

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Napa County Department of Housing & Homeless Services
2751 Napa Valley Corporate Drive, B206-09
Napa, CA 94558
Attention: Director of Housing & Homeless Services

No fee for recording pursuant to
Government Code Section 27383 and 27388.1

**AFFORDABLE HOUSING REGULATORY AGREEMENT AND DECLARATION OF
RESTRICTIVE COVENANTS**

963 Pope Street

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of ____ (the "Effective Date"), by and between the County of Napa, a political subdivision of the State of California (the "County"), and 963 Pope Street LLC, a California limited liability company ("Developer"), with reference to the following facts.

RECITALS

A. Defined terms used but not defined in these recitals are as defined in Article 1 of this Agreement or in the Loan Agreement.

B. Developer is acquiring concurrently herewith that certain real property located at 963 Pope Street in the City of St. Helena, County of Napa, State of California, as more particularly described in Exhibit A (the "Property").

C. There is one existing unit on the Property and Developer intends to develop four additional units on the Property, together with other elements (the "Improvements"). All five of the dwelling units in the Development will be regulated by the County as affordable to low and moderate income households. The Property and the Improvements are collectively referred to as the "Development."

D. The County is providing a Loan to assist Developer in constructing the Development. The Loan is being made to Developer at an interest rate below the market rate in order to help achieve financial stability for the Development and to increase the supply of affordable rental housing in the County. In consideration for the Loan, Developer has agreed to observe all the terms and conditions set forth below. This Agreement, in conjunction with any other regulatory agreements between Developer and providers of the Approved Financing, will ensure the Development's continuing affordability.

THEREFORE, the County and Developer hereby agree as follows.

AGREEMENT

The foregoing recitals are hereby incorporated by reference and made part of this Agreement.

ARTICLE 1 DEFINITIONS

1.1 Definitions.

When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) "Actual Household Size" means the actual number of persons in the applicable household.

(b) "Adjusted Income" means the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914, or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, the County shall provide Developer with a reasonably similar method of calculation of adjusted income as provided in said Section 6914.

(c) "Agreement" means this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants.

(d) "Area Median Income" or "AMI" means the median gross yearly income (adjusted for Actual Household Size or Assumed Household Size as specified herein) in Napa County, California, as published from time to time by HCD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the County shall provide Developer with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HCD.

(e) "Assumed Household Size" means the household size "adjusted for family size appropriate to the unit" as such term is defined in California Health & Safety Code Section 50052.5(h), used to calculate Rent.

(f) "City" means the City of St. Helena, a California general law city.

(g) "County" is defined in the first paragraph of this Agreement.

(h) "County-Assisted Units" means the Low Income Units and the Moderate Income Unit.

(i) "Deed of Trust" means the Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing of even date herewith that encumbers the Development to secure repayment of the Loan and the performance of all covenants of the Loan Documents.

- (j) "Developer" is defined in the first paragraph of this Agreement.
- (k) "Development" is defined in paragraph C of the Recitals.
- (l) "Effective Date" is defined in the first paragraph of this Agreement.
- (m) "HCD" means the California Department of Housing and Community Development.
- (n) "Improvements" is defined in paragraph C of the Recitals.
- (o) "Loan" is defined in paragraph E of the Recitals.
- (p) "Loan Agreement" means the Affordable Housing Loan Agreement dated of even date herewith between Developer and the County governing the Loan.
- (q) "Loan Documents" means the documents evidencing the Loan including this Agreement, the Notes, the Loan Agreement, and the Deed of Trust.
- (r) "Low Income Household" means a household with an Adjusted Income that does not exceed Eighty Percent (80%) of Area Median Income, adjusted for Actual Household Size.
- (s) "Moderate Income Household" means a household with an Adjusted Income that does not exceed One Hundred Twenty Percent (120%) of Area Median Income, adjusted for Actual Household Size.
- (t) "Note" means the Promissory Note in the principal amount of the Loan.
- (u) "Operating Budget" has the meaning set forth in Section 2.6(a) below.
- (v) "Property" is defined in paragraph B of the Recitals.
- (w) "Rent" means the total of monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities, including parking; any separately charged fees or service charges assessed by Developer which are customarily charged in rental housing and required of all Tenants, other than security deposits; an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV as established by the Housing Authority; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than Developer, and paid by the Tenant.
- (x) "Tenant" means a household legally occupying a Unit pursuant to a valid lease with Developer.
- (y) "Term" means the term of this Agreement, which commences on the date of this Agreement and continues until the fifty-fifth (55th) anniversary of the date of issuance of the last certificate of occupancy or equivalent certification provided by the Building Division of the City's Community Development Department for the Improvements; provided, however, if a

record of the City's certification cannot be located or established, the Term will expire on the fifty-seventh (57th) anniversary of the Effective Date.

