

Get up to **\$105,000** as a forgivable loan to build an ADU that is kept affordable for 5 years

Benefits of building an affordable ADU:

- Increase value of your [homeproperty](#)
- Create an additional revenue stream for your household
- Provide much needed affordable [workforce](#) housing in [desirable residential neighborhoods](#)
- Promote sustainable, compact development and reduce [the environmental impact](#) [large-scale housing developments](#)
- Create long-term [housing](#) flexibility on [your](#) property
- Reduce [the](#) cost of building [an](#) ADU with [a](#) loan that doesn't need to be paid back after renting [the](#) unit to [a](#) low-income resident for 5 years

Who is eligible?

Any homeowner living full-time in a single-family home in Napa County who commits to renting the [new ADU unit](#) at an affordable rent for 5 years.

Who can live in the ADU?

Any Napa County household earning up to 80% of Area Median Income; family members of homeowner [are](#) allowed to occupy unit.

Household size	Income limit*
1	\$ 74,700 <u>\$89,750</u>
2	\$85,400 <u>\$102,550</u>
3	\$96,050 <u>\$115,350</u>
4	\$106,700 <u>\$128,150</u>

For larger households, consult Napa County ADU Forgivable Loan Program staff.

This data is as of ~~January 2023~~ April 2025. Figures are updated annually by HCD in April.

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ADU Forgivable Loan Program Benefits

ADU Size	Studio	1 Bedroom	2 Bedroom +
Typical square footage	400 sq ft	600 sq ft	800 sq ft
Projected Development Cost*	\$260,000 \$180,000	\$299,000 \$265,000	\$368,000 \$340,000
Base Forgivable Loan	\$25,000	\$60,000	\$85,000
Incentive Loan Rebate Amount	\$20,000	\$20,000	\$20,000
Call IFA ADU grant	\$40,000	\$40,000	\$40,000
TOTAL ADU incentives/Forgivable Loan Total ADU Rebates	\$45,000 \$85,000	\$120,000 \$80,000	\$145,000 \$105,000
Remaining cost to homeowner	\$215,000 \$95,000	\$145,000 \$219,000	\$195,000 \$263,000
Monthly rent (subject to modest annual increases)	\$1,764	\$2,015 \$2,563	\$2,519 \$2,884
Average monthly expenses	\$1,200 \$1,300	\$1,700 \$2,100	\$2,300 \$2,000
Monthly cash flow after loan payments**	\$470 \$1,323	\$1,345 \$219	\$1,582 150

*This varies widely and just for illustrative purposes.

**Estimates that vary widely and can be significantly higher when unit is rented at market rate after 5 years.

What other benefits does the Affordable ADU Loan Program provide?

In addition ~~for to~~ a loan that is forgiven after renting the unit to a low-income tenant for 5 years, the County's Affordable ADU Loan Program provides:

- Robust technical assistance to support homeowners with planning, building, leasing and management of their ADU rental.
- Tenant match-up support, connecting interested, income-eligible local workforce applicants with homeowners ready to rent out their ADU after construction.
- Reimbursement for building and impact fees for ADUs built in the unincorporated County.
- Funds to pay for a pre-reviewed ADU design.
- Funds to assist with closing costs for homeowners seeking conventional funding as a part of their

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project financing.

- ~~Funds to assist with installing energy efficient heat pump and/or solar.~~
- Funds to assist with the establishment of Managed Construction Escrow Services.
- ~~Funds to assist with installing energy efficient heat pumps, and/or solar, and/or other green-energy features (see Rebates below for more information.).~~

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Applicant expectations:

- Homeowner Applicant must build building the ADU on same property as their primary residence.
- Intends to Applicant must intend to continue living live in the primary residence remain home and rents out the ADU to qualified tenant(s) through the term of the 5 year affordability agreement.
- Attends Complete online educational webinars/assigned courses providing overview and technical assistance for about ADU development and property management.
- Have all funding to pay for remaining costs of building ADU deposited into an approved Managed Construction Escrow Account at the time of loan closing, which can be accessed through the CalHFA ADU Loan Program, Redwood Credit Union, and a wide variety of other lenders. Homeowners can also use personal savings or borrow funds from family or friends.

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Questions?

[AADU Loan Program | Napa County, CA \(countyofnapa.org\)](http://countyofnapa.org)

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I. Loan Program Summary

- A. The County of Napa is offering Affordable Accessory Dwelling Unit (“AADU”) Forgivable Loans to homeowners who do the following:
1. Build a new ADU at their residence.
 2. Commit to rent the unit to an individual or household earning up to 80% of Area Median Income (AMI), and
 3. Commit to a maximum monthly rental rate equal to or less than rent that is Affordable Rent for 80% AMI households for a period of at least five (5) years. The loan proceeds will offset a portion of the homeowner’s cost of construction of the ADU.
- B. An AADU Forgivable Loan is a construction loan that ranges in amount based on a Base Loan amount per the number of bedrooms and the Incentive Loan amounts based on additional criteria as outlined below:
- Maximum AADU Loans:
- \$25,000 for a Studio ADU
 - \$60,000 for a 1 Bedroom ADU
 - \$85,000 for a 2 Bedroom ADU
- C. Homeowners participating in the program are eligible for the following additional ~~incentives~~ rebates: (see “Additional ~~Incentives~~ Rebates” below for further information)
1. For permit fees for homeowners building an ADU within the planning jurisdiction of Napa County (the unincorporated County). **Value: up to \$10,000**
 - ~~2. For the use of pre-reviewed plans from Napa Sonoma ADU. Value: up to \$2,500~~
 - ~~3-2.~~ For closing costs and fees related to conventional loan financing. **Value up to \$2,500**
 - ~~4. For administrative costs of a managed construction escrow account. Value: up to \$2,500~~
 - ~~5. For securing CalHFA State grant funds for the project. Value: up to \$2,500.~~
 3. For the installation of solar power and energy storage system as the primary power supply for the ADU. Value up to: \$2,500
 4. For the installation of a heat pump instead of a conventional HVAC system. Value up to: \$2,500
 5. For the use of high-efficiency insulation and windows, green roof, tankless water heater, and/or use of sustainable materials (reclaimed wood, bamboo flooring, or cork to improve insulation and reduce environmental impact. Value up to \$2,500.
- Maximum possible ~~rebate incentive loan~~ amounts above Base Loans: ~~\$XX,000~~ **20,000** ~~17,500~~
(actual additional amounts will vary by project size, financing and design elements.
- D. In exchange for the AADU Forgivable Loan, the homeowner applicant agrees to rent the finished ADU at a maximum monthly rent that is affordable to households earning up to 80% of Area Median Income (AMI). This amount is set by the California Department of Housing and Community Development (HCD) each

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year and is updated and published annually in April. Maximum rent refers to the full amount paid by the tenant for rent, including utilities, parking fees and other charges.

For 2022 As of April 2025, maximum affordable rent is \$1,764 for a Studio ADU, \$2,015 for a 1-Bedroom ADU and \$2,519 for a 2-bedroom ADU. (These maximum rents will increase each year when new income limits are published. All homeowners participating in the program will receive notice of the new maximum rates each year they are participating in the program.)

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E. The applicant agrees to a 5-year rental affordability covenant placed on the ADU and to rent the unit at an Affordable Rent for 60 months (excluding periods of vacancy, for example after one tenant moves out and before a new one moves in).

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E-F. After Unit cannot remain vacant for longer than 6 consecutive months following completion of construction or tenant-leaseholder turnover. 7+ consecutive months of unit vacancy will result in a notice of default of vacancy, or 12 months of vacancy cumulative over the course of the loan, the loan is considered in default and a notice of default shall be issued.

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F-G. The loan is available to homeowners anywhere within the geographic boundary of Napa County.

H. Applicants who meet program requirements will be awarded forgivable loan funds upon approval of application.

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I. Homeowners are only eligible for one AADU Program loan at their primary residence.

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G-J. Loans are not transferable to new property owners. In the event an existing borrower sells their home, the County loan balance must be repaid at the time of sale closing.

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II. General Information

A. Overview

1. To better address the need for housing that is affordable to low-income constituents in Napa County ("the County") seeks to encourage the production of housing that is affordable throughout the County by incentivizing the creation of accessory dwelling units ("ADUs") through the Napa County Affordable ADU Forgivable Loan Program (the "Program").

B. Key Contact Information

1. Homeowner(s) and/or potential borrowers under the Program are encouraged to consult with County staff in the process via the contact information below:

[AADU Loan Program | Napa County, CA \(countyofnapa.org\)](http://AADU Loan Program | Napa County, CA (countyofnapa.org))

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C. Definition

1. **Accessory Dwelling Unit (ADU):** Napa County Code Section 18.08.550 refers to an accessory dwelling unit as a "second unit" and defines it as set forth in California Government Code Section 65852.2(j)(1) or successor provision; according to both, an ADU is a residential dwelling unit which provides complete independent living facilities

for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel, or parcels, as a primary dwelling unit is situated. The ADU may be attached or detached.

2. **Program Supported Unit:** Refers to any ADU supported by a Napa County Affordable ADU Forgivable Loan Program.
3. **Affordability Covenant:** An agreement between Napa County and a property owner to restrict the price of a housing unit, among other conditions, for a given period. Once the covenant is satisfied, the property owner may choose to rent the unit at any price otherwise allowed by law.
4. **Affordable Rent:** Affordable rent is generally defined as rent for housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities, and adjusted for household size.
5. **Forgivable Loan:** A loan provided to a homeowner that is forgiven over time in exchange for compliance with provisions described elsewhere in this document.
6. **Maximum Renter Household Income:** The maximum household income of a household living in an ADU, determined based on reported income by the household upon applying to rent the unit. The Maximum Renter Household Income is 80% of Area Median Income (AMI) for Napa County, as defined by the California Department of Housing and Community Development (HCD). In ~~2022~~2025, this ranges from ~~\$66,880~~\$89,750 for a 1-person household to ~~\$85,960~~\$115,350 for a 3-person household, etc.
7. **Minimum Rental Period of Affordability:** A homeowner must agree, by signing an Affordability Covenant, to renting an ADU at an affordable rent for at least 60 months, meaning the unit is occupied by a resident paying an affordable rent for at least 60 months.
8. **Minimum Lease Term:** The minimum commitment a homeowner may make with a tenant in a Program-supported ADU is 12 months; this Minimum Lease Term is notwithstanding the Minimum Rental Period of Affordability, which requires the unit to be rented for 60 months at an affordable rent.
9. **Projected Total Development Cost:** The estimated cost of all aspects of building an ADU, including design, engineering, local fees, construction materials, construction labor
10. **Managed Construction Escrow Account**

- a) A third-party holding account for funds for a construction project. This account holds funds for the project until specific terms are met, then releases those funds to the contractor. Having funds in escrow helps guarantee that funds will be available for the project and restricted funds are properly used. The financing company, the title company, project owner, and even the contractor may request an escrow account. This account is funded before the work begins based on the projected budget for the project. Managed Construction Escrow Accounts are also often used in new construction. For example, when building a new home, the lending institution will use a construction escrow account. When the project is completed and passes inspection, the funds are released to the contractor.
- b) When the contractor is ready to receive funds for completed work, they submit a pay application or request a “draw” from the escrow company. Upon the managed construction escrow provider’s approval of each building phase, the contractor can request a draw of funds to pay off building costs such as contractor bids, excavation costs, and permit fees. This request is reviewed by the escrow company for the bank. Then, an onsite inspection may happen to ensure the amount requested matches the work completed.
- c) A Managed Construction Escrow Account benefits the homeowner, lender(s) and the contractor. For the homeowner, the account provides certainty the contractor(s) will be paid without having to do a lot of legwork. For the lender(s), the account ensures checks- and-balances on funding being applied to specific approved funding uses. Finally, when working on a project with an escrow account, the contractor has certainty that the full project is funded.

III. Transaction Underwriting Guidelines

A. Pre-Application

1. An applicant seeking a Program loan from the County of Napa must follow the steps listed below to submit a Pre-Application:
 - a) Go to the AADU Loan Program website (countyofnapa.org).
 - b) Utilize the Napa ADU calculator tool ([Napa/Sonoma: Calculator \(calculator.napasonomaadu.org\)](http://Napa/Sonoma: Calculator (calculator.napasonomaadu.org))) to estimate the cost of constructing a rental ADU.
 - c) Schedule a Feasibility Consultation with Napa Sonoma ADU. During this consultation, homeowners will meet with an ADU expert 1:1 at the property or virtually (homeowner preference) and receive a customized written ADU feasibility report. Consult has a \$350 value and is provided at no-cost to homeowners interested in applying for the AADU Loan Program.

