



**Department of State.**

**CERTIFICATE OF REGISTRATION  
OF**

**GARFIELD AVENUE ASSOCIATES, LTD., A UTAH LIMITED PARTNERSHIP**

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of an Application of GARFIELD AVENUE ASSOCIATES, LTD., A  
UTAH LIMITED PARTNERSHIP for Registration in this State, duly signed and verified pursuant to the provisions of the Idaho Limited Partnership Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Registration to GARFIELD AVENUE ASSOCIATES, LTD., A UTAH LIMITED PARTNERSHIP to transact business in this State under the name GARFIELD AVENUE ASSOCIATES, LTD.,  
A UTAH LIMITED PARTNERSHIP and attach hereto a duplicate original of the Application for Registration.

Dated May 3, 1983



*Pete T. Cenarrusa*

SECRETARY OF STATE

by: \_\_\_\_\_

**APPLICATION FOR REGISTRATION OF  
FOREIGN LIMITED PARTNERSHIP**

To the Secretary of State of the State of Idaho:

Pursuant to the provisions of Chapter 2, Title 53, Idaho Code, the undersigned Limited Partnership hereby applies for registration to transact business in your State, and for that purpose submits the following statement:

1. The name of the limited partnership is GARFIELD AVENUE ASSOCIATES, LTD.,  
A UTAH LIMITED PARTNERSHIP
2. The name which it shall use in Idaho is GARFIELD AVENUE ASSOCIATES, LTD.,  
A UTAH LIMITED PARTNERSHIP
3. It is organized under the laws of the state of Utah.
4. The date of its formation is October 1, 1982.
5. The address of its registered or principal office in the state or country under the laws of which it is organized is 106 'G' Street, Salt Lake City, Utah 84103
6. The name and street address of its proposed registered agent in Idaho are Barbara Anderson,  
Rt 3, Box 252B, Idaho Falls, Idaho 83401 (556 E. Township Rd.)
7. The general character of the business it proposes to transact in Idaho is:  
Apartment House Ownership and Management.
8. The names and business addresses of its partners are (must be completed only if not included in the certificate of limited partnership):

Name	General or Limited	Address
<u>Barbara S. Anderson,</u>	<u>General &amp;</u>	<u>Rt 3, Box 252B</u>
	<u>Limited</u>	<u>Idaho Falls, Idaho 83401</u>
<u>Philip Carroll</u>	<u>General</u>	<u>106 'G' Street</u>
		<u>Salt Lake City, Utah 84103</u>

(continued on reverse)

8. (Continued)

Name	General or Limited	Address

9. This Application is accompanied by a copy of the certificate of limited partnership and amendments thereto, duly authenticated by the proper officer of the state or country under the laws of which it is organized.

Dated January 17,

1983

By Philip Carroll

A General Partner

STATE OF Utah )

COUNTY OF Salt Lake ) ss:

I, N. Jeanne Cherrington, a notary public, do hereby certify that on this 18<sup>th</sup> day of January, 19 83, personally appeared before me Philip Carroll, who being by me first duly sworn, declared that he is a general partner of Starfield Avenue Assoc. Ltd. a Utah Limited Partnership.

that he signed the foregoing document as a general partner of the limited partnership and that the statements therein contained are true.

N. Jeanne Cherrington  
Notary Public

15314

NOV 10 1982

STATE OF UTAH

COUNTY OF SALT LAKE

J. Sterling Evans, Clerk 3rd Dist. Court  
by S/JENNIE CAYWOOD  
Deputy Clerk

AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP  
FOR GARFIELD AVENUE ASSOCIATES, LTD., A UTAH LIMITED PARTNERSHIP

THIS AGREEMENT AND CERTIFICATE (herein referred to as the "Agreement" is entered into this First day of October, 1982, by and among PHILIP CARROLL and BARBARA SINE ANDERSON, whose principal place of business is 106 "G" Street, Salt Lake City, Utah 84103 (herein referred to as the "Managing General Partners"); and such parties (herein referred to as the "Special Limited Partner" and the "Limited Partners") as have executed the Limited Partner Signature Pages (with their names and addresses stated thereon) attached to this Agreement.

WITNESSETH:

WHEREAS, the parties hereto desire to form a limited partnership (the "Partnership") under the laws of the State of Utah for the purposes set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto, after being duly sworn do covenant, agree and certify as follows:

ARTICLE I

DEFINITIONS

1.1 "Affiliate" shall be deemed to mean (1) any person (i.e., individual, partnership or corporation) directly or indirectly controlling, controlled by or under control with such person, (ii) any person owning or controlling ten percent (10%) or more of the outstanding voting securities of such person, (iii) any officer, director, or partner of any corporation for which such person acts in any such capacity.

1.2 "Closing of the Offering" shall refer to the date on which all 75 Units of the Offering have been sold and the purchasers thereof have been admitted to the Partnership by the recording of the Agreement.

1.3 "HUD" shall refer to the branch of the United States Government known as the Department of Housing and Urban Development.

1.4 "Investment Account" shall refer to an account which will be established to attempt to provide for and secure the principal payment due to the Seller of the Project in 1997. The account will be funded initially by the Partnership through contributions made by the Limited Partners on January 31, 1983.

1.5 "Limited Partners" shall refer to those investors who are admitted to the Partnership by the recording of this Agreement, in which such investors are designated as Limited Partners, and any successors or additional or substituted investors of the same class. All references to Limited Partners in this Agreement shall not be deemed to include the Special Limited Partner unless specifically referred to herein.

1.6 "Managing General Partners" shall refer to Philip Carroll and Barbara Sine Anderson and any additional or successor General Partner(s) as may be designated and admitted by amendment to this Agreement. All references to a General Partner(s) in this Agreement shall be deemed to refer to the Managing General Partner.

1.7 "Partners" shall refer collectively to the Managing General Partner, the Special Limited Partner, and to the Limited Partners. Reference to a "Partner" shall be to any one of the "Partners."

1.8 "Partnership" shall refer to Garfield Avenues Associates, Ltd., a limited partnership created pursuant to the laws of the State of Utah.

1.9 "Profits and Losses" shall mean the net profit or net loss of the Partnership as shown on its books of account after deduction of expenses, depreciation and such other charges or additions as are appropriate and consistently applied.

1.10 "Project" shall refer to the Property, together with the 48 apartment units constructed thereon, located in Idaho Falls, Idaho, insured under the provisions of the National Housing Act, as amended, and all personalty used in connection therewith of the operation thereof. The Project is known as "Garfield Apartments."

1.11 "Promissory Notes" shall refer to the negotiable non-interest bearing promissory notes given by each Limited Partner to further evidence his obligation to pay a portion of the required capital account contributions, investment account contribution, and annual interest payments for the Units purchased under this Agreement. See Exhibits "B", "C", and "D".

1.12 "Property" shall refer to that certain tract or parcel of land lying and being in Idaho Falls, Bonneville County, Idaho, as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

1.13 "Special Limited Partner" shall refer to an interest retained by the Managing General Partners.

1.14 "Unit" shall refer to a Partner's ownership interest in the Partnership. The Partnership consists of one hundred (100) Units of Partner's ownership interest with each Unit evidencing a one percent (1%) interest in the Partnership. This offering consists of 75 Units.

## ARTICLE II

### FORMATION, NAME AND PRINCIPAL PLACE OF BUSINESS

#### 2.1 FORMATION

(a) The Partners do hereby form a limited partnership pursuant to the limited partnership laws of the State of Utah in order for the Partnership to carry on the business purposes for which provision is made herein. It is the intent of the Partners that this Agreement shall constitute a Certificate of Limited Partnership within the meaning of applicable limited partnership laws.