(z) "Unit" means one of the approximately five (5) rental housing units constructed on the Property.

1.2 Exhibits

The following exhibit is attached to this Agreement and incorporated into this Agreement by this reference:

EXHIBIT A: Legal Description of the Property

ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirements. The County-Assisted Units are required to be occupied by Tenants meeting the following income requirements:

(a) Low Income Units. Developer shall cause four (4) of the Units in the Development to be rented to and occupied by or, if vacant, available for occupancy by Low Income Households (the "Low Income Units").

(b) Moderate Income Units. Developer shall cause one (1) of the Units in the Development to be rented to and occupied by or, if vacant, available for occupancy by a Moderate Income Household (the "Moderate Income Units").

2.2 Allowable Rent.

(a) Low Income Rent. Subject to the provisions of Section 2.3 below, the maximum Rent (including utility allowance) paid by Tenants of the Low Income Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of eighty percent (80%) of Area Median Income, adjusted for Assumed Household Size.

(b) Moderate Income Rent. Subject to the provisions of Section 2.3 below, the maximum Rent (including utility allowance) paid by Tenants of the Moderate Income Unit shall not exceed one-twelfth (1/12) of thirty percent (30%) of one hundred twenty percent (120%) of Area Median Income, adjusted for Assumed Household Size.

(c) No Additional Fees. Developer may not charge any fee, other than Rent and fees customarily charged in rental housing, to any Tenant of the County-Assisted Units for any housing or other services provided by Developer.

(d) County Approval of Rents. The Initial Rent for all County-Assisted Units shall be approved by the County prior to initial occupancy. The County shall provide Developer with a schedule of maximum permissible rents for the County-Assisted Units annually.

Developer shall not charge any fee other than Rent to any Tenant of County-Assisted Units for any housing or other services provided by Developer.

(e) Rent Increases.

(1) All Rent increases for all County-Assisted Units are subject to County approval pursuant to the terms of this Section. No later than sixty (60) days prior to the proposed implementation of any Rent increase affecting a County-Assisted Unit, Borrower shall submit to the County a schedule of any proposed increase in the Rent charged for County-Assisted Units. The Rent for such County-Assisted Units may be increased no more than once annually based upon the annual income certification described in Article 3. The County will disapprove a Rent increase if it violates the schedule of maximum permissible Rents for the County-Assisted Units provided to Developer by the County, or is greater than a 5% increase over the previous year's Rent, provided that the County may approve a request from Developer for a rent increase greater than 5%, with a written explanation for the request from Developer.

(2) Developer shall give Tenants of all Units written notice at least thirty (30) days prior to any Rent increase.

2.3 Increased Income of Tenants.

(a) Increase from Low Income to at or below Moderate Income. If, upon recertification of the income of a Tenant of a County-Assisted Unit, Developer determines that a Low Income Household's Adjusted Income has increased and exceeds the qualifying income for a Low Household, but does not exceed the qualifying limit for a Moderate Income Household, then, the Tenant may continue to occupy the Unit and Developer shall charge such Tenant the Moderate Income Rent. Developer shall (i) rent the next available vacant Unit to a Low Income Household at a Rent not exceeding the maximum Rent specified in Section 2.2 to comply with the requirements of Sections 2.1, or (ii) re-designate another comparable unit in the Development as a Low Income Unit to comply with the requirements of 2.1 above. Upon renting the next available Unit to a Low Income Household in accordance with Section 2.1 above, or re-designating another Unit in the Development a Low Income Unit, the Unit with the over-income Tenant will no longer be considered a Low Income Unit.

