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LAND USE RESTRICTION AGREEMENT

98070655

Owner's
Name and Address: Willows on Clark Road Limited Partnership
561 Broadway
Gary, Indiana 46402

Location of Property: Clark Road and 5th Avenue
Gary, Indiana

Name of Project: Willows on Clark Apartments Project

98 SEP 11 10 58 AM
STATE OF INDIANA
FILED IN COUNTY

This LAND USE RESTRICTION AGREEMENT dated as of September 1, 1998, (together with any amendments or supplements hereto, the "Land Use Restriction Agreement" or the "Agreement"), is made and entered into among the CITY OF GARY, INDIANA, a municipal corporation existing under the Constitution and laws of the State of Indiana (the "Issuer"), WILLOWS ON CLARK ROAD LIMITED PARTNERSHIP, an Indiana limited partnership and any FHA approved successor or assignee to its rights and obligation (the "Owner") and NORWEST BANK INDIANA, N.A., as Trustee (the "Trustee"), under the Trust Indenture dated as of September 1, 1998, between the Issuer and the Trustee (the "Indenture").

A. Pursuant to the Indenture and an ordinance adopted by the Issuer on September 1, 1998, the Issuer has authorized the issuance of up to \$5,325,000 principal amount of its Mortgage Revenue Bonds, Series 1998A (GNMA Collateralized - Willows on Clark Apartments Project) and up to \$500,000 principal amount of its Taxable Mortgage Revenue Bonds, Series 1998B (Willows on Clark Apartments Project). The Issuer has issued on September 11, 1998, \$5,080,000 in principal amount of its Mortgage Revenue Bonds, Series 1998A (GNMA Collateralized - Williams on Clark Apartments Project)(the "Bonds"), the proceeds of which will be used by the Owner to finance the acquisition and construction of an apartment project located in the City of Gary, Indiana (the "Project"), to be partially occupied by individuals of low or moderate income within the meaning of Section 142 of the Internal Revenue Code of 1986, as amended (the "Code").

B. The Code and the regulations and rulings promulgated with respect thereto prescribe that the use and operation of the Project be restricted in certain respects and in order to ensure that the Project will continue to be used and operated in accordance with the Code and the Regulations, the Issuer, the Trustee and the Owner have determined to enter into the Land Use Restriction Agreement in order to set forth certain terms and conditions relating to the use and operation of the Project.

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6805

KAREN FRECHMAN - WILSON

NOW THEREFORE, in consideration of the foregoing and intending to be legally bound the Issuer, Trustee and the Owner agree and declare as follows:

Section 1. Rental Requirement.

(a) Once available for occupancy, each unit of the Project (as "unit" is defined in Treas. Reg. § 1.103-8(b)(8)(i) and "Project" is defined in Treas. Reg. § 1.103-8(b)(4)) must be rented or available for rental on a continuous basis during the longer of (i) the period during which the Bonds are outstanding, or (ii) a period (the "Qualified Project Period") (A) commencing on the first day on which at least 10% of the units in the Project were first occupied, and (B) ending on the date which is the latest of (1) 15 years after the date on which at least 50% of the units in the Project were first occupied, (2) the first day on which no tax-exempt private activity bond issued with respect to such Project is outstanding (all within the meaning of Section 142(d) of the Code, or (3) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates.

(b) All of the units in the Project must be rented or available for rental on a continuous basis to members of the general public and substantially all of the Project must consist of similarly constructed units together with any functionally related or subordinate facilities, including facilities for use by tenants, e.g., swimming pools, recreational facilities, parking areas, and other facilities which are reasonably required for such Project as a residential rental facility.

Section 2. Low or Moderate Income Occupancy Requirement.

(a) Forty percent (40%) or more of the completed units of the Project (the "Low or Moderate Income Units") shall be occupied by Low or Moderate Income Tenants (as described in Section 3 hereof) continuously during the Qualified Project Period (the "Occupancy Requirement"). In addition, the Owner has covenanted with the Indiana Development Finance Authority in the process of receiving a bond volume allocation that an additional twenty percent (20%) of the completed units of the Project shall be occupied by Low or Moderate Income Tenants and that the Qualified Project Period will be extended an additional 25 years after the completion of the period set forth in Section 1 (a) (ii) (B) (1) above.

(b) A unit shall be treated as occupied by Low or Moderate Income Tenants until re-occupied, other than for a temporary period not to exceed 31 days, by another occupant, at which time the character of the unit shall be redetermined.

Section 3. Low or Moderate Income Tenants; Annual Reviews.

(a) "Low or Moderate Income Tenants" means the occupants of a dwelling unit in the Project whose adjusted income, as computed in accordance with Exhibit B hereto, does not exceed sixty percent (60%) of the Median Gross Income for the Area. "Median Gross Income for the Area" means the median income for the area where the Project is located as determined, with adjustments

for larger and smaller family sizes, by the Secretary of the Department of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended. If programs under Section 8(f) are terminated, Median Gross Income for the Area shall be determined under the method used by the Secretary immediately prior to such termination.

(b) The determination of whether the income of the residents of a unit exceed the applicable income limit shall be made first at the time of occupancy and thereafter at least annually on the basis of the current income of such residents. If the income of the occupants of a unit did not exceed the applicable income limit upon commencement of such tenants' occupancy, the income of such occupants shall be treated as continuing not to exceed the applicable income limit unless, as of the most recent determination of annual income, such occupants' income exceeds 140% of the applicable income limit for new tenants at such Project and before the next income determination, another residential unit of comparable or smaller size in the Project is occupied by a new tenant whose income exceeds the applicable income limit.

(c) If all the occupants of a unit are students as defined under Section 151(e)(4) of the Code, no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants shall not qualify as Low or Moderate Income Tenants hereunder.

(d) Determination of the status of an occupant of a unit as a Low or Moderate Income Tenant shall be made upon initial occupancy of a unit in the Project by such occupant, and a new determination shall be made (i) at least annually thereafter, and (ii) upon the initial occupancy by such occupant of any other unit in the Project.

