

1687 This Instrument Prepared by:
J. Foster Clark, Esq.
Balch & Bingham
P.O. Box 306
Birmingham, AL 35201

AMENDMENT TO REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS

THIS AMENDMENT is entered into as of November 1, 1987 by and among COLONIAL MORTGAGE COMPANY, an Alabama corporation having its principal office in the City of Birmingham (the "Lender"), HEATHERBROOKE INVESTORS, LTD., an Alabama limited partnership (the "Owner"), and ALABAMA HOUSING FINANCE AUTHORITY, a public corporation of the State of Alabama (the "Authority"), and FIRST ALABAMA BANK, an Alabama banking corporation having a principal trust office in the City of Montgomery (the "Trustee"), for the purpose of amending that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 1985 (the "Regulatory Agreement") among the parties referred to above.

RECITALS

The Authority has heretofore issued its Multi-Family Residential Development Bonds, 1985 Series O (Heatherbrooke Apartments Project) in the principal amount of \$10,500,000 (the "Bonds") for the purpose of providing financing for the Heatherbrooke Apartments (the "Development") which are owned by the Owner and are located in Birmingham, Alabama. In connection with the issuance of the Bonds, the parties hereto entered into the Regulatory Agreement for the purpose, *inter alia*, of specifying certain obligations of the Owner with respect to the construction, operation and leasing of the Development. The Regulatory Agreement was recorded in the Office of the Judge of Probate of Shelby County and appears in the records of that office in Real Book 54, pp. 527 et seq. As a result of the adoption at the 1987 Regular Session of the Legislature of Alabama of Act No. 87-556, the parties now wish to amend certain portions of the Regulatory Agreement.

Section 1. Amendment of Regulatory Agreement. The Regulatory Agreement is hereby amended so as to delete any requirement that all of the units in the Development must be rented to, or held available for rent to, "Eligible Tenants" (as defined in the Regulatory Agreement), i.e., persons whose adjusted gross income does not exceed \$38,000 per year, plus \$1,750 for each exemption to which such person is entitled on his or her federal income tax return. In order to effectuate such amendment, the following specific revisions shall be made to the Regulatory Agreement:

- (i) The definitions of "Eligible Income Limit", "Eligible Tenant" and "Rental Restrictions" appearing in Section 1 of the Regulatory Agreement are hereby deleted.
- (ii) Sections 4(b) and 5(f) of the Regulatory Agreement are hereby deleted.
- (iii) Section 6(b) of the Regulatory Agreement is hereby amended to read as follows:

"(b) As a condition to occupancy, any individual or family intended to be a Lower-Income Tenant in the Development shall sign and deliver to the Owner an Eligibility Certification in the form substantially of that attached hereto as Exhibit D or in such other form and manner as may be required or permitted by applicable rules, regulations or policies promulgated or proposed by the Authority or the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 103(b)(4)(A) of the Code, in which the prospective tenant certifies that he or she and his or her family qualify as a Lower-Income Tenant as provided in the form of Eligibility



Colonial Properties, Inc.

Real Estate Development and Management
No. 2 Perimeter Park South
Suite 450, P.O. Box 43468

Certification. In addition, such individual shall provide whatever other information, documents or certifications are deemed necessary by the Authority, the Lender, or the Trustee to substantiate the Eligibility Certification."

(iv) Section 6(c) of the Regulatory Agreement is hereby amended to read as follows:

"(c) The form of lease to be used by the Owner in renting any Units in the Development shall provide for termination of the lease and consent by such person or family to immediate eviction for failure to qualify as a Lower-Income Tenant, as a result of any material misrepresentation made by such person or family with respect to the Eligibility Certification."

(v) Section 6(d) of the Regulatory Agreement is hereby amended to read as follows:

"(d) Eligibility Certifications will be maintained on file at the Development with respect to each Lower-Income Tenant who resides in a Unit or resided therein during the immediately preceding calendar year, and the Owner will, promptly upon request, file a copy thereof with the Authority, the Lender, and/or the Trustee."

(vi) Section 7 of the Regulatory Agreement is hereby deleted.

(vii) Section 11(a) of the Regulatory Agreement is hereby amended to read as follows:

"(a) The Owner shall permit any duly authorized representative of the Authority, the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect any books and records of the Owner regarding the Development and with respect to the incomes of Lower-Income Tenants which pertain to compliance with the provisions of this Regulatory Agreement and Section 103(b)(4)(A) of the Code."

(viii) Section 15 of the Regulatory Agreement is hereby amended to read as follows:

"The Authority, the Lender and the Owner hereby acknowledge and agree that the representations, covenants and agreements set forth herein may be relied upon by all persons interested in the legality and validity of the Bonds and in the exemption from federal income taxation of the interest on the Bonds, including without limitation any owners of the Bonds. In performing their duties and obligations hereunder, the Authority, the Lender and the Trustee may rely upon Statements and Certificates of the Owner and tenants believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Owner pertaining to occupancy of the Development and upon representations and warranties of the Owner made herein. In addition, the Authority 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 Authority or the Trustee hereunder in good faith and in conformity with the opinion of such counsel."

(ix) The form of "Eligibility Certification" which appears as Exhibit D to the Regulatory Agreement may be amended (A) to delete the first two questions relating to Eligible Income Limit in numbered paragraph 2 under the heading "FOR COMPLETION BY OWNER ONLY"; and (B) to delete the second question in numbered paragraph 6 under the said heading.

(x) The form of "Occupancy Certificate" which appears as Exhibit E to the Regulatory Agreement and is required to be filed with the Authority and the Trustee may be amended to delete numbered paragraph 1 and to delete the references to "Eligible Tenant" appearing in the last unnumbered paragraph thereof.