(b) This Agreement shall be recorded upon the Closing of the Offering in accordance with the terms of the Private Placement Memorandum prepared for the Offering of the Units in the Partnership.

2.2 NAME. The name and style under which the Partnership shall continue to be conducted is:

"GARFIELD AVENUE ASSOCIATES, LTD."

2.3 PRINCIPAL PLACE OF BUSINESS. The Partnership shall maintain its principal place of business at 106 "G" Street, Salt Lake City, Utah 84103. The Partnership may relocate its office from time to time or have additional offices as the Managing General Partner may determine.

## ARTICLE III

### PURPOSE OF THE PARTNERSHIP

The general character of the business of the Partnership shall be to acquire, own, operate and hold for investment income-producing residential property, i.e., the Project. In connection therewith, the Partnership shall have the authority to carry out any and all activities not prohibited to limited partnerships under applicable limited partnership laws.

## ARTICLE IV

### TERM

The term of the Partnership shall commence as of the date above first written and shall continue until May 15, 2022, on which date it shall be dissolved; provided, however, the Partnership shall be terminated and dissolved prior to such date as a result of the occurrence of any of the events set forth in Section 13.1 hereof.

## ARTICLE V

### CAPITAL CONTRIBUTIONS AND PARTNERSHIP INTERESTS

5.1 CAPITAL CONTRIBUTION OF THE MANAGING GENERAL PARTNERS. The Managing General Partners shall own one (1) Unit and has contributed or has caused to be contributed to the Partnership \$100 and all right, title, and interest in any and all agreements pertaining to the Project. The agreement of the Managing General Partner to act as a general partner, thereby becoming potentially responsible or obligated to third parties for any debts or liabilities incurred by the Partnership, in the event Partnership assets prove insufficient during the period in which the Managing General Partner shall act as a general partner, together with its capital contributions, is agreed by the parties hereto to be adequate and sufficient consideration from the Managing General Partner for the Partnership interest in the capital, profits, losses, and cash flow granted to the Managing General Partner by this Agreement. Except as otherwise may be required by law, the Managing General Partner shall not be required to make any further capital contributions or special assessments to the Partnership.

5.2 CAPITAL CONTRIBUTION OF THE SPECIAL LIMITED PARTNER. The Special Limited Partner shall own twenty-four (24) Units and has contributed or has caused to be contributed to the Partnership \$100 and all right, title, and interest in any and all agreements pertaining to the Project. It is agreed to by the parties hereto that the capital contribution of the Special Limited Partner is adequate and sufficient consideration for the ownership interest in the capital, profits, losses, and cash flow granted to the Special Limited Partner by this Agreement. Except as otherwise may be required by law, the Special Limited Partner shall not be required to make any further capital contributions or special assessments to the Partnership.

### 5.3 CAPITAL CONTRIBUTION OF THE LIMITED PARTNERS.

(a) Each Limited Partners shall make a \$2000.00 capital contribution to the Partnership for each Unit which he acquires (5 Unit minimum), payable as follows:

- (i) upon admission to the Partnership, the sum of \$1667.00; and,
- (ii) on January 31, 1984, the sum of \$333.00.

The foregoing installment capital contribution obligations of a Limited Partner for each Unit shall be further evidenced by a negotiable non-interest-bearing Promissory Note in the form attached hereto as Exhibit "C" and by this reference made a part hereof. Each Limited Partner shall be required to deliver a current financial statement to the Managing General Partner.

(b) The Managing General Partner is specifically authorized by each Limited Partner to assign and hypothecate the aforesaid Promissory Notes to secure loans for the Partnership or agreements for the benefit of the Partnership in the sole discretion of the Managing General Partner.

#### 5.4 INVESTMENT ACCOUNT CONTRIBUTION

(a) Each Limited Partners shall make an Investment Account contribution of \$666.67 per Unit acquired, on January 31, 1983.

(b) The foregoing Investment Account contribution obligation of a Limited Partner for each Unit shall be further evidenced by a negotiable non-interest bearing Promissory Note in the form attached hereto as Exhibit B and by this reference made a part hereof. Each Limited Partner shall be required to deliver a current financial statement to the Managing General Partner.

(c) A fund of \$50,000.00 will be established from the Investment Account Contribution made on January 31, 1983. It is agreed that the Managing General Partner will invest these funds exercising the judgment and standard of a reasonable businessman. This fund will be established as a means to try to accumulate the principal sum of \$414,000.00 which will be due and owing to the Seller of the Project fifteen (15) years from the date of the purchase of the Project by the Partnership. The Managing General Partner will evaluate the fund periodically. If the fund's growth is short of the projected growth, the Managing General Partner may, at his sole discretion, assess each Limited Partner for their pro-rata share of the deficit. It is agreed further than this fund will be held as security by the Seller for the \$414,000.00 principal payment obligation due fifteen (15) years from the date of the purchase of the Project by the Partnership. And, it is agreed that by the execution of a Note to the Seller, GARFIELD AVENUE ASSOCIATES, LTD., and this Limited Partnership Agreement, the General Partners, Special Limited Partner, and the Limited Partners shall personally guarantee said principal amount of \$414,000.00. While the investment goal is to accumulate \$414,000.00 through investment earnings by the due date, it is agreed to an understood that this goal cannot be assured or guaranteed and that the Managing General Partner makes no such representations. The Note which the Partnership gives to the Seller to evidence the \$414,000.00 principal indebtedness will also provide that annual interest only payments shall be made by the Limited Partners. See Section 5.7 of this Agreement.

5.5 PARTNERSHIP INTERESTS IN THE PARTNERSHIP. Upon recording of this Agreement, the Managing General Partner shall own a one percent (1%) Partnership interest in the Partnership, the Special Limited Partner shall own a twenty-four percent (24%) Partnership interest, and the Limited Partners, in the aggregate, shall own a seventy-five percent (75%) Partnership interest in the Partnership. Each of the seventy five (75) Units of the Offering of Units in the Partnership evidences ownership of a one percent (1%) Partnership interest in the Partnership by a Limited Partner.

#### 5.6 RETURN OF CAPITAL CONTRIBUTIONS AND CAPITAL ACCOUNTS.

(a) No Limited Partner shall have the right to withdraw his capital contributions or demand or receive the return of his capital contributions or any part thereof, except to the extent otherwise provided in this Agreement.

(b) The General Partners shall not be personally liable for the return of the capital contributions of the Limited Partners, if and to the extent that any return is required, and any such return shall be made solely from the assets of the Partnership, if any.



(c) If any Partner shall receive the return, in whole or in part, of his capital contributions, he shall nevertheless be liable to the Partnership for the sum returned, together with interest thereon, to the extent necessary to discharge the Partnership's liabilities to creditors who extend credit or whose claims arose prior to such return of capital contributions.

(d) The Partnership shall not pay interest on capital contributions of any Partner.

5.7 ANNUAL INTEREST PAYMENTS. On January 31 of each year, commencing in 1983 and continuing up to and including 1997, each Limited Partner shall make a \$497.00 annual interest payment to the Partnership for each Unit which he holds. This obligation will be evidenced by an Annual Interest Promissory Installment Note signed by the Limited Partners. See Exhibit D. This payment will satisfy the Limited Partner's obligation to make annual interest payments under the terms of a Note given by the Partnership to the Seller. See Exhibit E.

#### 5.8 SPECIAL ASSESSMENT TO LIMITED PARTNERS

(a) The Managing General Partner is authorized, in its sole discretion, and upon sixty (60) days prior written notice to Limited Partners, to request such special assessment of the Limited Partners to pay any and all costs and expenses incurred in connection with the operation of the Partnership business. In the event a special assessment is required hereunder, the Managing General Partner shall notify all Limited Partners of the amount of such special assessment, the due date, thereof, and the purpose for which the special assessment is being made. Such notice shall be adequate if given to Limited Partners in the manner provided in Section 17.13 of this Agreement.