(b) Non-Qualifying Household. If, upon recertification of the income of a Tenant of a County-Assisted Unit, Borrower determines that a former Low Income Household or a Moderate Income Household has an Adjusted Income at or exceeding the qualifying income for a Moderate Income Household, then such Tenant shall be permitted to continue to occupy the Unit and such Tenant's Rent may be increased to the lesser of thirty percent (30%) of the Adjusted Income of the Tenant or fair market rent, upon at least thirty (30) days written notice to the Tenant. The Unit will continue to be classified as a Low Income Unit or Moderate Income Unit, as applicable, until the first occurrence of either: (1) the Tenant vacates the Unit at which time Developer shall re-rent the Unit to a Low Income Household or Moderate Income Household, as applicable, to meet the requirements of Section 2.1 above; or (2) Developer has re-designated and rented another comparable Unit to qualify as a Low Income Unit or Moderate Income Unit, as applicable, to meet the requirements of Section 2.1, and the Unit with the over-income Tenant will no longer be considered a Low Income Unit or Moderate Income Unit, as applicable.

2.4 Termination of Occupancy.

Upon termination of occupancy of a County-Assisted Unit by a Tenant, such Unit shall (Low Income Household or Moderate Income Household) as the initial income level of the vacating Tenant, until such Unit is reoccupied, at which time the income character of the Unit (e.g., Low Income Household or Moderate Income Household) shall be redetermined. In any event, Developer shall maintain the occupancy requirements set forth in Section 2.1 above, except as may be modified by Section 2.3.

2.5 Lease Provisions.

Developer shall use a form of Tenant lease approved by the County for the County-Assisted Units. The form of Tenant lease shall also comply with all requirements of the Loan Documents, and shall, among other matters:

- (a) provide for termination of the lease and consent by the Tenant to immediate eviction for failure: (1) to provide any information required under this Agreement or reasonably requested by Developer to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy of the Units in accordance with the standards set forth in this Agreement, or (2) to qualify as a Low Income Household or a Moderate Income Household, as the case may be, as a result of any material misrepresentation made by such Tenant with respect to the income computation or certification;
- (b) be for an initial term of not less than one (1) year. After the initial year of tenancy, the lease may be month to month by mutual agreement of Developer and the Tenant;
- (c) prohibit subleasing of the Unit, contain nondiscrimination provisions, and include the Tenant's obligation to inform Developer of any need for maintenance or repair;
- (d) include reasonable rules of conduct consistent with California law; and
- (e) allow termination of the tenancy only for good cause, including serious or repeated violation of the terms and conditions of the rental agreement, violations of applicable federal, state, or local law; or other good cause.

2.6 Security Deposits

Any security deposits collected by Developer or Developer's agent shall be kept separate and apart from all other funds in a trust account with a depository insured by the Federal Deposit Insurance Corporation or other comparable federal deposit insurance program and shall be held and disbursed in accordance with California law. The balance in the trust account shall at all times equal or exceed the aggregate of all outstanding obligations, plus accrued interest thereon.

ARTICLE 3 INCOME CERTIFICATION AND REPORTING

3.1 Income Certification.

Developer will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications for each Tenant renting any of the

County-Assisted Units. Developer shall make a good faith effort to verify that the income statement provided by an applicant or Tenant is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a minimum of the three (3) most current pay stubs for all adults age eighteen (18) or older; (b) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (c) obtain the three (3) most current savings and checking account bank statements; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Tenant income certifications shall be made available to the County upon request.

3.2 Annual Report to County.

(a) Developer shall provide any information reasonably requested by the County in connection with the Development. In particular, Developer shall provide the County no later than the sixtieth (60th) day after the close of each calendar year following the Effective Date, hardcopies and PDF copies of the following documents:

- (1) insurance certificates detailing all coverage required under the Loan Agreement and the Deed of Trust;
- (2) evidence of payment of property taxes or property tax exemption for the Development, as applicable;
- (3) audited financial statements for the Development;
- (4) an occupancy report including: (i) the verified income of each tenant or household, (ii) the number of tenants in each household; (iii) the current rents charged each tenant or household and whether these rents include utilities, (iv) the date tenancy commenced for each County-Assisted Unit, and (v) the percentage of Units occupied by persons meeting the preference described in Section 4.5;
- (5) certifications of eligibility for all Tenants of the County-Assisted Units at the time of initial occupancy and upon the yearly anniversary of their continuing tenancies. Such certification shall include verified income statements. Developer shall retain in the Tenant's file all verifications of Tenant's income (tax returns, W-2 forms, paycheck stubs, etc.);
- (6) a management report detailing the activities of the management agent;
- (7) [reserved]
- (8) A list of any substantial physical defects in the Development, including a description of any major repair or maintenance work undertaken or needed in the previous year and measures taken to maintain the Development in a safe and sanitary condition in accordance with applicable codes;
- (9) the operating reserve balance;
- (10) the replacement reserve balance;

(11) the proposed annual operating budget for the subsequent fiscal year; and

(12) the proposed annual replacement budget for the subsequent fiscal year.

(b) Within fifteen (15) days after receipt of a written request, Developer shall provide any other information or completed forms requested by the County to ensure compliance with the Loan Documents or this Agreement.

(c) Substitution of Monitoring and Compliance Reports Prepared for Other Financing Programs. If similar reports on some or all of the Units are required for regulatory compliance with other financing programs, those reports may be deemed satisfactory for the purpose of this Section by the County, with respect to the portion of the requirements of this Section covered by such reports, provided that copies are provided on an annual basis to the County with an owner certification addressed to the County certifying that Developer has complied with this Agreement.

3.3 Additional Information.

Developer shall provide any additional information reasonably requested by the County. The County shall have the right to examine and make copies of all books, records or other documents of Developer which pertain to the Units.

3.4 Tenant Records.

(a) Developer shall maintain complete, accurate and current records pertaining to the County-Assisted Units, and shall permit any duly authorized representative of the County to inspect records, including but not limited to records pertaining to income and household size of Tenants and Rent charged Tenants, upon reasonable prior notice during normal business hours. All Tenant lists, applications and waiting lists relating to the County-Assisted Units shall at all times be kept separate and identifiable from any other business of Developer and shall be maintained as required by the County, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the County. Developer shall retain copies of all materials obtained or produced with respect to occupancy of the County-Assisted Units for a period of at least five (5) years.

(b) The County shall notify Developer of any records it deems insufficient. Developer shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Developer shall begin to correct the deficiency within fifteen (15) days and correct the deficiency within thirty (30) days, or as otherwise agreed by County if a longer time period is reasonably required.

3.5 On-site Inspection.

The County shall have the right to perform on-site inspections of the Development, including the Units, as is reasonably required to ensure compliance with the Loan Documents, but in any case at least once per year. Developer agrees to cooperate in such inspection(s). If

County desires to inspect the interior of the Units, County shall give Developer sufficient notice to allow Developer to give seventy-two (72) hours' notice to Tenants.

ARTICLE 4 OPERATION OF THE DEVELOPMENT

4.1 Residential Use.

The Development shall be used only for residential purposes consistent with the Loan Documents, and the Units shall be operated and maintained as residences for the Term of this Agreement. No part of the Units shall be operated as transient housing in which the term of occupancy is less than thirty (30) days.

4.2 Compliance with Loan Documents and Program Requirements.

Developer actions with respect to the Development shall at all times be in full conformity with: (i) all requirements of the Loan Documents; and (ii) any other regulatory requirements imposed on the Development. In the event of any conflict among the Loan Documents, the most restrictive requirements shall apply.

4.3 Taxes and Assessments

Developer shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any line or charge from attaching to the Development; provided, however, that Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Developer exercises its right to contest any tax, assessment, or charge against it, Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

4.4 Compliance with County Underwriting Guidelines.

Developer shall develop and operate the Development in compliance with the County's Multifamily Rental Housing Transaction Underwriting Guidelines.

4.5 County Preference.

To the extent consistent with the requirements of other funding sources and state and federal law, households with at least one member who lives or works in the County shall be given preference for occupancy of the Units.

4.6 Marketing Plan.

(a) No later than ninety (90) days prior to the projected start date of accepting rental applications for the lease-up of the Development, Developer shall submit to the County for approval its plan for marketing the Development to income-eligible households as required pursuant to this Agreement, including information on affirmative marketing efforts and compliance with fair housing laws (the "Marketing Plan"). The Marketing Plan must include

information on affirmative marketing efforts and compliance with fair housing laws.