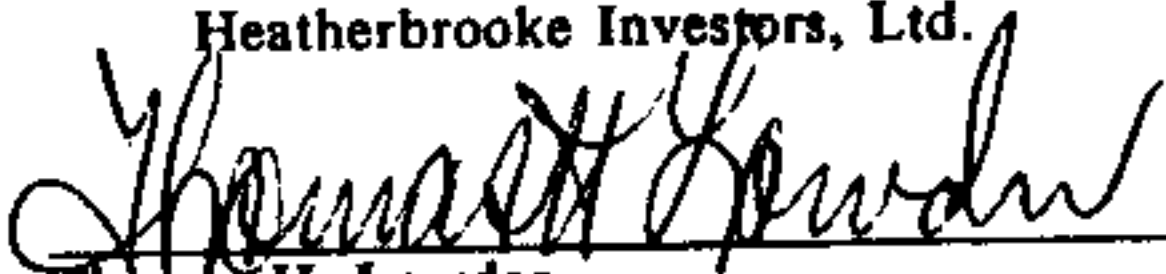
Section 2. Confirmation of Regulatory Agreement. Except as modified hereby, the Regulatory Agreement is hereby confirmed in its entirety including specifically, without limitation, the obligations of the Owner to rent, or hold available for rent, at least 20% of the units in the Development to persons or families who qualify as "Lower-Income Tenants" as defined in the Regulatory Agreement.

Section 3. Governing Law. This Amendment shall be governed by the laws of the State of Alabama, except to the extent that the laws of the United States of America shall prevail.

IN WITNESS WHEREOF, the parties have caused this Amendment to be signed by their respective duly authorized representatives, all as of November 1, 1987, although actually executed on different dates.

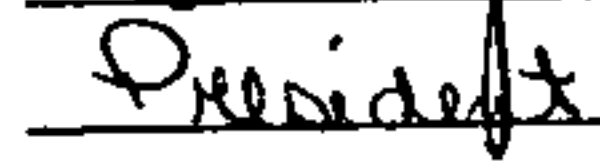
HEATHERBROOKE INVESTORS, LTD.,
an Alabama limited partnership

By: Colonial Properties Management
Association, general partner of
Heatherbrooke Investors, Ltd.

By: 
Thomas H. Lowder
Managing General Partner

COLONIAL MORTGAGE COMPANY

By: 

Its: 

as Lender

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FIRST ALABAMA BANK

By: Walter L. Dancy, Jr.
Vice President Trust Comptroller
and Corporate Trust Officer

Its: _____

as Trustee

ALABAMA HOUSING FINANCE AUTHORITY

By: Robert H. Dancy

Its: Executive Director

ACKNOWLEDGMENT OF OWNER

STATE OF ALABAMA

COUNTY OF Jefferson

On December 10, before me, the undersigned Notary Public in and for said State, personally appeared Thomas H. Lowder, managing general partner of Colonial Properties Management Association, general partner of Heatherbrooke Investors, Ltd., an Alabama limited partnership, known to me to be the person who executed the within Amendment to Regulatory Agreement on behalf of such partnership therein named, and who acknowledged to me that he executed the within instrument on behalf of such partnership therein named.

WITNESS my hand and official seal.

Cynthia C. Frank
Notary Public

MY COMMISSION EXPIRES SEP 12, 1991

ACKNOWLEDGMENT OF LENDER

STATE OF ALABAMA

COUNTY OF JEFFERSON

On December 11, 1987, before me, the undersigned Notary Public in and for said State, personally appeared Ronald J. Wilcox, known to me to be the President of Colonial Mortgage Company, an Alabama corporation, and known to me to be the person who executed the within Amendment to Regulatory Agreement on behalf of said banking corporation therein named, and who acknowledged to me that he executed the within instrument pursuant to the by-laws or resolution of the board of directors of such corporation.

WITNESS my hand and official seal.

Frederick C. Jones
Notary Public

MY COMMISSION EXPIRES
APRIL 29, 1990

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ACKNOWLEDGMENT OF TRUSTEE

STATE OF ALABAMA

COUNTY OF MONTGOMERY

On April 4, 1988, before me, the undersigned Notary Public in and for said State, personally appeared WALTER L. DARBY, JR. known to me to be the Vice President Trust Comptroller and Corporate Trust Officer of First Alabama Bank, an Alabama banking corporation, and known to me to be the person who executed the within Amendment to Regulatory Agreement on behalf of the banking corporation therein named, and who acknowledged to me that he executed the within instrument pursuant to the by-laws or a resolution of the board of directors of such banking corporation.

WITNESS my hand and official seal.

Barbara Carter Ledwith
Notary Public

MY COMMISSION EXPIRES SEPT. 25, 1991

ACKNOWLEDGMENT OF AUTHORITY

STATE OF ALABAMA

COUNTY OF MONTGOMERY

On April 4, 1988, before me, the undersigned Notary Public in and for said State, personally appeared Robert Stuchland known to me to be the Executive Director of Alabama Housing Finance Authority, and known to me to be the person who executed the within Amendment to Regulatory Agreement on behalf of the Authority therein named, and who acknowledged to me that he executed the within instrument pursuant to the by-laws or a resolution of the board of directors of the Authority.

WITNESS my hand and official seal.

Horace R. Theriot, Jr.
Notary Public

HORACE R. THERIOT, JR.
Notary Public, State of Alabama
My Commission Expires 06-26-89

STATE OF ALA. SHERIFF
I CERTIFY THIS
INSTRUMENT WAS FILED

88 APR 25 AM 9:57

Thomas G. Shawley, Jr.
JUDGE OF PROBATE

RECORDING FEES

Recording Fee \$15.00

Index Fee 1.00

TOTAL \$16.00