(b) For the purposes of this Agreement, any special assessment payments by the Limited Partners hereunder shall be deemed additional capital contributions by the Limited Partners to the Partnership, pursuant to Section 5.3 of this Agreement.

#### 5.9 REMEDIES FOR NON-PAYMENT OF CAPITAL CONTRIBUTIONS, INVESTMENT ACCOUNT CONTRIBUTION AND SPECIAL ASSESSMENTS.

(a) Each Limited Partner hereby grants to the Partnership a security interest in his Units to secure to the Partnership the payment of all of his required capital contributions as provided in Section 5.3 of this Agreement, for Investment Account contributions as provided for in Section 5.4 and for any special assessments as provided for in Section 5.8 of this Agreement. Each Limited Partner agrees that he will, at the request of the Managing General Partner, execute and deliver to the Partnership a Uniform Commercial Code Financing Statement with respect to such security interest and hereby irrevocably appoints the Managing General Partner as his attorney-in-fact to execute all documents necessary to evidence or enforce the security interest herein granted, including, but not limited to, the execution and delivery of a Uniform Commercial Code Financing Statement, and to effect any of the remedies herein-after set forth. The appointment of the Managing General Partner as the attorney-in-fact for each Limited Partner is coupled with an interest and is irrevocable.

(b) In the event any Limited Partners shall fail to pay any portion of his capital contributions or special assessment to the Partnership as provided in Sections 5.3-5.4 and 5.6 of this Agreement, and such default shall continue for a period of ten (10) days after the mailing of written notice of such default by the Managing General Partner to such Limited Partner, in addition to all other rights and remedies available against the defaulting Limited Partner at law or in equity, the Partnership shall have the following rights and remedies:

(i) the Partnership shall have the right to institute legal proceedings against the defaulting Limited Partner to collect all amounts due from the defaulting Limited Partner;

(ii) the Partnership shall have the right to foreclose against the security interest in the defaulting Limited Partner's Units, in the manner provided under the Uniform Commercial Code of the application jurisdiction(s); and

(iii) the Managing General Partner shall have the right, in its sole discretion, to sell the Units of the defaulting Limited Partner and to execute in the name and on behalf of the defaulting Limited Partner all instruments of assignment and transfer required to effect such sale and/or the removal of the defaulting Limited Partner. Any such sale may, in the discretion of the Managing General Partner, be made at such time(s) as the Managing General Partner may elect, with or without advertisement, and without notice thereof to the defaulting Limited Partner. In connection with such sale, the Managing General Partner may, but need not, employ other selling agents and incur reasonable expenses for the services that it considers appropriate to effect such sale and shall use its best effort to obtain a fair price for the interest of the defaulting Limited Partner; provided:

(a) At any time the Managing General Partner becomes authorized to sell the Unit(s) of a defaulting Limited Partner, it will first offer such Unit(s) of the defaulting Limited Partner to the other non-defaulting Limited Partners. The offer shall be made by written notice to each non-defaulting Limited Partner and shall offer the Unit(s) to the non-defaulting Limited Partner(s) making the highest bid therefor (subject to the right of the Managing General Partner to reject any and all bids) and the offer shall expire after a period of not less than seven (7) days, as the Managing General Partner may specify in such notice. The Managing General Partner may, but need not, reject any and all bids that it considers inadequate in light of the Partnership's need for capital.

(b) Any of the Unit(s) of a defaulting Limited Partner which are not sold to non-defaulting Limited Partner(s) may be offered and sold to a person not a Limited Partner (who may also be a General Partner) who is qualified by the terms of this Agreement to become a Limited Partner in the Partnership, and such person shall become a Limited Partner subject to all terms and conditions of this Agreement. The Managing General Partner need not make any such sales unless it, in its sole discretion, approves such person as a Limited Partner.

(c) The proceeds of any such sale shall be applied in the following order: (i) to the payment of costs and expenses of such sale and the costs and expenses of amending this Agreement and other documents requiring amendment, including, without limitation, reasonable sales expenses compensation to the Managing General Partner or its affiliates or other agents, recording costs and attorney fees; (ii) to the payment of the capital contribution with respect to which the default occurred and any other obligation of the defaulting Limited Partner to the Partnership; and (iii) to the defaulting Limited Partner as to any excess.

(d) The purchase(s) of the Unit(s) of a defaulting Limited Partner shall agree to all terms and conditions of this Agreement; provided, however, that nothing contained herein shall be deemed to relieve the defaulting Limited Partner of any liability hereunder.

(e) Nothing contained herein shall prohibit the Partnership from pursuing or enforcing any other remedies at law or in equity against the defaulting Limited Partner and said remedies may be applied simultaneously and together with those remedies set forth herein.

5.10 REMEDIES FOR NON-PAYMENT OF ANNUAL INTEREST PAYMENTS AND DEFICIT PAYMENTS. By entering into this Agreement, each Limited Partner agrees to make the annual interest payments and deficit payments, if any, by the required dates. In the event a Limited Partner fails to make these payments by the due date annually, January 31, he shall, at the election of the Managing General Partner(s), forfeit his Limited Partnership interest to the Partnership and be given a note in an amount equal in value to fifty percent (50%) of his capital account. Said note shall bear no interest and shall be payable at such times as distributions are made to the other Partners (whether said distributions are made before or after sale of all Partnership property), until the defaulting Limited Partner has received said fifty percent (50%) of his capital account. Each payment to the defaulting Partner shall be in the amount of fifty percent (50%) of the distribution that he would have received if his Partnership interest had not been forfeited. Or, the Managing General Partner, at his discretion, may pursue any other remedy available in law or equity.

## ARTICLE VI

### ALLOCATION OF CERTAIN ITEMS

#### 6.1 PROFITS, LOSSES AND CASH FLOW.

(a) All profits, losses and cash flow of the Partnership from its operations, shall be allocated to the Partners, pro rata, based on their respective Partnership interests as described in Section 5.5 of this Agreement.

(b) A separate capital, profit and loss account shall be maintained for each Partner.

(c) While no Limited Partner shall be liable for losses in excess of his capital contribution, nothing herein shall be deemed to prevent any Partner from sharing tax losses in excess of his capital contribution to the Partnership so long as such is permitted under the Internal Revenue Code.

6.2 SALE OF ASSETS AND OTHER DISTRIBUTIONS. Notwithstanding anything contained in this Agreement to the contrary, in the event of the sale of all or substantially all of the assets of the Partnership, refinancing of the Project, condemnation by governmental authority or pursuant to a private right of condemnation, or receipt of insurance funds from casualty, the net proceeds realized shall be allocated in the following order of priority:

(i) to pay any debts and liabilities of the Partnership, including any loans by the Managing General Partner(s) to the Partnership;

(ii) to establish any reserve which the Managing General Partner deems reasonably necessary to provide for any contingent or unforeseen liabilities or obligations of the Partnership; provided that at the expiration of such period of time as the Managing General Partner deems advisable, the remaining balance of such reserve shall be distributed in the manner set forth in this Section 6.2;

(iii) to pay the Limited Partners an amount by which their capital contributions exceed the aggregate of all previous distributions of cash flow to them and any proceeds to them hereunder (capital contributions expressly excludes the annual interest payments);

(iv) as to any excess, forty-nine percent (49%) to the Managing General Partner, one percent (1%) to the Special Limited, and fifty percent (50%) to the Limited Partners, pro rata, according to their respective Partnership interests.