(b) Upon receipt of the Marketing Plan, the County shall promptly review the Marketing Plan and shall approve or disapprove it within thirty (30) days after submission. If the Marketing Plan is not approved the County will give Developer specific reasons for such disapproval, and Developer shall submit a revised Marketing Plan within thirty (30) days following Developer's receipt of the County's written disapproval. If the County does not approve the revised Marketing Plan because Developer does not use good faith efforts to make specific revisions requested by the County, Developer shall be in default hereunder.

4.7 Tenant Selection Plan.

(a) No later than ninety (90) days prior to the projected start date of accepting rental applications for the lease-up of the Development, Developer shall submit to the County for approval its plan for selecting tenants for the Development who are income-eligible households as required pursuant to this Agreement (the "Tenant Selection Plan").

(b) Upon receipt of the Tenant Selection Plan, the County shall promptly review the Tenant Selection Plan and shall approve or disapprove it within thirty (30) days after submission. If the Tenant Selection Plan is not approved the County will give Developer specific reasons for such disapproval, and Developer shall submit a revised Tenant Selection Plan within thirty (30) days following Developer's receipt of the County's written disapproval. If the County does not approve the revised Tenant Selection Plan because Developer does not use good faith efforts to make specific revisions requested by the County, Developer shall be in default hereunder.

ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

5.1 Management Responsibilities.

Developer is responsible for all management functions with respect to the Units, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The County shall have no responsibility over management of the Units. Developer shall retain a professional property management company approved by the County in its reasonable discretion to perform its management duties hereunder. A resident manager is not required.

5.2 Management.

The Development shall at all times be managed by an experienced management agent reasonably acceptable to the County, with demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). Developer shall submit for the County's approval the identity of any proposed Management Agent. Developer shall also submit such additional information about the background, experience and financial condition of any proposed Management Agent as is reasonably necessary for the County to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management

Agent set forth above, the County shall approve the proposed Management Agent by notifying Developer in writing. Unless the proposed Management Agent is disapproved by the County within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved. The County hereby approves Burbank Housing Management Corporation as the initial Management Agent.

5.3 Performance Review.

The County reserves the right to conduct an annual (or more frequently, if deemed necessary by the County) review of the management practices and financial status of the Development. The purpose of each periodic review will be to enable the County to determine if the Development is being operated and managed in accordance with the requirements and standards of this Agreement. Developer shall cooperate with the County in such reviews.

5.4 Replacement of Management Agent.

If, as a result of a periodic review, the County determines in its reasonable judgment that the Development is not being operated and managed in accordance with any of the material requirements and standards of this Agreement, the County shall deliver notice to Developer of its intention to cause replacement of the Management Agent, including the reasons therefor. Within fifteen (15) days of receipt by Developer of such written notice, County staff and Developer shall meet in good faith to consider methods for improving the financial and operating status of the Development, including, without limitation, replacement of the Management Agent.

If, after such meeting, County staff recommends in writing the replacement of the Management Agent, Developer shall promptly dismiss the then Management Agent, and shall appoint as the Management Agent a person or entity meeting the standards for a Management Agent set forth in Section 5.2 above and approved by the County pursuant to Section 5.2 above.

Any contract for the operation or management of the Development entered into by Developer shall provide that the contract can be terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute Default under this Agreement, and the County may enforce this provision through legal proceedings as specified in Section 6.7 below.

5.5 Approval of Management Policies.

Developer shall submit its written management policies with respect to the Units to the County for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

5.6 Property Maintenance.

(a) Developer agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, on the Development in good condition and repair (and, as to landscaping, in a healthy condition, subject to government imposed drought restrictions) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

(1) Landscaping. Developer agrees to have landscape maintenance performed every two weeks, including replacement of dead or diseased plants with comparable plants. Developer agrees to adequately water the landscaping on the Development, subject to any state, county, or local restrictions on water usage. No improperly maintained landscaping on the Development shall be visible from public streets and/or rights of way.