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B. Application Require Steps- Application: Pre- Approval

1. Upon completion of the Feasibility Consultation, ~~applicant homeowner~~ will utilize the County's online application system and submit request for funding based on AADU size, indicate which additional ~~loan incentives rebates~~ are sought, execute an intent to commit to a five-year affordability covenant on the AADU, and upload the feasibility consult report and project budget.
2. County staff will review ~~the application~~ and ~~provide hosts~~ ~~schedule a 30 minute virtual or in-person project consultation with between County program staff and applicants (all applicants are required to attend, including both members of a single all property owners listed on the deed of trust household if jointly applying), and County program staff followed~~ Following the initial consultation and any required changes to the application, approved projects will receive ~~by a pre-approval authorization~~ ~~Reservation of Funds and letter~~, reserving available ~~Program~~ Loan funds for the individual project for a period of ~~18090~~ days.
3. During the ~~18090-day Pre-Approval~~ ~~Reservation of Funds~~ period, ~~and before moving to final loan approval, , homeowner applicant(s) shall need to complete the following project-related steps:~~

- a) ~~secure all project financing, establish a Managed Construction Escrow Account, and e~~ Complete ~~three~~ assigned ~~homeowner applicant~~ education classes. Classes are at no-cost to homeowners with Pre-Approval for the County AADU Forgivable Loan. Classes include technical assistance with Financing, Construction Management, ~~and~~ Post-Construction/ Lease-Landlord Management, ~~Managed Construction Escrow Accounts, Neighborly Portal Assistance and How to Certify an Eligible Tenant,~~
- b) ~~Finalize ADU plan set and finalize project budget including identification of General Contractor,~~
- c) ~~Secure all additional project funding sources necessary for the total construction cost of the ADU,~~
- d) ~~Submit project budget to County staff for review and confirmation of eligible costs and rebate eligibility,~~
- e) ~~Establish a Managed Construction Escrow Account,~~
- f) ~~Secure all permits needed,~~
- g)

~~C. Applicants will have access to no-cost, weekly "office hours" with Napa County program staff to answer any questions about their application and troubleshoot barriers to application completion.~~

4. ~~Homeowner Applicants will also have access to no-cost "office hours" with a Napa County Program staff Technical Assistance advisor to answer any questions about their ADU project.~~

~~C.D. Application Required Steps- Application: Final Approval~~

1. Once project financing, Managed Construction Escrow Services, ~~permits, plan sets and contract with general contractor~~ and required homeowner education classes are completed, ~~homeowner applicant~~ will submit evidence of all ~~three~~ requirements via the online application system.
2. County staff will review all documents ~~and schedule a site-visit to inspect the site of the~~

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- new ADU.
- ~~2-3.~~ Following document review and site visit, staff will and provide final approval on the AADU Forgivable Loan.
 - ~~3-4.~~ Homeowner Applicant will execute all loan documents and the Affordability Covenant.
 - ~~4.~~ Homeowner Applicants will also have access to no-cost “office hours” with a Technical Assistance advisor Napa County Program Staff to answer any questions about their ADU project application.
 5. County will release funds to the Managed Construction Escrow Account.
 6. Homeowner Applicant will have two years from release of funds to complete construction and initiate lease-up.

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D.E. Eligibility

1. Eligible Projects
 - a) Project must be on a property that is owned and occupied by the applicant as their primary residence. Properties cannot be used for any short or long-term rentals.
 - b) Project must be a new ADU created through one or more of the following development opportunities: construction of new ADUs or conversion of existing portions of non-residential structures on the property to an ADU.
 - (1) Units under construction are not eligible.
 - (2) Units that have already received a certificate of occupancy are not eligible.
 - ~~b)(3)~~ (3) Unpermitted existing units are not eligible.
 - c) Project types to be funded are ADUs built on a property with a single-family home, where the applicant is the homeowner(s), and the applicant commits to renting the unit at an affordable rent to a low-income household earning up to 80% of Area Median Income (AMI), as defined by the Federal Department of Housing and Urban Development (HUD), for at least five years.
 - d) Projects funded by this loan program must have all work completed by a construction contractor licensed by the California Contractors State License Board.
 - ~~e)~~ Due to conflict of interest issues, applicants may not be their own General Contractor, nor may they be sub-contractors for any part of the project.
2. Eligible homeowner applicants
 - a) Applications are accepted from homeowners occupying a single-family home in Napa County that have met the applicant thresholds elsewhere in the guidelines.
 - b) Maximum of one Program loan per parcel.
3. Eligible uses of funding
 - a) Eligible uses of Program funding include normal and customary construction expenses, such as:

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- (1) Construction materials and labor costs incurred after loan funding.
 - (2) General contractor fees and overhead, not to exceed 10% of the total project cost, incurred after loan funding.-
 - (3) ~~Demolition necessary for the construction of an ADU~~
 - (4) Site work costs, such as water/sewer/septic connections, utility improvements, or site leveling as is necessary for the construction of an ADU only. In the event site work includes improvements to systems that are tied to the primary residence, eligible site work costs for the ADU will be calculated by the proportional relationship of the primary residence square footage to the ADU square footage. Only costs County-approved costs in overall project budget and incurred after loan funding are eligible.
 - (5) Permit costs beyond any those that are waived through participation in this Program
 - ~~(6) Other hard or soft costs approved at the discretion of the County, as expressly stated in the Letter of Determination:-~~
4. Ineligible uses of funding: The County will determine, in its sole discretion, costs deemed excessive or unreasonable, or uses deemed ineligible. Ineligible uses of funding include, but are not limited to, costs associated with construction items or materials of a luxury nature or furnishings:-
5. Eligible tenant households
- a) ~~Households to live in the AADU funded through this loan program-Eligible tenant households are those~~ earning up to 80% of Area Median Income, as defined elsewhere in these guidelines.
 - b) Eligible tenant households must be income certified by Napa County Program Staff efore a qualifying lease is executed. need to certify their income upon applying for the unit. Recertification over the term of an individual tenant lease is not required.
 - c) Napa County Program Staff will provide homeowner applicant with a list of documents needed to verify tenant's income, included as Exhibit B. Homeowner will then provide those documents to the County, and Napa County Program Staff which will verify eligibility within 5 business days of submission.-
 - d) Eligible tenant households may be related to property owner applicant.
 - e) Upon vacancy of the unit by certified tenant, a new eligible tenant household must be income certified.
 - f) Months during which a unit is vacant due to tenant turnover will not count toward the 60-month affordability requirement.
6. Title report requirement: The County will review a title report for the property.

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E. Project Priorities

- ~~1. Projects with larger ADUs that can accommodate larger households:-~~
- ~~2. ADUs leveraging the California Housing Finance Agency's (Cal HFA's) ADU Grant~~

Program (see Appendix A for more information):

3. ADUs using a pre-reviewed design from the Napa Sonoma ADU Pre-Reviewed Plans Program (Napa Sonoma ADU Plans Gallery: <https://plans.napasonomaadu.org>):

F. Project underwriting guidelines

1. Loan Terms

- a) Method of financial assistance: Forgivable construction loan
- b) Loan sizing
 - (1) The maximum Forgivable Loan shall be the lesser of:
 - (a) The ~~base loans for 1 bedroom or 2 bedroom units~~ **Projected Total Development Cost of the ADU, according to the specific prototype as defined below:**
 - ~~(b) The actual development cost of the ADU.~~
 - ~~(2) ADUs will be categorized as Studio, 1 Bedroom, or 2 Bedroom with the Projected Total Development Costs according to the Napa Sonoma ADU calculator. These costs shall be updated annually by Napa County staff to adjust for inflation and other market factors.~~

Table 1: Projected development costs for prototype ADUs Source: Napa Sonoma ADU¹

Description	Projected development cost
Any studio ADU	\$180,000
Any 1-bedroom ADU	\$265,000
Any 2-bedroom (or more) ADU	\$340,000

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~~(3)~~(2) Any homeowner applicant who commits to renting the ADU funded by this loan is eligible for the following forgivable loan amounts, based on the prototypes described above.

Table 2: Forgivable loan offered to any homeowner in exchange for a 5-year affordability covenant

	Base Loan Amount	Additional Maximum Incentive Rebate Amount	Total Maximum Forgivable Loan
Studio	\$25,000	\$20,000	\$45,000
1 Bedroom	\$60,000	\$20,000	\$80,000
2 Bedroom	\$85,000	\$20,000	\$105,000

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- c) Interest rate: ~~35.0%~~ simple interest, deferred. See below regarding Loan forgiveness.
- d) Loan term: The loan term will coincide with the duration of the affordability commitment (5 years/60 months). If the affordability covenant is extended, the loan term will extend commensurately.

e) Loan Forgiveness

- (1) ~~For each 12-month period in which the borrower is compliant over the course of 5 years; 1/60th (or 1.66%) 20%~~ of the Forgivable Loan (Base Loan + Incentive Loan amounts) will be forgiven, including interest. Upon certification of 60 months of program compliance, the full loan shall be forgiven.
- (2) A homeowner who has received a forgivable loan may “opt out” of the program at any time by reimbursing the County for remaining portion of the forgivable loan including interest due. At that time, the County will remove the affordability covenant recorded on the homeowner’s property.

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2. Affordable housing provisions

- a) Term of deed restrictions: All units assisted by the ADU Loan Program will be subject to affordability covenants of 5 years.
- b) The affordability covenant and loan term can be extended to account for periods of vacancy, meaning for each month the unit is vacant, the affordability covenant can be extended for one month.
- c) The affordability covenant ~~will~~ requires that the unit be rented at an affordable price for 60 months to ~~complete~~ meet loan terms and achieve full principle loan balance and accumulated interest forgiveness.
- d) Eligible households: See eligibility section above

G. Termination of Loan

1. The remaining loan balance and accrued unforgiven interest will be immediately due and payable upon:
 - a) The sale of the property or change in title/ownership,
 - b) Borrower’s failure to occupy the main home,
 - c) Borrower’s failure to rent to an income certified tenant and affordable rent level within 6 months of completion or tenancy vacancy; and
 - d) Borrower’s breach of any other provisions of the Loan documents that remains uncured.
2. The remaining loan balance and accumulated unforgiven interest shall also be due and payable within 90 calendar days if Borrower notifies County that Borrower has decided to no longer rent the unit as an affordable unit and participate in the program.

H. Insurance Requirements

1. Evidence of all-hazard insurance for full replacement value must be provided by the borrower that names County as loss payee annually for the term of the loan.
2. Evidence of flood insurance must be provided, if applicable annually for the term of the loan.
3. Borrower shall keep all buildings located on the Property insured against loss by fire, vandalism, and malicious mischief by a policy of standard fire and extended all-risk

insurance annually for the term of the loan. The policy shall be written on a full replacement value basis and shall name Beneficiary as loss payee as its interest may appear. The full replacement value of the Accessory Dwelling Unit to be insured shall be determined by the company issuing the policy at the time the policy is initially obtained. Not more frequently than once every two (2) years, the County shall have the right to notify the other borrower that it elects to have the replacement value redetermined by the insurance company. Subject to the rights of any senior lienholder, the proceeds collected under any insurance policy may be applied by Beneficiary to any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Borrower; provided however, if Borrower is not in default under the Loan Documents, the proceeds shall be released to Borrower to repair or rebuild the Improvements provided that sufficient additional sources of financing to complete such repair or rebuilding are available to complete such work. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

I. Relocation Laws: A County-supported ADU cannot result in displacing any tenant currently residing on the property.

J. Lease Requirements

1. Leases must clearly state that the amount of rent to be charged shall be set at an amount that is affordable to a household at 80% of Area Median Income (AMI) based on the number of bedrooms and occupancy, including utilities, parking fees and other charges. (These maximum rents are determined by HCD. They will increase each year when new income limits are published. All homeowners participating in the program will receive notice of the new maximum rates each year they are participating in the program.)
2. Rental of units is subject to all federal, state, and local fair housing laws and regulations.

IV. Additional ~~Incentives Rebates~~ for Homeowners

A. ~~Fee Waivers~~ Unincorporated County building fees:

1. Homeowners building an ADU in unincorporated areas of Napa County are eligible for an additional loan rebate ~~incentive loan~~ amount up to \$10,000 toward building and impact fees ~~charged~~ assessed by the County.

~~B. Grant for use of pre-approved standard plans from Napa Sonoma ADU~~

1. ~~Homeowners building a Program-supported ADU are eligible for an Incentive Loan amount of up to \$2,500 for the cost to obtain and use a pre-reviewed plan from Napa Sonoma ADU (Napa Sonoma ADU Plans Gallery: <https://plans.napasonomaadu.org>):~~

~~C. Grant for managed construction escrow administration costs~~

1. ~~Homeowners building a Program-supported ADU are eligible for an Incentive Loan amount of up to \$2,500 to cover the costs of a Managed Construction Escrow~~

Account:

- 2. Account must be managed by a qualified lending institution and must include all the funds needed to construct the ADU, including any homeowner contributions such as cash savings or conventional loan funds before the County forgivable loan can be accessed:

~~D.B.~~ Grant Rebate for conventional loan closing costs and fees

- 1. Homeowners Applicants building a Program supported ADU are eligible for an additional loan rebate amount Incentive Loan of up to \$2,500 to pay for the closing costs and fees associated with a conventional loan to pay for part of the cost of building an ADU.

~~C.~~ Rebate for installation of a solar power and energy storage system for the ADU:

- 1. To encourage energy efficiency, applicants are eligible for an additional loan rebate amount of \$2,500 if they design and install a solar energypower and solar energy storage system into their project as the primary power system for the ADU.

~~D.~~ Rebate for installation of a heat pump instead of conventional HVAC system:

- 1. To encourage energy efficiency, applicants are eligible for an additional loan rebate amount of \$2,500 if they install a heat pump into their project.

~~E.~~ Rebate for additional "Green Energy" ADU upgrades:

- 1. To incentivize additional energy efficiency measures, a rebate of up to \$2,500 for the use of high-efficiency insulation and windows, green roof, tankless water heater, and/or use of sustainable materials (reclaimed wood, bamboo flooring, or cork to improve insulation and reduce environmental impact. Applicants may propose additional energy savings measures for rebate eligibility under IV.E. consideration at the time of budget submission.

2.

1.

~~E.~~ Grant for securing Cal HFA grant

- 1. Homeowners building a Program supported ADU and who also secure a grant from the California Housing Finance Agency's (CalHFA) ADU Grant Program are eligible for an Incentive Loan amount of \$2,500. (See Exhibit A: Cal HFA ADU Financing Program):

Exhibit B

To determine that a tenant is eligible for the AADU Forgivable Loan Program, prior to occupancy, the Napa County AADU Program Staff shall review and ~~keep on file~~ retain for the necessary document-retention period all documentation which provides confirming proof of employment and income eligibility for each adult tenant-household member. The applicant must provide the following:

- 1. Internal Revenue Service's Form 1040 Individual Income Tax Return from most recent tax year

- 2. ~~Three Six (36)~~ most recent pay stubs

- 3. ~~3.~~ Benefits Summary (Unemployment, Social Security, State Disability, etc.)

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~~The~~ [Napa County AADU Program Staff](#) may also request any of the following documentation:

1. Executed Employment Verification Form (signed by Employer(s)) to verify physical work address in those instances when a P.O. Box or different work location is provided, to verify number of working hours for part-time positions and/or other unusual circumstances.
2. Employer(s) name, address, telephone, and dates of employment
3. A valid form of picture identification
4. W-2 Wage Information

If any of the above required information is not available, the applicant shall provide other documentation as requested by ~~the~~ [County AADU Program Staff](#).

ACCESSORY DWELLING UNIT LOAN AGREEMENT
(Affordable Accessory Dwelling Unit Forgivable Loan Program)

This Accessory Dwelling Unit Loan Agreement (this "**Agreement**") is entered into as of _____, 20__ (the "**Effective Date**"), by and between the County of Napa, a political subdivision of the State of California (the "**County**"), and _____ ("**Borrower**"). The County and Borrower are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Pursuant to County Board of Supervisors Resolution No. XXXX-XX, the County operates an Affordable Accessory Dwelling Unit Forgivable Loan Program (the "**Program**") for the purpose of encouraging the production of affordable units in Napa County by easing the financial burden required for and incentivizing the creation of accessory dwelling units ("**ADUs**") on parcels with new or existing owner-occupied single-family homes located in the County.

B. Under the Program, the County provides participating eligible homeowners with financing in the form for a forgivable, deferred payment loan to finance a portion of the cost to create an ADU on the homeowner's property. The Program requires the newly created ADU to be rented to an eligible low-income household in accordance with the County's AADU Forgivable Loan Program Guidelines ("**Program Guidelines**").

C. Borrower is the owner and occupant of the single-family home located in the County at _____ (as more particularly described in Exhibit A attached to this Agreement, the "**Property**"), and has applied to participate in the Program. The County has reviewed the Borrower's application to participate in the Program and has determined that Borrower is eligible to participate in the Program.

D. In accordance with the terms and conditions set forth in this Agreement and the Program Guidelines (which are incorporated in this Agreement by this reference), the County has agreed to provide a loan to the Borrower to finance the construction of an ADU on the Property.

E. The Parties wish to enter into this Agreement in order to set forth the terms and conditions of Borrower's participation in the Program, Borrower's obligations with respect to the use of the loan proceeds and construction of the ADU, and the County's role with respect to the Program administration and oversight of the construction work.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

Section 1. Incorporation of Recitals. The Parties acknowledge the accuracy of the Recitals, which by this reference are incorporated into this Agreement.

Section 2. Loan. The County will provide a loan to Borrower in an amount not to exceed [_____ Dollars (\$) _____] (the "Loan") to finance the construction of an ADU on the Property. As more particularly described in the Note (defined below), the Loan will be a deferred payment, ~~three-five~~ percent (53%) interest loan forgivable over a five (5) year term provided that Borrower complies with the rent and occupancy restrictions set forth in the Regulatory Agreement (defined below). Borrower will execute and deliver to the County a Secured Promissory Note in the amount of the Loan, in a form provided by the County (the

"Note"), and will execute a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, in a form provided by the County (the "**Deed of Trust**"), to secure Borrower's obligations. Borrower and the County will enter into an Affordable Housing Regulatory Agreement and Restrictive Covenants that imposes rent and occupancy restrictions, in a form provided by the County (the "**Regulatory Agreement**"), to evidence affordability and occupancy requirements. This Agreement, the Note, the Deed of Trust, and the Regulatory Agreement are collectively referred to in this Agreement as the "**Loan Documents**." The Deed of Trust and Regulatory Agreement will be recorded against the Property concurrently with the closing of the Loan, to secure compliance with the Program Guidelines and the Loan Documents, and repayment of the Loan upon the occurrence of a Default (as defined below in Section 11). The terms of the Note, Deed of Trust, and Regulatory Agreement are all incorporated into this Agreement by reference.

(a) Loan Components. The Loan consists of the following components:

(i) The "**Base Component**" is the portion of the Loan in an amount not to exceed [_____ Dollars (\$_____)] that is being made available to Borrower to fund construction of the [~~Studio~~ *1-bedroom or 2-bedroom*] ADU in accordance with a construction contract to be executed by and between Borrower and a County approved contractor ("**Contractor**"). Among other requirements, the Contractor must be licensed by the California Contractors State License Board.

(ii) The "**Incentives Component**" is the portion of the Loan in an amount not to exceed [_____ Dollars (\$_____)] that is being made available to Borrower to fund: (1) building permits and fees associated with the construction and operation of the ADU; (2) use of pre-reviewed plans from Napa Sonoma ADU Center (www.napasonomaadu.org), if applicable; (3) closing costs and fees related to conventional loan financing, if applicable; and (4) the cost of securing California Housing Financing Authority ("CalHFA") state grant funds, if applicable.

Section 3. Conditions Precedent to Disbursement of Loan Proceeds. The County's obligation to disburse the Loan Proceeds to the Managed Construction Escrow Account (as defined below) are expressly conditioned upon the satisfaction or written waiver by the County of the following conditions precedent:

(a) No Material Adverse Change. There exists no material adverse change in the financial condition of Borrower from that shown by data and other information furnished by Borrower to the County prior to the Effective Date of this Agreement.

(b) No Breach. There exists no condition, event, act, or omission which constitutes a breach or Default (as defined in Section 9 of this Agreement) under any of the Loan Documents, or which would constitute such a breach or Default after notice or the lapse of time or both.

(c) Loan Documents. Borrower has executed, acknowledged (as applicable), and delivered to the County all of the Loan documents, and the Deed of Trust and Regulatory Agreement will be recorded against the Property in the Napa County Recorder's Office concurrently with the close of escrow of the Loan.

(d) Managed Construction Escrow Account. Borrower has furnished to the County information for an established Managed Construction Escrow Account. For the purposes of this Agreement, a "**Managed Construction Escrow Account**" refers to a County approved third party holding an account for funds for construction of the ADU. Borrower is required to establish and provide proof of a Managed Construction Escrow Account even if, outside of the Base Component, Borrower intends to fund construction of the ADU with cash.

(e) Insurance. Borrower has furnished to the County evidence of insurance coverage satisfying the requirements of Section 6 below.

(f) Lender's Policy. Borrower has procured and delivered to the County an ALTA Lender's Policy of Title Insurance, together with such endorsements as the County may require, in an amount equal to the principal amount of the Loan, insuring the priority of the Deed of Trust and Regulatory Agreement as liens or charges upon the Property, subject only to such exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require. Such policy will be issued by a title insurer reasonably approved by the County.

(f) Permits. Borrower has received all permits, including but not limited to building permits, necessary to perform the construction of the ADU.

(g) Other Financing. If Borrower is utilizing financing other than the Loan proceeds for the construction of the ADU, Borrower has provided documentation to the County's satisfaction that undisbursed proceeds of the Loan, together other funds or firm commitments for funds that Borrower has obtained, are not less than the amount that is necessary to pay for construction of the ADU.

Section 4. Compliance with Approved Construction Plans; Disbursement and Use of Loan Proceeds. Provided that all of the conditions precedent to disbursement of the Loan proceeds in Section 3 above have been either satisfied or waived in writing by the County, the County will disburse the Base Component and the Additional Incentives Component to the Managed Construction Escrow Account.

(a) Time Limits for Use of Loan Proceeds. The Borrower will have two (2) years from the date of that the County releases the Loan proceeds to the Managed Construction Escrow Account to complete construction and initiate lease-up of the ADU.

(b) Base Component Eligible Uses. Borrower will use the proceeds from the Base Component of the Loan only for following Eligible Uses:

- (i) Construction materials and labor;
- (ii) General contractor fees and overhead, not to exceed ten percent (10%) of the construction cost of the ADU;
- (iii) Demolition necessary for the construction of the ADU;

- (iv) Site work, such as water, sewer, or septic connections; utility improvements; or site leveling as is necessary for the construction of the ADU;
- (v) Permit costs beyond those that are provided through participation in the Program; and
- (vi) Other hard or soft costs approved at the discretion of the County.

(c) Ineligible Uses. The County will determine, in its sole discretion, costs deemed excessive or unreasonable, or uses deemed ineligible. Ineligible uses of the Loan proceeds include, but are not limited to, costs associated with construction items or materials of a luxury nature or furnishings. Ineligible costs included in project costs will be noted by the County and provided to the managed construction escrow provider at the time of loan funding. Should the County determine that Loan proceeds will not or cannot be used for the Eligible Uses described in Borrower's application, Borrower will return the Loan proceeds upon the County's written demand. Borrower's failure to return such proceeds within fifteen (15) days following the County's written demand will constitute a Default (as defined in Section 9 of this Agreement) entitling the County to pursue remedies pursuant to Section 10 of this Agreement.

(d) Contractor Drawdown of Proceeds. When Borrower's contractor is ready to receive funds for completed work, the contractor must submit a pay application to or request a "draw" from the escrow company. The managed construction escrow provider will approve the request based on approved projects costs and issue the funds in a timely manner. An onsite inspection may be required and completed after the request is made and before disbursement to ensure the amount requested matches the work completed. Quarterly summaries of disbursements from the managed escrow provider shall be provided to the County.

(e) Incentives Component Eligible Uses. Borrower will use the proceeds from the Incentives Component of the Loan for the following:

- \$ _____ for building permits and fees;
- \$ _____ for purchase of plans from Napa Sonoma ADU Center;
- \$ _____ for closing costs and fees for conventional loan;
- \$ _____ for costs related to securing CalHFA grant funds;
- \$ _____ for costs related to securing managed construction escrow services.

Section 5. Representations and Warranties. Borrower represents and warrants to the County as follows, which representations and warranties will be true and correct as of the Effective Date and acknowledges, understands, and agrees that the representations and warranties set forth in this Section are deemed to be continuing during all times when any portion of the Loan remains outstanding:

- (a) Except for mortgages secured by the Property and other liens previously disclosed to the County, there are no other liens or monetary judgments recorded against the Property.
- (b) At the time of recordation of the Deed of Trust, Borrower will have good and marketable fee title to the Property.

(c) At the time of recordation of the Deed of Trust, Borrower occupies the Property and will continue to occupy the Property as their principal residence through the Term (as defined in Section 7 of this Agreement).

Section 6. Insurance Requirements.

(a) Borrower must provide the County with evidence of flood insurance, if applicable.

(c) Borrower will keep the improvements and personal property now existing or later located on the Property insured against loss by fire, vandalism, and malicious mischief by a policy of standard fire and extended all-risk insurance. The policy will be written on a full replacement value basis and will name the County as loss payee as its interest may appear. The full replacement value of the improvements to be insured will be determined by the company issuing the policy at the time the policy is initially obtained. Not more frequently than once every two (2) years, the County will have the right to notify Borrower that it elects to have the replacement value re-determined by the insurance company. Subject to the rights of any senior lienholder, the proceeds collected under any insurance policy may be applied by the County to any indebtedness evidenced by this Agreement or secured by the Deed of Trust and in such order as the County may determine, or at the option of the County, the entire amount so collected or any part of the amount may be released to Borrower; provided however, if Borrower is not in default under the Loan Documents, the proceeds will be released to Borrower to repair or rebuild the improvements provided that sufficient additional sources of financing to complete such repair or rebuilding are available to complete such work. Such application or release will not cure or waive any default or notice of default under this Agreement or invalidate any act done pursuant to such notice.

Section 7. Term of Agreement. The term of this Agreement commences on the Effective Date and continues through the seventh (7th) anniversary of the Effective Date subject to any earlier termination or extensions as set forth in this Agreement (the "**Term**"); provided however, all provisions of this Agreement that expressly provide for continuation beyond the termination of this Agreement will survive.

(a) **Extension of Term of Agreement.** Should Borrower opt to extend the term of the Regulatory Agreement, pursuant to Section 3.2(a) of the Regulatory Agreement, the term of this Agreement will automatically be extended to continue through the new date of expiration of the Regulatory Agreement.

Section 8. Termination by Borrower. If during the Term, Borrower desires to no longer participate in the Program and to terminate this Agreement, Borrower will notify the County in writing and will repay the entire outstanding balance of the Construction Component and the full amount of the Permit/Fees Component to the County within ninety (90) days from the date of Borrower's written notification to the County. This Agreement will terminate upon the County's receipt of payment in full of the outstanding Loan balance.

Section 9. Events of Default. Each of the following constitutes a "**Default**" by Borrower under this Agreement:

(a) Borrower fails to pay the principal and other sums payable when such payment is due pursuant to the Note, and such failure continues for fifteen (15) days after County notifies Borrower of the failure in writing.

(b) Borrower fails to duly perform, comply with, or observe any of the conditions, terms, or covenants of the Program Guidelines, the Loan Documents or the Contract between Borrower and the Contract, and such failure continues beyond the expiration of the applicable cure period or if there is no applicable cure period, continues beyond thirty (30) days after written notice from the County specifying the default (provided that, in the event of a shorter cure period as set out below or in other Loan Documents, such shorter cure period prevails).

(c) Any of Borrower's representations or warranties in the Loan Documents and/or in Borrower's application for the Loan will prove to have been untrue in any material respect when made, or Borrower will have concealed any material fact from the County.

(d) The sale, lease, or change in title or ownership of the Property except as provided in Section 5.6 of the Regulatory Agreement.

(e) Borrower's failure to rent the ADU to an Eligible Tenant Household at an Affordable Rent (as those terms are defined in the Regulatory Agreement) in compliance with the Regulatory Agreement.

(f) A default arises under any loan secured by a mortgage, deed of trust, or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerated repayment of such loan.

(g) Subject to Borrower's right to contest the following charges, Borrower's failure to pay taxes or assessments due on the Property or the improvements or failure to pay any other charge that may result in a lien on the Property or the improvements, and Borrower's failure to cure such default within thirty (30) days of delinquency, but in all events prior to the date upon which the holder of any such lien has the right to foreclose on such lien.

Section 10. Remedies.

(a) The occurrence of any Default following the expiration of all applicable notice and cure periods will, either at the option of the County or automatically where so specified, relieve the County of any obligation to make or continue the Loan and will give the County the right to proceed with any and all remedies available under law, in equity, or set forth in this Agreement and the Loan Documents, including but not limited to the following:

(i) Acceleration of Note. The County may cause all indebtedness of Borrower to the County under this Agreement and the Note, together with any accrued interest on the Note, to become immediately due and payable. Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the Deed of Trust. Borrower is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorneys' fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(ii) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Loan Documents.

(iii) Right to Cure at Borrower's Expense. The County has the right (but not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. Upon demand for reimbursement, Borrower will reimburse the County for any funds advanced by the County to cure such monetary default by Borrower, together with interest on the funds advanced from the date of expenditure until the date of reimbursement at the Default Rate (as defined in the Note).

(b) Borrower may contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default. Any such contest is to be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County.

(c) No right, power, or remedy given to the County by the terms of this Agreement or the other Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver of the County rights or remedies, nor does any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 11. Indemnification. Borrower agrees to accept all responsibility for loss, damage or injury to any person or entity, and to the greatest extent permitted by law, Borrower will indemnify, defend (with counsel approved by the County) and hold the County and its elected and appointed officers, officials, employees, agents, consultants, contractors and representatives (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with this Agreement, the construction work, the ADU, or any failure to perform any obligation as and when required by the Loan Documents. Borrower's indemnification obligations set forth in this Section: (i) will survive the expiration or earlier termination of this Agreement; and

(ii) will not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees. The County does not and will not waive any rights against Borrower that the County may have by reason of any indemnity and hold harmless provision set forth in this Agreement because of the acceptance by the County, or the deposit with the County by Borrower, of any of the insurance policies described in the Loan Documents.

Section 12. General Provisions.

(a) Titles. The titles and article or section headings are inserted only for convenience and are in no way to be construed as a part of this Agreement or as a limitation on the scope of the particular provisions to which they refer.

(b) Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding, or unenforceability.

(c) Applicable Law and Venue. This Agreement is governed by and construed in accordance with the laws of the State of California. Venue for any action with respect to this Agreement is the Federal and State Courts for Napa County.

(d) Attorneys' Fees. In the event any action or proceeding in court or other dispute resolution mechanism permitted under this Agreement is commenced by either Party to interpret or enforce the terms of this Agreement, the prevailing Party in such action or proceeding will be entitled to recover from the non-prevailing Party all of the prevailing Party's reasonable costs and expenses in connection with such action or proceeding, including on any appeal and including expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and reasonable attorneys' fees and costs for the services rendered to the prevailing Party in such action or proceeding (which will include the reasonable costs for services of the County's in-house counsel).

(e) Modifications. This Agreement may not be modified or amended in any respect, except by written instrument specifically referencing such a modification or amendment which is executed by both of the Parties in the same manner as this Agreement is executed.

(f) Waivers. Any waiver by the County of any term or provision of this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or Default under this Agreement or to pursue any remedy allowed under this Agreement or applicable law. Waiver of a breach or Default under this Agreement will not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. Any extension of time granted to Borrower to perform any obligation under this Agreement will not operate as a waiver or release from any of its obligations under this Agreement.

(g) Time. In all matters under this Agreement, the Parties agree that time is of the essence. References in this Agreement to days will be to calendar days. If the last day of any period to give or reply to a notice, meet a deadline or undertake any other action occurs on a day that is not a day of the week on which the County of Napa is open to the public for carrying on substantially all business functions (a "Business Day"), then the last day for giving or replying to such notice, meeting such deadline or undertaking any such other action will be the

next succeeding Business Day. In no event will a Saturday or Sunday be considered a Business Day.

(h) Exhibits. The following exhibit is attached to this Agreement and incorporated into this Agreement by reference: Exhibit A: Legal Description of the Property

(i) Entire Understanding of the Parties. The Loan Documents constitute the entire agreement of the Parties with respect to the Loan.

(j) Notices. Except for any notice, demand, or communication required under applicable law to be given in another matter, all notices, demands, and communications to be sent pursuant to this Agreement will be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All notices demands or communications will be sent by: (i) personal delivery, with a delivery receipt; (ii) certified mail, return receipt requested; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account with a delivery receipt. Delivery will be deemed to have occurred on the date shown on the delivery receipt as the date of delivery, the date delivery was refused, or the date on which the item was returned as undeliverable. Either Party may change the address to which notices are to be sent by notifying the other Parties of the new address, in the manner set forth above

County: County of Napa
County Administration Building
1195 Third Street, Suite 310
Napa, CA 94559
Attention: County Executive Officer

Borrower: At the Property address.

(k) Each Party's Role in Drafting the Agreement. The Parties have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including but not limited to California Civil Code Section 1654 as may be amended from time to time, or any other state law, or common law principle) will not apply to the interpretation of this Agreement.

(l) County Approval. The County Board of Supervisors has authorized the County Executive Officer, and in their absence or unavailability, the Assistant County Executive Officer, to execute the Loan Documents and deliver such approvals or consents as are required by this Agreement. Any consents or approvals required under this Agreement will not be unreasonably withheld or made, except where it is specifically provided that a sole discretion standard applies.

(m) Parties Not Co-Venturers; Independent Contractor; No Agency Relationship; No Third-Party Beneficiaries. Nothing in this Agreement is intended to or will establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of Borrower and the County will not be construed as a joint venture, equity venture, partnership or any other relationship. The County neither undertakes nor assumes any responsibility or duty to Borrower (except as expressly provided in this Agreement) or to any third party. This Agreement is not intended to, nor will it establish any third-party beneficiaries. Borrower will at no time pretend to be or hold themselves out as an employee or agent of the

County. Except as the County may specify in writing, Borrower will not have any authority to act as an agent of the County or to bind the County to any obligation.

(n) Non-Liability of the County and County Officials, Employees and Agents. No elected and appointed officer, official, employee, agent, consultant, contractor or representative of the County will be personally liable to Borrower or any successor in interest of Borrower, in the event of any default or breach by the County, or for any amount of money which may become due to Borrower or Borrower's successor or for any obligation of the County under this Agreement.

(o) Joint and Several Obligations. If more than one person has executed this Agreement as Borrower, the obligations of each such person under this Agreement will be joint and several.

(p) Counterparts. This Agreement may be executed in multiple counterparts, each of which is deemed to be an original, and all of which taken together will constitute one and the same instrument.

(q) Borrower Signatures. The individual(s) executing this Agreement on behalf of Borrower represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on Borrower.

[Signatures on following page.]

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

COUNTY:

COUNTY OF NAPA, a political subdivision of the State of California

By: _____
~~David Morrison~~ Ryan Alsop, ~~Interim~~ County Executive Officer

APPROVED AS TO FORM BY:
County Counsel

Silva Darbinian, Deputy County Counsel

BORROWER:

By: _____

Name : _____

Its: _____

Exhibit A

PROPERTY

(Insert legal description.)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

County of Napa
County Administration Building
1195 Third Street, Suite 310
Napa, CA 94559
Attention: County Executive Officer

No fee for recording pursuant to
Government Code Section 27383

**PERFORMANCE DEED OF TRUST
(Affordable Accessory Dwelling Unit)**

THIS DEED OF TRUST ("Deed of Trust") is dated as of _____ 20____, by _____ ("Trustor"), whose address is _____, _____ ("Trustee"), whose address is _____ and the County of Napa ("Beneficiary"), whose address is 1195 Third Street, Suite 310, Napa, CA. Attention: County Executive Officer.

TRUSTOR HEREBY irrevocably grants, transfers, and assigns to Trustee, in trust, with power of sale, that certain real property ("Property") in the County of Napa, State of California, described as:

(See Legal Description - Exhibit "A")

FOR THE PURPOSE OF SECURING:

- (a) The performance of each agreement and obligation contained in this Deed of Trust;
- (b) The performance of each agreement and obligation contained in that Affordable Accessory Dwelling Unit Loan Agreement between the Trustor and the Beneficiary of even date with this Deed of Trust (the "Loan Agreement"); and
- (c) The performance of each agreement, obligation, and covenant of Trustor under that certain Agreement Containing Covenants and Restrictions Governing Rental of Affordable Accessory Dwelling Unit ("Regulatory Agreement") of even date with this Deed of Trust and recorded concurrently with this Deed of Trust affecting the Property.

A. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

- 1. **Defense of Security.** To appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary, or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.
- 2. **Payment of Liens and Taxes.** To pay all taxes and assessments affecting the Property prior to such payments becoming due, including assessments on appurtenant water stock, all

encumbrances, charges, and liens, with interest, on the Property or any part of the Property, which appear to be prior or superior to this Deed of Trust; and all costs, fees, and expenses of this Deed of Trust. If Trustor fails to make any payment or to do any act as provided in this Deed of Trust, then Beneficiary or Trustee may (but is not obligated to) make the payment or do the act in the required manner and to the extent deemed necessary by Beneficiary or Trustee to protect the security of this Deed of Trust. The performance by Beneficiary or Trustee of such an act shall not require notice to or demand upon Trustor and shall not release Trustor from any obligation under this Deed of Trust. Beneficiary or Trustee shall also have the following related rights and powers: to enter upon the Property for the foregoing purposes; to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee; to pay, purchase, contest, or compromise any encumbrance, charge, or lien that in the judgment of either appears to be prior or superior to this Deed of Trust; to employ counsel; and to pay necessary expenses and costs, including reasonable attorneys' fees.

3. Reimbursement of Costs. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to this Deed of Trust, with interest from date of expenditure at the amount allowed by law in effect at the date of this Deed of Trust, and to pay any amount demanded by Beneficiary (up to the maximum allowed by law at the time of the demand) for any statement regarding the obligation secured by this Deed of Trust.

4. Use. That Trustor will not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.

5. Incorporation of Agreements. The Note, Loan Agreement, and Regulatory Agreement are incorporated in this Deed of Trust by reference and made a part of this Deed of Trust, although not attached. Copies are on file in the office of the Beneficiary.

6. Performance of Other Obligations. To perform, in a timely manner, each agreement and covenant by and between Trustor on any and all notes, loans, and deeds of trust that are senior and/or junior to this Deed of Trust. A default in any of these obligations after the expiration of any applicable notice or cure period pursuant to the Loan Agreement shall constitute a default under this Deed of Trust.

B. THE PARTIES AGREE THAT:

7. Waiver of Late Payments. By accepting payment of any sum secured by this Deed of Trust after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure to pay any amounts secured by this Deed of Trust.

8. Full Reconveyance. Upon written request of Beneficiary stating that all obligations secured by this Deed of Trust have been performed in full, surrender of this Deed of Trust, and payment of Trustee's fees and charges, Trustee shall reconvey, without warranty, the Property then subject to this Deed of Trust. The recitals in the reconveyance shall be conclusive proof of the truthfulness of the recitals. The grantee in the reconveyance may be described as "the person or persons legally entitled thereto."

9. Assignment of Rents. As additional security, Trustor hereby gives to and confers upon Beneficiary the right, power, and authority during the continuance of this Deed of Trust, to collect the rents, issues, and profits of the Property, but reserves the right, prior to any default, which continues beyond any applicable notice and cure periods, by Trustor in payment of any amounts

secured by this Deed of Trust or in the performance of any agreement under this Deed of Trust, to collect and retain these rents, issues, and profits as they become due and payable. Upon any such uncured default, Beneficiary may, without notice and without regard to the adequacy of the security for the amounts secured by this Deed of Trust, either personally or by agent or court-appointed receiver, do the following: enter upon and take possession of the Property or any part of the Property; sue for or otherwise collect all rents, issues, and profits, including those past due and unpaid; and apply these rents, issues, and profits, less costs and expenses of operation and collection (including reasonable attorneys' fees), upon any amounts secured by this Deed of Trust, in any order determined by Beneficiary. The exercise of the foregoing rights by Beneficiary shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such a notice.

10. Default; Foreclosure. Upon material default by Trustor in the performance of any obligation under the Loan Agreement, the Regulatory Agreement or this Deed of Trust, after the expiration of any and all applicable notice or cure periods, Beneficiary may declare all sums secured by this Deed of Trust immediately due and payable by delivering to Trustee a written declaration of default and demand for sale and a written notice of default and election to sell the Property. Trustee shall cause the notice of default and election to sell to be recorded. After the required time period has lapsed following the recordation of the notice of default, and after notice of sale has been given as required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place specified in the notice of sale, either as a whole or in separate parcels, and in any order determined by Trustee, at public auction to the highest bidder for cash in lawful money of the United States, payable at the time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser at the auction its deed conveying the Property sold, but without any covenant or warranty, express or implied. The recital in the deed of any matter or fact shall be conclusive proof of the truthfulness of the recital. Any person, including Trustor, Trustee, or Beneficiary, may purchase at the sale. After deducting all costs, fees, and expenses of Trustee and Beneficiary under this section, including costs of procuring evidence of title incurred in connection with the sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms of this Deed of Trust, not then repaid, with accrued interest at the amount allowed by law in effect at the date of this Deed of Trust; all other sums then secured by this Deed of Trust; and the remainder, if any, to the person or persons legally entitled to the remaining proceeds.

11. Due on Sale or Further Encumbrance. Except as provided in the Regulatory Agreement, should Trustor agree to or actually sell, convey, transfer, or dispose of, or further encumber the Property, or any part of it, or any interest in it, without first obtaining the written consent of the Beneficiary, then all obligations secured by this Deed of Trust may be declared due and payable, at the option of the Beneficiary. Consent to one transaction of this type will not constitute a waiver of the right to require consent to future or successive transactions.

12. General Provisions. This Deed of Trust applies to, inures to the benefit of, and binds all parties to this Deed of Trust and their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall mean the County of Napa and its successors and assigns. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

13. Substitution of Trustees. Beneficiary, or any successor in ownership of any obligations secured by this Deed of Trust, may from time to time, by written instrument, substitute a successor

or successors to any Trustee named in or acting under this Deed of Trust. The substitution instrument shall contain the name of the original Trustor, Trustee, and Beneficiary under this Deed of Trust, the book and page where this Deed is recorded, and the name and address of the new Trustee. When executed by Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, the substitution instrument shall be conclusive proof of proper substitution of the successor Trustee or Trustees. Any successor Trustee or Trustees shall, without conveyance from the predecessor Trustee, succeed to all its title, estate, rights, powers, and duties.

14. Cumulative Powers and Remedies. The powers and remedies conferred in this Deed of Trust are concurrent and cumulative to all other rights and remedies provided in this Deed of Trust or given by law. These powers and remedies may be exercised singly, successively, or together, and as often as deemed necessary.

15. Conclusiveness of Recitals. The recitals contained in any reconveyance, trustee's deed, or any other instrument executed by Trustee from time to time under the authority of this Deed of Trust or in the exercise of its powers or the performance of its duties under this Deed of Trust, shall be conclusive evidence of their truth, whether stated as specific and particular facts, or in general statements or conclusions. Further, the recitals shall be binding and conclusive upon Trustor, its heirs, executors, administrators, successors, and assigns, and all other persons.

16. Attorneys' Fees. If any action is brought for the foreclosure of this Deed of Trust or for the enforcement of any provision of this Deed of Trust (whether or not suit is filed), Trustor agrees to pay all costs and expenses of Beneficiary and Trustee, including reasonable attorneys' fees; and these sums shall be secured by this Deed of Trust.

17. Request for Notices of Default and Sale. In accordance with Section 2924b of the California Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under any deeds of trust executed by Trustor concerning the Property be mailed to:

County of Napa
County Administration Building
1195 Third Street, Suite 310
Napa, CA 94559
Attention: County Executive Officer

NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

18. Hazardous Materials. Trustor will keep and maintain the Property in compliance with all Hazardous Materials Laws (as defined below) and will not cause or permit the Property to be in violation of any Hazardous Materials Law. For purposes of this Deed of Trust, "Hazardous Materials" mean and include any hazardous, toxic or dangerous waste, substance or material including, without limitation, flammable explosives, radioactive materials, asbestos, hazardous wastes, toxic substances and any materials or substances defined as hazardous materials, hazardous substances, or toxic substances under any applicable federal, state or local laws, ordinances, or regulations relating to any hazardous materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments as of this date and to be added in the future and any successor statute or rule or

regulation promulgated ("Hazardous Materials Law"). All claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss, or injury resulting from any Hazardous Materials are referred to as "Hazardous Materials Claims". Trustor will indemnify and hold harmless Beneficiary and its board members, directors, officers, employees, agents, consultant, successors, and assigns from and against any loss, damage, cost, fine, penalty, judgment, award, settlement, expense or liability, directly or indirectly arising out of or attributable to: (i) any actual or alleged past or present violation of any Hazardous Materials Law; (ii) any Hazardous Materials Claim; (iii) any actual or alleged past or present use, generation, manufacture, storage, release, threatened release, discharge, disposal, transportation, or presence of Hazardous Materials on, under, or about the Property; and (iv) any investigation, cleanup, remediation, removal, or restoration work of site conditions of the Property relating to Hazardous Materials (whether on the Property or any other property).

19. Choice of Law. This Deed of Trust will be governed by and construed in accordance with the laws of the State of California.

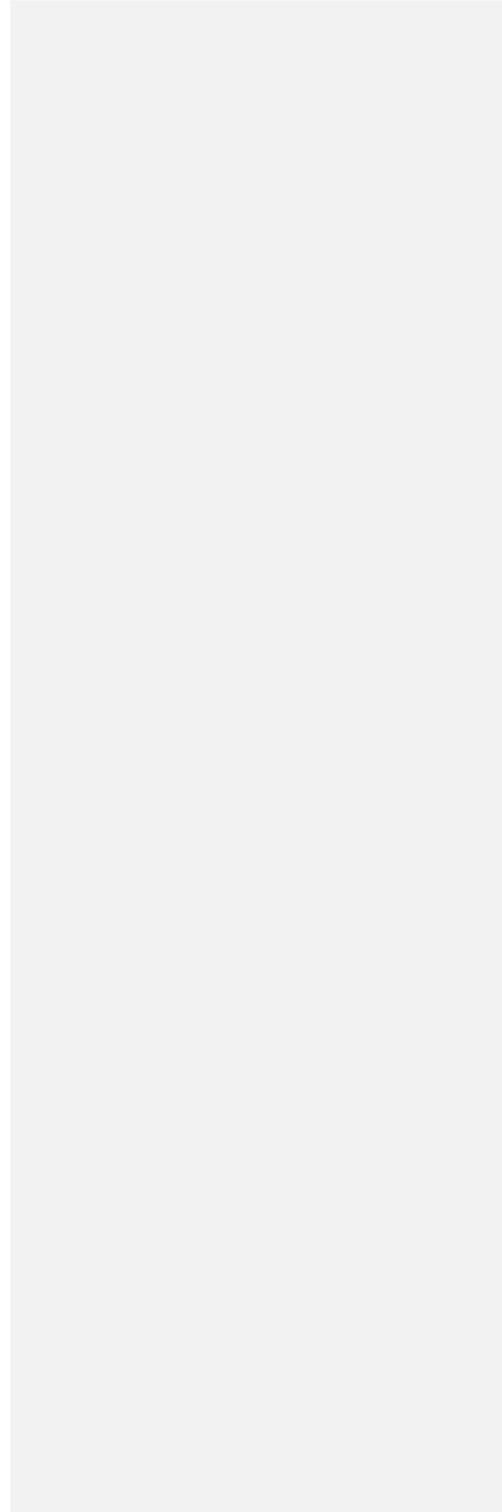
20. Authority to Sign. All individuals signing this Deed of Trust for a party which is a corporation, limited liability company, partnership or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the Beneficiary that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

[SIGNATURES ON FOLLOWING PAGE]

TRUSTOR:

Name: _____

Name: _____



ACKNOWLEDGMENT

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 _____, 2022, 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.

Signature _____ (Seal)

ACKNOWLEDGMENT

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 _____, 2022, 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.

Signature _____ (Seal)

Exhibit "A"

Property Description

That certain real property situated in the County of Napa, State of California, described as follows

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

County of Napa
County Administration Building
1195 Third Street, Suite 310
Napa, CA 94559
Attention: County Executive Officer

No fee for recording pursuant to
Government Code Section 27383

AGREEMENT CONTAINING COVENANTS AND RESTRICTIONS GOVERNING RENTAL OF AFFORDABLE
ACCESSORY DWELLING UNIT

THIS AGREEMENT CONTAINING COVENANTS AND RESTRICTIONS GOVERNING RENTAL OF AFFORDABLE ACCESSORY DWELLING UNIT (the "**Agreement**") is made and entered into as of _____, 20__ (the "**Effective Date**"), by and between the County of Napa, a political subdivision of the State of California (the "**County**"), and _____, or any successor in interest (collectively, the "**Owner**"). The County and the Owner are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Pursuant to County Board of Supervisors Resolution No. XXXX-XX, the County operates an Affordable Accessory Dwelling Unit Forgivable Loan Program (the "**Program**") for the purpose of encouraging the production of affordable units in Napa County by easing the financial burden required for and incentivizing the creation of accessory dwelling units ("**ADUs**") on parcels with new or existing owner-occupied single-family homes located in the County.

B. Owner is the fee owner of that certain property in the County of Napa, at _____, which is more particularly described in Exhibit A (the "**Property**") and has applied to participate in the Program. The County has reviewed the Owner's application to participate in the Program and has determined that Owner is eligible to participate in the Program.

C. The County and Owner have entered into a certain Affordable Accessory Dwelling Unit Loan Agreement, dated as of ___, 20__, (the "**AADU Agreement**") whereby the County has agreed to provide Owner with an Affordable Housing Loan in the amount of \$_____ (the "**Loan**") for the construction of and other costs related to the development of an ADU on the Property in return for the Owner's agreement to rent the ADU to a Low Income Household at an Affordable Rent, as those terms are defined in Article 1 of this Agreement.

D. As of the Effective Date, two (2) housing units are located, or will be constructed, on the Property. One unit will be referred to in this Agreement as the "**Primary Unit**" and the other unit will be referred to in this Agreement as the "**Accessory Dwelling Unit**". The Primary Unit is the principal residence of Owner.

E. The AADU Agreement provides that the Owner will record this Agreement and a performance deed of trust (the "Deed of Trust") against the Property with respect to the Loan.

F. This Agreement is required to be entered into by the County and the Owner, and recorded in the Official Records against the Property, in accordance with the requirements of the County's AADU Forgivable Loan Program Guidelines ("**Program Guidelines**").

NOW THEREFORE, it is agreed by and between the Parties as follows:

ARTICLE 1 DEFINITIONS

As used in this Agreement, the terms set forth below will have the following meanings (other defined terms in this Agreement not referenced below will have the meanings where first used).

1.1 "Affordable Rent" means the maximum allowable Rent for the Accessory Dwelling Unit, equal to one-twelfth (1/12th) of thirty percent (30%) of seventy percent (80%) of the Median Household Income, adjusted for assumed household size, as follows: (a) Studio—1 person; (b) 1 bedroom—2 persons; and (c) 2 bedrooms—4 persons, as determined by the County and provider to the Owner on an annual basis.

1.2 "Eligible Household" means a household that has been determined to be eligible to be a Tenant of the Accessory Dwelling Unit as a Low Income Household.

1.3 "HCD" means the State of California Department of Housing and Community Development, or any successor

1.4 "HUD" means the U.S. Department of Housing and Urban Development, or any successor.

1.5 "Low Income Household" means a household whose income does not exceed the low income limits applicable to Napa County, adjusted for household size, as determined by HUD and published annually by HCD. As of the Effective Date, such income limit is approximately equal to eighty percent (80%) of Median Household Income.

1.6 "Median Household Income" means median yearly income in Napa County as determined by HUD and published by HCD.

1.7 "Rent" means the total monthly payment by the Tenant of the Accessory Dwelling Unit for all of the following: (1) use and occupancy of the Accessory Dwelling Unit and land and all facilities associated with the Accessory Dwelling Unit, including but not limited to parking, storage, and use of any common areas; (2) any separately charged fees or service charges assessed by the Owner to the Tenant, except security deposits; (3) any other interest, taxes, fees, or charges for use of the Property or associated facilities that are assessed by a public or private entity other than the Owner and paid by the Tenant.

1.8 "Tenant" means an Eligible Household entitled by written or oral agreement with the Owner to have the exclusive right to occupy the Accessory Dwelling Unit as a home or residence to the exclusion of all others.

1.9 "Transferee" has the meaning set forth in Section 5.6

ARTICLE 2

OWNER'S OBLIGATIONS

2.1 Rental of Accessory Dwelling Unit to Eligible Households. The Owner will ensure that the Accessory Dwelling Unit is rented to, and occupied by, Eligible Households in accordance with this Agreement. The Owner will not use the Accessory Dwelling Unit for any other purpose other than as set forth in this Agreement; provided, however, nothing in this Agreement will be deemed to prohibit the Accessory Dwelling Unit from being vacant so long as such vacant Accessory Dwelling Unit is not used by Owner (or any other person) for any purpose, including, but not limited to use by the Owner in conjunction with the use and occupancy of the Primary Unit. Except as set forth in the preceding sentence nothing in this Agreement limits the use or occupancy of the Primary Unit.

(a) Income Certification. The Owner will not enter into a lease or rental agreement, or receive Rent from a Tenant, for the Accessory Dwelling Unit unless the Owner has made a good faith effort to verify that the income provided by an applicant in an income certification is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the three most recent pay periods; (2) obtain an income tax return for the most recent tax year; (3) obtain an income verification form from the applicant's current employer; (4) 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 (5) if the applicant is unemployed and has no such tax return, obtain another form of independent verification acceptable to the County. Copies of tenant income certifications will be available to the County upon request.

(b) Maximum Allowable Rent. The maximum Rent charged to the Tenant of the Accessory Dwelling Unit will not exceed Affordable Rent.

(c) Increased Income of Tenants. If, upon recertification of a Tenant's income pursuant to Section 2.2, the Owner determines that the Tenant's household income has increased and exceeds the qualifying income for a Low Income Household, then such Tenant will continue to be considered an "Eligible Household", and will be permitted to continue to occupy the Accessory Dwelling Unit, at the rent set forth in subsection (c), above; provided, however, nothing in this Agreement will prohibit the Owner from terminating such tenancy upon the expiration of such Tenant's lease. Following such Tenant's vacancy, the Owner will lease the Accessory Dwelling Unit to an Eligible Household.

(d) Information. At the request of the Owner, the County will provide the Owner with the low and very low income limits applicable to Napa County, adjusted for household size, as published from time to time by HCD.

2.2 Lease Provisions. The Owner will enter into a written lease with the Tenant for the ADU (the "ADU Lease") and will attach to the ADU Lease the form of Tenant lease addendum (the "Tenant Lease Addendum") attached to this Agreement as Exhibit C. The provisions of the Tenant Lease Addendum will prevail over and supersede any provisions of the the ADU Lease. Failure by the Owner to attach the Tenant Lease Addendum to the ADU Lease or to comply with the terms of the Tenant Lease Addendum will be a default under this Agreement.

2.3 Inspection. For purposes of confirming compliance with this Agreement, the Accessory Dwelling Unit will be made available by Owner to be inspected by the County during regular business hours upon seventy-two (72) hours' written notice; provided, however, that any such inspection will occur only once during any twelve (12) calendar month period unless: (i) the County receives a complaint that a Tenant is occupying the Accessory Dwelling Unit in violation of this Agreement (or that the Owner is otherwise violating this Agreement); or (ii) a new Tenant is occupying the Accessory Dwelling Unit, in which case County may re-inspect. The Owner irrevocably grants the County (and its agents) a right of entry to enter the Property for the purposes of such inspection.

2.4 Records. The Owner will maintain reasonably complete and accurate records pertaining to such rental of the Accessory Dwelling Unit throughout the duration of each tenancy. Owner will permit any authorized representative of the County to inspect such records of any current Tenant upon reasonable notice, including those resident files pertaining to said rental, for the purpose of confirming compliance with the terms, conditions and covenants of this Agreement.

2.5 Assignments and Subletting. The Owner will at no time permit the Tenant to assign its leasehold interest in the Accessory Dwelling Unit or to sublet all or a portion of the Accessory Dwelling Unit to any person other than to another Eligible Household. Owner will have the right to approve or disapprove any proposed assignment or sublease at Owner's sole discretion; provided that prior to approving any proposed assignment or sublease, Owner will comply with the provisions of Section 2.1 above to obtain County approval of the eligibility of the proposed assignee or sub-lessee.

2.6 Agreement to Limitation on Rents.

(a) The Owner acknowledges that the Property received the Affordable Housing Loan as a direct financial contribution. Sections 1954.52(b) and 1954.53(a)(2) of the Costa-Hawkins Act provide that, where an owner has received a direct financial contribution, certain provisions of the Costa-Hawkins Act do not apply if a property owner has so agreed by contract. The Owner agrees to limit the Rents for the Accessory Dwelling Unit, as provided in this Agreement, in consideration of the Property's receipt of the direct financial contribution and further agrees that any limitations on Rents imposed on the Accessory Dwelling Unit are in conformance with the Costa-Hawkins Act.

(b) The Owner further warrants and covenants that the terms of this Agreement are fully enforceable. The Owner agrees and acknowledges that the County would not have provided the Affordable Housing Loan without the obligation to record this Agreement and the Deed of Trust against the Property in the Official Records, and that in providing the Affordable Housing Loan, the County was relying on the restrictions imposed on the Accessory Dwelling Unit by this Agreement.

2.7 Deeds. Owner acknowledges that this Agreement will be recorded in the Official Records against the Property, and any deed transferring any fee interest in the Property will include the following language; provided, however, the failure to include the following language will not limit, waive, or impair the obligations set forth in this Agreement:

NOTICE: THE ACCESSORY DWELLING UNIT ON THIS PROPERTY IS REQUIRED TO BE RENTED TO PERSONS MEETING CERTAIN ELIGIBILITY REQUIREMENTS AT A BELOW-MARKET RATE RENT, PURSUANT TO THE COUNTY OF NAPA CODE.

FOR MORE INFORMATION, SEE THE AGREEMENT RECORDED AGAINST THIS PROPERTY ENTITLED "AGREEMENT CONTAINING COVENANTS AND RESTRICTIONS GOVERNING RENTAL OF AFFORDABLE ACCESSORY DWELLING UNIT". THE RESTRICTIONS SET FORTH IN SUCH AGREEMENT BIND ALL HEIRS AND SUCCESSORS TO THIS DEED.

ARTICLE 3

TERM

3.1 Term. Except as outlined in Section 3.2 below, this Agreement will become effective as of the Effective Date and will remain in full force and effect for a term of five (5) years following the recordation of this Agreement in the Official Records unless the County elects, in the County's sole discretion, to terminate this Agreement by written instrument recorded in the Official Records.

3.2 Option of Term Extension. While the Term of this Agreement is five (5) years, the County will forgive the Loan monthly. For each month that the Accessory Dwelling Unit is leased to an Eligible Household at an Affordable Rent in accordance with the terms of this Agreement, the County will forgive one-sixtieth (1/60) of the Loan. If, upon the expiration of the Term of this Agreement, there have been one or more periods of vacancy of the Accessory Dwelling Unit such that the Owner has an unforgiven Loan balance, the Owner will have the option to either:

(a) Extend the Term of this Agreement (and therefore the applicability of its provisions) by the total length of the period(s) of vacancy; or

(b) Pay to the County an amount equal to the total outstanding unforgiven balance of the Loan, including any interest due under the Note, in exchange for the County's immediate extinguishment of this Agreement.

ARTICLE 4

DEFAULT

4.1 Violations by Owner. Failure of the Owner to cure any default in the Owner's obligations under the terms of this Agreement within thirty (30) days after the delivery of a written notice of default from the County (or such longer period of time up to an additional sixty (60) days as may be necessary to remedy such default, provided that the Owner has commenced action during the thirty (30) days necessary to remedy such default, and the Owner is proceeding with reasonable diligence to remedy such default) will constitute a default under this Agreement.

4.2 Remedies. Subject to the applicable notice and cure period set forth above, the County may exercise any and all remedies available to it at law or equity with respect to the Owner's failure to satisfy the terms of this Agreement. Owner acknowledges that any breach in Owner's performance of Owner's obligations under this Agreement will cause irreparable harm to the County, and materially impair the public policy objectives set forth in the Napa County Code. Therefore, Owner agrees that the County is entitled to equitable relief in the form of specific performance, and that an award of damages may not be adequate to compensate the County for Owner's failure to perform according to the terms of this Agreement.

Notwithstanding the foregoing, the County, in its sole and absolute discretion, may elect the appropriate remedy for Owner's default under this Agreement.

ARTICLE 5 GENERAL PROVISIONS

5.1 **Notices.** Except for any notice, demand, or communication required under applicable law to be given in another matter, all notices, demands, and communications to be sent pursuant to this Agreement will be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All notices demands or communications will be sent by: (i) personal delivery, with a delivery receipt; (ii) certified mail, return receipt requested; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account with a delivery receipt. Delivery will be deemed to have occurred on the date shown on the delivery receipt as the date of delivery, the date delivery was refused, or the date on which the item was returned as undeliverable. Either Party may change the address to which notices are to be sent by notifying the other Parties of the new address, in the manner set forth above.

County: County of Napa
County Administration Building
1195 Third Street, Suite 310
Napa, CA 94559
Attention: County Executive Officer

Borrower: At the Property address.

5.2 **Entire Agreement.** The Recitals set forth above, and all exhibits attached to this Agreement, are incorporated into this Agreement by this reference. This Agreement contains the entire agreement between the Parties as to the subject matter of this Agreement and supersedes any and all prior arrangements and understandings between the Parties, and no other agreement, statement or promise made by either Party to this Agreement which is not contained in this Agreement will be binding or valid provided, however, that nothing in this Section limits the effect or enforceability of the County of Napa Code. This Agreement will not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. The Parties have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including but not limited to Civil Code Section 1654 as may be amended from time to time) will not apply to the interpretation of this Agreement.

5.3 **Amendment.** This Agreement may be amended only by the written agreement of the Parties.

5.4 **Severability.** In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, or if any provision of this Agreement is rendered invalid or unenforceable pursuant to any California statute which became effective after the Effective

Date, the remaining portions of this Agreement will nevertheless remain in full force and effect to the greatest extent allowed by law.

5.5 Waiver. The waiver of or failure to enforce any provision of this Agreement will not operate as a waiver of any future breach of any such provision or any other provisions of this Agreement.

5.6 Covenant Running with the Land. The covenants and conditions in this Agreement contained will apply to and bind, during their respective periods of fee ownership, Owner and their heirs, executors, administrators, successors, transferees, and assignees (each a "Transferee") having or acquiring any right, title or interest in or to any part of the Property, whether by operation of law or in any manner whatsoever, and will run with and burden the Property for the entire Term unless or until released in accordance with Article 3. All of the provisions of this Agreement will be enforceable as equitable servitudes and will constitute covenants running with the land pursuant to applicable laws, including without limitation Section 1468 of the California Civil Code. Each covenant to do, or to refrain from doing, some act on the Property under this Agreement: (a) is for the benefit of the Property and is a burden on the Property, (b) runs with the Property, and (c) is binding upon each Party and each successive owner during its ownership of the Property or any portion of the Property and will be a benefit to and a burden upon each Party and the Property under this Agreement and each other person or entity succeeding in an interest to the Property.

5.7 Assignment and Assumption; Release. Provided that a Transferee expressly assumes Owner's obligations under this Agreement pursuant to an assignment and assumption agreement in a form approved by the County in connection with the transfer of any part of the Property, the Owner will be released from all obligations following the recordation of such assignment and assumption agreement in the Official Records.

5.8 Non-Discrimination. The Accessory Dwelling Unit will be available for occupancy to members of the general public. The Owner will not give preference to any particular class or group of persons in renting the Accessory Dwelling Unit or selling the Property, except to the extent that the Accessory Dwelling Unit is required to be rented to Eligible Households; provided, however, there will be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age, ancestry, disability, or any other basis prohibited by the Fair Housing Act or the Fair Employment and Housing Act in the leasing, transferring, use, occupancy, tenure, or enjoyment of the Accessory Dwelling Unit nor will the Owner or any person claiming under or through the Owner, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of Tenants of the Accessory Dwelling Unit. The Owner has agreed to the obligations set forth in this Section in consideration for the direct financial contribution of the Affordable Housing Loan.

5.9 Relationship of Parties. Nothing contained in this Agreement will be deemed or construed by the Parties or any third party to create the relationship of principal and agent or of partnership or of joint venture or of association. The relationship of the Parties is that of an owner of real property and an administrator of a County affordable housing program. Owner further acknowledges, understands and agrees that the County does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Accessory Dwelling Unit (or any other portion of the Property). The County owes no duty of care to protect Owner

against negligent, faulty, inadequate or defective building or construction or any condition of the Property and Owner agrees that neither Owner, or Owner's heirs, successors or assigns will ever claim, have or assert any right or action against the County for any loss, damage or other matter arising out of or resulting from any condition of the Property and will hold the County harmless from any liability, loss or damage as set forth in Section 5.10. Any review by the County of any documents submitted by the Owner to the County pursuant to this Agreement, including, but not limited to any Tenant Lease, is solely to confirm compliance with the requirements of this Agreement and will not be deemed to be a representation of any kind of the validity or legal enforceability of such document(s).

5.10 Indemnification. *Owner agrees to accept all responsibility for loss, damage or injury to any person or entity, and to the greatest extent permitted by law, Owner will indemnify, defend (with counsel approved by the County) and hold the County and its elected and appointed officers, officials, employees, agents, consultants, contractors and representatives (collectively, the "Indemnitees") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "Claims") arising directly or indirectly, in whole or in part, as a result of or in connection with this Agreement, the construction work, the Accessory Dwelling Unit, or any failure to perform any obligation as and when required by the Loan Documents. Owner's indemnification obligations set forth in this Section: (i) will survive the expiration or earlier termination of this Agreement; and (ii) will not extend to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees. The County does not and will not waive any rights against Owner that the County may have by reason of any indemnity and hold harmless provision set forth in this Agreement because of the acceptance by the County, or the deposit with the County by Owner, of any of the insurance policies described in the Loan Documents.*

5.11 Applicable Law and Venue. This Agreement is governed by and construed in accordance with the laws of the State of California. Venue for any action with respect to this Agreement is the Federal and State Courts for Napa County.

5.12 Attorneys' Fees and Costs. In the event any action or proceeding in court or other dispute resolution mechanism permitted under this Agreement is commenced by either Party to interpret or enforce the terms of this Agreement, the prevailing Party in such action or proceeding will be entitled to recover from the non-prevailing Party all of the prevailing Party's reasonable costs and expenses in connection with such action or proceeding, including on any appeal and including expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and reasonable attorneys' fees and costs for the services rendered to the prevailing Party in such action or proceeding (which will include the reasonable costs for services of the County's in-house counsel).

5.13 Time is of the Essence. In all matters under this Agreement, the Parties agree that time is of the essence. References in this Agreement to days will be to calendar days. If the last day of any period to give or reply to a notice, meet a deadline or undertake any other action occurs on a day that is not a day of the week on which the County of Napa is open to the public for carrying on substantially all business functions (a "Business Day"), then the last day for giving or replying to such notice, meeting such deadline or undertaking any such other

action will be the next succeeding Business Day. In no event will a Saturday or Sunday be considered a Business Day.

5.14 Interpretation. The use in this Agreement of the words "including", "such as" or words of similar import when used with reference to any general term, statement or matter will not be construed to limit such statement, term or matter to the specific statements, terms or matters, unless language of limitation, such as "and limited to" or words of similar import are used with reference to "including". The headings of this Agreement are for convenience only and do not in any way limit or amplify the terms or provisions of this Agreement. All pronouns and variations of them will be deemed to refer to the masculine, feminine, or neuter, and to the singular or plural, as the identity of the Party or Parties may require.

5.15 Government Standards. In the event any standard established and maintained by any governmental agency which is necessary to give effect to this Agreement ceases to exist, and no comparable replacement is issued, the Parties will create a replacement standard utilizing the formula and factors previously used to create the discontinued standard.

5.16 No Limitation on Municipal Powers. Nothing in this Agreement will limit, waive, or otherwise impair the authority and discretion of: (a) the County's Building Department, in connection with the review and approval of any proposed construction plans for the Property (or any change to such plans), or any use, or proposed use, of the Property; or (b) any other office or department of the County acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Property.

5.17 Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts, which will constitute one and the same agreement.

Remainder of Page Left Intentionally Blank

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

COUNTY:

COUNTY OF NAPA, a political subdivision of the State of California

By: _____

David Morrison, County Executive
Officer

APPROVED AS TO FORM BY:
County Counsel

Silva Darbinian, Deputy County Counsel

OWNER:

By: _____

Name: _____

By: _____

Name: _____

(Signatures must be notarized)

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: _____
Name: Notary Public

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: _____
Name: Notary Public

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

[To be Inserted]

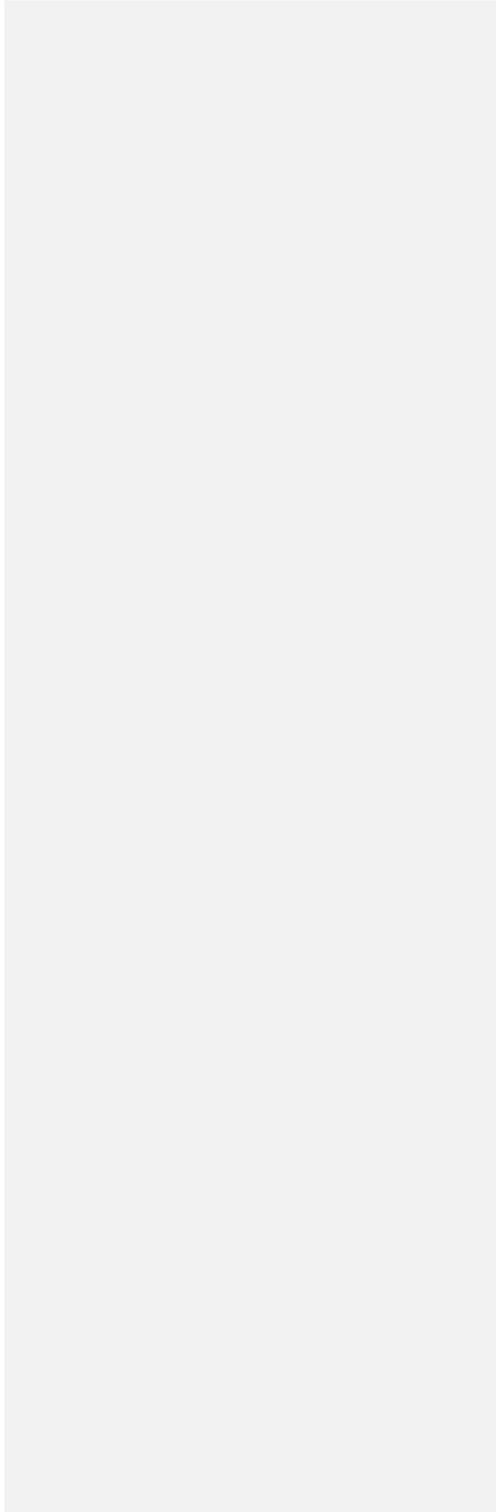


EXHIBIT B

FORM OF OWNER CERTIFICATION

To: County of Napa (the "County")

From: _____ [name of owner(s)] (the "Owner(s)")

Address of Property: _____ ("Property")

Date: _____

By signature below, I/we _____ [insert name or names of Owner(s)] certify to the County, under penalty of perjury, that the Accessory dwelling unit located on the Property (the "Accessory Dwelling Unit") is being utilized in accordance with the "Agreement Containing Covenants and Restrictions Governing Rental of Affordable Accessory Dwelling Unit" (the "Agreement") recorded against the Property.

In accordance with Section 2.2 of the Agreement, I/we provide the following information regarding the Accessory Dwelling Unit:

1. Tenant name: _____
2. Size of Tenant's household: _____
3. Accessory Dwelling Unit size (number of bedrooms): _____
4. Date Accessory Dwelling Unit first occupied by Tenant: _____
5. A copy of the Tenant's annual income certification is attached.

This Owner Certification is signed on _____, 20__, under penalty of perjury.

By: _____

Owner signature

Date: _____

EXHIBIT C

TENANT LEASE ADDENDUM

This Lease Addendum is attached to and incorporated in that certain lease for the Accessory Dwelling Unit located at _____, between _____ the ("Owner") and _____ (the "Tenant"), dated _____ (the "ADU Lease"). To the extent that any provision in the ADU Lease is not consistent with or otherwise violates the terms of this Addendum the terms of this Lease Addendum, the terms of this Lease Addendum shall supersede the terms of the ADU Lease and will be binding upon the Owner and the Tenant. A violation of this Lease Addendum by either the Owner or the Tenant will be a violation of the ADU Lease.

(a) The initial term of the ADU Lease is a minimum of twelve (12) months from the date of initial occupancy of the Accessory Dwelling Unit by the Tenant, unless a greater initial term is provided in the ADU Lease;

(b) The Rent for the Accessory Dwelling Unit may not be raised more often than once every twelve (12) months. The Owner will provide the Tenant with at least sixty (60) days written notice of any increase in Rent, and any Rent increase will not violate the limitations imposed by this the following documents executed by the Owner and the County of Napa with respect to the Accessory Dwelling Unit: (1) Loan Agreement; (2) Promissory Note; (3) Deed of Trust; and (4) this Agreement.