6.3 DISTRIBUTION TO PARTNERS. The Managing General Partner shall make distributions, if any, under this Agreement to Partners on an annual basis as may be determined by the Managing General Partner in its sole discretion.

## ARTICLE VII

### OBLIGATIONS, REPRESENTATIONS AND WARRANTIES OF THE GENERAL MANAGING PARTNERS

7.1 OBLIGATIONS, REPRESENTATIONS AND WARRANTIES OF THE MANAGING GENERAL PARTNER. The Managing General Partner does hereby represent, warrant and covenant to the Partnership and its Partners that:

(a) it will be responsible for the overall supervision and operation of the Partnership business;

(b) it will represent the Partnership in all transactions and dealings with other parties consistent with its fiduciary obligation to the Partnership.

(c) it will establish and maintain checking, savings and other banking accounts on behalf of the Partnership, pursuant to the Department of Housing and Urban Development (HUD) guidelines and as it may deem appropriate;

(d) it will cause to be prepared and file in a timely manner all reports and requests for information of HUD in compliance with their guidelines.

(e) it shall cause to be prepared and filed all federal and state tax information returns;

(f) it shall furnish to the Partners all information and accounting of the business of the Partnership on a timely basis and when and if requested by any Partner;

(g) it shall devote such time to the Partnership business as may be reasonably necessary to carry on and conduct such business consistent with its obligations to the Partnership;

(h) it will maintain and review all books of account for all costs and expenses incurred in connection with the business of the Partnership, pursuant to HUD guidelines;

(i) it will use its best efforts to maintain its net worth at a level in conformity with the published audit guidelines or other rulings of the Internal Revenue Service in order for the Partnership to be classified and treated for federal income tax purposes as a Partnership.

## ARTICLE VIII

### APPLICATION OF PROCEEDS, CERTAIN FEES AND EXPENSES OF THE PARTNERSHIP

8.1 APPLICATION OF PROCEEDS, FEES AND EXPENSES. The Managing General Partner is authorized to apply the capital of the Partnership and any other proceeds to the Partnership from other sources, in accordance with the terms of this Agreement. The Partnership shall pay to the General Partners and/or their affiliates, certain fees and expenses as referenced herein and these fees and expenses shall be paid as, if, and when such funds shall become available to the Partnership. Except as otherwise provided herein, the fees and expenses paid by the Partnership to the General Partners and/or their affiliates shall be paid for services other than in their capacity as a Partner pursuant to Section 707(a) of the Internal Revenue Code. These fees and expenses shall be payable, as, if and when such funds shall become available to the Partnership.

8.2 PROJECT MANAGEMENT FEE. ALTA-PACIFIC PROPERTY MANAGEMENT, INC., an affiliate of the General Partner, shall receive a monthly fee equal to 7½% of the gross collections from the Project, or as otherwise allowed by HUD, for general property management functions. The Partnership shall bear the expense

of salaries for on-site personnel, such as resident managers and maintenance personnel, and all operating expenses, including, but not limited to, accounting, bookkeeping, advertising, office supplies, and maintenance expenses.

8.3 PARTNERSHIP ADMINISTRATIVE FEE. The Managing General Partner shall receive, in consideration for his services performed for the Partnership pursuant to the terms and conditions of this Agreement, including but not limited to, its management of Partnership affairs, preparation and filing of tax information returns, preparation of reports and related management functions shall receive an annual fee equal to the Dividend allowed by HUD, such fee is currently \$4720.00. This fee is for services to be rendered to the Partnership by the Managing General Partner and shall accrue and accumulate regardless of the availability or non-availability of the HUD Dividend, at a rate at least equal to the then current HUD Dividend for comparable services. In any event, the Managing General Partner shall be entitled to receive reasonable and comparable fees for his services. Should these fees accumulate, the Managing General Partner may, in his sole discretion, charge a compounded annual interest rate of 18% per annum, or may assess the Limited Partners for their pro-rata share of the Administrative fees due, plus any interest owed using the Special Assessment procedure of this Agreement. See Section 5.8.

8.4 ADDITIONAL COMPENSATION. The proceeds of the Limited Partner's Capital Contribution of January 31, 1984, in the aggregate sum of twenty-five thousand dollars (\$25,000.00) shall be additional compensation to the Managing General Partner.

8.5 PAYMENT FOR ADDITIONAL SERVICES. Nothing contained hereunder shall be deemed to preclude the payment to the Managing General Partner and/or its affiliates of fees not designated herein, provided that such fees are for services required by the Partnership and are not in excess of the customary market price for similar services and/or goods as the Partnership may purchase from unaffiliated parties. The Partnership hereby acknowledges that affiliates of the Managing General Partners may perform services on behalf of the Partnership.

## ARTICLE IX

### STATUS OF THE MANAGING GENERAL PARTNERS

9.1 CONTROL AND RESPONSIBILITY. The Managing General Partner shall be solely responsible for the management of the Partnership business and shall have all powers generally conferred by law as well as those which are necessary, advisable or consistent in connection therewith. Any note, contract, deed, bill of sale, mortgage, lease or other commitment purporting to bind the Partnership to any action shall be signed by the Managing General Partner on behalf of the Partnership; provided, however, that any occupancy lease of any apartment may be signed by any person or persons to whom the Managing General Partner(s) grant the authority. The Managing General Partner may select and engage a competent management firm, or individual, for the purpose of managing any property of the Partnership, which firm may be a firm or company in which the Managing General Partner, or its affiliates, may have a proprietary interest, provided the compensation to be paid by the Partnership to such firm or company does not exceed customary fees for similar services in the vicinity of the Project.

9.2 STATUS OF PARTNERSHIP INTEREST. Except as may be otherwise provided in this Agreement, the Partnership interests owned by the Managing General Partner shall be fully paid and non-assessable. The Managing Partner shall not have the right to reduce their contributions to the capital of the Partnership, or assign their interests in the Partnership, except as a result of (i) the dissolution of the Partnership, (ii) their removal from the Partnership as a General Partner as provided in Section 9.6, or (iii) as otherwise provided in this Agreement and in accordance with applicable law.

9.3 EXTENT OF OBLIGATION. The Managing General Partner shall devote such time to the business and affairs of the Partnership as it shall reasonably deem necessary to conduct properly such business and affairs in accordance with this Agreement and applicable law. It is expressly understood and agreed that the Managing General Partner shall not be required to devote its entire time or resources to the business of the Partnership.

9.4 RIGHTS AND POWERS OF THE MANAGING GENERAL PARTNER. In addition to any other rights and powers which it may possess under applicable law or by virtue of this Agreement, the Managing General Partner shall have all specific rights and powers required or appropriate to its management of the Partnership business which shall include, but not be limited to, the following rights and powers on behalf of the Partnership:

(a) to acquire, hold and dispose of real or personal property, interest therein, or appurtenances thereto, upon terms, as it deems in its sole discretion, to be in the best interest of the Partnership.

(b) to borrow money and, if security is required therefor, to mortgage or subject to any other security device, all or any portion of the Project or other assets of the Partnership, including the Promissory Notes, and to obtain replacements or any mortgage, deed of trust or other security device, and to prepay, in whole or in part, refinance, increase, modify, consolidate, or extend any mortgage, deed of trust or other security device on all or any portion of the Project or other assets of the Partnership, all of the foregoing at such terms and in such amount as it deems in its discretion to be in the best interest of the Partnership and without any consent of the Limited Partners being required;

(c) to acquire and enter into any contract of insurance which it deems necessary and proper for the protection of the Partnership, for the conservation of its assets, or for any purposes convenient or beneficial to the Partnership;

(d) to employ, engage or contract with persons in the operation and management of the Partnership business, including but not limited to, supervisory and managing agents, building management agents, insurance brokers, real estate brokers, and loan brokers, on such terms and for such compensation as it deems, in its sole discretion, to be in the best interest of the Partnership.