(2) Yard Area. No yard areas on the Development shall be left unmaintained, including:

(A) broken or discarded furniture, appliances and other, household equipment stored in yard areas for a period exceeding one (1) week;

(B) packing boxes, lumber trash, dirt and other debris in areas visible from public property or neighboring properties; and

(C) vehicles parked or stored in other than approved parking areas.

(3) Building. No buildings located on the Development may be left in an unmaintained condition so that any of the following exist:

(A) violations of state law, uniform codes, or City ordinances;

(B) conditions that constitute an unsightly appearance that detracts from the aesthetics or value of the Development or constitutes a private or public nuisance;

(C) broken windows;

(D) graffiti (must be removed within 72 hours); and

(E) conditions constituting hazards and/or inviting trespassers, or malicious mischief.

(4) Sidewalks. Developer shall maintain, repair, and replace as necessary all public sidewalks adjacent to the Development.

(b) The County places prime importance on quality maintenance to protect its investment and to ensure that all County-assisted affordable housing projects within the County are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Units will be acceptable to the County assuming Developer agrees to provide all necessary improvements to assure the Units are maintained in good condition. Developer shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

(c) In the event that Developer breaches any of the covenants contained in this Section and such Default continues for a period of ten (10) days after written notice from the County with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the County with respect to landscaping and building improvements, then the County, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Development and perform or cause to be performed all such acts and work necessary to cure the Default. Pursuant to such right of entry,

the County shall be permitted (but is not required) to enter upon the Development and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Development, and to attach a lien on the Development, or to assess the Development, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the County and/or costs of such cure, which amount shall be promptly paid by Developer to the County upon demand.

5.7 Safety Conditions.

(a) Developer acknowledges that the County places a prime importance on the security of County assisted projects and the safety of the residents and surrounding community. Developer agrees to implement and maintain throughout the Term the following security measures in the Development:

(1) to the extent feasible employ defensible space design principles and crime prevention measures in the operation of the Development including but not limited to maintaining adequate lighting in parking areas and pathways;

(2) use its best efforts to work with the City Police Department to implement and operate an effective neighborhood watch program; and

(3) provide added security including dead-bolt locks for every entry door, and where entry doors are damaged, replace them with solid core doors.

(b) The County shall have the right to enter on the Development and/or contact the City Police Department if it becomes aware of or is notified of any conditions that pose a danger to the peace, health, welfare or safety of the Tenants and/or the surrounding community, and to perform or cause to be performed such acts as are necessary to correct the condition.

ARTICLE 6 MISCELLANEOUS

6.1 Nondiscrimination.

(a) Developer herein covenants by and for itself, its subcontractors, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, nor denial of the benefits of this Agreement to, any person or group of persons, on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability or medical condition (including cancer, HIV and AIDS) or political affiliation or belief, nor any unlawful discrimination against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. Developer shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, Developer shall comply with the provisions of the Fair Employment and

Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to Developer services or works required of County by the State of California pursuant to agreement between County and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and Developer and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) The provisions of paragraph (a) shall further apply to the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Development, and Developer and any person claiming under or through Developer, shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the Development.

(c) Notwithstanding paragraph (a), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(d) Developer shall include the provisions contained in this Section in all contracts and subcontracts related to the Development.

(e) The requirements in this Section shall survive the repayment of the Loan, and the reconveyance of the Deed of Trust.

6.2 Term.

The provisions of this Agreement shall apply to the Development for the entire Term even if the Loan is paid in full prior to the end of the Term. This Agreement shall bind any successor, heir or assign of Developer, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by the County. The County makes the Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

6.3 Notice of Expiration of Term.

At least six (6) months prior to the expiration of the Term Developer shall provide by first-class mail, postage prepaid, a notice to all Tenants in Units containing (a) the anticipated date of the expiration of the Term, (b) any anticipated Rent increase upon the expiration of the Term, (c) a statement that a copy of such notice will be sent to the City, and (d) a statement that a public hearing may be held by the City on the issue and that the Tenant will receive notice of the

hearing at least fifteen (15) days in advance of any such hearing. Developer shall also file a copy of the above-described notice with the County Administrator. In addition, Developer shall comply with all requirements set forth in California Government Code Sections 65863.10 and 65863.11 or successor provisions and all other requirements of State and federal law.