(e) Except as provided in Section 10 hereof, the method of determining low or moderate income in effect on the date of issuance of the Bonds shall be determinative even if such method is subsequently changed.

Section 4. Additional Covenants. The Owner further covenants and agrees that:

(a) The Owner will own, manage and operate the Project on a continuous basis as a residential rental project comprised of several proximate and 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, in accordance with Section 142(d) of the Code and the regulations promulgated thereunder or applicable thereunder.

(b) All of the dwelling units in the Project will consist of similarly constructed units, and each dwelling unit in the Project will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation separate and distinct from other units, including 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, will ever be leased or rented for an initial lease term of less than one year, nor will any portion of

the Project ever be used as a hotel, motel, dormitory, fraternity house, sorority house, hospital, nursing home, retirement home, sanitarium, rest home or trailer court or park for use on a transient basis.

(d) Except for dwelling units occupied by a resident manager or maintenance personnel, the dwelling units in the Project will be rented to persons who are members of the general public, and the Owner shall not give preference to any particular class or group of persons in renting units other than to Low or Moderate Income Tenants.

(e) The Owner will annually file not later than December 31 and will submit to the Issuer and the Trustee as often as necessary to comply with the requirements of Section 142(d) of the Code copies of all annual filings of Project compliance required to be filed under the Code which are subject to independent investigation and verification by the Issuer and the Trustee.

(f) The mortgage to be granted by the Owner in connection with the Project as described in Section 22 below provides that the indebtedness secured thereby may be declared to be immediately due and payable, at the option of the holder thereof, upon sale or transfer of the Project or any interest therein or transfer of beneficial interest in the Owner, unless certain conditions specified in the mortgage are met. As a further condition to any sale or transfer of the Project, the proposed purchaser or assignee shall assume in writing and agree to be bound by all of the obligations and covenants of the Owner and all restrictions applicable to the Project contained herein.

Section 5. Covenants and Restrictions Not to Apply Under Certain Circumstances.

(a) Except as provided in Section 5(b) below, the Occupancy Requirement shall be a continuing requirement on the part of the Owner and its successors and assigns for the period prescribed in Section 1 hereof, regardless of whether or not the Bonds remain outstanding.

(b) In the event of an involuntary noncompliance with the requirements of this Agreement and Treas. Reg. § 1.103-8(b) caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in federal law or an action of a federal agency after the date of issuance of the Bonds which prevents the Issuer from enforcing the requirements of this Agreement or Treas. Reg. § 1.103-8(b), or condemnation or similar event, the covenants and restrictions of this Agreement shall cease to apply, 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 requirement of Section 142(d) of the Code and Treas. Reg. § 1.103-8(b).

(c) Notwithstanding the foregoing provisions of Section 5(b), such requirements shall continue to apply to the Project subsequent to foreclosure, transfer of title by deed in lieu of foreclosure or similar event if, at any time during the Qualified Project Period subsequent to such event, the obligor on the Mortgage Note or a "related person" (as defined in Treas. Reg. § 1.103-10(e)) obtains an ownership interest in the Project or any portion thereof for federal tax purposes.

Section 6. Submissions to Trustee and Others.

(a) During that portion of the term of this Agreement that the Owner must comply with procedures of the Indiana Housing Finance Authority under Section 42 of the Code, the Owner shall comply with those procedures as if set forth in this Agreement.

(b) During any other portion of the term of this Agreement (i) the income certifications described in Treas. Reg. § 1.167(k)-3(b) will be submitted to the Trustee and the Issuer in substantially the form of Exhibit B attached hereto and at the times as provided herein; and

(c) During any other portion of the term of this Agreement, the Owner shall deliver to the Trustee a compliance certificate executed by the Owner in the form attached as Exhibit C hereto (the "Compliance Certificate") on or before August 15 of each year stating, among other matters: (1) the dwelling units of the Project which were occupied by Low or Moderate Income Tenants during such period, together with photocopies of all residential leases and income certifications of Low or Moderate Income Tenants of the Project not previously furnished to the Trustee (or a certified compilation of the substantive context thereof in sufficient detail to enable the Trustee to ascertain compliance with the provisions hereof, together with copies of the forms of lease and income certifications then in use at the Project); (2) that no default has occurred in the observance of the covenants contained in this Agreement; (3) that no event has occurred in connection with the operation of the Project which has caused, or will cause, the Project to cease to meet the requirements of this Agreement; and (4) in the event the Owner is unable to deliver any such Compliance Certificate, the Owner shall furnish to the Trustee in writing a detailed explanation of the reasons for such failure or inability to provide the Compliance Certificate.

(d) The Owner shall maintain complete and accurate records pertaining to the dwelling units occupied, or to be occupied, by Low or Moderate Income Tenants and permit any duly authorized representative of the Trustee or the Issuer to inspect the books and records of the Owner pertaining to the incomes and the Income Certifications of Low or Moderate Income Tenants residing in the Project upon reasonable notice and at reasonable times.

(e) As soon as is reasonably possible, the Owner shall notify the Trustee and the Issuer of the existence of any situation or the occurrence of any event of which the Owner 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 Trustee of all notices and correspondence from the Indiana Housing Finance Authority or the Internal Revenue Service with respect to compliance with the provisions hereof.

(f) The Owner shall deliver annually to the Secretary of the Treasury Form 8703, Annual Certification of Residential Rental Project, care of Internal Revenue Service Center, Philadelphia, PA, 19255, as required by the Code.

Section 7. Low or Moderate Income Units. The Owner will maintain the Project so that the Low or Moderate Income Units will be similarly constructed with all other units in the Project. Low or Moderate Income Tenants shall enjoy equal access to all common facilities of the Project.

Section 8. Tenant Lists. All tenant lists, applications, and waiting lists relating to the Project shall be kept separate and identifiable from any other business of the Owner which is unrelated to the Project and shall be maintained in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Issuer or the Trustee.

Section 9. Tenant Lease Requirements. All tenant leases with respect to Low or Moderate Income Units will contain as an additional event of default by the tenant thereunder any material misstatement contained in the income certification described in Treas. Reg. § 1.167(k)-3(b) submitted to Owner. In addition, all leases entered into after the date of original issuance and delivery of the Bonds shall specifically provide that each such lease is subject and subordinate to the terms and provisions of the Loan (as defined in the Indenture), and whether or not a particular lease so provides, such lease shall nonetheless be subject and subordinate to the terms and provisions of the Loan.

Section 10. Modification of Covenants. It is understood and agreed that the covenants of the Issuer and the Owner contained herein are intended to comply with Section 142(d) of the Code and the regulations promulgated thereunder. Consistent with such intent it is agreed that any amendment to Section 142(d) of the Code (or any section of the Code or other law referred to or referenced therein) which would have the effect of reducing the restrictions imposed on the Owner pursuant to this Agreement, shall be deemed to be an amendment to this Agreement without further action on the part of the parties hereto, and this Agreement shall be deemed to have been amended in accordance with the provisions of such amendment upon the effective date of such amendment. Such amendments shall include, without limitation, any modification of the definition of low or moderate income which would have the effect of increasing the maximum permissible income of the tenants of the Low or Moderate Income Units; provided, however, if any such amendment, in the opinion of Bond Counsel (such counsel to be acceptable to the Trustee), would adversely affect the excludability of the interest on the Bonds from gross income for federal tax purposes, such amendment shall be of no force or effect.

Section 11. Covenant Runs with the Land-Successors Bound. This Agreement shall be placed of record in the land records of Lake County, Indiana, and, except as provided in Section 5 hereof, the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns, and the Issuer and all subsequent owners of the Project or any interest therein, for the periods prescribed in Section 1 and Section 2 hereof.

Section 12. No Conflict with Other Documents. The Owner warrants that it has not and will not execute any other agreement with provisions contradictory to, or in opposition to the provisions

hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the obligations herein set forth and supersede any other requirements in conflict herewith.

Section 13. Amendments. This Agreement may be amended, or the enforcement of any obligation of the Owner hereunder waived (in whole or in part) only upon receipt by the Issuer of an opinion of qualified Bond Counsel, satisfactory to the Issuer and to the Trustee, to the effect that such proposed amendment or waiver will not adversely affect the excludability of the interest on the Bonds from gross income for federal tax purposes and, except in the case of a waiver, an amendment in writing executed by the parties hereto, except with respect to modifications and/or amendments made or deemed made in accordance with the provisions of Section 10 hereof, which modifications and/or amendments shall be self-executing without action of the parties. The Owner agrees, from time to time, to take all actions and steps necessary to comply, and to cause the Project to comply, with the requirements of Section 142(d) of the Code and to enter into modifications and amendments to this Agreement to the extent required by Treasury Regulations promulgated thereunder. Restrictions contained herein which are not required by such regulations may be amended in accordance with the first sentence of this section.

Section 14. Assignment of Issuer's Interest. For so long as the Bonds are outstanding, the interest of the Issuer in this Agreement will be, and hereby is, assigned to the Trustee, and its successors, under the Indenture, and during such period this Agreement shall be enforceable by the Trustee in accordance with its terms. If the Bonds shall mature or be redeemed prior to the end of the periods set forth in Sections 1 and 2 hereof, the Trustee shall continue to enforce the provisions of this Agreement for and on behalf of the Issuer. In such case, the Owner hereby covenants to pay the reasonable fees and expenses, including attorney's fees, of the Trustee incurred by the Trustee in enforcing the provisions hereof.

Section 15. Defaults, Remedies. If the Owner shall fail to observe or perform any covenant, condition or agreement contained herein on its part to be observed or performed for a period of 30 days after the Trustee or the Issuer shall have given written notice to the Owner of such failure, then and in such event, the Issuer or the Trustee shall be entitled, individually or collectively, in addition to all other remedies provided by law or in equity, to compel specific performance by the Owner of its obligations under this Agreement or by mandamus or other suit, action or proceeding at law or in equity require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or Trustee hereunder or otherwise seek injunctive relief, it being recognized that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of the Owner's default. The Trustee agrees that upon receipt from the Owner of notice of noncompliance pursuant to Section 6 hereof, or if the Trustee otherwise believes that the Owner is not in compliance with one or more of the terms and provisions of this Agreement, it will promptly, by written notice to the Owner, direct the Owner to institute action to correct such noncompliance, such corrective action to be taken within a reasonable period after the violation is first discovered. In no event shall the Issuer or the Trustee seek any form of compensation or monetary damages in the event of the Owner's default under this Agreement.

Section 16. Reliance: Compliance. (a) The Issuer and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Bonds and in the exclusion from gross income for federal income tax purposes of the interest on the Bonds. In performing their duties and obligations hereunder, the Issuer and the Trustee may rely upon statements and certificates of the Owner and Low or Moderate Income Tenants, unless the Issuer and the Trustee have reason to doubt them, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the Issuer and the Trustee 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 Trustee hereunder in good faith and in conformity with such opinion.

(b) Promptly following its receipt thereof, the Trustee will review each Income Certificate and Compliance Certificate delivered pursuant to this Agreement in order to determine that each such document is complete and to verify that the percentage set forth in paragraph 2 of the Compliance Certificate is at least 40%. The Trustee will maintain such documents on file and open to the inspection of the Issuer and the Owner.

(c) Promptly upon determining that any report or certificate submitted to it is inaccurate or incomplete, the Trustee shall give written notice by certified mail, return receipt requested, of such inaccuracy or lack of completeness to the Owner and direct the Owner to correct or complete the same, as the case may be, within a reasonable period of time thereafter. If the Owner fails to submit to the Trustee any certification required pursuant to this Agreement within 45 days of the time set forth herein, the Trustee shall immediately give written notice of that fact to the Issuer and the Owner. If any documentation filed with the Trustee reflects that the Project has ceased to meet the requirements of this Agreement, the Trustee shall immediately give written notice of that fact to the Issuer and the Company.

Section 17. Indemnification. The Owner shall indemnify, hold harmless and defend the Issuer and the Trustee and their respective officers, members, directors, agents and employees against all loss, costs, damages, expenses, suits, judgments, actions and liabilities of whatsoever nature (including, without limitation, attorney's fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from or arising out of or related to the performance by the Issuer or Trustee of the duties imposed upon them under this Agreement, except to the extent caused by gross negligence or willful misconduct.

Section 18. Notice. Any notice, demand, consent, permission or other communication, which any party hereto is required or desires to give, or communicate to any other party, shall be in writing and shall be given personally or communicated by registered or certified mail, postage prepaid, return receipt requested, addressed to the other party at the address of the party set forth on the first page of this Agreement, to the Trustee at 14 East Wayne Street, PO Box 960, Fort Wayne, Indiana 46801 Attention: Corporate Trust Department, and to the Owner at 561 Broadway, Gary, Indiana 46402, Attention: Tree of Life CDC and to HUD at U.S. Department of Housing and Urban Development, Illinois State Office, 77 W. Jackson, Chicago, Illinois 60604, Attention: Director of

Housing. Any such notice or other communication so sent shall be deemed to have been given on the second business day following the date the same was deposited in the mail, as registered or certified matter, with postage fully prepaid thereon. Any party may change its address for notice or from any other party in the manner provided in this Section.

Section 19. Definitions. Terms used herein and not otherwise defined herein but defined in the Indenture shall have the meanings assigned to them in the Indenture. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the following terms shall have the respective meanings set forth below for all purposes of this Agreement:

"Agreement" means this Land Use Restriction Agreement, as it may from time to time be amended.

"Bond Counsel" means nationally recognized bond counsel acceptable to the Trustee.

"FHA" means the Federal Housing Administration.

"FHA Loan Documents" means, collectively, the Mortgage Note, the Mortgage, the FHA Regulatory Agreement and all other documents which are required by the FHA in connection with the Endorsements.

"FHA Regulatory Agreement" means the Regulatory Agreement for Multifamily Housing Projects, to be dated not later than the Closing Date, by and between the Owner and FHA, together with any and all Supplements thereto entered into with respect to the Project.

"Income Certification" means a certification as to income executed by a tenant of the Project, in substantially the form of Exhibit B hereto.

"Surplus Cash" shall have the meaning set forth in the FHA Regulatory Agreement.

Section 20. Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement of the Issuer or the Owner contained herein shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Issuer or the Owner, as the case may be, to the full extent permitted by law.

Section 21. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 22. Subordination. The Issuer and the Owner agree that this Land Use Restriction Agreement shall be subordinate in all respects to all applicable HUD mortgage insurance regulations

and related administrative requirements and to the Mortgage on the Project executed by the Owner as of September 1, 1998, in favor of Norwest Bank Indiana, N.A. for the benefit of TRI Capital Corporation as the Lender under the Trust Indenture (the "Mortgage"), and the Owner shall on behalf of itself and/or the Issuer, at the written request of the holder of the Mortgage, execute such instruments as may be required to implement and evidence the subordination expressed in this Section 22. The Issuer, the Trustee and the Owner further agree that this Agreement shall terminate if the Project is acquired by an entity other than the obligor on the Mortgage Note or a "related person" thereto by foreclosure of the Mortgage, conveyance of the Project by deed-in-lieu of foreclosure or comparable conversion of the Mortgage, such termination to be effective as of the date of such foreclosure, deed-in-lieu of foreclosure or conversion. No right or authority on the part of the Issuer, the Trustee or any other party which is provided by this Agreement with respect to the Project shall survive the foreclosure, granting of a deed-in-lieu of foreclosure or comparable conversion and no such right or authority shall apply to the Project if title is transferred pursuant to or following any such foreclosure, deed-in-lieu of foreclosure or comparable conversion.

Section 23. Conflict with Mortgage and HUD Regulations: Supremacy of Mortgage and HUD Insurance.

(a) Notwithstanding anything in this Agreement to the contrary, the provisions of this Agreement are subject and subordinate to the National Housing Act, all applicable HUD insurance (and Section 8, if applicable) regulations and related administrative requirements, and the FHA Loan Documents, and all applicable GNMA regulations and related administrative requirements, and the GNMA Documents; and in the event of any conflict between the provisions of this Agreement and the provisions of the National Housing Act, any applicable HUD (and Section 8, if applicable) regulations, related HUD administrative requirements and the FHA Loan Documents, and any applicable GNMA regulations, related GNMA requirements, and the GNMA Documents, the said National Housing Act, HUD (and Section 8, if applicable) regulations, related administrative requirements and FHA Loan Documents, and the said GNMA regulations, related requirements and GNMA Documents shall be controlling in all respects.

(b) The failure on the part of the Owner to comply with the provisions of this Agreement cannot be and will not be deemed to be the basis for a default under the FHA Loan Documents.

(c) Enforcement of the provisions of this Agreement shall not result in any claim against the Project, the proceeds of the Mortgage Loan, any reserve or deposit made with the Lender or another person or entity required by HUD in connection with the Mortgage Loan, or the rents or other income from the Project other than available "Surplus Cash" (as such term is defined in the FHA Regulatory Agreement).

(d) The Owner shall not be deemed to be in violation of this Agreement if it shall take (or refrain from taking) any actions required (or prohibited) by HUD pursuant to the National Housing Act, applicable HUD (and Section 8, if applicable) insurance regulations, related

administrative requirements, the FHA Loan Documents, applicable GNMA regulations, related GNMA requirements and the GNMA Documents.

(e) This Agreement and the restrictions hereunder are subject and subordinate to the lien and security interest granted by the Mortgage. In the event of foreclosure or transfer of title by deed in lieu of foreclosure, this Agreement and the restrictions hereunder shall automatically and immediately terminate and shall thereafter be of no further force and effect.

(f) Any project funds held by the Lender for on behalf of the Owner under the Contract of Mortgage Insurance shall be maintained separate and apart from the funds established and held by the Trustee for the owners of the Bonds and the various escrows and funds, if any, under the Indenture.

(g) This Agreement may not be amended without the prior written approval of HUD.

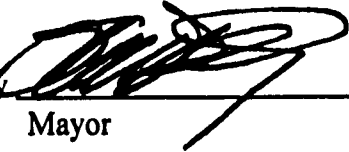
(h) The provisions of this Agreement shall inure to the benefit of HUD, its successors and assigns.

Section 24. Limited Recourse. Notwithstanding any provisions of this Agreement to the contrary, enforcement of the provisions of this Agreement shall not result in any claim against the Project, the mortgaged property, Mortgage Loan proceeds, any reserve or deposit required by the Lender, HUD or GNMA in connection with the Mortgage Loan, or the rents or other income from the Project (except to the extent of Surplus Cash available for distribution to the Owner).

Section 25. Termination by Agreement of the Parties. Notwithstanding any other provision of this Agreement, this Agreement may be terminated upon agreement by the Issuer, the Trustee, the Lender and the Owner upon receipt of an opinion of Bond Counsel that such termination will not adversely affect the exemption for federal income taxation of the interest on the Bonds.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

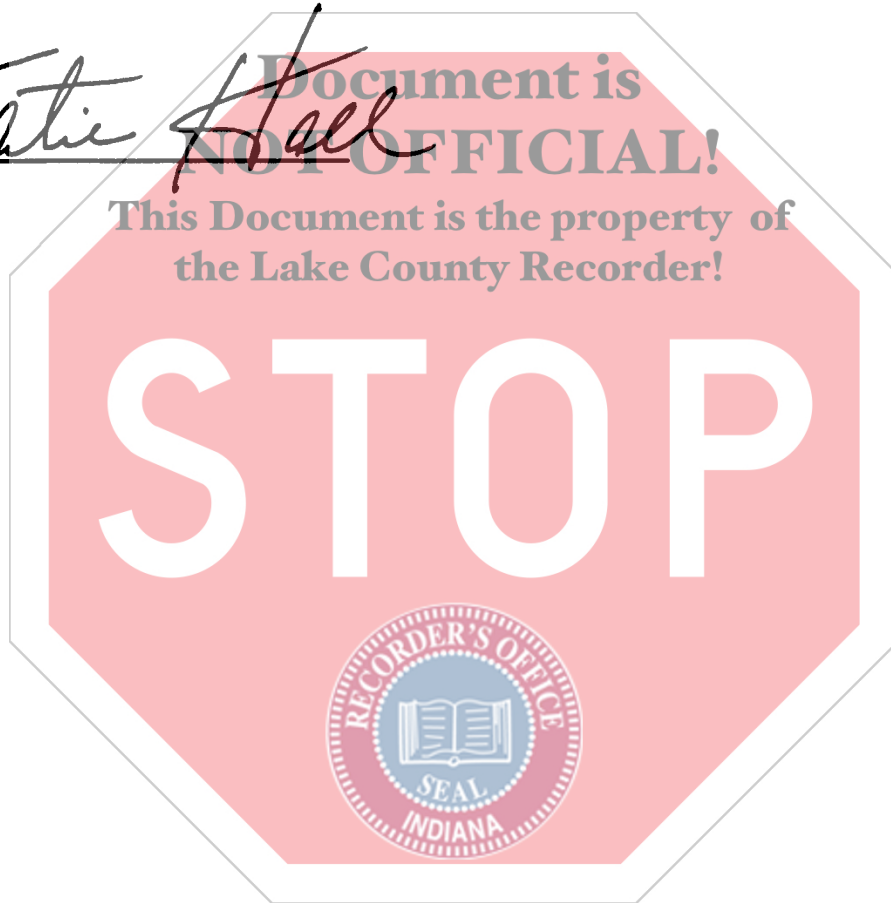
CITY OF GARY, INDIANA, as
Issuer

By 
Mayor

(Seal)

ATTEST:


Clerk



NORWEST BANK INDIANA, N.A., as
Trustee

By: Marian L. Steffen
Trust Officer



WILLOWS ON CLARK ROAD LIMITED
PARTNERSHIP, as Owner

By: WILLOWS ON CLARK ROAD,
INC., a General Partner

By: *Letitia J. Brown*

Its: *Executive Director*

Document is
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This Document is the property of
the Lake County Recorder

By: *Ronald M. Gattton*

Ronald M. Gattton, a General Partner

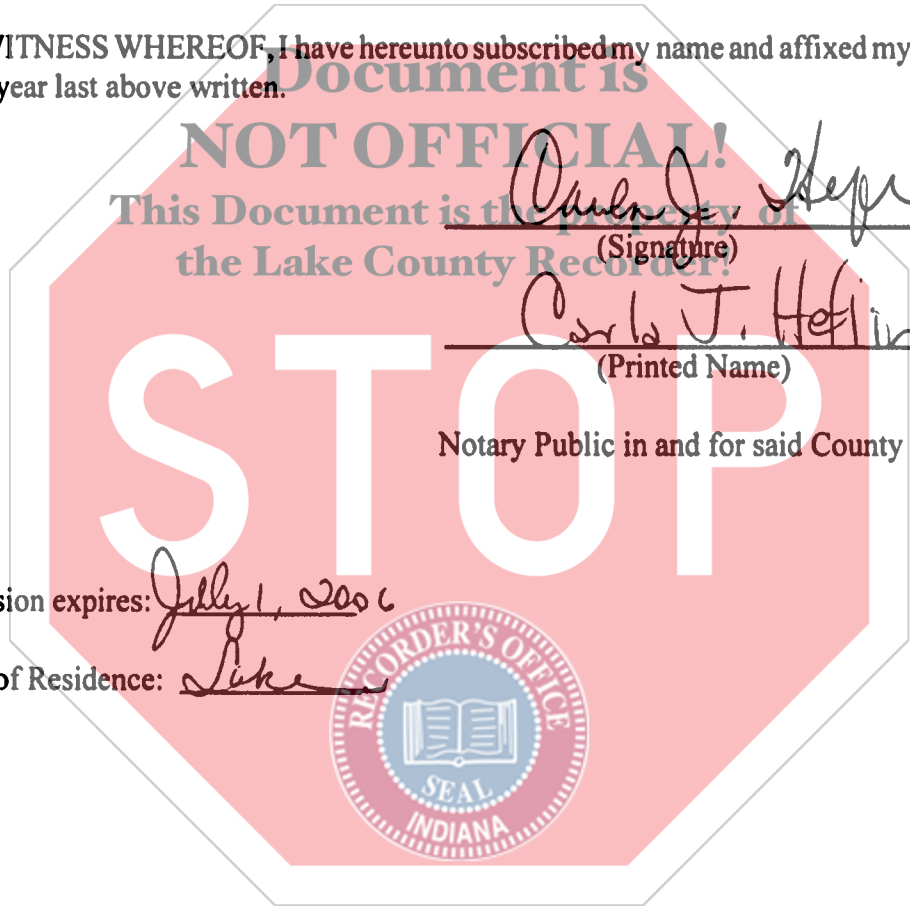
STOP



STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

On this _____ day of September, 1998, before me appeared Scott L. King and Katie Hall, personally known who, being by me duly sworn did say that they are the Mayor and Clerk, respectively, of the City of Gary, Indiana, a municipal corporation 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 municipal corporation, by authority of its board, and said Mayor and Clerk acknowledged said instrument to be the free act and deed of said municipal corporation.

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



Charles J. Hepler
(Signature)

Charles J. Hepler
(Printed Name)

Notary Public in and for said County and State

[SEAL]

My commission expires: July 1, 2006

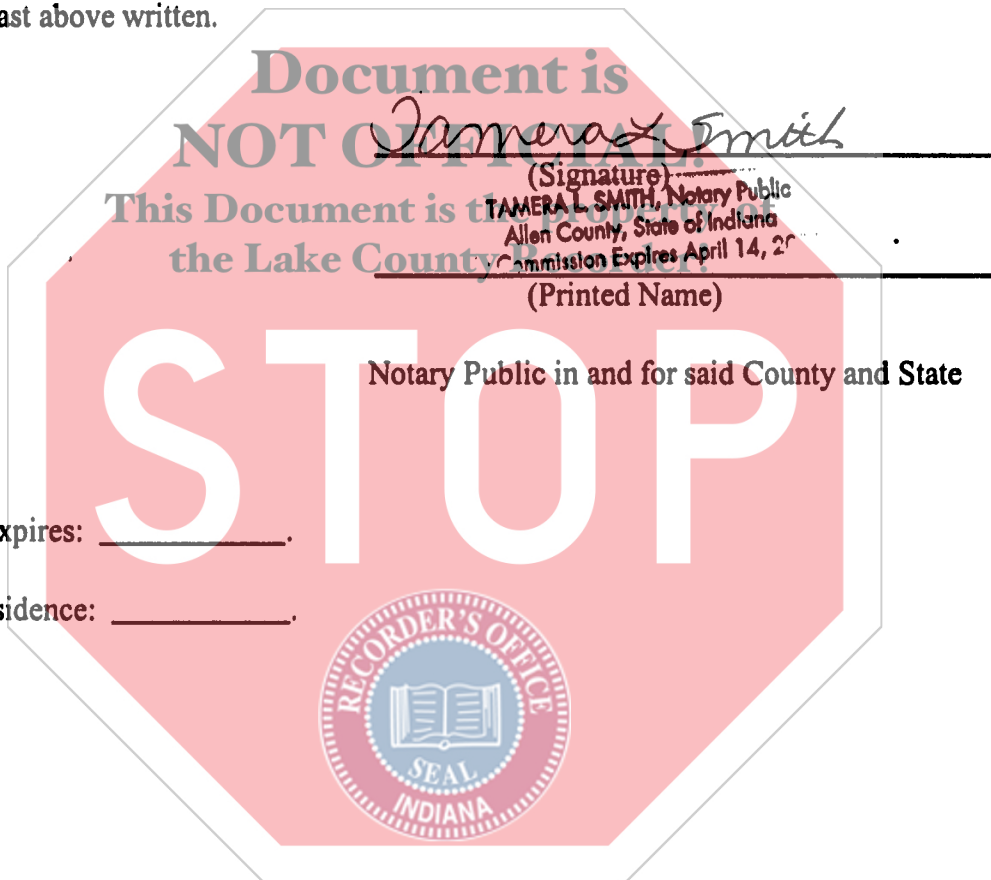
My County of Residence: Lake

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

On this ____ day of September, 1998, before me appeared Marian L. Steffen me personally known who, being by me duly sworn did say that he is a Trust Officer of Norwest Bank Indiana, N.A., a national banking association, and acknowledged said instrument to be the free act and deed of said banking association.

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

Document is
NOT OFFICIAL
This Document is the Tamera L. Smith
the Lake County TAMERA L. SMITH, Notary Public
Allen County, State of Indiana
Commission Expires April 14, 2000
(Printed Name)
Notary Public in and for said County and State



[SEAL]

My commission expires: _____.

My County of Residence: _____.



STATE OF ^{Illinois} INDIANA)
 ^{Cook}) SS:
COUNTY OF LAKE)

On this 4th day of September, 1998, before me appeared Ronald M. Gatton, to me personally known, who being by me duly sworn did say that the above is a General Partner of Willows on Clark Road Limited Partnership, an Indiana limited partnership, and that the above is the person who executed the foregoing instrument as such officer in behalf of said partnership, and acknowledge that the above executed the same as his free act and deed as such general partner of said partnership.

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



Document is
NOT OFFICIAL!
This Document is the property of
the Lake County Recorder!
Margaret A. Grassano
(Signature)
Margaret A. Grassano
(Printed Name)

Notary Public in and for said County and State

[SEAL]

My commission expires: 5-4-2002

My County of Residence: Cook



This instrument was prepared by Thomas W. Peterson, Ice Miller Donadio & Ryan, One American Square, Box 82001, Indianapolis, Indiana 46282.

LEGAL DESCRIPTION
Willows On Clark Road Apartments

Part of the Northwest Quarter of Section 6, Township 36 North, Range 8 West of the Second Principal Meridian, in the City of Gary, Lake County, Indiana, more particularly described as follows: Beginning at a point 33 feet East of the West line of said Northwest Quarter of Section 6 and 220 feet North of the center line of Fifth Avenue; thence East and parallel with the center line of Fifth Avenue, 200 feet; thence South and parallel with the West line of said Section 6, a distance of 15 feet; thence East and parallel with the center line of Fifth Avenue, 280 feet to a point on a line which is 513 feet East of the West line of said Northwest Quarter of Section 6; thence due North to a point on the South line of U.S. Highway No. 12; thence Northwesterly along the Southwesterly line of U.S. Highway No. 12 to the South line of property conveyed by the Gary Land Company to Chicago, South Shore and South Bend Railroad by Warranty Deed dated July 21, 1927 and recorded in Deed Record 405, Page 184, in the Office of the Recorder of Lake County, Indiana; thence West along the South line of said property conveyed to Chicago, South Shore and South Bend Railroad to a line 33 feet East of the West line of said Northwest Quarter of Section 6; thence South and parallel with said West line of the Northwest Quarter of Section 6, a distance of 993.29 feet to the point of beginning.

Key No. 40-32-75 (tax unit no. 25)

Property Address: 435 Clark Road, Gary, Indiana

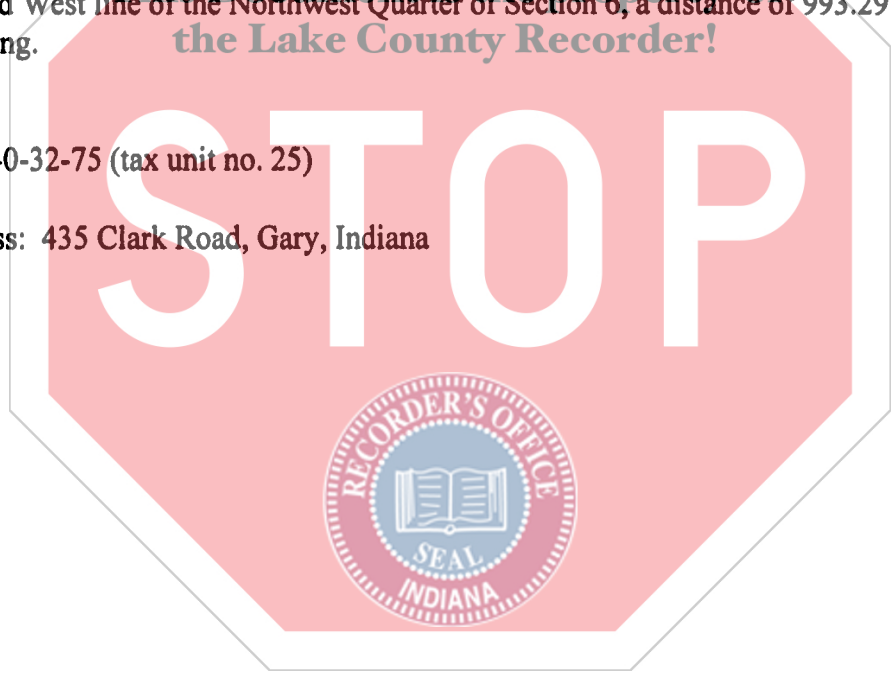


Exhibit A

EXHIBIT B

**INCOME COMPUTATION AND CERTIFICATION FORM
(TAX-EXEMPT FINANCED PROJECTS)**

Re:

Unit Address and Number: _____

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

1. Names of Members
of the Household

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OCCUPANT INFORMATION

2. Relationship to Head of Household 3. Age 4. Social Security Number

HEAD

SPOUSE

5. The anticipated total income of all the above persons, except income from employment of minors younger than 18 years of age, during the 12-month period beginning this date is as follows:

<u>Name</u>	<u>Wages*</u>	<u>Interest and Dividends</u>	<u>Periodic Payments**</u>	<u>Other***</u>	<u>Total</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

TOTAL _____

*All wages and salaries, over-time pay, commissions, fees, tips and bonuses, and other compensation for personal services, in each case before payroll deductions.

**The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, worker's compensation, public or welfare assistance, and alimony and child support payments.

***Include all other income not otherwise listed including income from assets described in Paragraph 6. SEE SCHEDULE A ATTACHED HERETO FOR MORE DETAILED INFORMATION CONCERNING OTHER INCOME AND EXCLUDABLE ITEMS.

(ONLY FOR USE IN CONNECTION WITH TAX-EXEMPT FINANCED PROJECTS)

FAMILY ASSETS

6. If any of the persons listed in column 1 above has any savings, stocks, bonds, equity in real property, personalty (excluding necessary items such as clothes, autos and furniture) or any other form of capital investment, provide:

a. The total value of all such assets owned by all such persons (including the excess of fair market value over consideration received for business or family assets disposed of at less than fair market value during the preceding two years): \$ _____; and

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

STUDENTS

7. If ALL of the persons listed in column 1 above are or will be full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students, answer the following questions; otherwise, check here. NOT APPLICABLE.

a. Is any such person (other than nonresident aliens) married and filing a joint federal income tax return? Yes No

b. Is any such person receiving assistance under Title IV of the Social Security Act (relating to Aid to Families with Dependent Children or AFDC?) Yes No

c. Is any such person enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws? Yes No

d. Are such persons single parents and their children (not one of whom is a dependent of a person not residing in the unit)? Yes No

CERTIFICATION

I/We have reviewed Schedule A attached hereto and certify that the income set forth in paragraph 5 above includes all income, from all sources described on Schedule A, with no exceptions. We acknowledge that all of the above information is relevant to the status under federal income tax law of certain housing tax credits to finance the apartment for which application is being made. We consent to the disclosure of the foregoing information to the U.S. Government, the Indiana Housing Finance Authority, the Owner of the project, investors in the project and their legal and accounting representatives, and to any lender providing financing for the development.

I understand that copies of this property's utility estimates are available in the manager's office.

Date: _____, _____

Head of Household

Spouse or Other Occupant

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, this
_____ day of _____, _____.

Signature

Document is
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NOT OFFICIAL!

Notary Public

This Document is the property of
My Commission Expires: _____ the Lake County Recorder County of Residence: _____

STOP



FOR COMPLETION BY DEVELOPMENT OWNER OR MANAGER ONLY

1. Calculation of Eligible Income:

a. Enter amount entered for entire household,
except minors, in 5 above: \$ _____

b. If the amount entered in 6.a. above is greater
than \$5,000, enter the excess of _____ %
(being the current passbook savings rate as
determined by HUD) of line 6.a. over the amount
entered on line 6.b., if any. \$ _____

TOTAL ELIGIBLE INCOME
(line 1.a plus line 1.b): \$ _____

2. First Year Certifications. In order to comply with applicable federal tax law, the development has elected to comply with the requirement that at least 40 percent of the units in the development will be set aside and rented to individuals and families with incomes less than or equal to 60 percent of Median Gross Income for the Area.* Based upon the foregoing election, the Total Eligible Income of the occupants of the unit as a first year tenant qualifies the unit as a set-aside unit for purposes of the housing tax credit provisions contained in Section 42(g) and tax-exempt bond provisions of Section 142(d) of the Internal Revenue Code of 1986 (the "Code").

3. Recertifications. Applicable federal law requires that the determination of whether the income of residents of a unit in the development exceeds the applicable income limit shall be made at least annually on the basis of the current income of the residents. On recertification, the income of such resident shall be treated as continuing not to exceed the applicable income limit unless, as of the most recent annual recertification, (a) such resident's income exceeds 140% of the income limit applicable for the first year tenants, and (b) before the next income determination, any residential unit of comparable or smaller size in the development is occupied by a new resident whose income exceeds the applicable income limit.

4. Students. If the answers to items 7.a., 7.b., 7.c. AND 7.d. above are all NO, the unit will not qualify as a set-aside unit. If the answer to item 7.1, 7.b., 7.c. OR 7.d. above is YES, the unit does not fail to qualify as a set-aside unit merely because all occupants are students. If the answer to 7.a. above is NO, but the answer to item 7.b., 7.c. or 7.d. is YES, the unit will not qualify as a set-aside unit under the tax-exempt bond provisions of Section 142(d) of the

Code but will qualify for purposes of low income housing tax credits under Section 42 of the Code.

Applicant/Tenant: Under the 20/50 Test or 40/60 Test

- Qualifies as a first year set-aside tenant under paragraph 2 above.
- Qualifies, on recertification, as a continuing set-aside tenant under the 140% test under paragraph 3 above.
- Does not, on recertification, qualify as a set-aside tenant (NOTE: If this box is checked and the development is not 100% set-aside tenants, the next available unit of comparable or smaller size in the development may need to be rented to a first year qualifying set-aside tenant to assure that at least 40% of the units are occupied by, or available for rental to, qualifying tenants or to assure some greater percentage of units are so rented to generate the desired level of tax credits).

Date: _____

Owner/Manager

* "Median Gross Income for the Area" means the median income for the statistical area where the Project is located as determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended, taking into account adjustments for family size or if programs under said Section 8(f) are terminated, median income determined under the method used by the Secretary immediately prior to the termination. Such income figures are to be updated annually by HUD.

SCHEDULE A

§ 813.106 Annual Income

(a) Annual Income is the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family, including all net income derived from assets for the 12-month period following the effective date of certification of income, exclusive of certain types of income as provided in paragraph (c) of this section.

(b) Annual Income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in excess of \$5,000, Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD;

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

(5) Payments in lieu of earnings such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph (c)(3) of this section);

(6) **Welfare Assistance.** If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus

(ii) The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

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

(8) All regular pay, special pay and allowances of a member of the Armed Forces (but see paragraph (c)(7) of this section); and

(9) Any earned income tax credit to the extent it exceeds income tax liability.

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children;

(3) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (but see paragraph (b)(6) of this section);

(4) Amounts received by the Family, that are specifically for, or in reimbursement of, the cost of medical expenses for any Family member;

(5) Income of a live-in aide, as defined in § 813.102;

(6) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and

miscellaneous personal expenses of the student. Any amount of such scholarship or payment to a veteran not used for the above purposes that is available for subsistence is to be included in income;

(7) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income of eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); or

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

(9) Temporary, nonrecurring or sporadic income (including gifts); or

(10) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the United States Housing Act of 1937. A notice will be published in the *Federal Register* and distributed to PHAs and owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

(d) If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.

EXHIBIT C

**(to Land Use Restriction Agreement)
CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

The undersigned (the "Owner"), the owner of the Willows on Clark Apartments, a 202-unit multifamily housing development located in the City of Gary, Indiana, has read and is thoroughly familiar with the provisions of the Land Use Restriction Agreement (the "Agreement") dated as of September 1, 1998 among the Owner, the Issuer and Norwest Bank Indiana, N.A., as Trustee (the "Trustee"):

1. As of _____ 1, _____, the following number of residential units in the Project (i) are occupied by Low or Moderate Income Tenants (as such term is defined in the Agreement) or (ii) were previously occupied by Low or Moderate Income Tenants and have been vacant and not reoccupied except for a temporary period of no more than 31 days, as indicated:

- (a) Number of units occupied by Low or Moderate Income Tenants: _____
- (b) Number of units previously occupied by Low or Moderate Income Tenants, but vacated and not reoccupied except for a temporary period of no more than 31 days since the date of the last Compliance Certificate: _____
- (c) Total number of completed residential units in the Project (i.e. - units for which a certificate of occupancy or local equivalent has been obtained): _____

2. The total number of units occupied or previously occupied by Low or Moderate Income Tenants as shown above is _____% (at least 40%) of the total number of completed units.

3. The undersigned hereby certifies that (i) as of the date of this certificate, no default has occurred in the observance of the covenants contained in the Agreement, and no event has occurred in connection with the operation of the Project which has caused or will cause the Project to cease to meet the requirements of the Agreement, and (ii) attached hereto are true and correct copies of (a) all leases for units at the Project and (b) all Income Certifications (including annual recertifications), received from Low or Moderate Income Tenants since the date of the last Compliance Certificate which have not previously been provided to the Trustee.

Dated: _____

**WILLOWS ON CLARK ROAD LIMITED PARTNERSHIP,
an Indiana limited partnership**

By: _____,
Property Manager

By: _____