(e) to enter into contracts on behalf of the Partnership with itself or its affiliates for the purposes of performing certain real estate related development, management, brokerage or marketing services for a fee in addition to any interest or rights it has in the Partnership;

(f) to pay (and be reimbursed for) on behalf of the Partnership any and all organizational expenses incurred in the creation of the Partnership and incurred in connection with the Offering of the Units, including, but not limited to, sales commissions and expense allowances, travel expenses, printing costs, legal and accounting fees and state securities exemption and registration expenses;

(g) to acquire for full value one (1) or more Units and to become a Limited Partner to the extent of such interest subject to all obligations and duties of a Limited Partner;

(h) to place record title to, or the right to use, Partnership assets in the name or names of a nominee or nominees for any purpose convenient or beneficial to the Partnership;

(i) to execute, modify and deliver leases or subleases of, and options, concessions, licenses or other occupancy agreements with respect to, any real estate or leasehold or other interests owned by the Partnership;

(j) to make reasonable and necessary capital improvements to the Project and other capital expenditures with respect to the real and personal property of the Partnership and take all action necessary in connection with the maintenance, operation and management thereof, from time to time, as the Managing General Partner shall determine, in its sole discretion, to be in the best interest of the Partnership;

(k) to fractionalize one or more Units into one-half ( $\frac{1}{2}$ ) Units, provided that the authority shall not be exercised without prior consultation approval by the Partnership's counsel;

(l) to require in all Partnership contracts that no General Partner will be personally liable thereon and that the party contracting with the Partnership shall look solely to the assets of the Partnership for satisfaction;

(m) to execute, acknowledge, and deliver any and all instruments to effectuate the foregoing and to take all such action in connection therewith as the Managing General Partner may deem necessary or appropriate.

(n) to execute documents required by the Secretary, including a Regulatory Agreement, in connection with any HUD-FHA contract of insurance or assistance applicable to the Project.

**9.5 LIMITATIONS ON AUTHORITY OF THE MANAGING GENERAL PARTNER.** The Managing General Partner shall not have the authority to:

(a) do any act in contravention of this Agreement;



(b) do any act which would make it impossible to carry on the ordinary business of the Partnership; provided, however, that the sale of all or a major portion of the Partnership's property shall not be deemed to be an act of making it impossible for the Partnership to carry on its ordinary business;

(c) confess a judgment against the Partnership;

(d) possess Partnership property or assign the rights of the Partnership in specific Partnership property for other than Partnership purposes;

(e) admit a person as a General Partner except as otherwise provided in this Agreement;

(f) admit a person as a Limited Partner except as otherwise provided in this Agreement;

(g) continue the business of the Partnership with Partnership property in contravention of Section 13.1 hereof.

9.6 CONTINUATION OF PARTNERSHIP BUSINESS. In the event of the death, incapacity, retirement, adjudication of bankruptcy, insanity or incompetency (or other incapacity which prevents a General Partner from effectively discharging the duties set forth in this Agreement) of a General Partner, the remaining General Partner shall have the right to continue the Partnership business and such event shall not terminate the Partnership. The interest of such incapacitated General Partner shall be converted to a special class of Limited Partnership interest subject to all rights, duties and obligations of a Limited Partner as provided herein; provided, however, such special class of limited partnership interest shall continue to be subject to all provisions of Articles V and VI hereof, as if it were a general partnership interest. This Agreement, in such event, shall be appropriately amended as required by applicable law.

9.7 LIABILITY AND INDEMNIFICATION OF A GENERAL PARTNER.

(a) No General Partner (including the directors, officers, and employees of the Managing General Partner) shall be liable, responsible, or accountable in damages or otherwise to the Partnership or to any Limited Partner for any liability or loss related to the performance or non-performance of any act concerning the business of the Partnership, provided the General Partner was acting in good faith within what the General Partner reasonably believed to be within the scope of the General Partner's authority and for a purpose which the General Partner reasonably believed to be in the best interests of the Partnership, except for acts of willful neglect or fraud.

(b) The Partnership (but not the Limited Partners) shall indemnify and hold harmless the General Partners against any liability or loss or threat of liability or loss, including legal fees, as a result of any claim or legal proceeding relating to the performance or non-performance of any act concerning the business of the Partnership, provided the General Partner was acting in good faith within what it reasonably believed to be the scope of its authority and for a purpose which it reasonably believed to be in the best interests of the Partnership, except for acts of willful neglect or fraud.

(c) The Partnership and the Limited Partners, jointly and severally hereby release the General Partner from any liability or loss to the Partnership and/or the Limited Partners under the circumstances set forth in this Section 9.7.

9.8 HUD CONSIDERATIONS. The General Partners are bound by the note, mortgage and Regulatory Agreement, and all other documents executed with HUD-FHA in connection with the Project. Any including General Partner will be similarly bound as a condition of entry.

## ARTICLE X

### STATUS OF LIMITED PARTNERS

10.1 LIABILITY. A Limited Partner shall not be bound by, or be personally liable for, the expenses, liabilities, or obligations of the Partnership except as otherwise provided in this Agreement.

10.2 BUSINESS OF THE PARTNERSHIP. A Limited Partner shall take no part in the conduct or control of the business of the Partnership and shall have no right or authority to act for or to bind the Partnership in any manner whatsoever.

10.3 STATUS OF THE PARTNERSHIP INTEREST. Except as otherwise provided in this Agreement, the Partnership interest owned by a Limited Partner shall be fully paid and non-assessable. No Limited Partners shall have the right to withdraw or reduce his capital contribution to the Partnership except as a result of (i) the dissolution of the Partnership or (ii) as otherwise provided in this Agreement and in accordance with applicable law. No Limited Partners shall have the right to bring an action for partition against the Partnership.

10.4 DEATH, INCAPACITY OR DISSOLUTION OF A LIMITED PARTNER. Neither the death of adjudication of bankruptcy, insanity or incompetency of a Limited Partner who is an individual nor the liquidation or dissolution of a Limited Partner which is not an individual shall affect the continuing existence of the Partnership; the Partnership shall continue in existence despite such occurrence.

10.5 HUD CONSIDERATIONS. The Limited Partners are bound by the note, mortgage and Regulatory Agreement, and all other documents executed with HUD-FHA in connection with the Project. Any incoming Limited Partner shall be similarly bound as a condition of entry.

## ARTICLE XI

### TRANSFERS

11.1 GENERAL PARTNER. Without the prior written approval of all the Partners, the General Partner shall not substitute a General Partner in its stead and no additional General Partners shall be admitted to the Partnership without consent of all Partners.

11.2 ASSIGNABILITY BY LIMITED PARTNER. A Limited Partner may not sell, offer for sale, transfer, pledge or hypothecate all or any part of his interest in the Partnership without the prior written approval of the Managing General Partner, which approval may be arbitrarily denied and withheld, nor in the absence of an effective registration statement covering such transactions under the Securities Act of 1933 (the "Act"), or, the availability of an exemption from registration under that Act. No assignee, legatee, distributee or transferee (by conveyance, operation of law or otherwise) of the whole or any portion

of a Limited Partner's interest in the Partnership shall have the right to become a substituted Limited Partner as that term is defined in the Uniform Partnership Act without the written consent of the General Partner. A substituted Limited Partner shall succeed to all the rights and interest of his assignor in the Partnership. Any and all costs associated with the transfer, assignment, sale or registration of a Limited Partner's interest shall be borne entirely by the transferring Limited Partner. In addition, a Partnership administrative transfer fee of \$250.00 per substituted Limited Partner shall be charged to the transferring Limited Partner. In any circumstances in which such substitution is sought by a Limited Partner, the Limited Partner shall advise the Managing General Partner in writing in advance and shall remit the appropriate transfer fees. The acceptance of this notification and the fee does not imply any approval of any substituted Limited Partner nor will it act as a waiver of any other rights or terms or conditions under this Agreement.