6.4 Effect of Other Financing Programs.

The Development may be subject to the terms of other governmental subsidy programs. This Agreement and the agreements entered into by Developer pursuant to these subsidy programs independently regulate Units in the Development. If any provision of another regulatory agreement is found in conflict or in contradiction with the terms of this Agreement in relation to the Units, the most restrictive requirement, providing the greatest affordability to the most Tenants for the longest term, shall apply to those Units, except as otherwise specified.

6.5 Covenants to Run With the Land.

The County and Developer hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Development, provided, however, that on the expiration of the Term of this Agreement, said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the County expressly releases such conveyed portion of the Development from the requirements of this Agreement.

6.6 Indemnification.

(a) To the full extent permitted by law, Developer shall indemnify, defend at its own expense, and hold the County and its elected officials, officers, employees and agents in their official capacity (collectively "Indemnitees") harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the purchase of the Property, development, construction, marketing and operation of the Development, except to the extent such claim arises from the grossly negligent or willful misconduct of the County or Indemnitees. Each Party shall notify the other Party immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, provided that nothing shall require either party to disclose any documents, records or communications that are protected under the attorney-client privilege or attorney work product privilege.

(b) The provisions of this Section shall survive the expiration of the Term, the reconveyance of the Deed of Trust, and any release of part or all of the Development from the burdens of this Agreement.

6.7 Enforcement by the County.

Any partners of Developer shall have the right to cure any Default. The County agrees that any cure of a Default by any partners of Developer shall be deemed to be a cure by Developer, and shall be accepted or rejected on the same basis as if made or tendered by

Developer. If Developer fails to perform any obligation under this Agreement, and fails to cure the Default within thirty (30) days after the County has notified Developer in writing of the Default or, if the Default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within sixty (60) days, the County shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law.

(a) Calling the Loan. The County may declare a Default under the Notes, accelerate the indebtedness evidenced by the Notes, and with respect to the Loan, proceed with foreclosure under the Deed of Trust.

(b) Action to Compel Performance or for Damages. The County may bring an action at law or in equity to compel Developer's performance of its obligations under this Agreement, and/or for damages.

(c) Remedies Provided Under Loan Agreement. The County may exercise any other remedy provided under the Loan Agreement.

6.8 Recording and Filing.

The County and Developer shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records of the County of Napa.

6.9 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of California. Venue shall be Napa County.

6.10 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

6.11 Waiver of Requirements.

No waiver of the requirements of this Agreement shall occur unless expressly waived by the County in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or Default of Developer or to pursue any remedy permitted under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Developer shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

6.12 Amendments.

This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Napa.

6.13 Notices.

Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

Developer: 963 Pope Street, LLC
c/o Napa Valley Community Housing
150 Camino Dorado, Napa CA 94558
Attn: Senior Project Manager

with a copy to:

Our Town St. Helena
1250 Church Street
St. Helena, CA 94574
Attn: Executive Director

County: Napa County Department of Housing & Homeless Services
2751 Napa Valley Corporate Drive, B206-09
Napa, CA 94558
Attention: Director of Housing & Homeless Services

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

6.14 Severability.

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

6.15 Multiple Originals; Counterparts.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

[Remainder of page intentionally blank.]

[Signatures of following page.]

IN WITNESS WHEREOF, the County and Developer have executed this Agreement by duly authorized representatives, all on the date first written above.

COUNTY:

County of Napa, a political subdivision of the State of California

By: _____
Anne Cottrell
Chair, Napa County Board of Supervisors

APPROVED AS TO FORM BY:
County Counsel

S. Darbinian
Deputy County Counsel

DEVELOPER:

By: Napa Valley Community Housing,
a California nonprofit public benefit
corporation,
its Managing Member

By:  _____
Erica R. Sklar
CEO

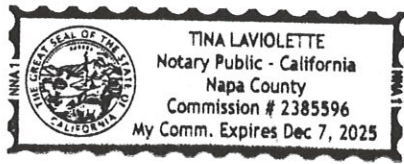
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF Napa)

On January 16, 2025, before me, Tina Laviolette, Notary Public, personally appeared ERICA R SKLAR, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Tina Laviolette
Name: _____
Notary Public [Signature]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION

The land is situated in the State of California, County of Napa, and is described as follows: