applies for IHCDA tax credits, negotiates financing agreement (completed)
- IHCDA approves H&K tax credit application (completed)
- EDC holds public hearing to approve financing agreement, issuance of bonds (will be completed 4/17)
- Common Council issues ordinance approving financing agreement and issuance of bonds

As required by state law, this request will be considered by the Economic Development Commission in a public meeting at 4:15 PM on April 17, 2019, the same day as the first Council hearing on this proposed Ordinance. For this reason, a signed EDC resolution will not be available when materials for this issue are disseminated. However, the full text of the EDC resolution, absent signature, will be included for your review. In EDC Resolution 18-05, the EDC unanimously approved the inducement resolution in direct anticipation of this ordinance, and staff is confident they will approve this resolution as drafted. Council's flexibility in receiving the signed EDC resolution on short notice is much appreciated.



### **Limestone Crossing (formerly Canterbury House)**

Herman & Kittle Properties, Inc., an Indiana corporation, owns and operates Canterbury House, a 208-unit affordable housing facility at 540 S Basswood Drive in west Bloomington. Built in 2001, Canterbury House currently reserves 80% of its units (ranging from 1- to 3-bedrooms) for households at or below 60% of Area Median Income. Current occupancy rate is 92%, including 125 households with Housing Choice Vouchers. Canterbury House also supports five existing jobs in Bloomington. The property needs modernization, site improvement, and security enhancements.

Limestone Crossing Apartments, LP (“petitioners”) is a limited partnership formed by Herman & Kittle for the purpose of financing and executing this renovation project. Once renovations are complete, the Canterbury House facility will be renamed Limestone Crossing. Post-renovation, 100% of the units (up from 80% pre-renovation) will be reserved for individuals at or below 60% of Area Median Income.

### **Rehabilitation Project**

Petitioners propose to invest approximately \$24,500,000 in capital improvements to address these needs, at a total cost of approximately \$27,230,599, including associated costs. To fund this renovation project, petitioners will rely heavily on tax credits awarded in March 2019 by the IHCDA. The project is located in a qualified census tract that the IHCDA considered a distressed area for development until 2019. Council passage of the inducement resolution in 2018 allowed petitioners to receive more tax credits before the expiration of IHCDA’s “distressed” designation.

Post rehabilitation, 100% of units will be reserved for those at or below 60% of Area Median Income. Rehabilitations will include site improvements: new roofs, trash enclosures, parking lot repair, enhanced site lighting and accommodations for accessibility; unit improvements: new flooring, countertops, windows, doors, HVAC and appliances (including washer and dryers in units); and safety improvements: enhanced site lighting, larger and clearly visible building identification (per BFD), enhanced security system and fencing separating adjacent apartment communities. Herman & Kittle Properties, Inc., will continue to manage the property.

### **Financing Agreement**

To finance this major rehabilitation project, petitioners require the issuance of revenue bonds, in an amount not to exceed \$26,000,000. While they could seek these revenue bonds from the State of Indiana through IHCDA, that would add a 1% financing fee to the cost. Instead, they request that the City of Bloomington issue the necessary revenue bonds to finance the acquisition, renovation, improvement and equipping of Canterbury House. Said bonds would not be payable from taxes or be a general obligation of the City; both proceeds and liability would be wholly assumed by Limestone Crossing Apartments, LP and their financing partners, ultimately payable from revenues of the renovation project.

The financing agreement assumes total liability for bond payments and indemnifies the City completely. It will exert no effect on the City’s constitutional debt limit or bank qualified limit. In essence, the City acts only as a “conduit” – allowing the borrower to access capital at a tax-exempt rate and receive equity for the project in the form of tax credits. These assessments of the financing arrangement are confirmed by the City’s Legal Department and the City’s retained bond counsel, Bruce Donaldson. Staff strongly recommends support of this ordinance to enhance and increase Bloomington’s affordable housing stock at no cost to the taxpayer.

## MEMORANDUM

To: Larry Allen, Assistant City Attorney  
Alex Crowley, Director Office of Economic and Sustainable Development (ESD)  
Brian Payne, Assistant Director, (ESD)  
Dan Sherman, Attorney Advisor, Common Council

From: Ice Miller, LLP, Bond Counsel

Date: March 25, 2019

Re: City of Bloomington, Indiana Bond Issue for the Acquisition, Renovation and Equipping of a Multifamily Housing Facility to be known as Limestone Crossing Apartments by Limestone Crossing Apartments, LP, pursuant to Indiana Code 36-7-11.9 and 12

The City of Bloomington (the "City") has been asked by Limestone Crossing Apartments, LP (the "Borrower") to assist in the financing its acquisition, renovation and equipping of a multifamily housing facility to be known as Limestone Crossing Apartments (the "Project") through the issuance of bonds pursuant to Indiana Code 36-7-11.9 and 12 (collectively, the "Act"). Under the provisions of the Act, the City is authorized to finance facilities such as the Project through the issuance of bonds. So long as the bonds are outstanding, 100% the available units of the Project will be reserved to tenants with incomes at or below 60% of the area median income.

These bonds will be payable solely from revenues of the Project and in no way are payable from taxes or any other revenues of the City. Furthermore, the issuance of the bonds will not affect the debt capacity of the City.

The process for the issuance of the bonds will involve the Bloomington Economic Development Commission (the "Commission") and the Common Council of the City of Bloomington, Indiana (the "City Council"). The Commission will conduct a public hearing concerning the Project and proposed financing. Notice of the public hearing will be published in local newspapers. The Commission will consider the Project and, if they find it acceptable, the Commission will adopt a report concerning the Project and will make a recommendation to the City Council concerning the financing and will propose a form of ordinance authorizing the issuance of the bonds. The City Council will consider the ordinance and, if adopted, the bonds will be issued by the City. All costs of issuance will be paid by the Borrower.

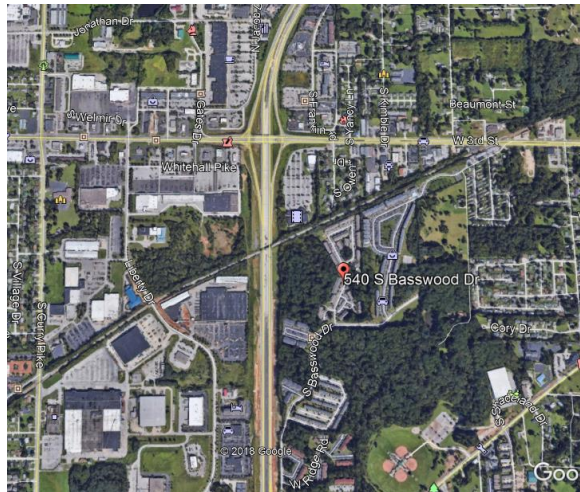
The benefit to the Borrower of financing the Project through this type of financing (commonly referred to as a "conduit financing") is that the interest on the bonds is tax-exempt to the holder, thus the interest rate is lower than in a conventional financing. Furthermore, by the issuance of the bonds, the Project will also qualify for federal housing tax credits. The sale of these credits will provide additional financing for the Project. The benefit to the City is the promotion of quality rental housing for low and moderate income citizens without the use of tax revenues.

If you have any further questions concerning this matter, do not hesitate to call.

# City of Bloomington Economic Development Commission (4/17/2019) and City Council (4/17/2019)

Limestone Crossing Apartments  
(f/k/a Canterbury House  
Apartments)

## **Limestone Crossing Apts. 540 S. Basswood Drive**



***Providing safe and affordable housing to the residents  
of Bloomington***

# Limestone Crossing Apts.

- Built in 2001 to address the affordable housing needs of the residents of Bloomington.
  - Currently, 80% of units reserved for those at or below 60% of Area Median Income.
  - Post rehabilitation, 100% of units will be reserved for those at or below 60% of Area Median Income.
- 208 Units ranging from one bedroom to three bedroom.
- 125 households with Housing Choice Vouchers.
- Property in need of modernization, capital improvements and enhancement to site security.
- Current occupancy rate is 92%.

3

# Limestone Crossing Apts.



4

# Limestone Crossing Apts.

- + Income Limits and Proposed Rents:
  - + The Rental Housing Tax Credit (RHTC) program was initiated to provide safe and decent housing while maintaining total housing costs (including utilities) at or below 30% of gross income.

Monroe County Income Limits at 60% of Area Median Income

1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
\$ 29,220	\$ 33,360	\$ 37,560	\$ 41,700	\$ 45,060	\$ 48,420

AMI	1-Bedroom			2-Bedroom			3-Bedroom		
	Rent Limit	UA*	Tenant Paid Rent	Rent Limit	UA	Tenant Paid Rent	Rent Limit	UA	Tenant Paid Rent
60%	\$782	\$111	\$638	\$939	\$135	\$804	\$1,084	\$157	\$927

5

## Proposed Scope of Work

- + Total Development costs of approximately \$27.25MM:
  - + Capital Improvements: New roofs, trash enclosures, parking lot repair, enhanced site lighting and accommodations for accessibility.
  - + Unit Improvements: New flooring, countertops, windows, doors, HVAC and appliances (including washer and dryers in units).
  - + Safety Improvements: Enhanced site lighting, larger and clearly visible building identification (per BFD), enhanced security system and fencing separating adjacent apartment communities.
  - + Herman & Kittle Properties, Inc. will continue to manage the property.

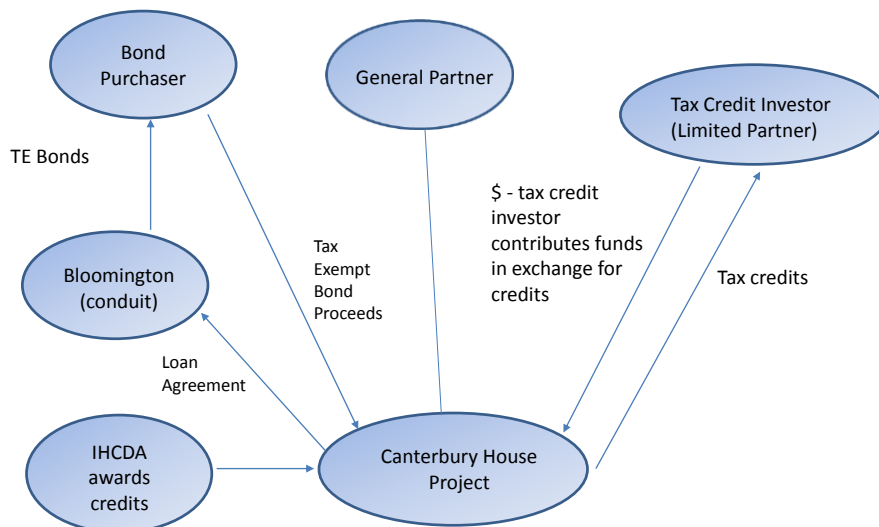
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# Timeline

- ➔ December 2018: Submit Application to IHEDA
- ➔ April 2019: Allocation of Tax Credits
- ➔ Summer 2019: Closing
- ➔ Summer 2021: Construction Completion

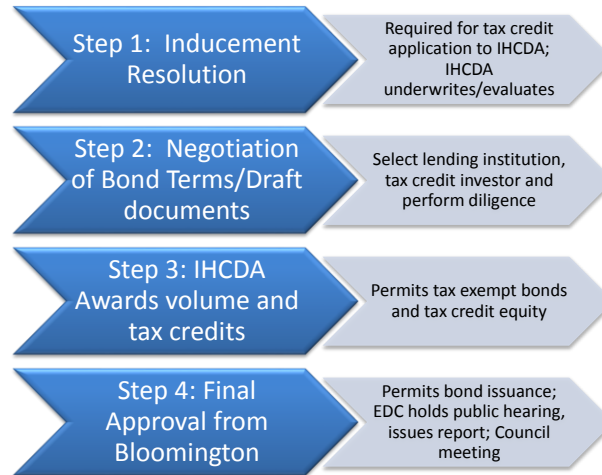
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## Bond and Credit Structure



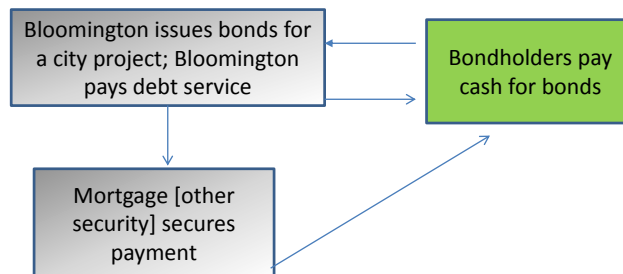
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## Bond and Tax Credit Process



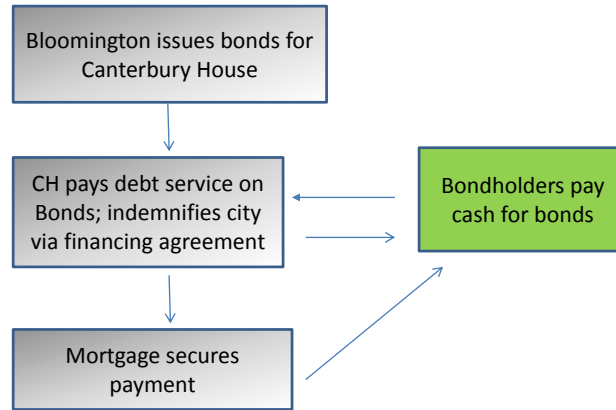
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## Basic Bond Issuance (Governmental – TIF, GO, Sewer)



10

## Basic Bond Issuance (Conduit – Housing, Manufacturing)



11

## Bond Characteristics

- Issued pursuant to IC 36-7-12
  - Requires EDC to render project report, hold public hearing, approve ordinance authorizing bonds
- Bonds will not be payable from taxes or be a general obligation of the city; payable solely from revenues of the project; no effect on the city's constitutional debt limit or bank qualified limit
- City acts only as a "conduit" – allowing the borrower to access capital at a tax-exempt rate and receive equity for the project in the form of tax credits
  - No ongoing obligations or administration by the city – borrower is responsible for all tax covenants, payments and indemnifies city in all respects

12



## Limestone Structure

- Cedar Rapids Bank has committed to purchase the bonds.
- Cedar Rapids is a frequent purchaser of multifamily bonds.
- Direct purchase saves money in rating agency and underwriting costs.
- Allows borrower to negotiate directly with bank vs. public feedback.

13

## Conclusion

Any Questions?

Thank you!

14

**RESOLUTION 19-01  
OF THE  
BLOOMINGTON ECONOMIC DEVELOPMENT COMMISSION**

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose;

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of economic development facilities for diversification of economic development and creation or retention of opportunities for gainful employment in or near such issuer;

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee;

WHEREAS, a representative of Limestone Crossing Apartments, LP, an Indiana limited partnership ("Borrower") has requested that the City of Bloomington, Indiana ("Issuer") issue bonds and lend the proceeds thereof to the Borrower in order to finance the acquisition, renovation and equipping of a multifamily housing facility to be known as Limestone Crossing Apartments, consisting of 208 apartment units, located at 540 S. Basswood Drive, in the City of Bloomington, Indiana ("Project") in Council District 1 of the Common Council of the City of Bloomington, Indiana ("City Council");

WHEREAS, the retention of opportunities for gainful employment and the provision of quality, affordable, multifamily housing to be achieved by the acquisition, renovation and equipping of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens;

WHEREAS, it would appear that the acquisition, renovation and equipping of the Project would be of benefit to the health or general welfare of the Issuer and its citizens;

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to acquire, renovate and equip the Project and to pay the costs of issuing the Bonds (as defined herein) by issuing not to exceed \$26,000,000 aggregate principal amount of its City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) ("Bonds") in one or more series;

WHEREAS, the Issuer intends to issue the Bonds pursuant to a Bond Financing Agreement ("Financing Agreement"), by and among the Issuer, the Borrower and Cedar Rapids Bank and Trust Company, as bondholder ("Bondholder") in order to obtain funds to lend to the Borrower for the purpose of acquiring, renovating and equipping the Project, provided, however, that the aggregate principal amount of the Bonds shall not exceed \$26,000,000;

WHEREAS, the Financing Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Bonds pursuant to which the Borrower will agree to make payments sufficient to pay the principal and interest on the Bonds as the same become due and payable and to pay administrative expenses in connection with the Bonds;

WHEREAS, on November 21, 2018, the Bloomington Economic Development Commission ("Commission") unanimously voted to approve Commission Resolution 18-05 in support of Petitioner to proceed with its application and to pursue issuing Bonds; and

WHEREAS, in Resolution 18-27, Council gave its support for the Project and preliminary approval for Petitioner to pursue issuance of the Bonds; and

WHEREAS, in connection with the adoption of this Resolution, the Commission has considered whether the acquisition, renovation and equipping of the Project may have an adverse competitive effect on similar facilities operating in the City of Bloomington, Indiana; and

WHEREAS, there has been submitted to the Commission for its approval substantially final forms of the Financing Agreement, Regulatory Agreement, the forms of the Bonds (hereinafter referred to collectively as the "Financing Documents") and the proposed form of ordinance which are by this reference incorporated herein;

NOW, THEREFORE, BE IT RESOLVED BY THE BLOOMINGTON ECONOMIC DEVELOPMENT COMMISSION:

SECTION 1. It is hereby found that the acquisition, renovation and equipping of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Borrower for the purposes of acquiring, renovating and equipping the Project, and the repayment of said loan by the Borrower will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act, including in particular the requirement of promoting a substantial likelihood of retaining opportunities for gainful employment. Furthermore, it is hereby found that the acquisition, renovation and equipping of the Project will further a public purpose of the Issuer through, among other things, the provision of quality, affordable, multifamily housing.

SECTION 2. The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the Council or City Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Financing Documents are on file in the office of the Clerk of the Council for public inspection.

SECTION 3. The Commission hereby recommends the Issuer issue its Bonds as described above, in the aggregate principal amount not to exceed \$26,000,000 for the purpose of procuring funds to loan to the Borrower in order to acquire, renovate and equip the Project, which Bonds will be payable as to principal and interest solely from the payments made by the Borrower pursuant to the Financing Documents to evidence and secure said loan and as otherwise provided

in the above-described Financing Documents. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the Issuer.

SECTION 4. The Commission further recommends that the Issuer authorize the Clerk and City Controller to sell such Bonds to the purchasers thereof at a price not less than 97% of the aggregate principal amount thereof, plus accrued interest, if any, and at a fixed or initial variable rate of interest not to exceed 12% percent per annum. The Commission further recommends that the Issuer authorize the optional redemption of the Bonds within 11 years of the date of issuance thereof at a price not in excess of 100% of the principal amount thereof.

SECTION 5. The Commission recommends that the Mayor and Clerk be authorized and directed to execute those Financing Documents approved herein which require the signature of the Mayor and Clerk and any other document which may be necessary or desirable to consummate the transaction and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the Clerk on the Bonds may be necessary or desirable to consummate the transaction. The signatures of the Mayor and the Clerk on the Bonds may be facsimile signatures. The Commission also recommends that the Clerk and City Controller be authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and Clerk may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or Clerk without further approval of the City Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 6. The Commission approves the form of and recommends the adoption of the ordinance by the Common Council of the Issuer. The provisions of such ordinance, if and when adopted, and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, the special resolution shall not be repealed or amended, in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

SECTION 7. The Commission finds and determines that the amount of tax credits to be allocated to the Project under Section 42 of the Internal Revenue Code of 1986, as amended, does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the Commission has relied solely upon representations of the Borrower. The foregoing determination shall not be construed to be a representation or warranty by the Commission as to the feasibility or viability of the Project. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan.

SECTION 8. The Secretary of this Commission is directed to cause this resolution and two copies of the financing documents in their final forms to be transmitted to the office of the Clerk of the Council for presentation to the City Council with the recommendation that the City

Council approve such documents in their final forms pursuant to the proposed form of Ordinance hereby recommended to the City Council.

ADOPTED this \_\_\_\_ day of April, 2019

BLOOMINGTON ECONOMIC  
DEVELOPMENT COMMISSION

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KURT ZORN, President

ATTEST:

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Malcom Webb, Commissioner

REPORT OF THE BLOOMINGTON ECONOMIC DEVELOPMENT  
COMMISSION CONCERNING THE PROPOSED FINANCING OF  
ECONOMIC DEVELOPMENT FACILITIES FOR  
LIMESTONE CROSSING APARTMENTS, LP,  
AN INDIANA LIMITED PARTNERSHIP

The Bloomington Economic Development Commission ("Commission") proposes to recommend to the Common Council of the City of Bloomington, Indiana, that it provide funds for the acquisition, renovation and equipping of economic development facilities for Limestone Crossing Apartments, LP, an Indiana limited partnership. Such economic development facilities consist of the acquisition, renovation and equipping of multifamily housing facilities consisting of an apartment complex to be known as Limestone Crossing Apartments containing 208 apartment units, together with functionally related and subordinate facilities such as recreational facilities and parking areas ("Project"). The Project is located at 540 S. Basswood Drive, in the City of Bloomington, Indiana, in Council District 1 of the Common Council of the City of Bloomington, Indiana. The total cost for the acquisition, renovation and equipping of the Project is presently estimated to be in an amount of approximately \$27,230,599, including incidental costs of issuance of the economic development revenue bonds.

No public facilities to be paid for by the government will be made necessary on account of the acquisition, renovation and equipping of the Project.

The Commission has considered whether the Project will have an adverse competitive effect on any similar facilities already constructed or operating in or near Bloomington, Indiana.

It is estimated that upon the acquisition, renovation and equipping of the Project, the operation will retain            full-time equivalent employees, with an estimated total payroll of approximately \$            annually.

Adopted this \_\_\_\_\_ day of April, 2019.

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KURT ZORN, President

ATTEST:

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MALCOM WEBB, Commissioner

## COMMON COUNCIL ORDINANCE 19-\_\_

An ORDINANCE authorizing the City of Bloomington to issue up to \$26,000,000 aggregate principal amount of its City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) ("Bonds") in one or more series and approving and authorizing other actions in respect thereto.

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose;

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of economic development facilities, for diversification of economic development and creation or retention of opportunities for gainful employment;

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee;

WHEREAS, a representative of Limestone Crossing Apartments, LP, an Indiana limited partnership ("Borrower") has requested that the City of Bloomington, Indiana ("Issuer") issue bonds and lend the proceeds thereof to the Borrower in order to finance the acquisition, renovation and equipping of a multifamily housing facility to be known as Limestone Crossing Apartments, consisting of 208 apartment units, located at 540 S. Basswood Drive, in the City of Bloomington, Indiana ("Project") in Council District 1 of the Common Council of the City of Bloomington, Indiana ("Council");

WHEREAS, the Bloomington Economic Development Commission ("Commission") has rendered a report concerning the proposed acquisition, renovation and equipping of economic development facilities for the Borrower and the City of Bloomington Plan Commission has been given the opportunity to comment thereon;

WHEREAS, the Commission after a public hearing held on April 17, 2019, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended ("Code") found that the acquisition, renovation and equipping of the Project complies with the purposes and provisions of the Act, that such acquisition, renovation and equipping will be of benefit to the health and welfare of the Issuer and its citizens through the requirement that the Project serve persons and families of low and moderate income, that the amount of tax credits to be allocated to the Project under Section 42 of the Internal Revenue Code of 1986, as amended, does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the credit period for the Project and that the Project satisfies the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan;

WHEREAS, the Commission has considered whether the acquisition, renovation and equipping of the Project will have an adverse competitive effect or impact on any similar facility



or facilities of the same kind already constructed or operating in the same market area or in or about Monroe County, Indiana;

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to acquire, renovate and equip the Project and to pay costs related to issuing the Bonds by issuing not to exceed \$26,000,000 aggregate principal amount of the Bonds;

WHEREAS, the Issuer intends to issue the Bonds in one or more series pursuant to a Bond Financing Agreement ("Financing Agreement"), by and among the Issuer, the Borrower and Cedar Rapids Bank and Trust Company, as bondholder ("Bondholder") in order to obtain funds to lend to the Borrower for the purpose of acquiring, renovating and equipping the Project, provided, however, that the aggregate principal amount of the Bonds shall not exceed \$26,000,000;

WHEREAS, the Financing Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Bonds pursuant to which the Borrower will agree to make payments sufficient to pay the principal and interest on the Bonds as the same become due and payable and to pay administrative expenses in connection with the Bonds;

WHEREAS, no member of the Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16;

WHEREAS, there has been submitted to the Commission for its approval substantially final forms of the Financing Agreement, Land Use Restriction Agreement, the forms of the Bonds (hereinafter referred to collectively as the "Financing Documents") and this proposed form of ordinance which were incorporated by reference in the Commission's Resolution adopted on April 17, 2019, which Resolution has been transmitted hereto;

WHEREAS, the Borrower will be liable for the debt described in the Financing Agreement; and

WHEREAS, based upon the resolution adopted by the Commission pertaining to the acquisition, renovation and equipping of the Project, the Issuer hereby finds and determines that the funding approved by the Commission for the acquisition, renovation and equipping of the Project will be of benefit to the health and general welfare of the citizens of the Issuer, complies with the provisions of the Act and the amount necessary to finance the costs of the Project, will require the issuance, sale and delivery of one or more series of economic development revenue bonds in an aggregate combined principal amount not to exceed \$26,000,000;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA:

SECTION 1. It is hereby found that the acquisition, renovation and equipping of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Borrower for the purposes of acquiring, constructing and equipping the Project, and the repayment of said loan by

the Borrower will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act, including in particular, the requirement of promoting a substantial likelihood of retaining opportunities for gainful employment. Furthermore, it is hereby found that the acquisition, renovation and equipping of the Project will further a public purpose of the Issuer through, among other things, the provision of quality, affordable, multifamily housing.

The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the Council or City Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Financing Documents are on file in the office of the Clerk of the Council for public inspection.

The Issuer shall issue its Bonds in one or more series, as described above, in the aggregate principal amount not to exceed \$26,000,000, for the purpose of procuring funds to loan to the Borrower in order to finance the acquisition, renovation and equipping of the Project which Bonds will be payable as to principal and interest solely from the payments made by the Borrower pursuant to the Financing Documents to evidence and secure said loan and as otherwise provided in the above-described Financing Documents. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the Issuer.

The Clerk of the Council and City Controller are authorized and directed to sell such Bonds to the purchasers thereof at a price not less than 97% of the aggregate principal amount thereof plus accrued interest, if any, and at a fixed or initial variable rate of interest not to exceed 12% percent per annum. The Bonds will mature no later than 40 years from the date of their issuance, and shall be subject to optional redemption within 11 years of the date of issuance thereof at a price not in excess of 100% of the principal amount thereof.

The Mayor and Clerk are authorized and directed to execute those Financing Documents approved herein which require the signature of the Mayor and Clerk and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the Clerk on the Bonds may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the Clerk on the Bonds may be facsimile signatures. The Clerk and City Controller are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and Clerk may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or Clerk without further approval of this Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

The provisions of this ordinance and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, this ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

Subject to the obligations of the Borrower set forth in the Financing Agreement, the Land Use Restriction Agreement and the Tax Representation Certificate, the Issuer will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the purchasers thereof, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations promulgated thereunder. The Mayor and the Clerk, or any other officer having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the Issuer, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 of the Code and the regulations thereunder.

No recourse under or upon any obligation, covenant, acceptance or agreement contained in this ordinance, the Financing Documents or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Financing Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the Issuer upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Financing Agreement and the issuance, sale and delivery of the Bonds.

The Borrower will indemnify and hold the Issuer, including its officials, attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability, disbursement, litigation expenses, attorneys' fees and expenses and other court costs arising out of, or in any way relating to, the execution or performance of the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, including the issuance and sale of the Bonds or failure to issue or sell the Bonds or other actions taken under the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, all as further described in the Financing Agreement, except in any case as a result of the intentional misrepresentation or willful misconduct of the Issuer.

It is hereby determined that the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the Council has relied solely upon representations of the Borrower. The foregoing determinations shall not be construed to be a representation or warranty by the Issuer as to the feasibility or viability of the Project. The Council hereby authorizes and directs the Auditor of Monroe County to review and make the foregoing determination again for and on behalf of Monroe County at the request of the Borrower, following receipt of supporting

materials submitted by the Borrower to the Indiana Housing and Community Development Authority ("IHCDA") and either written representations of the Borrower or of IHCDA to the effect that (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project and (ii) the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the purchasers thereof and on or about the date that each building of the Project is placed in service. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan.

If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

It is hereby determined that all formal actions of the Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Council, that all deliberations of the Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5 et seq., as amended.

The Mayor and the Clerk are authorized to take all such further actions or to execute, attest and deliver such further instruments and documents in the name of the Issuer as in their judgment shall be necessary or advisable in order fully to consummate the transaction and carry out the purposes of this Ordinance.

This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code Title 36, Article 3, Chapter 4, Section 14.

[Signature Page Follows]



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**BOND FINANCING AGREEMENT**

Dated as of [May] 1, 2019

By and Among

**CITY OF BLOOMINGTON, INDIANA,**  
as Issuer

And

**LIMESTONE CROSSING APARTMENTS, LP,**  
as Borrower

And

**CEDAR RAPIDS BANK AND TRUST COMPANY,**  
as Bondholder

Relating to

**[\$15,000,000]**  
**CITY OF BLOOMINGTON, INDIANA**  
**ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2019**  
**(LIMESTONE CROSSING APARTMENTS PROJECT)**

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## TABLE OF CONTENTS

ARTICLE I. DEFINITIONS .....	3
Section 1.1. Use of Defined Terms.....	3
Section 1.2. Definitions.....	4
Section 1.3. Interpretation.....	12
Section 1.4. Captions and Headings.....	12
ARTICLE II. REPRESENTATIONS, WARRANTIES AND COVENANTS.....	13
Section 2.1. Representations, Warranties and Covenants of the Issuer.....	13
Section 2.2. Representations, Warranties and Covenants of the Borrower.....	15
Section 2.3. Representations, Warranties and Covenants of Bondholder.....	18
ARTICLE III. COMPLETION OF THE PROJECT .....	20
Section 3.1. Construction, Installation, Equipment and Improvement.....	20
Section 3.2. Prevailing Wage Requirements.....	20
Section 3.3. Borrower Required to Pay Costs of Project.....	21
ARTICLE IV. ISSUANCE AND TERMS OF BONDS .....	22
Section 4.1. Issuance and Terms of the Bonds; Registration and Transfer; Application of Proceeds.....	22
Section 4.2. Purchase and Sale of Bonds; Conditions to Advances.....	24
Section 4.3. Completion Date.....	26
Section 4.4. Conversion of Loan.....	27
Section 4.5. Deposit of Bond Advances; Project Fund; Disbursement of Bond Advances; Investment of Project Fund.....	27
Section 4.6. Relationship of Payments on Note to Payments under the Bonds.....	28
Section 4.7. Restriction on Transfer of Bonds.....	28
Section 4.8. Redemption of Bonds Prior to Maturity.....	29
Section 4.9. Additional Amounts Payable and Additional Obligations Following an Event of Taxability.....	29
ARTICLE V. LOAN TO THE BORROWER; SECURITY; TITLE.....	31
Section 5.1. The Loan; Loan Payments.....	31
Section 5.2. Additional Payments.....	31
Section 5.3. Obligations Unconditional.....	32
ARTICLE VI. ADDITIONAL AGREEMENTS AND COVENANTS.....	33
Section 6.1. Right of Inspection.....	33
Section 6.2. Sale, Lease or Grant of Use by Borrower.....	33
Section 6.3. Indemnification.....	33
Section 6.4. Borrower Not to Adversely Affect Exclusion from Gross Income of Interest on Bonds.....	35
Section 6.5. Assignment by Issuer; No Additional Liens.....	35
Section 6.6. Affirmative Covenants of the Borrower.....	35
Section 6.7. Secondary Borrowing.....	38
ARTICLE VII. EVENTS OF DEFAULT AND REMEDIES.....	39

Section 7.1.	Events of Default.....	39
Section 7.2.	Remedies on Default. ....	41
Section 7.3.	No Remedy Exclusive.....	42
Section 7.4.	Agreement to Pay Attorneys’ Fees and Expenses.....	42
Section 7.5.	No Waiver. ....	42
Section 7.6.	Notice of Default.....	42
Section 7.7.	Cure by Investment Limited Partner and/or Special Limited Partner.....	43
ARTICLE VIII. MISCELLANEOUS .....		44
Section 8.1.	Term of Agreement.....	44
Section 8.2.	Notices. ....	44
Section 8.3.	Extent of Covenants of the Issuer; No Personal Liability.....	44
Section 8.4.	Binding Effect. ....	44
Section 8.5.	Amendments. ....	45
Section 8.6.	Execution Counterparts.....	45
Section 8.7.	Severability. ....	45
Section 8.8.	Governing Law.....	45
Section 8.9.	Conflicts. ....	45
Section 8.10.	Determinations. ....	45
Exhibit A-1	FORM OF BOND .....	A-1-1
Exhibit A-2	FORM OF NOTE.....	A-2-1
Exhibit B	COMPLETION CERTIFICATE.....	B-1
Exhibit C	FORM OF INVESTOR LETTER.....	C-1



## **BOND FINANCING AGREEMENT**

This Bond Financing Agreement (as amended, modified or supplemented from time to time, this “Agreement”) is dated as of [May] 1, 2019, and made among the **CITY OF BLOOMINGTON, INDIANA** (together with its successors and assigns, the “Issuer”), a municipal corporation, duly organized and existing under the laws of the State of Indiana, **LIMESTONE CROSSING APARTMENTS, LP**, an Indiana limited partnership (together with its permitted successors and assigns, the “Borrower”) and **CEDAR RAPIDS BANK AND TRUST COMPANY** (as the “Bondholder” and, together with any subsequent registered owner of the Bonds, the “Holder”). Capitalized terms used herein will have the meanings given them in Section 1.1 hereof.

### **WITNESSETH:**

**WHEREAS**, pursuant to the laws of the State, including the Act, the Issuer is authorized to issue revenue bonds to assist in the financing of multifamily residential housing facilities; and

**WHEREAS**, the Borrower has requested that the Issuer provide assistance in the financing of its construction of the Project; and

**WHEREAS**, the Issuer has agreed to issue the Bonds on a draw-down basis and sell each of the Bonds to the Bondholder and cause the deposit of the Purchase Price for the Bonds in the Project Fund for disbursement by the Disbursing Agent to fund the Loan to the Borrower; and

**WHEREAS**, the Loan will be funded through the periodic purchase of the Bonds by the Bondholder upon the terms and subject to the conditions provided herein and upon such further terms and conditions as are set forth in the Continuing Covenants Agreement and the Disbursing Agreement; and

**WHEREAS**, pursuant to the Bond Legislation, the Issuer has been authorized to execute the Bonds, the Tax Agreement, the Land Use Restriction Agreement and this Agreement; and

**WHEREAS**, the parties desire to provide for the terms of purchase of the Bonds, the use of the proceeds thereof and the duties and responsibilities of each party with respect thereto.

**NOW THEREFORE**, the parties hereto agree as follows:

### **ARTICLE I. DEFINITIONS**

#### **Section 1.1. Use of Defined Terms.**

In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 hereof shall have the meanings set forth therein unless the context or use clearly indicates another meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein. Capitalized terms used in this Agreement and not defined herein shall have the

meanings assigned to them in the Continuing Covenants Agreement and/or the Disbursing Agreement.

## **Section 1.2. Definitions.**

Unless the context otherwise requires, the terms defined in this Section will, for all purposes of this Agreement, have the meanings herein specified as follows:

“Accredited Investor” means an accredited investor as defined in Rule 501 of Regulation D promulgated by the Securities and Exchange Commission under the authority of the Securities Act.

“Act” means collectively, Indiana Code 36-7-11.9 and 12, and the Bond Legislation.

“Additional Payments” means the amounts required to be paid by the Borrower pursuant to the provisions of Section 5.2 hereof.

“Advance” means any payment made by or on behalf of the Bondholders of a portion of the Purchase Price of the Bonds (not to exceed \$[15,000,000] in aggregate principal amount) in accordance with this Agreement, the Continuing Covenants Agreement and the Disbursing Agreement.

“Agreement” means this Bond Financing Agreement as amended or supplemented from time to time.

“Authorized Bondholder Representative” means, initially, the authorized representative of the Bondholder and, after any transfer of the Bonds by the Bondholder, a Person at the time designated and authorized to act on behalf of the Bondholder by a written certificate furnished to the Issuer containing the specimen signature of such Person and signed on behalf of the Bondholder by an authorized officer, which certificate may designate one or more alternates.

“Authorized Borrower Representative” means a Person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Issuer and the Bondholder containing the specimen signature of such Person and signed on behalf of the Borrower, which certificate may designate one or more alternates.

“Available Moneys” means, as of any date of determination, any of:

- (a) the proceeds of the Bonds;
- (b) proceeds of a draw upon a letter of credit provided by a party unrelated to the Issuer and the Borrower; and
- (c) any other amounts, including the proceeds of refunding bonds, for which the Bondholder has received an opinion of counsel satisfactory to the Bondholder to the effect that the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code (or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court) or be avoidable as

preferential payments under Section 547 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

“Bond Counsel” means, on the Closing Date, Ice Miller LLP, Indianapolis, Indiana and, thereafter, any independent counsel of nationally recognized standing in matters pertaining to the validity of, and exclusion from gross income for federal income tax purposes of interest on, obligations issued by states and political subdivisions, familiar with the transactions contemplated under this Agreement appointed by the Borrower and approved by the Issuer, such approval to be not unreasonably withheld, conditioned or delayed, and the Bondholder or appointed by the Bondholder and approved by the Issuer, such approval to be not unreasonably withheld, conditioned or delayed.

“Bond Documents” means the Bond Legislation, this Agreement, the Tax Agreement, the Note, the Mortgage, the Land Use Restriction Agreement, the Continuing Covenants Agreement, the Disbursing Agreement and any other documents relating to the Bonds.

“Bond Legislation” means the ordinance adopted by the Issuer authorizing the issuance and sale of the Bonds.

“Bond Payment Date” means each Interest Payment Date and any other date Bond Service Charges are due, whether at maturity, upon optional or mandatory redemption, acceleration or otherwise.

“Bond Registrar” means the Bondholder, or its designee, and thereafter, any subsequent purchaser of the Bonds.

“Bond Service Charges” for any time period means the principal, including any amortization or redemption requirements, interest, and redemption premium, if any, required to be paid by the Issuer on the Bonds for such time period.

“Bondholder” or “Holder” means the Person in whose name a Bond is registered and initially means Cedar Rapids Bank and Trust Company.

“Bonds” means the Issuer’s \$[**15,000,000**] Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project), dated as of Closing Date, issued pursuant to the Bond Legislation and substantially in the form attached hereto as *Exhibit A-1*.

“Borrower” means Limestone Crossing Apartments, LP, an Indiana limited partnership.

“Borrower Documents” means the Bond Documents to which the Borrower is a party, the Loan Documents and the Collateral Documents.

“Business Day” means a day on which banks in Cedar Rapids, Iowa or [**Bloomington, Indiana**], are not authorized or required to remain closed and on which the Federal Reserve Bank and the New York Stock Exchange are not closed.

“Closing Date” means [May \_\_], 2019.

“Code” means the Internal Revenue Code of 1986, as amended and all applicable rulings and regulations (including temporary and proposed regulations) thereunder.

“Collateral Documents” means the Mortgage and each other document evidencing a security interest granted to Bondholder by or on behalf of Borrower to secure the Note and Bonds.

“Completion Certificate” means the certificate of completion in accordance with Section 4.3.

“Completion Date” means the date of completion of the Project evidenced in accordance with the requirements of Section 4.3 hereof.

“Continuing Covenants Agreement” means the Continuing Covenants Agreement among the Bondholder, the Disbursing Agent and the Borrower, as the same may be amended, modified or supplemented from time to time.

“Costs of Issuance” means the Costs of Issuance as defined in the Tax Agreement.

“Conversion Date” means [\_\_\_\_\_ . 20\_\_] ([\_\_\_\_\_]).

“Corporate Guarantor” means [**Limestone Crossing Apartments GP, LLC, an Indiana limited liability company**].

“Date of Taxability” means the date as of which the Event of Taxability determines that the interest on the Bonds is no longer excludable from gross income for federal income tax purposes.

“Default Rate” shall have the meaning set forth in the Note or such lesser rate as is lawfully chargeable under State law.

“Designated Office” means, when referring to the Bond Registrar, the Notice Address office of the Bond Registrar, or such other office as may be specified from time to time in a notice given by the Bond Registrar to the Issuer and the Borrower.

“Disbursing Agent” means [\_\_\_\_\_] as the disbursing agent under the Continuing Covenants Agreement and the Disbursing Agreement.

“Disbursing Agreement” means the Disbursing Agreement among the Bondholder, the Borrower and the Disbursing Agent.

“Eligible Investments” means any investments approved in writing by the Bondholder.

“Event of Default” will have the meaning specified in Section 7.1 hereof.

“Event of Taxability” means (A) the enactment of a statute or promulgation of a regulation eliminating, in whole or in part the applicable exclusion, as such exists on the Closing Date, from

gross income for federal income tax purposes of interest payable on the Bonds, or (B) a final determination, by decision or ruling, by a duly constituted administrative authority to the effect that the exclusion from gross income for federal income tax purposes of interest payable on the Bonds is not available, is no longer available or is contrary to law, or (C) the expiration of the right to further administrative review of any determination, decision or ruling to the effect that the exclusion from gross income for federal income tax purposes of interest payable on the Bonds is not available, is no longer available or is contrary to law, or (D) receipt by and at the request of the Bondholder of a written opinion of Bond Counsel (selected by the Holders with the written approval of the Issuer, such approval not to be unreasonably withheld, conditioned or delayed) that there is no longer a basis for the Holders or any former Holder (other than a Holder or former Holder who is or was a Substantial User of the Project or a Related Person thereto, each term as defined in the Treas. Reg. 1.103-11(b) and Section 147(a) of the Code) to claim that any interest paid and payable on the Bonds is excludable from gross income for federal income tax purposes. For the purposes of clause (B) above, a “final determination, by decision or ruling, by a duly constituted administrative authority” means (1) the issuance of a ruling (including, but not limited to, a revenue ruling or a letter ruling) by the IRS or any successor thereto, or (2) the issuance of a preliminary notice of proposed deficiency (“30-Day Letter”), a statutory notice of deficiency (“90-Day Letter”), or other written order or directive of similar force and effect by the IRS, or any other United States Governmental Authority having jurisdiction. Notwithstanding the foregoing, nothing in this definition of “Event of Taxability” shall be construed (w) to require any Holder to request a written opinion of Bond Counsel at any time as to the continued exclusion from gross income for federal income tax purposes of the interest on the Bonds, or (x) to mean or include consideration of the interest payable on the Bonds for purposes of calculating the interest expense which may be deducted by a bank or other financial institution, or (y) to mean that the Bondholder has any obligation to contest or appeal any assertion or decision that any interest payable under the Bonds is subject to taxation, or (z) to mean or include the imposition of an alternative minimum tax or preference tax or environmental tax or branch profits tax on the Bondholder or any other holder of the Bonds, in the calculation of which is included the interest paid under the Bonds. Notwithstanding the foregoing, no decision by any court or decision, ruling, or proceeding by any administrative authority shall be considered final unless (a) Borrower has been given the opportunity to contest such action at its own expense, and (b) until the expiration of all periods for judicial review and appeals.

“Fiscal Year” means, with respect to a Person, that period beginning on January 1 of each year and ending on December 31 of that year or such other fiscal year as shall be designated by such Person as its annual accounting period.

“GAAP” means Generally Accepted Accounting Principles, consistently applied, as set by the Financial Accounting Standards Board.

“General Partner” means Limestone Crossing Apartments GP, LLC, an Indiana limited liability company, or its successor or assign, in its capacity as the General Partner of the Borrower.

“Guaranties” means **[GUARANTIES]** as described in the Continuing Covenants Agreement.

“Guarantors” means, collectively, jointly and severally, Corporate Guarantor and Personal Guarantor.

“Initial Advance” means the initial Advance of the Purchase Price of the Bonds from the Bondholder to the Issuer to be made on the Closing Date in the amount of at least \$50,001.

“Interest Payment Date” shall mean the eighth (8<sup>th</sup>) day of each calendar month.

“Interest Period” shall mean one (1) calendar month.

“Interest Rate” means .79 times the LIBOR Rate plus 2.00%.

“Investment Limited Partner” means RAH Investor 224 LLC, a Mississippi limited liability company, and its permitted successors and assigns in its capacity as investment limited partner owning a 99.99% interest in the Borrower.

“Investor Letter” means the letter to be delivered by the Bondholder and any subsequent transferee of the Bonds, in substantially the form attached hereto as *Exhibit C*.

“Issuer” means the City of Bloomington, Indiana.

“Issuer Documents” means the Bond Documents to which the Issuer is a party.

“Issuer Fees and Expenses” means (i) the expenses and disbursements payable to the Issuer under this Agreement for extraordinary fees, costs and expenses incurred by bond counsel and counsel to the Issuer; and (ii) an amount payable by the Borrower on the Closing Date calculated as one tenth of two percent of the stated amount of the Bonds.

“Land Use Restriction Agreement” means that certain Land Use Restriction Agreement dated as of [May] 1, 2019, and effective as of the Closing Date, between the Issuer and the Borrower, as supplemented and amended pursuant to the provisions thereof.

“Legislative Authority” means the Common Council of the City of Bloomington, Indiana.

“LIBOR Rate” means the London Inter-Bank Offered Rate for United States Dollars for a term of one month which appears on Reuters Screen LIBOR01 Page (or any generally recognized successor method or means of publication) as of 11:00 a.m. London time, two (2) London business days prior to the day on which the rate will be effective for each month. Lender’s internal records of applicable interest rates shall be determinative in the absence of manifest error. If such rate is not available at such time for any reason, then the rate for that interest period will be determined by such comparable alternate method designed to measure interest rates in a similar manner, as selected by the Bondholder. In order to account for the relationship of the replacement index to the original London Interbank Offered Rate, an additional spread may be taken into account in the replacement rate in order to preserve the economic yield of the Bondholder in effect as of, and as contemplated \_\_\_\_\_. Any successor rate or alternate methodology must be an interest-based index, variations in the value of which can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds in United States dollars.



If to the Investment Limited Partner and/or Special Limited Partner: 111 Great Neck Road, Suite 500  
Great Neck, New York 11021  
Attention: Victor Sostar

With a copy to: Jones Walker LLP  
420 20<sup>th</sup> St N, Suite 1100  
Birmingham, Alabama 35203  
Attention: Kelly Rushin Lewis and Brandon D. Hughey

“Outstanding” means the total amount of Bonds at any given time corresponding to the total of all Advances made by or on behalf of the Bondholder under this Agreement except:

- (a) any amount of Bonds cancelled on or prior to such date for cancellation;
  - (b) any amount of Bonds deemed to be paid in accordance with this Agreement;
- and
- (c) any amount of Bonds in lieu of which other Bonds have been authenticated pursuant hereto.

“Partnership Agreement” means the Amended and Restated Agreement of Limited Partnership of the Borrower dated as of [May] 1, 2019, by and between the General Partner, the Investment Limited Partner and the Special Limited Partner, as the same may be amended from time to time with the approval of the Bondholder.

“Permanent Period” means the period commencing on the Conversion Date and ending on the Maturity Date.

“Permitted Encumbrances” shall have the meaning set forth in the Mortgage.

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

“Personal Guarantor” means Jeffrey L Kittle.

“Plans and Specifications” means the set of plans and specifications describing the Project and prepared in connection therewith.

“Pledged Revenues” means (a) the Loan Payments and (b) all other moneys received by the Issuer or the Holder for the account of the Issuer or the Holder, except certain expense, reimbursement and indemnity payments which are, pursuant to the provisions of this Agreement, to be made by the Borrower directly to the Issuer or the Holder.

“Project” means the multifamily rental housing development to be located in Bloomington, Indiana and to be known as Limestone Crossing Apartments

“Project Costs” means



(a) Costs incurred directly or indirectly for or in connection with the acquisition, rehabilitation, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction of the Project with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction of the Project.

(d) Subject to the limitations set forth in the Tax Agreement, Costs of Issuance of the Bonds, including, financial, legal, accounting, cash flow verification, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds.

(e) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, rehabilitation, improvement and equipping of the Project.

(f) Payment of interest on the Bonds during the construction of the Project.

Any disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds shall be accompanied by an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

“Project Fund” will have the meaning specified in Section 4.5 hereof

“Purchase Price of the Bonds” means the total of all Advances made by or on behalf of the Bondholder up to an amount of \$[\_\_\_\_\_].

“Qualified Institutional Buyer” means a qualified institutional buyer as defined in Rule 144A promulgated by the Securities and Exchange Commission under the authority of the Securities Act.

“Qualified Investor” means a Qualified Institutional Buyer or an Accredited Investor.

“Rebate Analyst” means Ice Miller LLP, or a successor selected by the Borrower with the written consent of the Bondholder, which consent shall not be unreasonably withheld, conditioned or delayed.

“Rebate Analyst Fee” means the amount due to the Rebate Analyst from the Borrower in connection with an arbitrage rebate calculation as required by the Tax Agreement.

“Request for Advance” means each “Request for Disbursement” as defined in the Continuing Covenants Agreement.

“Securities Act” means the Securities Act of 1933, as amended.

“Special Limited Partner” means Sterling Corporate Services LLC, a New York limited liability company, and its successors and/or assigns.

“State” means the State of Indiana.

“Tax Agreement” means the Tax Representation Certificate of the Borrower and Arbitrage Certificate of the Issuer, each dated [May \_\_], 2019.

“Unassigned Issuer’s Rights” means all of the rights of the Issuer to receive Additional Payments under Section 5.2 hereof, to be held harmless and indemnified under Section 6.3 hereof, to determine if satisfactory arrangements for Additional Payments under Section 5.2 hereof have been made, to be reimbursed for attorney’s fees and expenses under Section 7.4 hereof, to receive duplicate copies pursuant to Section 8.2 hereof, to give or withhold consent to amendments, changes, modifications, alterations and termination of this Agreement under Section 8.5 hereof and to exercise its remedies under Section 7.2 hereof.

### **Section 1.3. Interpretation.**

Any reference herein to the Issuer, to the Legislative Authority or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the Indiana Code or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Bondholder or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof”, “hereby”, “herein”, “hereto”, “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

### **Section 1.4. Captions and Headings.**

The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

[End of Article I]

**ARTICLE II.**  
**REPRESENTATIONS, WARRANTIES AND COVENANTS**

**Section 2.1. Representations, Warranties and Covenants of the Issuer.**

The Issuer represents and warrants to, and agrees with the Bondholder that:

(a) It is validly existing as a municipal corporation of the State of Indiana (the “State”) pursuant to the Act and the constitution of the State, and has full legal right, power and authority (i) to enter into this Agreement; (ii) to adopt the Bond Legislation and cause the delivery of the Bonds to the Bondholder pursuant to the Bond Legislation and this Agreement as provided herein; (iii) to loan the proceeds of the Bonds to the Borrower for the purpose set forth in this Agreement; and (iv) to carry out and consummate the transactions contemplated by this Agreement and the other Issuer Documents.

(b) The Issuer, with respect to the Bonds, as advised by Bond Counsel, has complied, and will at the Closing Date be in compliance in all material respects with the Issuer Documents and the relevant laws of the State;

(c) (i) At or prior to the Closing Date, the Issuer will have taken all action required to be taken by it to authorize the issuance and sale of the Bonds and the performance of its obligations hereunder; (ii) the Issuer has full legal right, power and authority to enter into this Agreement and the Issuer Documents, will have full legal right, power and authority to deliver the Bonds to the Bondholder and to perform its obligations hereunder as provided in this Agreement, the Bonds and the Issuer Documents, and all other documents to be executed by the Issuer in connection with the issuance of the Bonds, and to carry out and effectuate the transactions contemplated by this Agreement and the Issuer Documents; (iii) on or prior to the Closing Date, the execution and delivery of, and the performance by the Issuer of the obligations contained in the Bonds, this Agreement and the Issuer Documents shall have been duly authorized, and when executed this Agreement, and the Issuer Documents will constitute valid and legally binding limited obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, subject to any applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors’ rights generally and the application of equitable principles where equitable remedies are sought and limitations on the enforcement of judgments against public bodies; (iv) the Issuer has duly authorized the consummation by it of all transactions contemplated by this Agreement and the Issuer Documents; and (v) the Issuer Documents have been duly and validly adopted by the Issuer and are at the time of acceptance hereof in full force and effect;

(d) The Issuer, with respect to the Bonds, has not received notice that it is in material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree or any loan agreement, note, resolution, certificate, indenture, agreement or other instrument to which the Issuer is a party or is otherwise subject; and the adoption of the Bond Legislation and the execution and delivery of this Agreement, the Bonds, the other Issuer Documents and all other documents to be executed

by the Issuer in connection with the issuance of the Bonds, and compliance with the provisions of each thereof do not, to the Issuer's knowledge, conflict with or constitute a material breach of or default under any applicable law or administrative regulation of the State, any department, division, agency or instrumentality thereof, or the United States or any applicable judgment or decree, or any loan agreement, note, resolution, certificate, indenture, agreement or other instrument to which the Issuer is a party or is otherwise subject;

(e) All approvals, consents, and orders of any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to the performance by the Issuer of its obligations hereunder and under the Bond Legislation, the Issuer Documents, and the Bonds and all other documents to be executed by the Issuer in connection with the issuance of the Bonds have been obtained;

(f) The Issuer will not take or omit to take any action, which action or omission will adversely affect the excludability from gross income for federal income tax purposes of the interest on the Bonds under the Code.

(g) The Bonds, when delivered and sold to the Bondholder as provided herein, will have been duly authorized and executed and will constitute validly issued and binding limited obligations of the Issuer in conformity with, and entitled to the benefit and security of, the Act and the Issuer Documents;

(h) The Bonds, the Bond Legislation and the Issuer Documents, shall conform in all material respects to the descriptions contained in this Agreement and the Bonds when validly issued, authenticated and delivered in accordance with the Bond Legislation and the Issuer Documents and sold to the Bondholder as provided therein, will be validly issued and outstanding limited obligations of the Issuer entitled to the benefits of the Bond Legislation and the Issuer Documents;

(i) The Issuer has received no notice of any litigation pending or threatened in any court in any way affecting the existence of the Issuer or the title of any officer of the Issuer who is required to execute any of the Issuer Documents to the office held by such member or employee, or seeking to restrain or enjoin the issuance, sale or delivery of the Bonds or the collection of revenues or assets of the Issuer pledged or to be pledged to pay the principal of and interest on the Bonds, or the pledge thereof, or in any way contesting or affecting the validity or enforceability of the Bonds, the Bond Legislation or the Issuer Documents, or contesting the powers of the Issuer, or its authority with respect to the Bonds, the Bond Legislation and the Issuer Documents;

(j) Any certificate relating to the issuance and delivery of the Bonds signed by an authorized member or officer of the Issuer and delivered to the Bondholder at or prior to the Closing Date shall be deemed a representation and warranty by the Issuer in connection with this Agreement to the Bondholder as to the statements made therein; and

(k) The Issuer agrees that all representations, warranties and covenants made by it herein, and in certificates, agreements or other instruments delivered pursuant hereto

or in connection herewith, shall be deemed to have been relied upon by the Bondholder, and that all representations, warranties and covenants made by the Issuer herein and therein and all the Bondholder's rights hereunder and thereunder shall survive the delivery of the Bonds.

**Section 2.2. Representations, Warranties and Covenants of the Borrower.**

The Borrower represents, warrants, covenants and agrees that, as of the date hereof, on the date of each Advance and at all times at which any portion of the Bonds are Outstanding:

(a) It is a limited partnership duly formed and validly existing under the laws of the State and authorized to do business in the State.

(b) It has full power and authority to execute, deliver and perform the Borrower Documents and to enter into and carry out the transactions contemplated by those documents. The execution, delivery and performance of the Borrower Documents do not, and will not, violate any provision of law applicable to the Borrower or its governing documents and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it is bound. The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken to constitute the Borrower Documents valid and binding obligations of the Borrower.

(c) [Reserved.]

(d) The provision of financial assistance to be made available to it under this Agreement and the commitments therefor made by the Issuer have induced the Borrower to undertake the transactions contemplated by this Agreement.

(e) It will use or operate the Project in accordance with the Act and the Code and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved by the Issuer and the Bondholder which will be consistent with the Act and the Code.

(f) The Project will be completed in accordance with the Plans and Specifications and will be constructed, operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable governmental codes, ordinances, statutes, laws, rules, regulations and requirements and so as to be consistent with the Act.

(g) Except for obligations undertaken in connection with the financing, construction, development and operation of the Project, the Borrower does not have any liabilities, contingent or otherwise, whether due or to become due, including, without limitation, liabilities as guarantor under any guaranty, liabilities for taxes, liabilities for long-term leases, liabilities for unusual forward or long-term commitments or judgments.

(h) All property to be purchased with the proceeds of the Bonds for the Project will be owned, for federal tax purposes, by the Borrower.

(i) No litigation at law or in equity nor any proceeding before any governmental agency or other tribunal involving the Borrower is pending or, to the knowledge of the Borrower, threatened, in which any liability of the Borrower is not adequately covered by insurance or in which any judgment or order would have a material and adverse effect upon the business or assets of the Borrower or would materially and adversely affect the operation of the Project, the validity of the Borrower Documents or the performance of the Borrower's obligations thereunder or the transactions contemplated hereby.

(j) No costs of issuance in excess of 2.00% of the proceeds of the Bonds will be paid from proceeds of the Bonds.

(k) The statements prepared and submitted by the Borrower and used by the Issuer in preparing the Tax Agreement and information statement pursuant to Section 149(e) of the Code are true and complete as of the date of issuance of the Bonds. In the event that circumstances render such statements inaccurate, the Borrower shall notify the Issuer, the Bondholder and Bond Counsel and the Borrower shall prepare and submit or cause to be submitted, true and complete amendments of, or supplements to, those statements if in the opinion of Bond Counsel, such amendments or supplements are deemed necessary or advisable.

(l) The Project is taxed or will be taxed separately without regard to any other property of the Borrower or any other Person and for all purposes the Project may be mortgaged, conveyed and otherwise dealt with as an independent parcel.

(m) The Borrower has and will continue to have a fee simple interest in the land on which the Project is located.

(n) No condition, circumstance, event, agreement, document, instrument or restriction is pending or, to the knowledge of the Borrower, threatened and no litigation or proceeding exists (i) which could adversely affect the validity or priority of the liens and security interests granted to the Bondholder under the Loan Documents, (ii) which could adversely affect the ability of the Borrower to own the Project and to complete construction of and operate the Project, (iii) which could adversely affect the ability of Borrower to perform its obligations under the Bond Documents or the Borrower Documents, or (iv) which, to the knowledge of Borrower, would constitute a default in the obligations of the Borrower under any of the Bond Documents or Borrower Documents or which would constitute such a default with the giving of notice or lapse of time or both.

(o) All utility and municipal services required for the construction, occupancy and operation of the Project for its intended purpose, including, but not limited to, water supply, storm and sanitary sewage disposal systems, gas, electric, internet, cable television and telephone facilities are (or when constructed will be) available for use and tap-in at the boundaries of the Project or pursuant to recorded easements, and written permission has

been obtained from the applicable utility companies or municipalities to connect the Project into each of said services and to thereafter provide the Project with such services to the extent necessary for operation of the Project for its intended purpose.

(p) All permits and licenses required by applicable law to construct, occupy and operate the Project for its intended purpose have been issued and are in full force or, if the present stage of preparation of Plans and Specifications or the stage of construction or renovation of the Project does not allow such issuance, then such permits and licenses will be issued if and when needed in order to permit construction of the Project to continue without interruption or delay in accordance with the terms of the Agreement, the Loan Documents and the construction schedule approved by the Bondholder.

(q) The storm and sanitary sewage disposal system, water system and all mechanical systems of the Project do (or when constructed will) comply with all applicable environmental, pollution control and ecological laws, ordinances, rules and regulations. The applicable environmental protection agency, pollution control board and/or other governmental agencies having jurisdiction of the Project have issued their permits for the construction, tap-in and operation of those systems.

(r) No condemnation of any portion of the Project and no denial of access to the Project from any point of access to the Project, has commenced, or to the best of Borrower's knowledge, is contemplated by any governmental authority.

(s) None of the proceeds of the Bonds will be used in a manner inconsistent with the Borrower Documents or the Partnership Agreement.

(t) The Borrower shall take all action necessary to obtain an award of low income housing tax credits (the "LIHTC") from the Indiana Housing and Community Development Authority and shall comply with all of the requirements to maintain such award including complying with any restrictive covenants regarding the use of the Project required by the Issuer in connection with the LIHTC.

(u) The Loan is not being made for the purpose of purchasing or carrying "margin stock" within the meaning of Regulation G, T, U, or X issued by the Board of Governors of the Federal Reserve System, and the Borrower agrees to execute all instruments necessary to comply with all the requirements of Regulation U of the Federal Reserve System.

(v) The Borrower is not a party in interest to any plan defined or regulated under ERISA, and the assets of the Borrower are not "plan assets" of any employee benefit plan covered by ERISA or Section 4975 of the Code.

(w) The Borrower is not a "foreign person" within the meaning of Section 1445 or 7701 of the Code.

(x) The Borrower is not a Person with whom the Bondholder is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury of the United States of America (including, those Persons

named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such Persons. In addition, Borrower hereby agrees to provide the Bondholder with any additional information that the Bondholder deems necessary from time to time in order to ensure compliance with all applicable laws concerning money laundering and similar activities.

(y) The Borrower will comply with, and will cause the General Partner to comply with, all of their respective obligations under the Partnership Agreement. All of the representations and warranties made by the Partnership or the General Partner in the Partnership Agreement are true, correct and complete in all material respects.

(z) The Borrower will apply the proceeds of the Bonds to pay Project Costs such that at least 50% of the aggregate basis of the Project and the land on which the Project is located is financed with the proceeds of the Bonds.

### **Section 2.3. Representations, Warranties and Covenants of Bondholder.**

The Bondholder represents, warrants and covenants that:

(a) The Bondholder is purchasing the Bonds for investment for its own account or for its loan portfolio and is not purchasing the Bonds for resale or other disposition, and the Bondholder has no present intention of reselling or otherwise disposing of all or any part of the Bonds or dividing its interest therein, but the Bondholder reserves the right to sell or otherwise dispose of the Bonds as it chooses, in accordance with the terms of this Agreement and the Investor Letter attached hereto as *Exhibit C*. The Bondholder understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

(b) The Bondholder is a Qualified Institutional Buyer, or an Accredited Investor. The Bondholder agrees that it will not sell, transfer, assign, or otherwise dispose of the Bonds except to another Qualified Institutional Buyer or Accredited Investor.

(c) The Bondholder has either been supplied with or been given access to information, including financial statements and all other financial information that Bondholder requested, and the Bondholder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the Project and the Bonds.

(d) In reaching the conclusion that it desires to acquire the Bonds, the Bondholder agrees that it has carefully evaluated the Borrower and the risks associated with this investment or loan and acknowledges that it is able to bear the economic risk of this investment or loan. The Bondholder, by reason of its knowledge and experience in financial and business matters, is capable of evaluating the merits and risks of the investment in the Bonds. The representations in this Section 2.3 shall not relieve the Borrower from any obligation to disclose any information required by the documents



entered into in connection with the issuance of the Bonds or required by any applicable law. The Bondholder has not relied on the Issuer for any information concerning the Bonds.

(e) The Bondholder acknowledges that no official statement or other disclosure document has been prepared in connection with the sale and delivery of the Bonds and understands that the Bonds are not rated by any rating agency.

(f) The Bondholder understands that the Bonds are not registered under the Securities Act of 1933, as amended, and that such registration is not legally required as of the date hereof, and further understands that the Bonds (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service, (d) will be delivered in a form which may not be readily marketable and (e) will not be registered with the Depository Trust Company or have a CUSIP.

(g) The Bondholder shall advance or cause to be advanced Bond proceeds to or for the account of the Issuer pursuant to the provisions of Section 4.5 hereof upon satisfaction of the terms and conditions set forth in (i) Sections 4.2(b) and 4.2(c) hereof and (ii) the Continuing Covenants Agreement and the Disbursing Agreement.

[End of Article II]

**ARTICLE III.  
COMPLETION OF THE PROJECT**

**Section 3.1. Construction, Installation, Equipment and Improvement.**

The Borrower (a) shall construct, renovate, install and equip the Project with all reasonable dispatch, substantially in accordance with the Plans and Specifications and in accordance with the terms of the Partnership Agreement and the Continuing Covenants Agreement, (b) shall pay when due all fees, costs and expenses incurred in connection with that construction, equipment and improvement from funds made available therefor in accordance with this Agreement and the Continuing Covenants Agreement or otherwise and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the construction and equipment of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance bond with respect thereto. It is understood that (i) the Project is that of the Borrower and (ii) any contracts made by the Borrower with respect to the Project, whether construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower on its own behalf and not as agent or contractor for the Issuer or the Bondholder, and each such contract shall so state.

The proceeds of the Bonds shall be used or deemed used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(b) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code and that for the greatest number of buildings the proceeds of the Bonds shall be deemed allocated on a pro rata basis to each building in each Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code; provided, however, neither the Bondholder nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any Person, including without limitation, the Borrower, the General Partner, the Investment Limited Partner or any other Affiliate of the Borrower for any failure to meet the intent expressed in the foregoing representation, covenant and warranty.

**Section 3.2. Reserved.**

**Section 3.3. Borrower Required to Pay Costs of Project.**

If moneys advanced by or on behalf of the Bondholder pursuant to this Agreement are not sufficient to pay all Project Costs for the Project, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional Project Costs for the Project from its own funds. The Borrower shall pay all costs of issuing the Bonds.

[End of Article III]

**ARTICLE IV.  
ISSUANCE AND TERMS OF BONDS**

**Section 4.1. Issuance and Terms of the Bonds; Registration and Transfer; Application of Proceeds.**

(a) To provide funds to make the Loan for purpose of paying a portion of the Project Costs for the Project, the Issuer will issue, sell and deliver the Bonds to the Bondholder and the Bondholder agrees to purchase the Bonds at the purchase price of 100% of the principal amount of each Advance pursuant to the terms and conditions set forth herein. The Bonds shall be issued as draw-down Bonds in fully-registered form in the aggregate principal amount not to exceed \$[15,000,000]. The Bonds shall bear interest at the Interest Rate, shall mature on the Maturity Date and shall be subject to redemption prior to maturity, as set forth in Section 4.8 hereof. Interest on the Bonds shall be calculated on an actual/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. The Bonds shall be payable as set forth in Section 4.6 herein. Interest is payable on each Bond Payment Date to and including the Maturity Date. The Borrower hereby approves the terms and conditions of the Bond Legislation and the Bonds, and of the terms and conditions under which the Bonds shall be issued, sold and delivered.

(b) The Bonds shall be signed by the Mayor of the Issuer and attested by the Clerk of the Issuer (provided that such signatures may be facsimile). In case any officer whose signature or a facsimile of whose signature appears on any Bond shall cease to be that officer before the issuance of the Bond, the officer's signature or the facsimile thereof nevertheless shall be valid and sufficient for all purposes, the same as if he or she had remained in office at that time. Any Bond may be executed on behalf of the Issuer by an officer who, on the date of execution is a proper officer, although on the date of the Bond that Person was not a proper officer.

(c) Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth therein and duly executed by the Clerk of the Issuer shall be entitled to any right or benefit under this Agreement. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Clerk of the Issuer or other authorized officer of the Issuer; and such executed certificate upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Agreement.

(d) In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer, promptly upon request by the Bondholder and at the sole cost and expense of the Borrower, shall execute and the Clerk of the Issuer shall promptly authenticate and deliver a new Bond in lieu of such mutilated, lost, stolen or destroyed Bond, of like date and denomination as that mutilated, lost, stolen or destroyed. Any mutilated Bond shall first be surrendered to the Issuer, and in the case of any lost, stolen or destroyed Bond, there shall first be furnished to the Issuer evidence of such loss, theft or destruction satisfactory to it together with indemnity reasonably satisfactory to it. Every new Bond issued pursuant to this Section shall, with respect to such Bond, constitute an additional contractual obligation of the Issuer, whether or not the mutilated, lost, stolen or destroyed Bond shall be found at any time, and shall be entitled to all the benefits of this Agreement equally and proportionately with any and all other Bonds duly issued hereunder. All Bonds shall be held and

owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, wrongfully taken or stolen Bonds and shall preclude any and all rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

(e) The Initial Advance shall be made by or on behalf of the Bondholder to the Issuer pursuant to the provisions of Section 4.5 hereof upon satisfaction of the conditions set forth in (i) Section 4.2(b) hereof and (ii) the Continuing Covenants Agreement and the Disbursing Agreement.

(f) Additional Advances shall be made by or on behalf of the Bondholder to the Issuer thereafter pursuant to the provisions of Section 4.5 hereof upon the further satisfaction by the Borrower of the conditions set forth in (i) Section 4.2(c) hereof and (ii) the Continuing Covenants Agreement and the Disbursing Agreement.

(g) The Bonds may be transferred, subject to the terms of Section 4.7 hereof, only upon the books kept for the registration and transfer of Bonds by the Bond Registrar, together with an assignment duly executed by the Bondholder or its duly authorized attorney in such form as shall be satisfactory to the Bond Registrar. The Bondholder and any subsequent Bondholder shall give written notice to the Borrower promptly upon any transfer of the Bonds, but any failure to give such notice shall not affect the validity of such transfer. Upon such request of the transferor, the Issuer, at the sole cost and expense of the Borrower, shall execute in the name of the transferee, and shall deliver, new fully registered Bonds in the aggregate principal amount equal to the unamortized and unredeemed principal amount of the Bonds so surrendered and bearing interest at the same rate or rates and maturing on the same date. Absent manifest error, the records of the Bondholder regarding the dates and amounts of Advances and payments, and calculation of interest shall be conclusive and binding on the Borrower and all other Persons.

(h) So long as the Bonds remain Outstanding, the Bond Registrar, shall maintain books for the aforesaid registration and transfer of the Bonds.

(i) THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE GENERAL CREDIT OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OF INDEBTEDNESS. THE BONDS ARE LIMITED AND SPECIAL OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE OR CREATE A DEBT OR OBLIGATION, EITHER GENERAL OR SPECIAL, OR LIABILITY OR MORAL OBLIGATION OF THE STATE OF INDIANA (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER. NEITHER THE FAITH OR CREDIT NOR THE TAXING POWER OF THE STATE, THE ISSUER OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PREMIUM, IF ANY, OR THE INTEREST ON THE BONDS. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE ISSUER BUT ARE LIMITED AND SPECIAL REVENUE OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE PLEDGED REVENUES. PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE A VALID CLAIM ONLY AS AGAINST

THE PLEDGED REVENUES, IS NOT A GENERAL OBLIGATION OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE OR THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION OR AGENCY OF THE STATE OR THE ISSUER IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS.

NEITHER THE BOARD OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF.

**Section 4.2. Purchase and Sale of Bonds; Conditions to Advances.**

(a) Agreement to Sell and Purchase. Upon satisfaction of the conditions set forth in (b) and (c) below, the Bondholder will purchase the Bonds from the Issuer and the Issuer will sell the Bonds to the Bondholder. The Purchase Price for the Bonds shall be the sum of (1) the amount of the Initial Advance (which shall be payable in immediately available funds) together with (2) all additional Advances made by or on behalf of the Bondholder pursuant to the terms of this Agreement.

(b) Conditions Precedent to Initial Advance. The Bondholder shall not be obligated hereunder to purchase the Bonds and to make or cause to be made the Initial Advance to the Issuer pursuant to the provisions of Section 4.5 hereof unless and until it has received or waived receipt of the following items:

(1) the original executed Bonds, executed counterparts of this Agreement, all of the Borrower Documents, the Guaranties and all of the Issuer Documents;

(2) an opinion of Bond Counsel in form and substance satisfactory to the Bondholder and its counsel;

(3) an opinion or opinions of counsel to the Borrower, the General Partner and the Corporate Guarantor in form and substance satisfactory to the Bondholder;

(4) an executed Request for Advance, in substantially the form attached to the Disbursing Agreement, with supporting documentation satisfactory to the Bondholder;

(5) UCC-1 financing statements or comparable security instruments to evidence or perfect the security interests created or purported to be created hereby and by the Borrower Documents;

(6) *Reserved;*

(7) a certificate of one or more officers of Issuer and such other proof as the Bondholder shall require to establish the truth of the representations and warranties set forth in Section 2.1 hereof;

(8) a certificate of one or more officers of the Borrower and such other proof as the Bondholder shall reasonably require to establish the truth of the representations set forth in Section 2.2 hereof;

(9) such other or further documents, data or information with respect to the Borrower, the General Partner and/or the Project as the Bondholder or its counsel may reasonably request;

(10) a certified copy of a fully executed Partnership Agreement of the Borrower (and the appropriate organizational documents relating to the Borrower, the General Partner and the Corporate Guarantor), in form and substance reasonably satisfactory to the Bondholder, and, certificates of good standing or existence, as applicable relating to the Borrower, the General Partner and the Corporate Guarantor;

(11) a resolution or unanimous written consent of the appropriate governing body of the General Partner approving and authorizing the execution and delivery of the Borrower Documents to which the Borrower or the General Partner is a party and the encumbrance of the Project, in form and substance satisfactory to the Bondholder;

(12) a resolution of the appropriate governing body of the Corporate Guarantor approving and authorizing the execution and delivery of the Guaranties to which it is a party in form and substance satisfactory to the Bondholder;

(13) all documents and other materials required to be delivered pursuant to the Continuing Covenants Agreement; and such other or further documents, data or information with respect to the Borrower, the Guarantors or the Project as the Bondholder or its counsel may reasonably request shall have been received and approved by the Bondholder;

(14) subject to Section 2.2(k) herein, as of the date of the Advance, the representations and warranties of the Borrower and/or the Guarantors made in any of the Borrower Documents or Guaranties shall be true and correct in all material respects, there shall not have occurred any Event of Default hereunder or under any of the Borrower Documents or Guaranties and there shall be no event that with the passage of time or the giving of notice or both would constitute an Event of Default hereunder, or under any of the Borrower Documents or Guaranties; and

(15) the Borrower shall have paid to the Bondholder a one-time commitment fee in connection with the Loan equal to [1]% of the Bond amount (\$[150,000]).

(c) Conditions Precedent to Additional Advances. The Bondholder shall make or cause to be made Advances to the Issuer pursuant to the provisions of Section 4.5 hereof subsequent to the Initial Advance as part of the Purchase Price of the Bonds within [\_\_\_\_\_] Business Days of its receipt of evidence satisfactory to the Bondholder that the following conditions have been met:

(1) the Bondholder shall have received a Request for Advance executed by Borrower and approved by the Disbursing Agent, in substantially the form attached to the Disbursing Agreement, with supporting documentation satisfactory to the Bondholder;

(2) as of the date of the Advance, no default or event of default as to the Borrower or the General Partner exists under the Partnership Agreement and there shall be no event that with the passage of time or the giving of notice or both would constitute a default thereunder;

(3) as of the date of the Advance, no Event of Taxability has occurred;

(4) subject to Section 2.2(k) herein, as of the date of the Advance, the representations and warranties of the Borrower and/or the Guarantors made in any of the Borrower Documents or Guaranties shall be true and correct in all material respects, there shall not have occurred any Event of Default hereunder or under any of the Borrower Documents or Guaranties and there shall be no event that with the passage of time or the giving of notice or both would constitute an Event of Default hereunder, or under any of the Borrower Documents or Guaranties; and

(5) all documents and other materials required to be delivered pursuant to the Continuing Covenants Agreement and the Disbursing Agreement; and such other or further documents, data or information with respect to the Borrower, the Guarantors or the Project as the Bondholder or its counsel may reasonably request shall have been received and approved by the Bondholder.

The Bondholder may make or cause to be made, but shall not be obligated to make or cause to be made, Advances more frequently than once per calendar month.

### **Section 4.3. Completion Date.**

The Borrower shall notify the Issuer and the Bondholder of the Completion Date of the Project by a certificate (the "Completion Certificate"), in the form attached hereto as *Exhibit B* signed by the Authorized Borrower Representative stating:

(a) the date on which the Project was substantially completed,

(b) that all other facilities and equipment necessary in connection with the Project have been constructed, improved, installed and equipped,

(c) that the construction, renovation and equipping of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations, and that all certificates of occupancy and other governmental approvals required to operate the Project for its intended use have been received and are in full force and effect, and

(d) that except as disclosed in writing to the Issuer and the Bondholder, all costs of that construction, renovation, improvement and equipment then or theretofore due and payable have been paid.

That certificate may state that it is given without prejudice to any rights against third parties which then exist or subsequently may come into being. The certificate shall include as an attachment, a copy of all certificates of occupancy for the Project. The certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in subsections (a) through (d) of this Section.

#### **Section 4.4. Conversion of Loan.**

The Borrower and the Bondholder agree that the Loan shall be interest only until the Conversion Date at which time Borrower shall begin to amortize and pay the principal of the Loan as set forth in the sinking fund schedule pursuant to Section 4.8(b) herein.

#### **Section 4.5. Deposit of Bond Advances; Project Fund; Disbursement of Bond Advances; Investment of Project Fund.**

(a) There is created by the Issuer and ordered maintained as a separate deposit account (except when invested as provided hereinafter) in the custody of the Disbursing Agent, a fund designated “Limestone Crossing Apartments Project Fund” (the “Project Fund”) and all Advances made by or on behalf of the Bondholder to the Issuer pursuant to Section 4.2(b) and Section 4.2(c) herein shall be deemed to be made by the deposit of such Advances in the Project Fund by or on behalf of the Bondholder.

(b) The Bondholder shall cause all money deposited in the Project Fund to be disbursed in accordance with the provisions of the Continuing Covenants Agreement. Such funds shall be used (i) to finance the construction, improving and equipping of the Project, and (ii) to pay the Costs of Issuance.

(c) The Bondholder shall cause the Disbursing Agent to, without need for requisition therefor, on the Closing Date, disburse the Initial Advance in accordance with the **[Disbursing Agreement]**. The Bondholder shall cause all subsequent Advances to be disbursed by the Disbursing Agent pursuant to a requisition therefor under the provisions of the Continuing Covenants Agreement.

(d) The Bondholder and the Borrower shall cause the Disbursing Agent to cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. The Issuer, the Bondholder or the Borrower may request the Disbursing Agent to file copies of the records pertaining to the Project Fund and all disbursements from such funds with the Issuer, the Bondholder or the Borrower, respectively.

(e) Upon the occurrence and continuance of an Event of Default hereunder or under the Borrower Documents because of which the principal amount of the Bonds has been declared to be due and payable immediately, the Bondholder shall cause any money



remaining in any account of the Project Fund to be promptly transferred by the Bondholder to pay Bond Service Charges on the outstanding Bonds.

(f) The Borrower shall cause money in the Project Fund to be invested and reinvested by the Disbursing Agent in Eligible Investments at the written direction of the Authorized Borrower Representative. Each investment of money in the Project Fund shall mature at such time as may be necessary to make payments when necessary from such Project Fund. In the absence of written direction from the Borrower with respect to investment of money held in the Project Fund, the Borrower hereby directs the Bondholder to invest funds in money market mutual funds of the Bondholder or its affiliates that qualify as Eligible Investments under this Agreement.

(g) Subject to any directions from the Authorized Borrower Representative with respect thereto, Project Fund investments may be sold by the Disbursing Agent and the proceeds therefrom reinvested in Eligible Investments maturing or redeemable as aforesaid. Any of those investments may be purchased from or sold to the Disbursing Agent or any bank, trust company or savings and loan association affiliated with any of the foregoing. An investment made from money credited to the Project Fund shall constitute part of the Project Fund, and the Project Fund shall be credited with all proceeds of sale and income from investment of money credited thereto. For purposes of this Agreement, those investments shall be valued at face amount or market value, whichever is less.

(h) Any amounts remaining in the Project Fund after all of the Outstanding Bonds shall be paid, and after payment of all fees, charges and expenses of the Issuer and of all other amounts required to be paid under this Agreement or the Borrower Documents shall be paid to the Borrower.

**Section 4.6. Relationship of Payments on Note to Payments under the Bonds; Assignment of Note.**

The Issuer hereby assigns the Note and this Agreement to the Bondholder, grants to the Bondholder a security interest in all of the Issuer's right, title and interest in and to the Note and this Agreement, without recourse or warranty, and hereby directs that payments of principal and interest under the Note by the Borrower shall be made to the office of the Bondholder. So long as the Borrower continues to make timely payments of principal, interest and other amounts due under any of the other Loan Documents to the Bondholder, all parties hereto agree that payments made by the Borrower under the Note shall be deemed to be payments by the Issuer on the Bonds.

The Issuer hereby represents to the Bondholder that the Issuer is the owner of the Note under the Agreement pledged to the payment of the Bonds pursuant to this Agreement, and of all rights, incident thereto, free and clear of any lien, security interest, or other encumbrance other than the security interest arising hereunder.

The Issuer hereby authorizes the Bondholder to exercise, whether or not an Event of Default has occurred under the Note or this Agreement, either in the Issuer's name or the Bondholder's name, any and all rights or remedies available to the Issuer under the Note and this Agreement. In addition, the Issuer hereby authorizes the Bondholder, either in the Issuer's name

or the Bondholder's name, to enforce compliance by the Borrower of the terms and conditions of this Agreement and the Note. The Issuer agrees, on request of the Bondholder, to execute and deliver to the Bondholder such other documents or instruments as shall be deemed reasonably necessary or appropriate by the Lender at any time to confirm or perfect the security interest and rights hereby granted.

The Issuer will not:

(a) exercise or attempt to exercise any remedies under this Agreement or the Note, or terminate, modify, or accept a surrender of, or offer or agree to any termination, modification, or surrender of the same, or, by affirmative act, consent to the creation or existence of any security interest or other lien in this Agreement to secure payment of any other indebtedness, except as otherwise permitted by this Agreement; or

(b) receive or collect or permit the receipt or collection of any payments, receipts, rentals, profits, or other moneys under this Agreement or the Note, or assign, transfer, or hypothecate (other than to the Bondholder hereunder) any of the same then due or to accrue in the future.

Whenever any of the parties hereto are referred to, such reference shall be deemed to include the successors and assigns of such party, and all the covenants, promises, and agreements in this Agreement contained by or on behalf of the Issuer or the Bondholder shall bind and inure to the benefit or detriment of the respective successors and assigns of such parties whether so expressed or not.

#### **Section 4.7. Restriction on Transfer of Bonds.**

Notwithstanding the Bondholder's intent to purchase the Bonds without a view to resell such Bonds as described in Section 2.3 hereof, the Bondholder hereby agrees and acknowledges that, in any event, the transfer of the Bonds may be made from time to time only to a purchaser who has executed and delivered to the Bond Registrar an Investor Letter. The Bondholder understands and agrees that this restriction on transfer shall be printed prominently on the form of the Bond or any replacement Bond. The Bondholder and any subsequent Bondholder desiring to affect a transfer in accordance with the provisions of this Section 4.7 shall, and by acceptance of its Bond does thereby agree to, indemnify the Issuer against any liability, cost or expense (including reasonable attorneys' fees) that may result from such transfer. The provisions of this Section 4.7 shall apply to all transfers of the Bond subject to the transfer restrictions set forth in this Section 4.7, and any transfer in violation of the provisions of this Section 4.7 shall be null and void.

#### **Section 4.8. Redemption of Bonds Prior to Maturity.**

(a) Mandatory Redemption. Upon the occurrence of an Event of Taxability with respect to the Bonds, the Bonds are subject to mandatory redemption in whole, but not in part, at a redemption price equal to 100% of the Outstanding principal amount thereof, plus accrued interest at the Default Rate to the redemption date. Such redemption shall occur on the earliest practicable date selected by the Bondholder but in no event later than five (5) Business Days following the notification to the Bondholder under Section 4.9(c) of the Event of Taxability.

(b) Mandatory Sinking Fund Redemption. The Bonds shall be subject to mandatory redemption prior to the Maturity Date beginning on the Conversion Date at a redemption price equal to 100% of the principal amount thereof (plus accrued interest to the date of redemption) from mandatory sinking fund installments which are required to be made in amounts sufficient to redeem the Bonds on the dates and in the principal amounts set forth in the sinking fund schedule attached hereto as *Exhibit E*.

(c) Reserved.

(d) Amounts Due Upon Redemption. In connection with any redemption of the Bonds, the Borrower shall pay to the Bondholder the redemption price of the Bonds as set forth herein, plus any amounts due and owing to the Bondholder or the Issuer under this Agreement and/or the Borrower Documents.

**Section 4.9. Additional Amounts Payable and Additional Obligations Following an Event of Taxability.**

(a) If an Event of Taxability occurs, the Borrower shall pay to the Bondholder the following additional amounts with respect to the Bonds no later than the redemption date of the Bonds under Section 4.8(b):

(1) Until payment of the Bonds in full, on or before each Interest Payment Date, accrued interest on the Bonds calculated at the Default Rate.

(2) Within seven (7) Business Days after demand by the Bondholder, regardless of whether such demand is made before, at or after the maturity of the Bonds, and regardless of whether or not the demand is made after payment in full of the Bonds, the Borrower shall pay the following additional amounts in the form of fees and not as additional interest:

(i) an amount equal to the difference between (i) the interest payments that would have been payable on the Bonds had such interest payments been calculated from the Date of Taxability at the Default Rate, and (ii) the interest payments that were paid or that would have been payable on the Bonds from the Date of Taxability had the Event of Taxability not occurred,

(ii) the amount of penalties, additions to tax or interest assessed against the Bondholder on account of the inclusion of the interest payments on the Bonds in the Bondholder's gross income for federal income tax purposes, and

(iii) the amount of additional fee, penalties, and/or additions to interest assessed against the Bondholder on account of the cancellation of the interest rate swap related to the Bonds.

(b) If an Event of Taxability occurs following the payment in full of the principal of, premium, if any, and interest on the Bonds, the Bondholder, once it has knowledge of the Event of Taxability, either by notice provided under (c) below, or otherwise shall give written notice to the Borrower and the Issuer of such Event of Taxability and, within ten (10) days after the notice

is given, the Borrower shall pay to the Bondholder an amount equal to 100% of all amounts payable pursuant to subsection (A) hereof for the three year period preceding the date of such notice.

(c) The Borrower or the Issuer or both shall give notice to the Bondholder within ten (10) days after the occurrence of an Event of Taxability, whether the Event of Taxability occurs before or after the payment in full of debt service on the Bonds.

(d) The Bondholder, at any time and from time to time, and for any reason, may request an opinion of Bond Counsel under clause (D) of the definition “Event of Taxability.” The Borrower shall pay the fees and expenses of Bond Counsel for providing that opinion.

(e) The obligations of the Borrower under this Section shall survive the payment in full of all sums due under the Bonds and this Section and shall continue in full force and effect until ninety (90) days after all applicable statutes of limitations have run (after taking into account all extensions and suspensions thereof) in respect of any taxable year during which any payment of interest on the Bonds was received or accrued.

[End of Article IV]

**ARTICLE V.  
LOAN TO THE BORROWER; SECURITY; TITLE**

**Section 5.1. The Loan; Loan Payments.**

Upon the terms and conditions of this Agreement, the Issuer will make the Loan to the Borrower from Advances made by or on behalf of the Bondholder to pay the Purchase Price of the Bonds from time to time in accordance with Section 4.2(b) or 4.2(c) hereof, as applicable, and, pursuant to the provisions of Section 4.5 hereof, disbursed by the Disbursing Agent.

In consideration of, and in repayment of the Loan, the Borrower shall execute and deliver the Note, in substantially the form attached hereto as *Exhibit A-2* concurrently with the execution and delivery of this Agreement.

Upon payment in full of the Bond Service Charges on the Bonds, whether at maturity or by redemption or otherwise, plus all amounts due to the Bondholder or the Issuer hereunder or under the Borrower Documents, the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Bondholder to the Borrower and shall be cancelled by the Borrower.

**Section 5.2. Additional Payments.**

The Borrower also shall pay, or cause to be paid, as and when the same become due: (i) to the Bondholder its reasonable fees and expenses, including without limitation the reasonable fees of its counsel, all charges for exchange, registration or transfer of Bonds and all other such amounts which the Borrower herein assumes or agree to pay along with all amounts due to the Bondholder in connection with the Loan under any of the Borrower Documents; (ii) to the Issuer or to any payee designated by the Issuer, the Issuer Fees and Expenses as provided herein, and all expenses of the Issuer, its agents or employees reasonably incurred at any time related to the Bonds or the Project or the financing thereof, including, without limitation, legal and advisory fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of any documents relating to the Project or the Bonds or in connection with questions or other matters arising under such documents, which amounts shall be paid no later than thirty (30) days after receipt of request for payment thereof (including reasonable documentation of such expenses); (iii) to the Rebate Analyst, the Rebate Analyst Fee and; (iv) any Rebate Amount; provided, however, that the aggregate of all such amounts paid to the Issuer, or to the Bondholder on its behalf, shall not equal or exceed an amount which would cause the “yield” on any “nonpurpose investment” to be “materially higher” than the “yield” on the Bonds, as such terms are defined in the Code.

**Section 5.3. Obligations Unconditional.**

The obligations of the Borrower to make Loan Payments, and Additional Payments hereof shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Bondholder or any other Person.

[End of Article V]



**ARTICLE VI.**  
**ADDITIONAL AGREEMENTS AND COVENANTS**

**Section 6.1. Right of Inspection.**

Subject to reasonable security and safety regulations and upon reasonable notice, the Issuer and the Bondholder, and their respective agents, shall have the right during normal business hours to inspect the Project.

**Section 6.2. Sale, Lease or Grant of Use by Borrower.**

Subject to the provisions of any lease or other agreement to which the Borrower is a party or by which it is bound (including the Loan Documents), and except for any lease by the Borrower of apartment units, garages or storage units in the Project in the ordinary course of business subject to the Continuing Covenant Agreement, the Borrower may sell, lease or grant the right to occupy and use the Project, in whole or in part, to others, provided that:

(a) No such sale, lease or grant shall impair materially the purposes of the Act to be accomplished by operation of the Project as herein provided or adversely affect the excludability from gross income for federal income tax purposes of the interest on the Bonds.

(b) There shall be delivered to the Issuer and the Bondholder an opinion of Bond Counsel addressed to the Bondholder, in form and substance reasonably acceptable to the Bondholder, to the effect that such sale, assignment or leasing shall not adversely affect the tax-exempt status of the interest payable on the Bonds then outstanding or the validity of the Bonds under the Act; and

(c) The purchaser, assignee, lessee or transferee shall assume in writing all obligations of the Borrower under this Agreement.

**Section 6.3. Indemnification.**

The Borrower (and with respect to the Issuer, its General Partner) releases the Issuer and the Bondholder from, agrees that neither the Issuer nor the Bondholder shall be liable for, and shall indemnify the Issuer and the Bondholder against, all liabilities, claims, investigations, audits, costs and expenses, including attorneys' fees and expenses, imposed upon, incurred or asserted against the Issuer and/or the Bondholder on account of: (a) any loss or damage to property or injury to or death of or loss by any Person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation and use of the Project; (b) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement, the Note, any Borrower Document or any related document, or arising from any act or failure to act by the Borrower, or any of the Borrower's agents, contractors, servants, employees or licensees; (c) the authorization, issuance, sale, trading, redemption or servicing of the Bonds, and the provision of any information or certification furnished in connection therewith concerning the Bonds, the Project or the Borrower, any information furnished by the Borrower for, and included in, or used as a basis for preparation of, any certifications, information statements or reports furnished by the Issuer, and any other information or certification obtained from the

Borrower to assure the excludability of the interest on the Bonds from gross income of the Bondholder thereof for federal income tax purposes; (d) the Borrower's failure to comply with any requirement of this Agreement or the Code pertaining to such excludability of that interest, including the covenants in Section 6.4 hereof, and (e) any claim, action, investigation, or proceeding brought with respect to the matters set forth in (a), (b), (c), or (d) above.

The Borrower also agrees to indemnify and to defend and hold the Bondholder harmless against (i) any brokerage commissions or finder's fees claimed by any broker or other party in connection with the transactions contemplated hereby, except with respect to Section 4.7 hereof, and (ii) any losses, costs, damages or expenses that the Bondholder has actually incurred, directly or indirectly, including reasonable attorneys' fees, as a result of or in connection with the assertion against the Bondholder of any claims relating to the presence or removal of any environmental contamination on the Project or any adjacent property.

In case any action or proceeding is brought against the Issuer or the Bondholder in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of a party to give that notice shall not relieve the Borrower from any of the Borrower's obligations under this Section unless that failure materially prejudices the defense of the action or proceeding by the Borrower. At the Borrower's expense, an indemnified party may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without the Borrower's consent, which consent shall not be unreasonably withheld, conditioned or delayed.

The indemnification set forth above is intended to and shall include the indemnification of all affected officials, directors, officers and employees of the Issuer and the Bondholder, respectively. That indemnification is intended to and shall be enforceable by the Issuer and the Bondholder, respectively, to the full extent permitted by law.

Notwithstanding anything to the contrary in this Section 6.3, (i) the Borrower shall not be obligated to indemnify the Bondholder pursuant to this Section 6.3 for any liability arising solely out of the gross negligence or willful misconduct of the Bondholder, and (ii) the Borrower (nor its General Partner) shall not be obligated to indemnify the Issuer pursuant to this Section 6.3 for any liability arising solely out of the willful misconduct of the Issuer.

**Section 6.4. Borrower Not to Adversely Affect Excludability from Gross Income of Interest on Bonds.**

The Borrower hereby represents that it has taken and caused to be taken, and covenants that it will take and cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, for the interest on the Bonds to be and remain excludable from gross income for federal income tax purposes, and represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such excludability under the provisions of the Code. The Borrower covenants



that the proceeds of the Bonds will be spent on Project Costs in accordance with the Tax Agreement.

The Borrower (including a “related person” thereto within the meaning of Section 147(a)(2) of the Code) may purchase Bonds; however, the Borrower shall not, pursuant to any arrangement, formal or informal, purchase Bonds in an amount related to the amount of the Loan funded pursuant to this Agreement.

#### **Section 6.5. Assignment by Issuer; No Additional Liens.**

The Issuer shall not attempt to assign, transfer or convey its interest in the Pledged Revenues. The Issuer will not, without the prior written consent of the Bondholder, create, assume or suffer to exist any assignment, mortgage, deed of trust, pledge, security interest or other lien, encumbrance or charge on (1) the Project, other than Permitted Encumbrances, or (2) any revenues derived or to be derived from the Project, other than the Loan Documents, or (3) the proceeds of the Bond, other than the Loan Documents.

#### **Section 6.6. Affirmative Covenants of the Borrower.**

Unless the Issuer and the Bondholder shall otherwise consent in writing:

(a) Maintenance of Project. The Borrower shall maintain and preserve the Project in good working order and condition, ordinary wear and tear excepted, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to said properties. All damage to Project units shall be repaired promptly, and all units shall be reasonably maintained so as to be available at all times for habitation.

(b) Keeping of Records and Books of Account. The Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with GAAP, reflecting all financial transactions.

(c) Payment of Taxes, Etc. The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other Governmental charges or levies imposed upon the Project or income or profits from the Project, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a Lien upon the Project; any indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe all covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any Lien existing at any time upon the Project; provided, however, that the Borrower shall not be required to pay any of the foregoing if (i) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (ii) the Borrower shall have set aside on its books, in accordance with GAAP, adequate reserves with respect thereto, (iii) the title of the Borrower to, and its right to use, the Project is not materially and adversely affected thereby, and (iv) the Borrower has received the written consent of the Bondholder that the payment of such amounts is not required. The Borrower hereby agrees that, in the event it fails to pay or cause to be paid taxes, assessments, fees and other governmental

charges or levies or the premium on any required insurance, the Issuer or the Bondholder may make such payment, but is not obligated to do so, and the Issuer and/or the Bondholder, as applicable, shall be reimbursed by the Borrower therefor with interest on the amount so advanced.

(d) Insurance. The Borrower shall at all times maintain builder's risk, commercial liability, property, and shall contractually require the general contractor to maintain worker's compensation, insurance in the amounts required by the Bondholder in accordance with the terms of the Loan Documents. In addition, the Borrower shall obtain promptly such other or additional insurance as may be reasonably required pursuant to the Loan Documents.

(e) Notice of Certain Events. The Borrower shall promptly notify the Bondholder, the Investment Limited Partner and the Special Limited Partner in writing of any litigation, arbitration proceeding or administrative investigation, inquiry or other proceeding to which it may hereafter become a party or be subject to which may involve any risk of any adverse judgment or liability of more than \$50,000 or which may otherwise result in any material adverse change in the business or assets or in the condition, financial or otherwise, of the Borrower or which may impair the ability of the Borrower to perform in accordance with the Bond Documents, or any other agreement or instrument herein or therein contemplated. In the event that any Event of Default occurs, or there exist facts or circumstances which, with the passage of time, the giving of notice, or both, would constitute an Event of Default, the Borrower shall give prompt notice in writing of such happening to the Bondholder, the Investment Limited Partner and the Special Limited Partner. The Borrower shall also promptly notify the Bondholder in writing of any of the following events:

(i) Any change with respect to the business, assets, liabilities, financial condition, results of operations or business prospects of the Borrower other than changes in the ordinary course of business the effects of which have not been materially adverse.

(ii) A default by the Borrower under any material agreement to which the Borrower is a party or by which the Borrower or its properties or assets may be bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

(f) Performance of Contracts, Etc. The Borrower shall perform according to and shall comply with all of its contractual obligations and all requirements of law if nonperformance thereof would materially and adversely affect the business or credit of the Borrower or would materially impair the ability of the Borrower to perform its obligations under this Agreement or any other agreement or instrument herein or therein contemplated.

(g) Cooperation in Perfecting Security Interests, Etc. The Borrower shall promptly perform, upon request of the Bondholder, such acts as may be necessary or advisable to perfect and maintain any Lien provided for in this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent

of this Agreement. The Borrower shall promptly execute, deliver and perform or cause to be done, executed, delivered and performed, on request of the Bondholder, all such documents, instruments, agreements, things and acts, including, without limitation, financing statements, continuation statements, security agreements, assignments of leases and mortgages as may be necessary or advisable to perfect or maintain any such Lien on any and all assets or rights in the Project owned by the Borrower, or any interest of the Borrower therein, which are the subject of such Lien and the Bondholder and its officers, employees and authorized agents, or any of them, are hereby irrevocably appointed the attorneys-in-fact of the Borrower to do all acts and things which the Bondholder may deem necessary or advisable to preserve, perfect and continue perfected any Lien in favor of the Bondholder.

(h) Change in Organization. Subject to the provisions of the Bond Documents, the Borrower shall inform the Bondholder and the Issuer in writing within ten (10) days of any change, amendment, or modification of its place of organization, form of organization, or change in any Borrower's name (including, but not by way of limitation, resulting from mergers, acquisitions, tax free exchanges, or other transactions) (all of which are sometimes referred to as "Corporate Changes," regardless of whether the Borrower is organized as a corporation, partnership, limited partnership, limited liability company, limited liability partnership, sole proprietorship, or other form of entity recognized under the law of the state in which the Borrower is organized), and Borrower shall cooperate with the Bondholder by executing, if necessary, as soon as reasonably practicable after receipt thereof any and all amendments to UCC financing statements deemed necessary by the Bondholder to insure that the security interest of the Bondholder in any and all collateral of the Borrower remains fully perfected. The Bondholder may rely on opinions of counsel as to whether any or all UCC financing statements of the Borrower need to be amended as a result. If the Borrower fails to provide information to the Bondholder about Corporate Changes on a timely basis, the Bondholder shall not be liable or responsible to any party for any failure to maintain a perfected security interest in the Borrower's collateral, for which the Bondholder needed to have information about the Corporate Changes. The Bondholder shall have no duty to inquire about Corporate Changes if the Borrower does not inform the Bondholder of such Corporate Changes, the parties acknowledging and agreeing that it would not be feasible or practical for the Bondholder to search for information on the Corporate Changes if the Borrower does not provide such information.

The Borrower shall not file or record any instrument or document with any entity, officer or office having responsibility for recording of security interests which purports to terminate, vitiate or extinguish a security interest in the collateral in which the Bondholder holds a security interest (a "Debtor Termination Statement"). The Borrower shall provide the Bondholder with copies of any Debtor Termination Statement that the Borrower files in violation of the covenant contained in the previous sentence.

The Investment Limited Partner is permitted to transfer its limited partner interests in the Borrower to another entity without Issuer or Bondholder consent. Additionally, the Investment Limited Partner is permitted to remove and/or replace the General Partner in accordance with the terms of the Partnership Agreement without the consent of the Issuer or the Bondholder.

(i) Environmental Matters. The Borrower will take and continue to take prompt action to remedy all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems relating to the Project, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, county, state, federal, administrative or judicial authority, or otherwise.

(j) Non-discrimination. The Borrower will require the manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of race, creed, color, handicap, national origin, sex, religious belief, marital status, family status or sexual orientation.

(k) Mechanics' Liens. The Borrower will not suffer or permit any mechanics' lien claims to be filed or otherwise asserted against the Project or any funds due any contractor, and will promptly bond or discharge the same if any claims for lien or any proceedings for the enforcement thereof are filed or commenced; provided, however, that the Borrower, to the extent permitted in the Loan Documents, shall have the right to contest in good faith and with due diligence the validity of any such lien or claim upon furnishing to the title agent such security or indemnity as it may require to induce the title agent to issue its title policy or an endorsement thereto insuring against all such claims, liens or proceedings.

(l) Proceedings to Enjoin or Prevent Construction. If any proceedings are filed seeking to enjoin or otherwise prevent or declare unlawful the construction, renovation, occupancy, maintenance or operation of the Project or any portion thereof, the Borrower shall at its sole expense (i) cause such proceedings to be vigorously contested in good faith and (ii) in the event of an adverse ruling or decision, prosecute all allowable appeals therefrom. Without limiting the generality of the foregoing, the Borrower shall resist the entry or seek the stay of any temporary or permanent injunction that may be entered and use its best efforts to bring about a favorable and speedy disposition of all such proceedings.

(m) Signage. Each or both of the Issuer and the Bondholder, with reasonable notice to the Borrower and subject to Borrower's approval of location, may place signs at the Project indicating that it is a source of financing for the Project.

#### **Section 6.7. Secondary Borrowing.**

Except as otherwise approved by Bondholder and provided in the budget and for Permitted Encumbrances and any guaranty obligations owed to the Borrower or the Investment Limited Partner, the Borrower shall not permit any secondary financing on the Project.

[End of Article VI]

**ARTICLE VII.  
EVENTS OF DEFAULT AND REMEDIES**

**Section 7.1. Events of Default.**

Each of the following shall be an Event of Default:

(a) Failure of the Borrower (i) (x) to make its Loan Payments when due, or (y) after ten (10) Business Days written notice from the Bondholder that the same is due and payable, to observe or perform any of the other covenants or conditions by the Borrower to be performed under the terms of this Agreement or any other Borrower Document or any Loan Document concerning the payment of money, or (ii) unless a shorter period is expressly set forth herein or in any other Borrower Document or any Loan Document for a specific default, for a period of thirty (30) days after written notice from the Bondholder, to observe or perform any non-monetary covenant or condition contained in this Agreement, any other Borrower Document or any Loan Document; provided that if any such failure concerning a non-monetary covenant or condition is susceptible to cure and cannot reasonably be cured within said thirty (30) day period, then the Borrower shall have an additional thirty (30) day period to cure such failure and no Event of Default shall be deemed to exist hereunder so long as (x) the Borrower commences such cure within an initial thirty (30) day period and diligently and in good faith pursues such cure to completion within such resulting sixty (60) day period from the date of the Bondholder's notice, and (y) the existence of such default will not result in any tenant having the right to terminate its lease due to such default; and provided further that if a different notice or grace period is specified in this Agreement or in any other Borrower Document or any Loan Document with respect to a particular breach, the specific provision shall control.

(b) If any warranty, representation, statement, report or certificate made now or hereafter by the Borrower, either Guarantor, or the General Partner is false at the time made or delivered such that it would have a material adverse impact on the Bondholder, provided that if such breach is reasonably susceptible of cure, then no Event of Default shall exist so long as the Borrower cures said breach (i) within the notice and cure period provided in (a)(i) above for a breach that can be cured by the payment of money or (ii) within the notice and cure period provided in (a)(ii) above for any other breach.

(c) The Borrower, General Partner, either Guarantor or the Investment Limited Partner shall commence a voluntary case under the Bankruptcy Code; or an involuntary proceeding is commenced against the Borrower, General Partner, either Guarantor or the Investment Limited Partner under the Bankruptcy Code and relief is ordered against the Borrower, General Partner, said Guarantor or the Investment Limited Partner, or the petition is controverted but not dismissed or stayed within ninety (90) days after the commencement of the case, or a custodian (as defined in the Bankruptcy Code) is appointed for or takes charge of all or substantially all of the property of the Borrower, General Partner, either Guarantor or the Investment Limited Partner; or the Borrower, General Partner, either Guarantor or the Investment Limited Partner commences any other proceedings under any reorganization, arrangement, readjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or

hereafter in effect relating to the Borrower, General Partner, either Guarantor or the Investment Limited Partner; or there is commenced against the Borrower, General Partner, either Guarantor or the Investment Limited Partner any such proceeding which remains undismissed or unstayed for a period of ninety (90) days; or the Borrower, General Partner, either Guarantor or the Investment Limited Partner fails to contest in a timely manner any such case under the Bankruptcy Code or any such proceeding, or any order of relief or other order approving any such case or proceeding is entered; or the Borrower, General Partner, either Guarantor or the Investment Limited Partner by any act or failure to act indicates its consent to, approval of, or acquiescence in any such case or proceeding or the appointment of any custodian or the like of or for it for any substantial part of its property or suffers any such appointment to continue undischarged or unstayed for a period of sixty (60) days.

(d) The Borrower, General Partner, either Guarantor or the Investment Limited Partner shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof or if all or a substantial part of the assets of the Borrower, General Partner, either Guarantor or the Investment Limited Partner are attached, seized, subjected to a writ or distress warrant, or are levied upon, or come into the possession of any receiver, trustee, custodian or assignee for the benefit of creditors, and such order, judgment or decree shall remain unvacated or not set aside for sixty (60) days.

(e) The Borrower is enjoined, restrained or in any way prevented by any court order from constructing, renovating or operating the Project, and such order, judgment or decree shall remain unvacated or not set aside for sixty (60) days.

(f) One or more final judgments or liens for the payment of money are entered (i) in any amount against Borrower or (ii) in an amount in excess of \$50,000 against either Guarantor, unless, in each case, the judgment or lien is satisfied, discharged, or bonded off within sixty (60) days from the date of entry of said judgment or lien or unless such judgment or lien is not covered by applicable insurance coverages, as determined by the Bondholder, in Bondholder's reasonable discretion.

(g) [Reserved].

(h) The occurrence of any other event or circumstance denominated as an Event of Default herein or under any of the other Borrower Documents and the expiration of any applicable grace or cure periods, if any, specified for such Event of Default herein or therein, as the case may be.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof other than an obligation to pay, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give notice to the Bondholder and the Issuer of the existence of an event of Force Majeure and shall use its

commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within the Borrower's discretion.

The term Force Majeure shall mean, without limitation, the following:

(i) acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

## **Section 7.2. Remedies on Default.**

Whenever an Event of Default shall have happened and be continuing, any one or more of the following remedial steps may be taken:

(a) The Bondholder may declare, by written notice to the Issuer and the Borrower, to be immediately due and payable, the unpaid principal amount of the Bonds and the payments to be made by the Borrower therefor pursuant to this Agreement and the Note, and accrued interest on the foregoing at the Default Rate, whereupon the same shall become immediately due and payable;

(b) The Investment Limited Partner may remove and/or replace the General Partner in accordance with the terms of the Partnership Agreement, as a cure for any non-monetary default;

(c) The Bondholder may cease making Advances and withhold or direct the Disbursing Agent to withhold further disbursement of the proceeds of the Bonds and/or terminate the Bondholder's obligations to make further Advances or disbursements hereunder; and

(d) The Issuer or the Bondholder may pursue all remedies now or hereafter existing under any of the Borrower Documents or Guaranties, at law or in equity, to collect all amounts then due and thereafter to become due under any of the Borrower Documents and/or the Guaranties or to enforce the performance and observance of any other obligation or agreement of the Borrower, General Partner, either Guarantor and/or Investment Limited Partner under those instruments.

Notwithstanding the foregoing, the Issuer shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond or other assurance satisfactory to the Issuer has been furnished to the Issuer at no cost or expense to the Issuer.

The provisions of this Section are subject to the further limitation that the rescission by the Bondholder of its declaration that any of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

**Section 7.3. No Remedy Exclusive.**

No remedy conferred upon or reserved to the Issuer or the Bondholder by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under any of the Borrower Documents and/or Guaranties now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**Section 7.4. Reserved.**

**Section 7.5. No Waiver.**

No failure by the Issuer or the Bondholder to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

**Section 7.6. Notice of Default.**

The Borrower shall notify the Bondholder, the Investment Limited Partner and the Special Limited Partner immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, could become an Event of Default.

The Bondholder shall notify the Investment Limited Partner and the Special Limited Partner immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, could become an Event of Default.



**Section 7.7. Cure by Investment Limited Partner and/or Special Limited Partner**

The Issuer and the Bondholder agree that the Investment Limited Partner and/or the Special Limited Partner may act to cure any Event of Default hereunder and the Issuer and the Bondholder shall accept such cure as though made by the Borrower.

[End of Article VII]

**ARTICLE VIII.  
MISCELLANEOUS**

**Section 8.1. Term of Agreement.**

This Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Bondholder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) and all other sums payable by the Borrower under this Agreement, the Note or any other Borrower Document or Loan Document shall have been paid, except for obligations of the Borrower under Section 6.3 and 6.4 hereof, which shall survive any termination of this Agreement.

**Section 8.2. Notices.**

All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by first class mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Issuer, the Borrower, the Investment Limited Partner or the Bondholder shall also be given to the others. The Borrower, the Investment Limited Partner, the Issuer and the Bondholder, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

**Section 8.3. Extent of Covenants of the Issuer; No Personal Liability.**

All covenants, obligations and agreements of the Issuer contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Legislative Authority in other than his official capacity, and neither the members of the Legislative Authority nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement.

**Section 8.4. Binding Effect.**

This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower and the Bondholder and their respective permitted successors and assigns; provided that this Agreement may not be assigned by the Borrower or the Issuer except with the prior written consent of the other parties hereto and, with respect to the Issuer, only to the extent necessary to enforce or secure payment of Bond Service Charges. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

**Section 8.5. Amendments.**

This Agreement may be amended with the prior written consent of the Issuer, the Borrower and the Bondholder.

**Section 8.6. Execution Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

**Section 8.7. Severability.**

If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 8.8. Governing Law.**

This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

**Section 8.9. Conflicts.**

In the event of any conflict between any provision of this Agreement and the provisions of the Continuing Covenants Agreement, the provision of Continuing Covenants Agreement shall govern and be controlling in all respects.

**Section 8.10. Determinations.**

All determinations made by Bondholder pursuant to this Agreement shall, in the absence of manifest error, be conclusive and binding on the Borrower.

[End of Article VIII]

**IN WITNESS WHEREOF**, the Issuer, the Bondholder and the Borrower have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

**CITY OF BLOOMINGTON, INDIANA**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**LIMESTONE CROSSING APARTMENTS, LP**  
an Indiana limited partnership

By: Limestone Crossing Apartments GP, LLC,  
an Indiana limited liability company  
its General Partner

By: \_\_\_\_\_  
Jeffrey L. Kittle, Manager

**CEDAR RAPIDS BANK**  
**AND TRUST COMPANY**, as Bondholder

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A-1**

**FORM OF BOND**

**THIS BOND MAY BE OFFERED, SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED ONLY TO ACCREDITED INVESTORS OR QUALIFIED INSTITUTIONAL BUYERS WHO HAVE EXECUTED AN INVESTOR LETTER IN THE FORM ATTACHED TO THE BOND FINANCING AGREEMENT. THIS BOND IS ISSUABLE AND TRANSFERRABLE ONLY IN DENOMINATIONS OF \$100,000 OR MORE OF PRINCIPAL AMOUNT.**

**REGISTERED  
NO. AR-\_\_\_**

**REGISTERED  
\$[15,000,000]**

**UNITED STATES OF AMERICA  
STATE OF INDIANA**

**CITY OF BLOOMINGTON, INDIANA  
ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2019  
(LIMESTONE CROSSING APARTMENTS PROJECT)**

<b>INTEREST RATE</b>	<b>MATURITY DATE</b>	<b>DATED</b>	<b>CUSIP</b>
Variable	[MATURITY DATE]	[May __], 2019	N/A

**REGISTERED OWNER:** Cedar Rapids Bank and Trust Company (the “Bondholder”)

**MAXIMUM PRINCIPAL AMOUNT:** [FIFTEEN MILLION] AND 00/100 DOLLARS

City of Bloomington, Indiana (the “Issuer”), a body corporate and politic of the State of Indiana for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount on the Maturity Date specified above, unless this Bond shall have been called for redemption and payment of the redemption price shall have been duly made or provided for, which shall be equal to the lesser principal sum of \$[15,000,000] or the amount shown in the records of the Bondholder attached hereto as Schedule I and to pay from said sources interest on the unpaid balance of said Principal Amount from and after the respective date of each Advance on this Bond until the principal amount is paid or duly provided for as set forth below.

Each Advance shall bear interest at the Interest Rate or the Default Rate, as applicable, as defined in the Bond Financing Agreement dated as of [May] 1, 2019 (the “Bond Financing Agreement”), among the Issuer, Limestone Crossing Apartments, LP (the “Borrower”) and Cedar Rapids Bank and Trust Company, as the bondholder (the “Bondholder”).

The principal of and any premium on this Bond are payable to the Bondholder at the times and in the manner set forth in the Bond Financing Agreement.

Interest is payable on the eighth day of each month, commencing [IPD START] and continuing until the Conversion Date; provided that if the eighth day of the month is not a Business Day, payment will be made on the next Business Day. After the Conversion Date interest on the Bonds is payable in accordance with Swap Documents until the Bonds have been paid in full, and shall include the Maturity Date of the Bonds.

Subject to adjustment as herein provided, any principal outstanding hereunder will bear interest at the Interest Rate as defined in the Bond Financing Agreement. The principal of and interest and any premium on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent.

THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE GENERAL CREDIT OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OF INDEBTEDNESS. THE BONDS ARE LIMITED AND SPECIAL OBLIGATIONS OF THE ISSUER AND DO NOT CONSTITUTE OR CREATE A DEBT OR OBLIGATION, EITHER GENERAL OR SPECIAL, OR LIABILITY OR MORAL OBLIGATION OF THE STATE OF INDIANA (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS WHATSOEVER. NEITHER THE FAITH OR CREDIT NOR THE TAXING POWER OF THE STATE, THE ISSUER OR OF ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PREMIUM, IF ANY, OR THE INTEREST ON THE BONDS. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE ISSUER BUT ARE LIMITED AND SPECIAL REVENUE OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE PLEDGED REVENUES. PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS SHALL BE A VALID CLAIM ONLY AS AGAINST THE PLEDGED REVENUES, IS NOT A GENERAL OBLIGATION OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION, OR AGENCY OF THE STATE OR THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY MUNICIPAL CORPORATION, SUBDIVISION OR AGENCY OF THE STATE OR THE ISSUER IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS.

NEITHER THE COMMON COUNCIL OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF.

This Bond is one of a duly authorized issue of \$[\_\_\_\_\_] City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) (the "Bonds"), issued for the purpose of making a loan (the "Loan") to assist the Borrower in the financing of costs of the Project, all as defined and set forth in the Bond Financing Agreement. The Bonds are issued pursuant to Indiana Code 36-7-11.9 and 12, and by an ordinance duly enacted by the Board of the Issuer on [May \_\_], 2019 (the "Bond Legislation").

Reference is made to the Bond Financing Agreement for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for

the Bonds, the rights, duties and obligations of the Issuer, the Borrower and the Bondholder, and the terms and conditions upon which the Bonds are issued and secured.

Pursuant to the Bond Financing Agreement, the Borrower has executed and delivered to the Issuer the Borrower's promissory note dated as of [May \_\_], 2019 (the "Note"), in the principal amount of \$[15,000,000], as the same has been assigned by the Issuer to the Bondholder. The Borrower is required by the Bond Financing Agreement to make payments to the Bondholder in the amounts and at the times necessary to pay the principal of and interest (the "Bond Service Charges") on the Bonds. To secure its compliance with certain covenants in the Bond Financing Agreement, the Borrower has executed and delivered a Land Use Restriction Agreement in connection with the Project (the "Regulatory Agreement") between the Borrower and the Issuer.

The Bond Service Charges on the Bonds are payable solely from the Pledged Revenues, as defined and as provided in the Bond Financing Agreement. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and in printed or typewritten form.

The Bonds are subject to redemption prior to stated maturity as set forth in the Bond Financing Agreement.

If Bonds are called for redemption and if on the redemption date all moneys required for the redemption thereof in full, as well as all other amounts due to the Bondholder under the Bond Financing Agreement, are held by the Bondholder, thereafter the Bonds shall cease to bear interest, and shall be deemed to have been paid and discharged pursuant to the Bond Financing Agreement.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (i) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the Issuer, and (ii) precedent to and in the execution and delivery of the Bond Financing Agreement; that payment in full for the Bonds has been received; and that the Bonds do not exceed or violate any constitutional or statutory limitation.

This Bond shall not be entitled to any security or benefit under the Bond Financing Agreement or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

**IN WITNESS OF THE ABOVE**, the Issuer has caused this Bond to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

CITY OF BLOOMINGTON, INDIANA

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
Clerk



**CERTIFICATE OF AUTHENTICATION**

This Bond is the Bond described in the within mentioned Bond Legislation.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



Schedule I

Schedule of Advances

Date

Amount

**EXHIBIT A-2**

**FORM OF NOTE**

**PROMISSORY NOTE**

[\$15,000,000].00

[May \_\_], 2019

FOR VALUE RECEIVED, the undersigned, Limestone Crossing Apartments, LP (hereinafter referred to as “**Borrower**”), hereby promises to pay to the order of City of Bloomington, Indiana (the “**Payee**”), at its principal office at 401 N Morton Street, Bloomington, Indiana, or at such other place as the holder hereof may from time to time designate in writing, the principal sum of [**Fifteen**] Million and No/Dollars (\$[15,000,000].00), or so much thereof as may be advanced from time to time, together with interest on the unpaid principal balance thereon from time to time outstanding, at the rates and at the times hereinafter provided.

This Note is issued pursuant to the terms and conditions of that certain Bond Financing Agreement dated as of even date herewith (as the same may be amended, supplemented, extended, modified, substituted or consolidated, the “**Agreement**”). This Note evidences the Loan. Payment of this Note is governed by the Agreement, the terms of which are incorporated herein by express reference as if fully set forth herein. Capitalized terms used and not otherwise defined herein shall have the meaning given to them in the Agreement.

1. **Interest.** The principal amount hereof outstanding from time to time shall bear interest until paid in full at the Interest Rate.

2. **Payments.** All payments on account of the indebtedness evidenced by this Note shall be made to Payee not later than 11:00 a.m. Eastern Standard time on the day when due in lawful money of the United States and shall be first applied to late charges, costs of collection or enforcement and other similar amounts due, if any, under this Note and any of the other Loan Documents, then to interest due and payable hereunder and the remainder to principal due and payable hereunder.

3. **Principal and Interest.** Payments of interest will be due and payable on each Interest Payment Date in the amount of all interest accrued during the immediately preceding calendar month until the Loan is paid in full. Commencing on the first Interest Payment Date after the Conversion Date and continuing on each Interest Payment Date thereafter, up to and including the Maturity Date, Borrower shall make principal payments in an amount sufficient to fully amortize the Loan over a hypothetical forty (40) year period together with the monthly payments of interest, according to the schedule attached hereto as *Appendix A*. Borrower hereby acknowledges and agrees that such principal payments will not be sufficient to repay the Loan by the Maturity Date and that a balloon payment of all outstanding principal, together with accrued and unpaid interest will be due upon maturity of this Note, whether by acceleration or otherwise.

4. **Maturity Date.** The indebtedness evidenced hereby shall mature on the Maturity Date. On the Maturity Date, the entire outstanding principal balance hereof, together with accrued

and unpaid interest and all other sums evidenced by this Note, shall, if not sooner paid, become immediately due and payable.

5. **Default.** Upon the occurrence of any of the following events, at the election of Payee, the entire unpaid principal balance of this Note, together with all accrued but unpaid interest thereon and all other sums or charges due hereunder or secured by or required to be paid by Borrower under any of the Loan Documents, shall become immediately due and payable:

(a) If Borrower fails to pay any monthly installment of interest or of principal and interest after the date such payment is due as herein provided other than a payment due at maturity, whether by acceleration or otherwise, for which there shall be no grace period; or

(b) If Borrower fails to pay the entire outstanding principal balance together with accrued and unpaid interest on the Maturity Date; or

(c) If an Event of Default, after any applicable notice and grace period, occurs under the Agreement or any of the other Loan Documents; or

(d) If Borrower defaults in the due performance and observance of any term of any other agreement with Payee beyond any applicable grace period contained therein, including, without limitation, all agreements between Payee and Borrower which give rise to Hedging Obligations.

Notice of such election by Payee is hereby expressly waived as part of the consideration for the Loan. Nothing contained herein shall be construed to restrict the exercise of any other rights or remedies granted to Payee hereunder or under any of the other Loan Documents upon the failure of Borrower to perform any provision hereof or of any of the other Loan Documents.

6. **Default Rate; Late Charge.** In the event (i) the principal balance hereof is not paid when due whether by acceleration or upon the Maturity Date or (ii) an Event of Default occurs, then the principal balance hereof shall bear interest from and thereafter at the rate of five percent (5.00%) in excess of the then applicable Interest Rate (the "Default Rate"). In addition, for any installment of principal and/or interest (exclusive of the payment due upon the Maturity Date) which is not paid on the due date thereof, Borrower shall, on demand, pay a late charge equal to **[five percent (5.00%)]** for each One Dollar (\$1.00) of such overdue monthly installment (the "Late Charge") to cover the extra expense involved in handling delinquent payments.

7. **Binding Effect.** This Note shall be binding upon the Borrower, its successors and permitted assigns, whether expressed or not, including each owner and holder from time to time of this Note.

8. **Time is of the Essence.** Time is of the essence as to Borrower's performance and observance of all obligations and time periods applicable to Borrower pursuant to this Note.

9. **Borrower Waivers.** Borrower hereby waives demand, presentment for payment, protest, notice of protest, notice of nonpayment and any and all lack of diligence or delays in collection or enforcement of this Note or the other Loan Documents, and expressly consents to

any extension of time of payment hereof, renewals, waivers, or modifications that may be granted by Payee with respect to the payment or other provisions of this Note, and to any substitution, exchange or release of the collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any party primarily or secondarily liable hereunder or of any of the security for this Note, acceptance of other parties to be liable for any of the indebtedness evidenced hereby or under the other Loan Documents or of other security therefor, or any other indulgence or forbearance which may be made, without notice to any party and without in any way affecting the liability of any party.

Borrower hereby waives, in favor of the holder hereof, any and all rights of contribution, subrogation, exoneration and any similar rights and interest so long as any amount evidenced by this Note, together with any additional amount secured by any of the Loan Documents, remains unpaid. Borrower agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Payee; and Borrower consents to any indulgences and all extensions of time. Borrower hereby waives and renounces for itself, its successors and assigns, all rights to the benefits of any statute of limitations and any moratorium, reinstatement, marshalling, forbearance, valuation, stay, extension, redemption, appraisal, or exemption and homestead laws now provided, or which may hereafter be provided, by the laws of the United States and of any state thereof against the enforcement and collection of the obligations evidenced by this Note.

10. **Miscellaneous**. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder shall be given in the manner prescribed in the Agreement. No delay or omission on the Payee's part to exercise any right or power arising hereunder will impair any such right or power or be considered a waiver of any such right or power, nor will the Payee's action or inaction impair any such right or power. The Payee's rights and remedies hereunder are cumulative and not exclusive of any other rights or remedies which the Payee may have under other agreements, at law or in equity. No modification, amendment or waiver of, or consent to any departure by the Borrower from, any provision of this Note will be effective unless made in a writing signed by the Payee. The Borrower agrees to pay on demand, to the extent permitted by law, all costs and expenses incurred by the Payee in the enforcement of its rights in this Note and in any security therefore, including without limitation reasonable fees and expenses of the Payee's counsel. If any provision of this Note is found to be invalid, illegal or unenforceable in any respect by a court, all the other provisions of this Note will remain in full force and effect. The Borrower and all other makers and indorsers of this Note hereby forever waive presentment, protest, notice of dishonor and notice of non-payment. The Borrower also waives all defenses based on suretyship or impairment of collateral. This Note shall bind the Borrower and its successors and assigns, and the benefits hereof shall inure to the benefit of the Payee and its successors and assigns; provided, however, that the Borrower may not assign this Note in whole or in part without the Payee's written consent and the Payee at any time may assign this Note in whole or in part. Borrower hereby expressly acknowledges and represents that the indebtedness evidenced by this Note is a "business loan" within the meaning of Indiana Laws.

11. **Cumulative Rights**. No delay on the part of the holder of this Note in the exercise of any power or right under this Note, or any of the other Loan Documents, shall operate as a waiver thereof, nor shall a single or partial exercise of any other power or right. Enforcement by

the holder of this Note or any security for the payment thereof shall not constitute an election by it of remedies so as to preclude the exercise of any other remedy available to it.

12. **Governing Law.** This Note has been negotiated, executed and delivered to the Payee, and shall be construed and enforced in accordance with the Laws of the State of Indiana, except to the extent pre-empted by Federal laws without reference to the choice of law or conflicts of law principles of that State.

13. **Payee's Costs.** If this Note is not paid when due, whether at maturity or by acceleration or otherwise, or if an Event of Default occurs under any of the Loan Documents, Borrower promises to pay all costs of collection incurred by Payee, including without limitation attorneys' fees to the fullest extent not prohibited by applicable law, and all expenses incurred in connection with the protection or realization of any collateral, whether or not suit is filed hereon or on any instrument granting a security interest.

14. **Compliance with Applicable Law.** The parties hereto intend and believe that each provision in this Note comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Note is found by a court of law to be in violation of any applicable Laws, or public policy, and if such court should declare such portion, provision or provisions of this Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of Borrower and the holder or holders hereof under the remainder of this Note shall continue in full force and effect.

15. **WAIVER OF JURY TRIAL.** BORROWER HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, AND PAYEE BY ITS ACCEPTANCE HEREOF, EACH WAIVES THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS NOTE OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY THE COURTS. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDINGS RELATING TO THIS NOTE (EACH, A "PROCEEDING"), BORROWER IRREVOCABLY (A) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS HAVING JURISDICTION IN THE CITY OF BLOOMINGTON, COUNTY OF MONROE AND STATE OF INDIANA, AND (B) WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY PROCEEDING BROUGHT IN ANY SUCH COURT, WAIVES ANY CLAIM THAT ANY PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVES THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDING, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY. NOTHING IN THIS NOTE SHALL PRECLUDE PAYEE FROM BRINGING A PROCEEDING IN ANY OTHER JURISDICTION NOR WILL THE BRINGING OF A PROCEEDING IN ANY ONE OR MORE JURISDICTIONS PRECLUDE THE BRINGING OF A PROCEEDING IN ANY OTHER JURISDICTION. BORROWER FURTHER AGREES AND CONSENTS THAT, IN

ADDITION TO ANY METHODS OF SERVICE OF PROCESS PROVIDED FOR UNDER APPLICABLE LAW, ALL SERVICE OF PROCESS IN ANY PROCEEDING IN ANY STATE OR UNITED STATES COURT SITTING IN THE CITY OF BLOOMINGTON, INDIANA, AND COUNTY OF MONROE MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO BORROWER AT THE ADDRESS INDICATED SET FORTH IN THE AGREEMENT, AND SERVICE SO MADE SHALL BE COMPLETE UPON RECEIPT; EXCEPT THAT IF BORROWER SHALL REFUSE TO ACCEPT DELIVERY, SERVICE SHALL BE DEEMED COMPLETE FIVE (5) DAYS AFTER THE SAME SHALL HAVE BEEN SO MAILED.

**16. Interpretation.**

(a) All personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa.

(b) Titles of articles and sections are for convenience only and in no way define, limit, amplify or describe the scope or intent of any provisions hereof.

**17. Warrant of Attorney.** Each of the undersigned authorizes any attorney at law to appear in any Court of Record in the State of Indiana or in any state or territory of the United States after the indebtedness evidenced by this Note becomes due, whether by acceleration or otherwise, to waive the issuing and service of process, to enter appearance and to confess judgment against any one or more of the undersigned in favor of the holder of this Note for the amount then appearing due together with costs of suit, and thereupon to waive all errors and all rights of appeal and stays of execution. No such judgment or judgments against less than all of the undersigned shall be a bar to a subsequent judgment or judgments against any one or more of the undersigned against whom judgment has not been obtained hereon, this being a joint and several warrant of attorney to confess judgment. The attorney-at-law authorized hereby to appear for the undersigned may be an attorney-at-law representing the Payee, and the undersigned hereby expressly waive any conflict of interest that may exist by virtue of such representation. The undersigned also agree that the attorney acting for the undersigned as set forth in this section may be compensated by the Payee for such services.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK—  
SIGNATURE PAGE TO IMMEDIATELY FOLLOW]



Borrower has executed this Note in [Indianapolis], Indiana and has executed and delivered this Note as of the day and year first set forth above.

**WARNING – BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

LIMESTONE CROSSING APARTMENTS, LP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF INDIANA            )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by [\_\_\_\_\_], the [\_\_\_\_\_] of [\_\_\_\_\_], on behalf of the limited partnership.

\_\_\_\_\_  
Notary Public

**APPENDIX A**

**AMORTIZATION SCHEDULE**

**ALLONGE TO PROMISSORY NOTE**

This Allonge is attached to, and by this reference made a part of, the Promissory Note, dated [May \_\_], 2019 (the "Note") executed by Limestone Crossing Apartments, LP, as borrower under the Bond Financing Agreement, dated as of [May] 1, 2019 (the "Financing Agreement"), in favor of the City of Bloomington, Indiana, as issuer under the Financing Agreement.

For value received, the City of Bloomington, Indiana, hereby endorses and transfers the Note as follows:

Pay to the order of Cedar Rapids Bank and Trust Company, a national banking association, without recourse or warranty, as Bondholder under the Financing Agreement.

This \_\_\_ day of [May], 2019.

CITY OF BLOOMINGTON, INDIANA

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT B**

**COMPLETION CERTIFICATE**

To: Cedar Rapids Bank and Trust Company, Bondholder  
and  
City of Bloomington, Indiana, Issuer

From: Authorized Borrower Representative

Subject: \$[15,000,000] City of Bloomington, Indiana Economic Development  
Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project)

The undersigned hereby certifies in connection with the Limestone Crossing Apartments, financed with the proceeds of the above-described Bonds issued by the City of Bloomington, Indiana (the "Issuer"), the proceeds of which have been loaned to Limestone Crossing Apartments, LP (the "Borrower") pursuant to the Bond Financing Agreement among the Borrower, the Bondholder and the Issuer dated as of [May] 1, 2019 (the "Bond Financing Agreement") (words capitalized herein have the meaning ascribed to them in the Bond Financing Agreement):

1. The construction, improvement, installation and equipping of the Project was substantially completed as of \_\_\_\_\_ (the "Completion Date").
2. All other facilities necessary in connection with the Project have been constructed, improved, installed and equipped.
3. The Project has been completed in such manner as to conform to all applicable zoning, planning, building, environmental, food handling and other similar governmental regulations.
4. All Project Costs for the Project have been paid in full except for those not yet due and payable or being contested, which are described below and for which money for payment thereof is being retained by the Bondholder:

- (a) Project Costs not yet due and payable:

<u>Description</u>	<u>Amount</u>
--------------------	---------------

- (b) Payments being contested:

<u>Description</u>	<u>Amount</u>
--------------------	---------------

5. Attached hereto are copies of all certificates of occupancy for the Project.

[Remainder of page intentionally left blank]

This certificate is given without prejudice to any rights against third parties which exist at the date hereof or which may subsequently come into being.

Authorized Borrower Representative

Date: \_\_\_\_\_, \_\_\_\_\_

**EXHIBIT C**

**FORM OF INVESTOR LETTER**

**[May \_\_], 2019**

City of Bloomington, Indiana  
401 N Morton Street  
Bloomington, IN 47404  
Re: **[\$15,000,000]** City of Bloomington, Indiana Economic Development  
Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project)

Ladies and Gentlemen:

The undersigned, in connection with its purchase of **[\$15,000,000]** City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) (the “Bonds”) in accordance with this letter and the Bond Financing Agreement dated as of **[May]** 1, 2019 (the “Agreement”) by and among the City of Bloomington, Indiana (the “Issuer”), Limestone Crossing Apartments, LP (the “Borrower”) and Cedar Rapids Bank and Trust Company, as the purchaser of the Bond (the “Purchaser”), executes and delivers this Investor Letter.

The undersigned represents the following:

1. The undersigned is a “Qualified Investor” who is either (a) a financial institution constituting an “accredited investor” as defined in Rule 501 of Regulation D of the Securities and Exchange Commission or a financial institution serving as a trustee or custodian signing in such capacity for the benefit of a financial institution constituting an “accredited investor”, but excluding therefrom any individuals permitted as purchasers thereunder as described in subsection (4), (5) and (6) of such definition or (b) a “qualified institutional buyer” within the meaning of Rule 144A promulgated pursuant to the Securities Act of 1933, as amended.

2. The undersigned has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds.

3. The undersigned has made its own inquiry and analysis with respect to the Bonds and the security therefor, the project to be financed with proceeds of the Bonds, and other material factors affecting the security and payment of the Bonds, and it has not relied upon any statement by you, your officers, directors, partners, agents or employees, or your legal advisors or financial consultants in connection with such inquiry or analysis or in connection with the offer and sale of the Bonds.

4. The undersigned acknowledges that the Bonds are not and never will become general obligations of the Issuer, the State of Indiana (the “State”), or any political

subdivision of the State, but are special limited obligations of the Issuer payable solely from and secured by a pledge of the revenues described in the Agreement.

5. The undersigned has either been furnished with or has had access to all necessary information that it desires in order to enable it to make an informed investment decision concerning investment in the Bonds, and it has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Bonds and the security for the Bonds, so that it has been able to make an informed decision to purchase the Bonds.

6. The undersigned is purchasing the Bonds for its own account for investment and not with a view to, or for sale in connection with, any distribution of the Bonds or with any present intention of distributing or selling the Bonds, or any part thereof, provided that we reserve the right to transfer the Bonds or any part thereof to a purchaser or transferee who agrees to comply with the provisions of Section 4.7 of the Agreement, and, unless the Bonds are held in a book entry system which restricts transfers to qualified institutional buyers, to deliver an investor letter in substantially the same form as this letter.

7. The undersigned is aware: that the Bonds have not been registered under federal or state securities laws; that the Issuer has determined that it is not under any obligation and does not intend to register the Bonds under federal or state securities laws; the Bonds will not be registered with the Depository Trust Company and will not have a CUSIP; that there is no public market for the Bonds; and that it is unlikely that such a market will ever develop.

Very truly yours,

**CEDAR RAPIDS BANK AND TRUST  
COMPANY, as Purchaser**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

---

Prepared by and return to:  
Tyler J. Kalachnik  
Ice Miller LLP  
One American Square, Suite 2900  
Indianapolis, Indiana 46282

REGULATORY AGREEMENT

By and Among

CITY OF BLOOMINGTON, INDIANA

CEDAR RAPIDS BANK AND TRUST COMPANY

And

LIMESTONE CROSSING APARTMENTS, LP

---

Dated as of **[May]** 1, 2019

---

Relating to

CITY OF BLOOMINGTON, INDIANA  
ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2019  
(LIMESTONE CROSSING APARTMENTS PROJECT)

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**TABLE OF CONTENTS**

	Page
Section 1.	Definitions and Interpretation ..... 1
Section 2.	Representations, Covenants and Warranties of the Borrower ..... 3
Section 3.	Qualified Residential Rental Project..... 6
Section 4.	Low Income Tenants; Reporting Requirements ..... 8
Section 5.	Tax-Exempt Status of Bonds ..... 10
Section 6.	Additional Requirements ..... 10
Section 7.	No Compliance Duty ..... 10
Section 8.	Modification of Covenants ..... 10
Section 9.	Indemnification ..... 11
Section 10.	Consideration ..... 11
Section 11.	Reliance ..... 12
Section 12.	Sale or Transfer of the Project ..... 12
Section 13.	Term..... 13
Section 14.	Covenants to Run With the Land..... 13
Section 15.	Burden and Benefit ..... 14
Section 16.	Uniformity; Common Plan ..... 14
Section 17.	Default; Enforcement..... 14
Section 18.	Reserved..... 15
Section 19.	Recording and Filing ..... 16
Section 20.	Payment of Fees..... 16
Section 21.	Governing Law ..... 16
Section 22.	Amendments ..... 16
Section 23.	Notices ..... 16
Section 24.	Severability ..... 17
Section 25.	Multiple Counterparts ..... 17
Section 26.	Limitation on Liability..... 18
Exhibit A	Description of Project Site
Exhibit B	Verification of Income
Exhibit C	Occupancy Certificate
Exhibit D	Compliance Certificate

## REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT (as supplemented and amended from time to time, this “Agreement” or this “Regulatory Agreement”) is made and entered into as of [June] 1, 2019, by and among the CITY OF BLOOMINGTON, INDIANA, a municipal corporation of the State of Indiana (the “State”) created and existing under and by virtue of the laws of the State (together with any successor to its rights, duties and obligations, the “Issuer”), CEDAR RAPIDS BANK AND TRUST COMPANY, an Iowa state-chartered banking corporation (the “Purchaser”) and LIMESTONE CROSSING APARTMENTS, LP, an Indiana limited partnership (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the “Borrower”).

### W I T N E S S E T H:

WHEREAS, the Issuer proposes to issue its Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) (the “Bonds”), pursuant to a Bond Financing Agreement, by and among the Issuer, the Borrower and Purchaser, of even date herewith (the “Financing Agreement”) in the aggregate principal amount of not to exceed \$[15,000,000] pursuant to and in compliance with Indiana Code, Title 36, Article 7, Chapter 11.9 and 12, *et. seq.* (the “Act”), and will lend the proceeds of the Bonds to the Borrower in order to enable the Borrower to finance the acquisition, renovation, installation, improvement and equipping of a 208-unit residential rental development including functionally related and subordinate facilities located on the site described in Exhibit A hereto (the “Project”); and

WHEREAS, in order to assure the Issuer and the owners of the Bonds that interest on the Bonds will be excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and to satisfy the public purposes for which the Bonds are authorized to be issued under the Act, and to satisfy the purposes of the Issuer in determining to issue the Bonds, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met;

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. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto or in this Section 1 Capitalized terms used in this Regulatory Agreement and not defined herein shall have the meanings assigned to them in the Financing Agreement.

“Adjusted Income” means the adjusted income of a person (together with the adjusted income of all persons of the age of 18 years or older who intend to reside with such person in one residential unit) as calculated in the manner prescribed under Section 142(d)(2)(B) of the Code.

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

“Area” means the City of Bloomington Metropolitan Statistical Area.

“Bonds” means the City of Bloomington, Indiana Economic Development Revenue Bonds, Series 2019 (Limestone Crossing Apartments Project) in the original aggregate principal amount of \$\_\_\_\_\_.

“Certificate of Continuing Program Compliance” means the Certificate to be filed by the Borrower with the Issuer and the Purchaser pursuant to Section 4(e) hereof, which shall be substantially in the form attached as Exhibit D hereof or in such other form as may be provided by the Issuer to the Borrower.

“Closing Date” means [**May** \_\_], 2019.

“Financing Agreement” has the meaning given to that term in the recitals to this Regulatory Agreement.

“Housing Act” means the United States Housing Act of 1937, as amended, codified as 42 U.S.C. 14101 et. seq., or its successor.

“Income Certification” means a Verification of Income and an Occupancy Certificate in the forms attached as Exhibit B and Exhibit C hereof, respectively, or in such other form as may be provided by the Issuer to the Borrower.

“Investment Limited Partner” means RAH Investor 224 LLC, a Mississippi limited liability company and its successors and assigns.

“Low Income Tenant” means any tenant whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of low income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as low income shall be sixty percent (60%) or less of median gross income for the Area with adjustments for family size. If all the occupants of a unit are students not described under Section 42(i)(3)(D) of the Code, such occupants shall not qualify as Low Income Tenants. The determination of a tenant’s status as a Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in the Project by such tenant, on the basis of an Income Certification executed by the tenant.

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

“Project” means the privately owned real and personal property comprising a multifamily housing complex consisting of 208 units and located on the site described in Exhibit A hereto, consisting of those facilities, including real property, structures, buildings, fixtures or equipment, described in the Financing Agreement, as it may at any time exist, the acquisition, renovation, equipping, installation and improvement of which facilities is to be financed, in whole or in part, from the proceeds of the sale of the Bonds or the proceeds of any payment by the Borrower pursuant to the Financing Agreement, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of the facilities described in said Exhibit A.

“Qualified Project Period” means the period beginning on the later of the Closing Date or the first day on which at least 10% of the units in the Project are first occupied, and ending on the later of the following:

- (A) the date which is fifteen (15) years after the date on which at least fifty percent (50%) of the units in the Project are first occupied; or
- (B) the first date on which no Tax-Exempt private activity bonds with respect to the Project are outstanding (as that phrase is used in Section 142(d)(2) of the Code); or
- (C) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Regulations” means the Income Tax Regulations of the Department of the Treasury applicable under the Code 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 excludable from gross income for federal income tax purposes; however, as the context requires, 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.

“Verification of Income” means a Verification of Income in the form attached as Exhibit B hereto or in such other form as may be provided by the Issuer to the Borrower.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The 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. Representations, Covenants and Warranties of the Borrower. (a) The Borrower hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Borrower contained in the Tax Certificate (as defined in the Financing Agreement) and the Financing Agreement relating to the acquisition, renovation, improvement, installation and operation of the Project.

(b) The Borrower hereby represents and warrants that the Project is located entirely within the City of Bloomington, County of Monroe, Indiana, which is part of the City of Bloomington Metropolitan Statistical Area.

(c) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Bonds to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Issuer for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Issuer in any manner except to issue the Bonds in order to provide funds to assist the Borrower in acquiring the Project.

(d) As soon as is reasonably possible, the Borrower shall notify the Purchaser and the Issuer of the existence of any situation or the occurrence of any event of which the Borrower has knowledge, the existence or occurrence of which would violate any of the provisions of this Agreement or cause the interest on the Bonds to become includable in the gross income of the holders thereof for federal income tax purposes, including the provision to the Purchaser of all notices and correspondence from the Issuer or the Internal Revenue Service with respect to compliance with the provisions hereof.

(e) This Agreement shall be recorded in the office of the county recorder of the County of Monroe and shall be recorded in the grantor-grantee index in the name of the Borrower as grantor and to the name of the Issuer as grantee.

(f) The Borrower is a limited partnership organized and existing under the laws of the State of Indiana and has duly authorized, by proper action, the execution and delivery of this Regulatory Agreement.

(g) Neither the execution and delivery of this Regulatory Agreement or any other document in connection with the financing of the Project, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the terms and conditions hereof and thereof conflicts with or results in a breach of any of the terms, conditions or provisions of any agreement or instrument to which the Borrower is now a party or by which it is bound or constitutes a default (with due notice or the passage of time or both) under any of the foregoing or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement to which the Borrower is now a party or by which it is bound.

(h) The execution, delivery and performance of this Regulatory Agreement and all other documents to be delivered by the Borrower in connection with the consummation of the transactions contemplated hereby will not conflict with, or constitute a breach of or default under, any indenture, mortgage, deed of trust, lease, note, commitment, agreement or other instrument or obligation to which the Borrower is a party or by which the Borrower or any of its property is bound, or under any law, rule, regulation, judgment, order or decree to which the Borrower is subject or by which the Borrower or any of its property is bound.

(i) To the best of the Borrower's knowledge, there is no action, suit, proceeding, inquiry or investigation by or before any governmental agency, public board or body pending or threatened against the Borrower (nor to the best of its knowledge is there any basis therefor), which:

(i) affects or seeks to enjoin, prohibit or restrain the issuance, sale or delivery of the Bonds or the execution and delivery of this Regulatory Agreement,

(ii) affects or questions the validity or enforceability of the Bonds or this Regulatory Agreement,

(iii) questions the Tax-Exempt status of the Bonds, or

(iv) questions the power or authority of the Borrower to own, acquire, rehabilitate, equip, improve or operate the Project or to execute, deliver or perform the Borrower's obligations under this Regulatory Agreement.

(j) The Borrower has and will have fee simple title to the Project sufficient to carry out the purposes of this Regulatory Agreement, and such title shall be in and remain in the name of the Borrower except as otherwise permitted by this Regulatory Agreement.

(k) The Project consists and will consist of those facilities described herein, which generally are described as apartment complexes and related facilities situated on the real property described in Exhibit A hereto. The Borrower shall not make any changes to the Project or to the operation thereof which would affect the qualification of the Project under the Act or impair the exemption from federal income taxation of the interest on the Bonds. The Borrower will utilize and operate the Project as a multifamily rental housing project during the term of the Bonds in accordance with all applicable federal, state and local laws, rules, and regulations applicable to the Project.

(l) The Borrower has obtained, or will obtain on or before the date required therefor, all necessary certificates, approvals, permits and authorizations with respect to the operation of the Project.

(m) Reserved.

(n) The Borrower does not and will not own any portion of the Bonds except as provided in the Financing Agreement and in any documents governing the issuance of any future bonds.

(o) The Borrower does not own any buildings or structures which are proximate to the Project other than those buildings or structures which comprise the Project, which are being financed pursuant to a common plan under which the Project is also being financed except for those other multifamily facilities comprising the Project. The multifamily facilities constituting Limestone Crossing Apartments were financed under a separate plan of finance with a separate issue under Treasury Regulations Section 1.150-1(c).

(p) The statements made in the various certificates delivered by the Borrower to the Issuer or the Purchaser on the date of issuance of the Bonds, are true and correct.

(q) Money on deposit with the Purchaser in any fund or account in connection with the Bonds, whether or not such money was derived from other sources, shall not be used by or under the direction of the Borrower in a manner which would cause the Bonds to be an "arbitrage bond"

within the meaning of Section 148 of the Code, and the Borrower specifically agrees that the investment of money in any such fund shall be restricted as may be necessary to prevent the Bonds from being an “arbitrage bond” under the Code.

(r) The Borrower (and any person related to it within the meaning of Section 147(a)(2) of the Code) 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 sale of the Bonds to be applied in a manner contrary to the requirements of the Financing Agreement or this Regulatory Agreement.

Section 3. Qualified Residential Rental Project. The Borrower hereby acknowledges and agrees that the Project is to be owned, managed and operated in the same manner 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 term of this Agreement, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project will be acquired and operated for the purpose of providing multifamily residential rental property. The Borrower will own fee simple title to the Project and will cause the Project to be managed and operated on a continuous basis as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, each containing at least one dwelling unit and all of which contain dwelling units and facilities functionally related and subordinate thereto, and no other facilities, in accordance with Section 142(d) of the Code, Section 1.103-8(b) of the Regulations and the provisions of the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) All of the dwelling units in the Project will be similarly constructed units, and each dwelling unit in the Project will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis, or will ever be leased or rented for an initial lease term of less than thirty (30) days, nor will any part of the Project be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, retirement home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Project will at any time during the Qualified Project Period be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or use, and the Borrower will not take any steps in connection with a conversion of the Project to condominium ownership resulting in ownership of a unit by an individual natural person during the Qualified Project Period.

(e) All of the dwelling units in the Project (except for not more than one unit set aside for resident manager or other administrative use) will be available for rental during the Qualified Project Period on a continuous basis to members of the general public, on a first-come first-served basis, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or

rented to Low Income Tenants hereunder or pursuant to a regulatory agreement governing the Project relating to the Borrower's receipt of tax credits under Section 42 of the Code and to the extent dwelling units will be leased in accordance with HUD Section 8 Program constraints and regulations.

(f) The Project consists of one or more discrete edifices and other man-made construction, each consisting of an independent foundation, outer walls and roof, all of which will be (i) owned by the same person for federal tax purposes, (ii) located on a common tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street or stream, and (iii) all of the facilities of the Project comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in the Project shall be occupied by the Borrower; provided, however, that if the Project contains five or more dwelling units, this provision 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) No portion of the Project shall be used to provide any health club facility, any facility primarily used for gambling or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(i) The Project will not include a dwelling unit in a building where all dwelling units in such building are not also included in the Project.

(j) If the Project is converted to condominium or cooperative ownership, then none of the units of the Project will be sold or otherwise transferred such that individual ownership of units results during the Qualified Project Period.

(k) The Bonds will not be "federally guaranteed," as defined in Section 149(b) of the Code.

(l) The Project shall at all times be used and operated as "residential housing" as defined in the Act.

(m) The Borrower shall not discriminate on the basis of race, creed, color, sex, sexual preference, source of income (e.g., AFDC or SSI), physical disability, national origin, or marital status in the rental, lease, use, or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

(n) The Project is financed by the Loan (as defined in the Financing Agreement) or otherwise pursuant to a common plan of financing and consists entirely of:

(i) units which are similar in quality and type of construction and amenities; and

(ii) property functionally related and subordinate in purpose and size to the Project, e.g., parking areas, laundries, swimming pools, tennis courts and other



recreational facilities (none of which may be unavailable to any person because such person is a Low Income Tenant) and other facilities which are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment or units for residential managers or maintenance personnel.

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

(a) For the Qualified Project Period, no less than 40% of the total number of completed units of the Project shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this paragraph, 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 60 days, at which time the character of such unit shall be redetermined.

(b) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants. However, should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed one hundred forty percent (140%) of the applicable income limit for a Low Income Tenant of the same family size, 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. Until such next available unit is rented to a Low Income Tenant the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the forty percent (40%) requirement of Section 4(a) hereof until the rental of an available unit of comparable or smaller size to a tenant who is not a Low Income Tenant.

(c) For the Qualified Project Period, the Borrower will obtain, complete, and maintain on file Income Certifications for each Low Income Tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such Low Income Tenant in the Project, and (ii) thereafter, an annual Income Certification with respect to each Low Income Tenant, within thirty days before or after the anniversary of such tenant's initial occupancy of a unit in the Project; *provided however*, that once all the units in the Project are occupied by Low-Income Tenants, no such certification shall be required so long as thereafter, any new tenant qualifies as a Low Income Tenant. The Borrower will provide such additional information as may be required in the future by the Issuer and by 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 Tax-Exempt obligations, including filing IRS Form 8703 no later than March 31 of each year during the Qualified Project Period. A copy of the most recent Income Certifications for Low Income Tenants commencing or continuing occupation of a Low Income Unit shall be attached to each report to be filed with the Issuer pursuant to paragraph (e) of this Section 4. The Borrower shall make a good faith effort to verify that the income information provided by an applicant in a Verification of Income is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) conduct a TRW or other similar search, (4) obtain an income verification from the applicant's

current employer, (5) obtain an income verification from the Social Security Administration and/or the Indiana Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification.

(d) The Borrower will maintain complete and accurate records pertaining to the Low Income Units, and will permit any duly authorized representative of the Issuer, the Purchaser, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units.

(e) During that portion of the term of this Agreement that the Borrower must comply with procedures of the Issuer under Section 42 of the Code, the Borrower shall comply with those procedures as if set forth in this Agreement. During any other portion of the term of this Agreement that also falls within the Qualified Project Period, the Borrower will prepare and submit to the Issuer and the Purchaser, on or before December 31 of each such 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 Project which were occupied or deemed occupied, pursuant to subsection (a) hereof, by Low Income Tenants during the preceding calendar quarter; and (ii) that either (A) no unremedied default has occurred under this Regulatory Agreement or the Financing 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.

(f) For the Qualified Project Period, all tenant leases shall be subordinate to this Agreement and the Mortgage (as defined in the Financing Agreement) and shall contain clauses, among others, wherein each tenant who occupies a Low Income Unit: (i) certifies the accuracy of the statements made in the Verification of Income and (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Borrower or the Purchaser on behalf of the Issuer, and that the failure to provide accurate information in the Verification of Income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant.

(g) 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 Verification of Income 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.

(h) The Low Income Units will be intermingled reasonably with all other dwelling units and on all floors in the Project and shall be of a quality, and offer a range of sizes and number of bedrooms, comparable to those units which are available to other tenants. Tenants in the Low Income Units in the Project have had and shall continue to have equal access and enjoyment to all common facilities of the Project.

(i) The Borrower will notify the Issuer and the Purchaser, in writing, of the occurrence of any default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto. Such notice shall be given promptly and in no event more than ten (10) business days after the Borrower receives notice or gains knowledge of the occurrence of any such event. The Borrower further agrees that it will give prompt written notice to the Purchaser if insurance proceeds or condemnation awards are received with respect to the Project and are not used to repair or replace the Project, which notice shall state the amount of such proceeds or award.

(j) During that portion of the term of this Agreement that the Borrower must comply with procedures of the Issuer under Section 42 of the Code, the Borrower shall comply with those procedures as if set forth in this Agreement. During any other portion of the term of this Agreement, the Borrower shall send to the Issuer a written Regulatory Agreement compliance review on or before December 31 of each such year, which describes the procedures performed by the Borrower, and shall indicate whether, based on such procedures, the Borrower is and has been in compliance with the provisions of this Regulatory Agreement for the prior 12-month period (or such shorter period in the case of the first such period) ending on the last day of each December.

Section 5. Tax-Exempt Status of Bonds. The Borrower and the Issuer, as applicable, each hereby represents, warrants and agrees as follows: the Borrower and the Issuer will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Bonds and, if either of them 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.

Section 6. Additional Requirements. In addition to the requirements set forth above, so long as the Bonds is outstanding the Borrower hereby agrees that the covenants and conditions of this Agreement shall be binding upon successors in interest of the Borrower.

Section 7. No Compliance Duty. The Issuer, the Purchaser and the Borrower hereby recognize and agree that the Issuer shall have no compliance duty under the terms and conditions of this Regulatory Agreement and shall not be liable for any failure by the Borrower to comply with the covenants contained in this Regulatory Agreement.

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 Regulations or the Code shall, in the written opinion of Bond Counsel filed with the Issuer, the Purchaser and the Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Agreement, and if such requirements are applicable to the Project, this Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) To the extent that the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Bond Counsel filed with the Issuer, the Purchaser and the Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed

by this Agreement, this Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, at its sole discretion, the Purchaser and the Borrower, and only upon receipt by the Issuer of the written opinion of Bond Counsel to the effect that such amendment will not affect the Tax-Exempt status of interest on the Bonds or violate the requirements of the Act, and otherwise in accordance with Section 22 hereof.

(c) The Borrower, the Issuer and, if applicable, the Purchaser, shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8, and each of the Borrower and the Issuer hereby appoints the Purchaser as its true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Issuer, as is applicable, any such document or instrument (in such form as may be approved in writing by Bond Counsel) if either the Borrower or the Issuer defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Issuer or the Borrower, the Purchaser shall take no action under this subsection (c) without first notifying the Borrower or the Issuer, or both of them, as is applicable, and without first providing the Borrower or the Issuer, or both, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this subsection (c) shall be construed to allow the Purchaser to execute an amendment to this Agreement on behalf of the Issuer.

Section 9. Indemnification. The Borrower and its general partner hereby covenant and agree that it shall indemnify and hold harmless the Issuer and the Purchaser and their officers, directors, officials, employees and agents as set forth in the Financing Agreement.

To the extent not included in the indemnification provisions of the Financing Agreement, the Borrower also shall pay and discharge and shall indemnify and hold harmless the Issuer and the Purchaser from (i) any lien or charge upon payments by the Borrower to the Issuer and the Purchaser hereunder and (ii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Issuer or the Purchaser in respect of any portion of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Issuer or the Purchaser shall give prompt notice to the Borrower and the Borrower shall have the right to assume the defense thereof, with full power to litigate, compromise or, settle the same in its sole discretion.

In addition thereto, the Borrower will pay upon demand all of the fees and expenses paid or incurred by the Purchaser and/or the Issuer in enforcing the provisions hereof.

The provisions of this Section 9 shall survive the term of the Bonds and this Agreement.

Section 10. Consideration. The Issuer has agreed to issue the Bonds to provide funds to lend to the Borrower to finance the acquisition, renovation, equipping, installation and improvement of the Project, all for the purpose, among others, of inducing the Borrower to acquire, rehabilitate, equip, improve and operate the Project. In consideration of the issuance of the Bonds by the Issuer, the Borrower has entered into this Agreement and has agreed to restrict the uses to which this Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Issuer, the Purchaser and the Borrower hereby recognize and agree that the representations and covenants made by each party as set forth herein may be relied upon, only to the extent of the representations and covenants made by each party herein, by all persons interested in the legality and validity of the Bonds, in the exemption from Indiana personal income taxation of interest on the Bonds and in the Tax-Exempt status of the interest on the Bonds. In performing their duties and obligations hereunder, the Issuer and the Purchaser 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 Purchaser 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 Purchaser 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 Agreement, the Purchaser 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 Purchaser 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. Sale or Transfer of the Project. For the Qualified Project Period, the Borrower shall not, except as provided below, sell, transfer or otherwise dispose of the Project, in whole or in part, without the prior written consent of the Purchaser and the Issuer, which consent shall be given as promptly as practicable following (A) the receipt by the Purchaser and the Issuer of evidence acceptable to the Purchaser that (1) the Borrower shall not be in default hereunder or under the Financing Agreement (which may be evidenced by a certificate of the Borrower) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Issuer; (2) the continued operation of the Project shall comply with the provisions of this Agreement; (3) either (a) the purchaser or assignee has at least three years' experience in the ownership, operation and management of large mixed-income rental housing projects, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local government requirements applicable to such projects, or (b) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (a) above; and (4) the person or entity which is to acquire the Project does not have pending against it, and does not have a history of, building code violations or significant and material complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the purchaser or assignee of any document requested by the Issuer or the Purchaser with respect to the assumption of the Borrower's obligations under this Agreement, including without limitation an instrument of assumption hereof, and delivery to the Issuer and the Purchaser of an opinion of such purchaser or assignee's counsel to the effect that each such document and this Agreement are valid, binding and enforceable obligations of such purchaser or assignee; (C) receipt by the Issuer and the Purchaser of an opinion of Bond Counsel (as defined in the Financing Agreement) addressed to the Issuer and the Purchaser to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-Exempt status of interest on the Bonds; (D) receipt by the Issuer of all fees then currently due and payable to the Issuer; and (E) satisfaction of such other conditions as the Issuer may reasonably impose. It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 12 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 Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party which requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project. Upon any sale or other transfer which complies with this Agreement, the Borrower shall be fully and automatically released from its obligations hereunder to the extent such obligations have been assumed by the transferee of the Project. Any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 12. For the Qualified Project Period, the Borrower shall not: (1) except pursuant, or subordinate, to the provisions of this Agreement and the Mortgage (and upon receipt by the Borrower of an opinion of Bond Counsel that such action will not adversely affect the Tax-Exempt status of interest on the Bonds), or except upon a sale, transfer or other disposition of the Project in accordance with the terms of this Agreement, encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project (except for apartment leases, garage leases, self-storage leases and utility easements); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement and all and several of the terms hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and 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 and discharge of the Financing Agreement.

The terms of this Agreement to the contrary notwithstanding, the provisions of this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of said Sections 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 and the Purchaser from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Bonds are retired or amounts received as a consequence of such event are used to provide a project which meets the requirements hereof; provided, however, that the terms of this Regulatory Agreement shall be reinstated if, at any time subsequent to such termination as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a 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 Project for federal income 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 such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Upon the termination of the terms of this 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 Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. The Borrower and the Issuer hereby subject the Project to the covenants, reservations and restrictions set forth in this Agreement. The

Issuer, the Purchaser and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that on the termination of this Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The Issuer, the Purchaser and the Borrower hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Issuer, the Purchaser and the Borrower hereby further declare their understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Bonds were issued.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

Section 17. 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 or the Purchaser to the Borrower and Investment Limited Partner, or for a period of 60 days from the date the Borrower should, with due diligence, have discovered such default, then the Issuer or the Purchaser, acting on its own behalf or on behalf of the Issuer, shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it can be corrected, but not within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower and/or the Investment Limited Partner 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 Issuer and the Purchaser shall have the right to enforce the obligations of the Borrower under this Agreement within shorter periods of time than are otherwise provided herein if necessary to ensure compliance with the Act or the Code. Following the declaration of an Event of Default hereunder the Issuer or the Purchaser may (in accordance with the Financing Agreement, at its option, take any one or more of the following steps, in addition to all other remedies provided by law or equity:

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

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

(iii) require the Borrower to pay to the Issuer an amount equal to the rent or other amounts received by the Borrower for any units in the Project which were in violation of this Agreement during the period such violation continued (which payment shall not reduce the amount due under the Loan);

(iv) 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; and

(v) declare a default under the Financing Agreement and proceed with any remedies provided therein, including foreclosure under the Mortgage and prepayment of the Bonds to the extent permitted by, and in accordance with the provisions of, the Financing Agreement.

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

The Investment Limited Partner shall have the right, but not the obligation, to cure any default by the Borrower hereunder, and the Issuer and Purchaser agree to accept any such cure on the same terms as if tendered by the Borrower. The Investment Limited Partner may remove and/or replace the General Partner in accordance with the terms of the Partnership Agreement as a cure for any non-monetary default.

All reasonable fees, costs and expenses of the Purchaser and the Issuer incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower.

No breach or default under this Regulatory Agreement shall defeat or render invalid any deed of trust, mortgage or like encumbrance upon the Project or any portion thereof given in good faith and for value.

The Purchaser shall not be deemed to have knowledge of any default hereunder unless a Responsible Officer of the Purchaser shall have been specifically notified in writing of such default by the Issuer, the Paying Agent, the Borrower or by the Owners of at least 25 % of the principal amount of Bonds outstanding.

The Issuer and the Purchaser hereby agree that any cure of any Event of Default hereunder made or tendered by the Investment Limited Partner of the Borrower shall be deemed to be a cure by the Borrower, and shall be accepted or rejected by the Issuer and the Purchaser on the same basis as if made or tendered by the Borrower.

Section 18.    Reserved.



Section 19. Recording and Filing. (a) The Borrower shall cause this Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County of Monroe and in such other places as the Issuer or the Purchaser may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

(b) The Borrower and the Issuer will file of record such other documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Issuer and the Purchaser, in order to ensure that the requirements and restrictions of this Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Agreement in any documents transferring any interest in the Project to another person to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Agreement.

Section 20. Payment of Fees. Notwithstanding any prepayment of the Bonds and notwithstanding a discharge of the Financing Agreement, the Borrower shall reimburse the Purchaser for all expenses reasonably incurred by it in connection therewith, and shall continue to pay (or shall prepay) the Issuer's expenses as provided in the Financing Agreement.

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

Section 22. Amendments. (a) This Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Monroe, Indiana, 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.

(b) Anything to the contrary contained herein notwithstanding, the Issuer, the Purchaser and the Borrower hereby agree to amend this Agreement to the extent required, in the opinion of Bond Counsel, in order that interest on the Bonds remains Tax-Exempt. The parties requesting such amendment shall notify the other parties to this Agreement of the proposed amendment, with a copy of such requested amendment to Bond Counsel 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. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Agreement.

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, or by electronic means which produces receipt of transmission, 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 Bloomington, Indiana  
401 N Morton Street  
Bloomington, Indiana 47404  
Attn: \_\_\_\_\_  
Telephone: (\_\_\_\_)\_\_\_\_\_  
Facsimile: (\_\_\_\_)\_\_\_\_\_

To the Borrower: Limestone Crossing Apartments, LP  
500 East 96<sup>th</sup> Street, Suite 300  
Indianapolis, Indiana 46240  
Attention: Jeffrey L. Kittle  
Telephone: (317) 805-1980  
Facsimile:

With a copy to Investment Limited Partner:

111 Great Neck Road, Suite 500  
Great Neck, New York 11021  
Attention: Victor Sostar

With a copy to: Jones Walker LLP  
420 20<sup>th</sup> St N, Suite 1100  
Birmingham, Alabama 35203  
Attention: Kelly Rushin Lewis and Brandon D. Hughey

To the Purchaser: Cedar Rapids Bank and Trust Company  
500 First Avenue NE  
Cedar Rapids, Iowa 52401  
Attention: Sam Kramer  
Telephone: (319) 743-7122  
Telecopy: (319) 862-0918

The Issuer, the Purchaser, the Investment Limited Partner and the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given three business days after the date of mailing.

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

Section 25. Multiple Counterparts. This 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. Limitation on Liability. Notwithstanding the foregoing or any other provision or obligation to the contrary contained in this Agreement, (i) the liability of the Borrower under this Agreement to any person or entity, including, but not limited to, the Purchaser or the Issuer and their successors and assigns, is limited to the Borrower's interest in the Project, the Pledged Revenues (as defined in the Financing Agreement) and the amounts held in the funds and accounts created under the Financing Agreement, or other Loan Documents (as defined in the Financing Agreement) or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Agreement or any other agreement securing the obligations of the Borrower under this Agreement; and (ii) from and after the date of this Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Agreement, any agreement pertaining to any Project or any other agreement securing the Borrower's obligations under this Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Agreement, amounts held in the funds and accounts created under the Loan Documents, any rights of the Borrower under the Loan Documents or any rights of the Borrower under any guarantees relating to the Project), its officers, directors or members, the partners holding ownership interests in the Borrower, or the officers, directors or employees of the Borrower, or of their heirs, personal representatives, successors, transferees or assigns, as the case may be, in any action or proceeding arising out of this Agreement, the Financing Agreement, or any agreement securing the obligations of the Borrower under this Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

\* \* \* \* \*

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.

CITY OF BLOOMINGTON, INDIANA

By: \_\_\_\_\_  
John Hamilton, Mayor

[SEAL]

Attest:

By: \_\_\_\_\_  
Nicole Bolden, Clerk  
City of Bloomington

CEDAR RAPIDS BANK AND TRUST COMPANY,  
as Purchaser

By: \_\_\_\_\_  
Sam Kramer, Associate, Specialty Finance Group

Attest:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

LIMESTONE CROSSING APARTMENTS, LP  
an Indiana limited partnership

By: Limestone Crossing Apartments GP, LLC,  
an Indiana limited liability company  
its General Partner

By: \_\_\_\_\_  
Jeffrey L. Kittle, Manager

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF MONROE     )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me appeared John Hamilton and Nicole Bolden, to me personally known who, being by me sworn did say that they are the Mayor and Clerk, respectively, of the City of Bloomington, Indiana, a public body corporate and politic of the State of Indiana, and that the seal affixed to the foregoing instrument is the official seal of said corporation, and that said instrument was signed and sealed on behalf of said public body corporate and politic, by authority of its board of directors and said Mayor and Clerk, acknowledged said instrument to be the free act and deed of said public body corporate and politic.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public in and for said County and State

(SEAL)

My Commission expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me appeared Sam Kramer and \_\_\_\_\_ to me personally known, who being by me duly sworn did say that they are Authorized Officers of Cedar Rapids Bank and Trust Company, an Iowa state-chartered banking corporation, and that they are the persons who executed the foregoing instrument as such officers acting for and on behalf of said association, and acknowledged that he/she executed the same as his/her free act and deed as such officer of said association.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

\_\_\_\_\_  
Notary Public in and for said County and State

(SEAL)

My Commission expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_



STATE OF INDIANA            )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me appeared Jeffrey L. Kittle to me personally known, who being by me duly sworn did say that he is a Manager of Limestone Crossing Apartments GP, LLC, the general partner of Limestone Crossing Apartments, LP, an Indiana limited partnership, and that he is the person who executed the foregoing instrument as such officer acting for and on behalf of said limited partnership, and acknowledged that he executed the same as a free act and deed as such officer of said limited partnership.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

\_\_\_\_\_  
Notary Public in and for said County and State

(SEAL)

My Commission expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

I affirm under penalties for perjury, that I have undertaken reasonable care to redact each social security number in this document, unless required by law.

Tyler J. Kalachnik

Prepared by and after recording return to: Tyler J. Kalachnik, Ice Miller LLP, One American Square Suite 2900, Indianapolis, Indiana 46282-0200.

**EXHIBIT A**

DESCRIPTION OF PROJECT SITE

**EXHIBIT B**

[FORM OF INCOME CERTIFICATION]

**VERIFICATION OF INCOME**

*BONDS 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. 813). You should make certain that this form is at all times up to date with the HUD Regulations.*

RE: Limestone Crossing Apartments

The undersigned hereby (certify)(certifies) that:

This Certification of Tenant Eligibility is being delivered in connection with the undersigned's application for occupancy of Apartment #\_\_\_\_ in Limestone Crossing Apartments in Bloomington, Indiana.

List all the occupants of the apartment, the relationship (if any) of the various occupants, 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).

	<u>Occupant</u>	<u>Relationship</u>	<u>Age</u>	<u>Student (Yes or No)</u>	<u>Social Security Number</u>
(a)	_____	_____	_____	_____	_____
(b)	_____	_____	_____	_____	_____
(c)	_____	_____	_____	_____	_____
(d)	_____	_____	_____	_____	_____
(e)	_____	_____	_____	_____	_____
(f)	_____	_____	_____	_____	_____

If the occupants are students, are any of the students listed in paragraph 2 described under Section 42(i)(3)(D) of the Internal Revenue Code of 1986?

Yes \_\_\_\_\_ No \_\_\_\_\_ Not Applicable \_\_\_\_\_

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 institutions, 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 other (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 charges 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:	\$ _____	_____

(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,

insert the total value of all such assets owned or disposed of  
\$ \_\_\_\_\_; and

state:

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:

\$ \_\_\_\_\_

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

\$ \_\_\_\_\_

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 "Owner"), has any family

relationship to the Owner or owns directly or indirectly any interest in the Owner. 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.

This Income Certification is made with the knowledge that it will be relied upon by the Owner 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.

I/we will assist the Owner 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.

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 Owner to lease the unit and will entitle the Owner to prevent my/our occupancy of the unit and will be cause for immediate termination of such lease.

The undersigned hereby acknowledge and agree that on or before December 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 Owner 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 Low Income Tenant under the Regulatory Agreement.

**RESIDENTS 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 (5) 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]*

Calculation of Eligible Income:

Enter the amount entered for entire household in 4 above: \$ \_\_\_\_\_  
 Enter income derived from assets (line 5(d)(2)(a): \$ \_\_\_\_\_  
 Subtract b. from a. \$ \_\_\_\_\_

Multiply the amount entered in 5(d)(1) by the current passbook savings rate to determine the total annual earnings on assets [5(d)(1)] if invested in passbook savings.

Passbook rate \_\_\_\_\_ % X \_\_\_\_\_ = \$ \_\_\_\_\_

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

The amount entered in 12(f):

\_\_\_\_\_ Qualifies the applicant(s) as a (s)  
 \_\_\_\_\_ Does not qualify the applicant(s) as (s).

Number of apartment unit assigned:

Bedroom size: \_\_\_\_\_ Rent: \$ \_\_\_\_\_

Tenant-paid Utilities:

Water \_\_\_\_\_ Gas \_\_\_\_\_ Electric \_\_\_\_\_

Trash \_\_\_\_\_ Other (list type) \_\_\_\_\_

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 Low Income Tenants?

Yes \_\_\_\_\_ No \_\_\_\_\_

Method used to verify applicant(s) income:



- \_\_\_\_\_ Employer income verification
- \_\_\_\_\_ Social Security Administration verification
- \_\_\_\_\_ Department of Social Services verification
- \_\_\_\_\_ Copies of tax returns
- \_\_\_\_\_ Other (\_\_\_\_\_)

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) names in paragraph 2 of this Income Certification is/are eligible under the provisions of the Regulatory Agreement to live in a unit in the Project.

Signature of Borrower's Authorized Representative:

\_\_\_\_\_ Date: \_\_\_\_\_  
 (Signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXECUTION OF ITEMS 18 AND 19  
 \_\_\_\_\_ IS \_\_\_\_\_ IS NOT NECESSARY.

Initials: \_\_\_\_\_.

If this Income Certification was executed by me/us more than five (5) 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:

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

The following information is provided to update the information previously provided in the Income Certification:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

(a) \_\_\_\_\_ Date: \_\_\_\_\_  
(b) \_\_\_\_\_ Date: \_\_\_\_\_  
(c) \_\_\_\_\_ Date: \_\_\_\_\_  
(d) \_\_\_\_\_ Date: \_\_\_\_\_  
(e) \_\_\_\_\_ Date: \_\_\_\_\_  
(f) \_\_\_\_\_ Date: \_\_\_\_\_

OWNER'S STATEMENT: The family or individual(s) named in paragraph 2 of this Income Certification, have, pursuant to paragraph 18 hereof, updated and recertified the information heretofore provided as specifically set forth in paragraph 18 hereof.

Signature of Owner's Authorized Company  
Representative

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**INCOME VERIFICATION**  
**(for employed persons)**

The undersigned employee has applied for a rental unit located in the Project financed by an issuance of bonds issued by the City of Bloomington, Indiana for persons of low 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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

I hereby grant you permission to disclose my income to Limestone Crossing Apartments, LP in order that they may determine my income eligibility for rental of an apartment located in their project which has been financed by an issuance of bonds issued by the City of Bloomington, Indiana.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Please send form to:

Limestone Crossing Apartments, LP  
500 East 96<sup>th</sup> Street, Suite 300  
Indianapolis, Indiana 46240  
Attention: \_\_\_\_\_  
Telephone: (317) \_\_\_\_ - \_\_\_\_  
Facsimile:

[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.

---

Signature

---

Date

**EXHIBIT C**

**OCCUPANCY CERTIFICATE**

To be filed with a Verification of Income  
upon the rental of a unit to any tenant.

Project: Limestone Crossing Apartments

The tenant identified in the attached Verification of Income has entered into a lease with respect to a unit in the above-described Project.

Such tenant is/is not (circle one) a Low Income Tenant.

The rental of a unit to such tenant will not result in a violation of any of the requirements of the Financing Agreement or the Regulatory Agreement to which the Owner is a party.

LIMESTONE CROSSING APARTMENTS, LP

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner

Date: \_\_\_\_\_

(\*AN OCCUPANCY CERTIFICATE AND A VERIFICATION OF INCOME FORM WITH BACK UP MUST BE INCLUDED FOR EACH)

NO. OF LOW INCOME TENANTS TERMINATING THIS PERIOD: \_\_\_\_\_

NO. OF VACANT LOW INCOME UNITS: \_\_\_\_\_

Set forth below are the names of Low Income Tenants who commenced or terminated occupancy during the preceding quarter.

<u>Commenced Occupancy</u>	<u>Terminated Occupancy</u>
1.	1.
2.	2.
3.	3.

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

Attached is a separate sheet listing the number of each unit and indicating which units are occupied by Low Income Tenants, the size, the number of bedrooms of such units and the number of Low Income Tenants who commenced occupancy of units during the preceding quarter.

LIMESTONE CROSSING APARTMENTS, LP

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner





**EXHIBIT D**

**CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

The undersigned, Authorized Borrower Representative of Limestone Crossing Apartments, LP (the "Borrower"), hereby certifies as follows:

1. Based on Income Computations and Certifications on file with the Borrower, as of the date of this Certificate, the following number of completed residential units in the Project (i) are occupied by Low Income Tenants (as such term is defined in the Regulatory Agreement), or (ii) were previously occupied by Low Income Tenants and have been vacant and not reoccupied except for a temporary period of no more than thirty-one (31) days:

Occupied by Qualifying Tenants: \_\_\_\_\_ No. of Units

Previously occupied by Qualifying Tenants  
(vacant and not reoccupied except for a  
Temporary period of no more than 31 days) \_\_\_\_\_ No. of Units

- 2. The total number of completed residential units in the Project is \_\_\_\_\_.
- 3. No default has occurred and is continuing under the Regulatory Agreement.

LIMESTONE CROSSING  
APARTMENTS, LP

\_\_\_\_\_  
Owner