11.3 DEATH OF INCOMPETENCY OF LIMITED PARTNER. If a Limited Partner shall die, his executor, administrator or trustee, or, if shall be adjudicated insane or incompetent, his guardian, committee, conservator or representative, or if it shall be dissolved, merged, or consolidated, its successor in interest, shall have the same rights and obligations which such Limited Partner would have had if he had not died or had not been adjudicated insane or incompetent or had not been dissolved, merged, or consolidated, except that his executor, administrator, trustee, committee, conservator, representative or successor shall not become a substituted Limited Partner without the written consent of the General Partner, pursuant to the provisions of Section 11.2 above.

11.4 SUBSTITUTION OF ASSIGNEE AS LIMITED PARTNER. As conditions to his admission as a substituted Limited Partner (a) any assignee, legatee, distributee, transferee or successor of a Limited Partner shall execute and deliver such instruments, in form and substance satisfactory to the General Partner, as the General Partner shall deem necessary or desirable to cause him to become a substituted Limited Partner, and (b) such assignee, legatee, distributee, transferee or successor shall pay all reasonable expenses in connection with his admission as a substituted Limited Partner, including but not limited to the cost of preparation and filing of any amendment of the Certificate of Limited Partnership necessary or desirable in connection therewith.

11.5 AUTHORITY OF GENERAL PARTNER. Upon the terms set forth in Article XI, the General Partner is hereby expressly authorized (a) to admit substituted Limited Partners to the extent permitted by this Section 11, (b) to file amended Limited Partnership Certificates with respect to the foregoing and (c) to use the power of attorney granted in Article XII to accomplish such filing and any required amendment to this Agreement.

## ARTICLE XII

### SPECIAL POWER OF ATTORNEY

12.1 (a) Each Limited Partner hereby irrevocably constitutes and appoints the Managing General Partners and any successor Managing General Partner, his

true and lawful attorney, in his name, place and stead, to make, execute, sign, acknowledge, swear to (where appropriate) and file or record:

(i) this Agreement and Certificate of Limited Partnership;

(ii) any other certificate, document or instrument which may be required to be filed by the Partnership or the Partners under applicable laws of any jurisdiction(s) to the extent that the Managing General Partner deems such filing(s) to be necessary or required;

(iii) any and all amendments or modifications of the instruments described in subparagraphs (a)(i) and (a)(ii) hereinabove; provided, that such amendments or modifications are necessary to effect the terms and intent of this Agreement including, for example but not limited to, the substitution of a Limited Partner in accordance with Article IX hereof, and to evidence or effect the consent, approval, or acceptance of such Limited Partners to any action approved by the requisite percentage in Partnership interest of the Limited Partners where this Agreement provides that such consent, approval or acceptance by said percentage in Partnership interest of the Limited Partners binds all the Partners with regard thereto;

(iv) all certificates and other instruments which may be required to effect the dissolution and termination of the Partnership pursuant to the terms of this Agreement; and

(v) any and all consents or other instruments deemed necessary or desirable by the Managing General Partners for the admission of additional Limited Partners and substituted Limited Partners, pursuant to the terms of this Agreement;

and each Limited Partner hereby irrevocably constitutes and appoints the Managing General Partners and any successor Managing General Partner, his true and lawful attorney, in his name, place and stead, to take any and all such other action as it may deem necessary or desirable to carry out fully this Agreement in accordance with its terms.

(b) It is expressly understood and intended by each Limited Partner that the grant of the foregoing power of attorney is coupled with an interest and is irrevocable.

(c) The foregoing power of attorney shall survive the death of any Limited Partner who shall die during the term of this Partnership.

(d) The foregoing power of attorney may be exercised by the Managing General Partner(s) acting for each Limited Partner and Special Limited Partner(s) individually or as attorney-in-fact acting for all the Limited Partners and Special Limited Partner(s) together.

(e) The foregoing power of attorney shall survive the delivery of an assignment by a Limited Partner of the whole or any portion of his interest, except that where the Limited Partner has assigned his entire interest and the assignee thereof has been approved by the Managing General Partner for admission to the Partnership as a substituted Limited Partner, the power of attorney shall

survive the delivery of such assignment for the sole purpose of enabling the Managing General Partner to execute, sign, acknowledge, swear to (where appropriate) and file or record any certificate, instrument or document necessary to effect such substitution.

(f) The foregoing power of attorney shall in no way cause a Limited Partner to be liable in any manner for the acts or omissions of the Managing General Partner or other General Partners.

12.2 Each Substituted Limited Partner, upon admission to the Partnership, shall be deemed to ratify and reaffirm the appointment of the Managing General Partner as his true and lawful attorney for the purposes and on the same terms as set forth in Section 12.1 of this Agreement.

### ARTICLE XIII

#### TERMINATION AND DISSOLUTION OF THE PARTNERSHIP

13.1 TERMINATION AND DISSOLUTION. The Partnership shall be dissolved and terminated upon the occurrence of any of the following events:

- (a) the expiration of the term of this Agreement;
- (b) the retirement, death, adjudication of bankruptcy, insanity or incompetency of the last remaining General Partner (or other incapacity which prevents the last remaining General Partner from effectively discharging the duties set forth in this Agreement) unless the remaining Limited Partners, by a vote of such Limited Partners holding two-thirds (2/3) Partnership interest, elect to continue the business of the Partnership and by the same vote designate a "successor General Partner" who consents to and accepts such designation in accordance with the terms and provisions of this Agreement as of the date of such event necessitating the election to continue the business of the Partnership;
- (c) the removal of the last remaining General Partner(s) unless the remaining Limited Partners by a vote of such Limited Partners holding two-thirds (2/3) Partnership interest elect to continue the business of the Partnership and by the same vote designate a "successor General Partner(s)" who consents to and accepts such designation in accordance with this Agreement as of the date of such event necessitating the election to continue the business of the Partnership.

13.2 DISTRIBUTION UPON DISSOLUTION. Upon termination and dissolution of the Partnership, the Managing General Partner shall take full account of the Partnership assets and liabilities, the assets shall be liquidated as promptly as is consistent with obtaining fair value therefor, and the proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed in the following order:

- (a) to the payment of all creditors, other than Partners, in the order of priority as provided by law, except any claims of secured creditors whose obligations will be assumed or otherwise transferred on the liquidation of the Partnership assets;

(b) to the payment of any obligations of the Partnership to any Partner;

(c) to the establishment of any reserves which the Managing General Partner deems reasonably necessary for any contingencies or unforeseen liabilities or obligations of the Partnership; such reserves shall be paid over by the Managing General Partner to an escrow agent or shall be held for the purpose of disbursing such reserves in payment of any of the said contingencies, and at the expiration of such period as the Managing General Partner shall deem advisable, the balance thereof shall be distributed in the manner and order provided in this paragraph; and

(d) to the Partners in accordance with the provisions of Section 6.2 of this Agreement.

In the event it becomes necessary to make a distribution of the Partnership property in kind, then such property shall be transferred and conveyed in kind, then such property shall be transferred and conveyed to the Partners, or their assigns, so as to vest in each of them as tenant-in-common, a percentage interest in the whole of said property equal to the percentage interest he would have received had the aforesaid property not been distributed in kind.

13.3 TIME. A reasonable time, as determined by the Managing General Partner not to exceed one (1) year from the date of an event of termination, shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of Partnership liabilities.

13.4 STATEMENT OF TERMINATION. Each of the Partners shall be furnished by the Managing General Partner with a statement prepared, at Partnership expense, which shall set forth the assets and liabilities of the Partnership as of the date of complete liquidation and distribution as herein provided. Such statement shall also schedule the receipts and disbursements made with respect to the dissolution hereunder. If requested by Limited Partners holding at least fifty-one percent (51%) of the Partnership interest, such statement shall be prepared by an independent certified public accountant to be selected by the Managing General Partner.

13.5 CERTIFICATE OF CANCELLATION. Upon the completion of liquidation in accordance with the terms hereof, the Partnership shall terminate and the Managing General Partner shall execute, acknowledge and cause to be filed a Certificate of Cancellation of the Partnership whereupon the Partnership will cease to exist in all respects.

13.6 LIQUIDATING TRUSTEE. In the event of a termination of the Partnership, liquidation of the assets of the Partnership and discharge of its liabilities may be carried out by a liquidation trustee or receiver, who shall be a bank or trust company or toher person or firm having experience in managing, liquidating or otherwise handling property of the type then owned by the Partnership. Such liquidating trustee or receiver may be designated by the Managing General Partner. A liquidating trustee shall not be personally liable for the debts of the Partnership but otherwise shall have such obligations and

authorities as are given the Managing General Partner pursuant to this Agreement or as may be agreed upon between the Partners and said liquidating trustees.

#### ARTICLE XIV

##### ACCOUNTING AND REPORTS

###### 14.1 BOOKS AND RECORDS.

(a) The Managing General Partner shall maintain full and accurate books of the Partnership, showing all receipts and expenditures, assets and liabilities, profits and losses, and all other records necessary for recording the Partnership's business and affairs, including those sufficient to record the allocations and distributions provided for in Article VI hereof. Such books and records shall be open for the inspection and examination of any Partner, in person or by their duly authorized representative, at reasonable times at the offices of the Partnership upon prior written notice and a showing that the request is made in good faith and for a proper purpose.

(b) The partnership books and record shall be kept on the cash receipts and disbursements method of accounting for federal income tax reporting purposes and any change in method shall be made by the Managing General Partner in its sole discretion.

14.2 FISCAL YEAR. The annual accounting period of the Partnership shall be the calendar year.

14.3 REPORTS. An unaudited annual report showing the revenue and expenses of the Partnership and the balance sheet thereof at the end of each taxable year of the Partnership shall be prepared and distributed, by the Managing General Partner, at the Partnership's expense, to the Partners. In addition, the Managing General Partner shall prepare and distribute, at the Partnership's expense, a completed copy of the Partnership's K-1 federal information return and any similar state income tax return required by applicable law. The Partnership's K-1 federal information return will be mailed to the Limited Partners within seventy-five (75) days of the end of each taxable year of the Partnership. The annual reports shall be sent to the Limited Partners within one hundred twenty (120) days of the end of each taxable year of the Partnership.

14.4 BANK ACCOUNTS. All funds of the Partnership shall be deposited in its names in such checking and savings accounts or time certificates as shall be designated by the Managing General Partner. Withdrawals therefrom shall be made upon such signatures as the Managing General Partner may designate.

14.5 TAX RETURNS. In addition to the annual report, the Managing General Partner shall, at Partnership expense, cause income tax information returns for the Partnership to be prepared and filed with the appropriate authorities.

14.6 FEDERAL INCOME TAX ELECTIONS. All elections required or permitted to be made by the Partnership under the Internal Revenue Code shall be made by the Managing General Partner in such manner as will, in its sole opinion, be most advantageous to the Partnership.

## ARTICLE XV

### AMENDMENTS

15.1 METHOD OF AMENDMENT. This Agreement may be amended at any time in accordance with the following:

(a) No amendment of the following provisions of this Agreement may be made without the unanimous written consent of all the Partners:

(i) the status of the Managing General Partner as specified in Article IX hereof;

(ii) the status of the Limited Partners as specified in Article X hereof;

(iii) the right of a Limited Partner to assign his interest and to substitute another person as a Limited Partner, as provided in Article XI hereof;

(iv) the right to vote or the percentage necessary for passage of any matter upon which the Partners are entitled to vote; and

(v) any other item required by applicable law to be included within this Agreement;

(b) Any other provision of this Agreement may be amended by the concurrent approval of the Managing General Partner and the vote of Limited Partners holding at least fifty-one percent (51%) Partnership interest.

(c) This Agreement shall be amended by consent of all General Partners without the consent of the Limited Partners whenever:

(i) there is a change in the name of the Partnership or the amount or character of a capital contribution of any Partner;

(ii) a person is substituted as a Limited Partner;

(iii) a person is admitted as an additional Limited Partner;

(iv) a person is admitted as a successor General Partner, except as otherwise provided in Section 9.4(n) of this Agreement;

(v) there is a change in the character of the business of the Partnership;

(vi) there is a need to correct an erroneous statement in this Agreement or to clarify a provision of this Agreement without changing the substance thereof; and

(vii) it is necessary or appropriate, in the opinion of Partnership counsel, to satisfy the requirements of the Internal Revenue Code, Treasury regulations thereunder or administrative guidelines or interpretations relating thereto, to maintain the status of Partnership or to satisfy the requirements of Federal and/or State securities laws.



(d) Notwithstanding anything herein to the contrary, no amendment shall be made in this Agreement which, in the opinion of counsel for the Partnership:

- (i) is in violation of the provisions of applicable law;
- (ii) would cause the Limited Partners to incur liability as general partners; or
- (iii) would result in the Partnership being treated as other than a partnership for federal income tax purposes.

15.2 PROPOSAL OF AMENDMENTS. Amendments to this Agreement may be proposed by the Managing General Partner or by a proposal in writing, signed by Limited Partners holding at least twenty percent (20%) Partnership interest. Such proposal(s) shall be given to the Managing General Partner and the Partnership at the addresses herein set forth.

15.3 VOTING ON AMENDMENTS. Except as provided in sub-paragraphs 15.1(c), all proposed amendments shall be submitted to the Partners in the following manner:

(a) Within thirty (30) days of its proper proposal, notice of the proposed amendment, the text thereof, and a ballot shall be sent to each Partner by certified mail, return receipt requested, at the last known address of each Partner.

(b) The notice provided hereinabove shall set forth the recommendation of the Managing General Partner with respect to the passage or rejection of the proposed amendment and a brief explanation of the reasons therefor. The Managing General Partners shall sign the notice to acknowledge its recommendation.

(c) The ballot supplied with the notice of the proposed amendment shall state that the vote of each Partner is due, at the offices of the Partnership, in writing within thirty (30) days of the date of the notice of proposed amendment (which shall be the date of the postmark of such notice) and shall provide that those Partners whose ballots are not received by said date shall be deemed to have voted in accordance with the recommendation of the Managing General Partner.

(d) If the amendment is passed in accordance with the foregoing procedure, the Managing General Partner is hereby expressly authorized to amend this Agreement by use of the power-of-attorney contained in Article XII hereof.

## ARTICLE XVI

### INVESTMENT REPRESENTATION

16.1 Each of the Limited Partners, by executing a Limited Partner Signature page to be recorded with this Agreement, represents and warrants to the Partnership and the Managing General Partner as follows:

(a) That his net worth and income are adequate to support the obligations incurred by his admission to the Partnership.

(b) That he has read and is familiar with this Agreement.

(c) That his address, as stated on his Limited Partner Signature Page is his primary place of residence and that he has no intention of moving his primary residence from the state noted on such Signature Page;

(d) Speculative Representation. The Limited Partners recognize that investments such as those contemplated by the Partnership are speculative and involve substantial risk. Each Limited Partner further represents and warrants that the General Partner has not made any guaranty or representation upon which he has relied concerning the possibility or probability of profit or loss as a result of his acquisition of an interest in the Partnership.

(e) That he is purchasing a Unit for his own account, for investment purposes only, and not with a view toward distribution or resale and under no circumstances will he sell, transfer, hypothecate, assign or pledge all or any portion of a Unit in the absence of the prior written consent of the Managing General Partner in compliance with the provisions of this Agreement; and

(f) Investment Restriction. The partners recognize that: (a) the Partnership interests have not been registered under the Securities Act of 1933 in reliance upon an exemption from such registration; (b) a Partner may not sell, offer for sale, transfer, pledge or hypothecate his interest in the Partnership in the absence of an effective registration statement covering such interest under the Act unless such sale, offer of sale, transfer, pledge, or hypothecation is exempt from registration under the Act; (c) the General Partner has no obligation to register any Partner's interest for sale, or to assist in establishing an exemption from registration for any proposed sale; and (d) the restrictions on transfer may severely affect the liquidity of a partner's investment.

## ARTICLE XVII

### MISCELLANEOUS

17.1 MEETINGS. Meetings of the Partnership may be called by the Managing General Partner(s).

17.2 OTHER VENTURES. Except as otherwise provided in this Agreement to the contrary, any of the Partners may engage in or possess an interest in other business ventures of every nature and description, including those which may compete with the Partnership without any obligation to share any profits therefrom with the Partnership or the Partners.

17.3 NOTICES. All notices under this Agreement shall be in writing, duly signed by the party giving such notice, and transmitted by registered or certified mail addressed as follows:

(a) If given to the Partnership or the Managing General Partner:

Garfield Avenue Associates, Ltd.  
106 "G" Street  
Salt Lake City, Utah 84103

or at such other address as the Managing General Partner may hereafter designate in writing: and

(b) If given to any Limited Partner, at the address noted on the Limited Partner Signature Page for each Partner, or at such other address as he may hereafter designate by notice to the Partnership.

17.4 CAPTIONS. Section titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

17.5 IDENTIFICATION. Whenever the singular number is used in this Agreement, and when required by the context, the same shall include the plural; and the masculine gender shall include the feminine and neuter genders; and the word "person" or "party" shall include corporation, firm, partnership, proprietorship, or other form of association.

17.6 COUNTERPARTS. This Agreement may be executed in any number of counterparts and all of such counterparts shall for all purposes constitute one agreement binding on the parties hereto, notwithstanding that all parties are not signatory to the same counterpart.

17.7 APPLICABLE LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

17.8 PARTNER'S AGE AND COMPETENCE. Anything in this Agreement to the contrary notwithstanding, no Partner, or any assignee of the interests thereof, shall be a person or organization prohibited by law from becoming such. Any assignment of an interest in the Partnership to any person or organization not meeting such standard shall be void and ineffectual and shall not bind the Partnership.

17.9 BINDING AGREEMENT. Except as otherwise provided herein to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, successors and assigns.

17.10 SEVERABILITY. If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement will continue in full force and effect so far as the intent of the parties can be carried out.

17.11 CONFLICTS WITH HUD. If the Agreement tends in any way to alter, modify or contradict the Regulatory Agreement with HUD, the terms of the Regulatory Agreement shall govern and prevail. Further, if any provision in anyway tends to limit HUD-FHA in its administration of the National Housing Act, as amended, or regulations and instructions thereunder, then the Agreement shall be deemed amended so as to comply with the HUD-FHA requirements.

IN WITNESS WHEREOF, the parties hereto, after first being duly sworn, have affixed their hands and seals as of the day and year first above written.

WITNESS \_\_\_\_\_

MANAGING GENERAL PARTNERS

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

Philip Carroll

Barbara Sine Anderson

STATE OF UTAH

COUNTY OF SALT LAKE

I, JOHN SCHIPPERS, a Notary Public in and for said County and State, hereby certify that Philip Carroll and Barbara Sine Anderson, who are signed on the foregoing instrument, and who are known to me, have acknowledged before me on this day that, being informed of the contents of this instrument, they executed the same voluntarily.

Given under my hand this 1<sup>st</sup> day of October, 1982.

John Schippers  
Notary Public

My commission expires: 3/23/85

LEGAL DESCRIPTION

GARFIELD APARTMENTS

Lot 1, Block 2, Garfield Estates Addition, Division No. 2,  
to the City of Idaho Falls, Bonneville County, Idaho, as  
per recorded plat thereof.

EXHIBIT "A"

LIMITED PARTNER SIGNATURE PAGE TO THE  
AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP FOR  
GARFIELD AVENUE ASSOCIATES, LTD

The undersigned, desiring to become a Limited Partner in GARFIELD AVENUE ASSOCIATES, LTD., a Utah Limited Partnership (the "Partnership") in accordance with the terms of the Partnership's Agreement and Certificate of Limited Partnership (the "Agreement") hereby authorizes the attachment of this Signature Page to the Agreement, thereby admitting the undersigned to the Partnership as a Limited Partner. Such attachment shall be evidence of the undersigned's consent to and agreement to be bound by all the terms and provisions of the Agreement. As a part of such Agreement, the undersigned constitutes and appoints the Managing General Partner of the Partnership with full power of substitution, his true and lawful attorney, for him and in his name, place and stead, to make, execute, sign, acknowledge, swear to, deliver and file any amendment(s) to the Agreement as may be required to effectuate the amendments contemplated in said Agreement (which amendments the undersigned hereby joins in, executes and swears to). The undersigned acknowledges that this Power of Attorney is the same as that given in Article XII of the Agreement and that nothing contained herein shall be deemed to limit or qualify in any respect, the power specifically granted therein. This Power of Attorney shall be deemed to be coupled with an interest and shall be irrevocable and survive the death of the undersigned. The principal place of residence of the undersigned is shown below.

EXECUTED, acknowledged, and sworn to by the undersigned as a prospective Limited Partner in GARFIELD AVENUE ASSOCIATES, LTD., a Utah Limited Partnership.

Limited Partner:

Signature: Barbara Sine Anderson

Name: BARBARA SINE ANDERSON

Address: RT 3 BOX 252 P.

IDAHO FALLS ID 83401

No. of Units Purchased: 1

Social Security or Taxpayer Identification No.: 528-52-7752

STATE OF Idaho

COUNTY OF Blaine

Before me, the below Notary Public in and for the above County and State, duly commissioned and sworn, personally appeared Barbara Sine Anderson, known to me to be the person whose name is subscribed

to the foregoing instrument, and swore and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 15<sup>th</sup> day of October, 1982.

[Signature]  
Notary Public

My commission expires: 12/23/85

STATE OF UTAH )  
COUNTY OF SALT LAKE ) ss

I, THE UNDERSIGNED, CLERK OF THE DISTRICT COURT OF SALT LAKE COUNTY, UTAH, DO HEREBY CERTIFY THAT THE ANNEXED AND FOREGOING IS A TRUE AND FULL COPY OF AN ORIGINAL DOCUMENT ON FILE IN MY OFFICE AS SUCH CLERK.

WITNESS MY HAND AND SEAL OF SALT COURT  
THIS 2nd DAY OF May 19 82  
H. DIXON HINDLEY, CLERK  
BY Alue Wong DEPUTY