(c) With respect to the Accessory Dwelling Unit (or any portion of the Accessory Dwelling Unit) the Tenant will not: (i) sublease it, except as permitted by Section 2.5, below; (ii) use it as a "transient commercial occupancy" (as such term is defined in Section 18.104.410(B)(3) of the County of Napa Code, as may be amended from time to time); (iii) use it for tourist or transient use, or any other short-term rental; and (iii) list it on any "hosting platform" (as defined in California Business & Professions Code 22590, as may be amended from time to time), including, but not limited to any Internet-based "hosting platform", such as "airbnb.com", or any similar service;

(d) The Tenant must provide an annual certification to the Owner that the Tenant continues to occupy the unit as the Tenant's primary residence;

[SIGNATURES ON FOLLOWING PAGE]

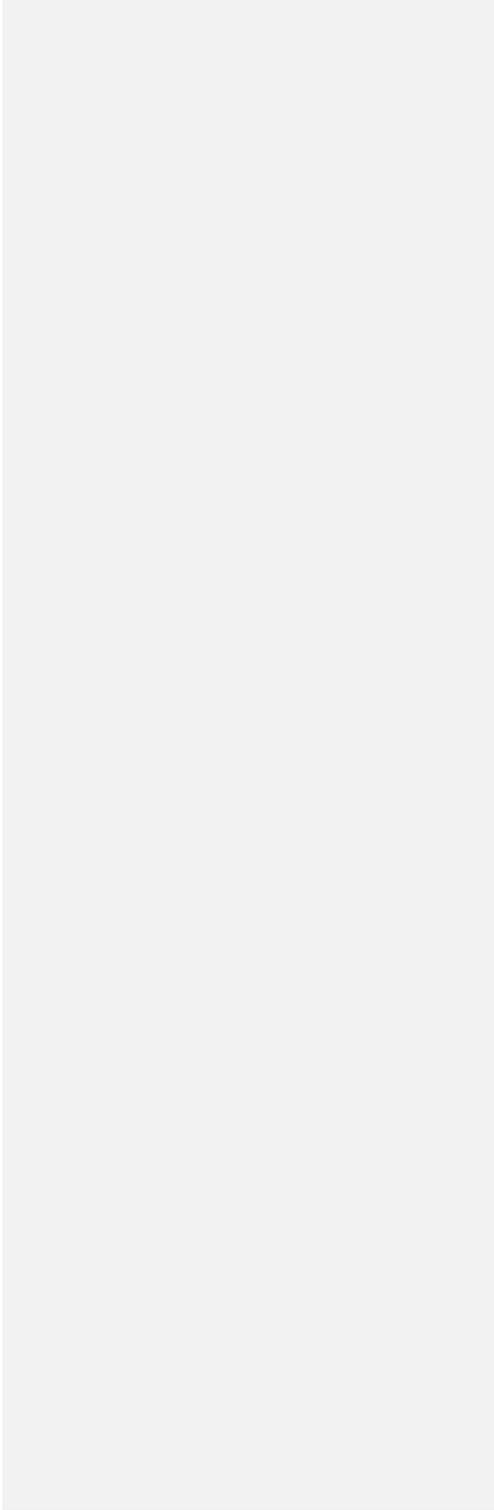
The Owner and the Tenant have executed this Tenant Lease Addendum as of _____, 20__.

OWNER:

Name: _____

TENANT:

Name: _____



PROMISSORY NOTE
NAPA COUNTY AFFORDABLE ACCESSORY DWELLING UNIT
LOAN PROGRAM

ADMINISTRATIVE COVER SHEET

(Remove Upon Completion)

BLANK LINES: CHECKLIST:

- _____ Amount of Loan, p. 1, upper left
- _____ Date of Document, p. 1, upper right
- _____ Borrower's Name, p. 1, first paragraph
- _____ Amount of Loan, p. 1, first paragraph
- _____ Amount of Loan, p. 1, Section 1
- _____ First Payment Date, p. 1, Section 3(a)
- _____ Conversion Date, p.1, Section 3(a)
- _____ Interest Reserve, p.1, Section 3(a)
- _____ Maturity Date, p.1, Section 3(b)
- _____ Amortization Period, p.2, Section 3(b)
- _____ County, p.2, Section 4
- _____ Signatures, p.5
- _____ Amortization Schedule, Schedule A

SECURED PROMISSORY NOTE
(Affordable Accessory Dwelling Unit Forgivable Loan Program)

THE TERMS OF THIS PROMISSORY NOTE CONTAIN A BALOON PAYMENT

\$ _____

FOR VALUE RECEIVED, the undersigned _____ ("Borrower") promises to pay to the order of the County of Napa, a political subdivision of the State of California ("Holder"), the principal amount of _____ Dollars (\$ _____) plus interest on the principal amount pursuant to Section 2 below.

1. Loan Agreement; Security Agreement. This Promissory Note is made as of _____, 20____ (the "Effective Date") pursuant to a Loan Agreement dated as the same Effective Date as this Promissory Note between the Borrower and the Holder (the "Loan Agreement"). This Promissory Note is secured by a Deed of Trust, Security Agreement, and Fixture Filing dated as the same Effective Date as this Promissory Note (the "Deed of Trust") and is subject to the terms of that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as the same Effective Date as this Promissory Note (the "Regulatory Agreement"), which will encumber the Property to secure the repayment of the Loan and performance of the covenants of the Loan documents. All capitalized terms used but not defined in this Promissory Note have the meanings set forth in the Loan Agreement. This Promissory Note, the Loan Agreement, the Deed of Trust, and the Regulatory Agreement are sometimes referred to collectively in this Promissory Note as the "Loan Documents".

2. Borrower's Obligation. This Promissory Note evidences Borrower's obligation to repay Holder the principal amount of _____ Dollars (\$ _____) with interest for the funds loaned to Borrower by Holder to finance the construction of an Accessory Dwelling Unit (the "ADU") on Borrower's Property pursuant to the terms of the Loan Agreement (the "AADU Loan").

3. Forgiveness; Maturity Date.

(a) Forgiveness. Commencing on the 1st day of the first month following the later of: (i) the Effective Date of the Loan Agreement; or (ii) the date of first occupancy of the ADU, and each anniversary of that date thereafter during the Term, the Borrower will submit an Annual Certification to the Holder with information regarding occupancy as required by the Regulatory Agreement. Provided that: (i) the Borrower is not in default under the Loan Documents; and (ii) the Borrower has continuously operated the ADU in compliance with the terms of the Regulatory Agreement and the Program Guidelines, no payments will be due under this Promissory Note. If Borrower has complied with the requirements of the Loan documents (including cure of any Events of Default) during the entire Term of the Loan Agreement, as evidence by the Annual Reports, all sums otherwise due under this Promissory Note or any other Loan Documents will be forgiven by Holder. For each month during the Term that Borrower operates the ADU in accordance with the Regulatory Agreement, Holder will forgive one-sixtieth (1/60) of the principal and the interest on that month's principal amount of the Loan. Upon the Borrower's full repayment of the Loan or upon the Holder's forgiveness of the entire outstanding balance of the Loan, Holder will mark this Promissory Note as "Canceled" and will return this Promissory Note to the Borrower.

(b) Balance Due. Unless forgiven pursuant to Section 3(a), all outstanding principal and interest accrued on the Loan will be due in full at the end of the Term (except if Borrower elects to extend the Term pursuant to Section 3.2(a) of the Regulatory Agreement), or upon Holder declaration of Default pursuant to Article 4.

(c) Balloon Payment. Borrower acknowledges that the unpaid principal amount of this Loan and all unpaid interest accrued on the unpaid or unforgiven principal of the Loan will be immediately due and payable to Lender in full as one balloon payment on the Maturity Date.

4. Interest.

(d) Subject to the provisions of Subsection (b) below, the AADU Loan bears simple interest at a fixed rate of three percent (3%) per annum (the "Interest Rate") from the date of disbursement until full repayment of the principal balance of the AADU Loan.

(e) If a Default occurs, interest will accrue on all amounts due under this Promissory Note as of the date of a Default and continuing until such time as the AADU Loan funds are repaid in full or the Default is cured, at the default rate of the lesser of ten percent (10%) per annum, compounded annually and the highest rate permitted by law (the "Default Rate").

5. Assignment and Assumption. Pursuant to the terms of the Regulatory Agreement, the AADU Loan may be assumed by a transferee who occupies the Primary Unit as their residence and enters into an assumption agreement as provided in the Regulatory Agreement. If the transferee does not meet the assumption terms required by the Regulatory Agreement, Borrower must repay the outstanding balance of principal and accrued interest remaining on this Promissory Note on or before the date of transfer.

6. Security. This Promissory Note, with interest, is secured by the Deed of Trust on the Property. Upon execution, the Deed of Trust will be recorded in the official records of Napa County, California. Upon recordation of the Deed of Trust, this Promissory Note will become nonrecourse to Borrower.

7. Terms of Payment.

(a) Borrower will make all payments due under this Promissory Note in currency of the United States of America to Holder at Department of Housing & Homeless Services at 2751 Napa Valley Corporate Drive, Building B, Napa, CA 94558, Attention: Director of Housing & Homeless Services, or to such other place as Holder may from time to time designate.

(b) All payments on this Promissory Note are without expense to Holder. Borrower will pay all costs and expenses, including re-conveyance fees and reasonable attorneys' fees of Holder, incurred in connection with the enforcement of this Promissory Note and the release of any security of this Promissory Note.

(c) The obligations of Borrower under this Promissory Note are absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Promissory Note for any reason.

8. Prepayment. Borrower may without premium or penalty, at any time and from time to time, prepay all or any portion of the outstanding principal balance due under this

Promissory Note. Prepayments will be applied first to any unpaid costs and fees then due, then to accrued interest, and then to principal.

9. Default; Acceleration.

(a) Upon the occurrence of a Default, the entire unpaid principal balance, together with all interest on the outstanding principal balance, and together with all other sums then payable under this Promissory Note and the Deed of Trust will, at the option of Holder, become immediately due and payable without further demand.

(b) Holder's failure to exercise the remedy set forth in Subsection 9(a) above or any other remedy provided by law upon the occurrence of a Default does not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other Default. The acceptance by Holder of any payment that is less than the total of all amounts due and payable at the time of such payment does not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.

10. Waivers; Attorneys' Fees.

(a) Borrower waives diligence, presentment, protest, and demand, and notice of protest, notice of demand, notice of dishonor, and notice of non-payment of this Promissory Note. Borrower expressly agrees that this Promissory Note or any payment under this Promissory Note may be extended from time to time, and that Holder may accept further security or release any security for this Promissory Note, all without in any way affecting the liability of Borrower.

(b) Any extension of time for payment of this Promissory Note or any installment under this Promissory Note made by agreement of Holder with any person now or later liable for payment of this Promissory Note must not operate to release, discharge, modify, change, or affect the original liability of Borrower under this Promissory Note, either in whole or in part.

(c) If an action is instituted on this Promissory Note, Borrower promises to pay, in addition to the costs and disbursements allowed by law, such sum as a court may adjudge reasonable as attorneys' fees in such action.

11. Miscellaneous Provisions.

(a) All notices to Holder or Borrower are to be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as Holder and Borrower may later designate as provided in the Loan Agreement.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Promissory Note is the joint and several obligation of all makers, sureties, guarantors, and endorsers, and will be binding upon them and their successors and assigns.

(d) The relationship of Borrower and Holder under this Promissory Note is solely that of borrower and lender, and the indebtedness evidenced by this Promissory Note and secured by the Deed of Trust will in no manner make Holder the partner or joint venturer of Borrower.

(e) If any term of this Promissory Note is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

(f) This Promissory Note is governed by the laws of the State of California.

(g) The times for the performance of any obligations under this Promissory Note are to be strictly construed, time being of the essence.

(h) The Loan Documents, of which this Promissory Note is a part, contain the entire agreement between Borrower and Lender as to the Loan. This Promissory Note may not be modified except upon the written consent of Borrower and Lender.

[signature on following page]

IN WITNESS WHEREOF, Borrower is executing this Promissory Note as of the Effective Date.

Borrower:

By: _____

Name: _____

Borrower:

By: _____

Name: _____

SCHEDULE A

Monthly Amortization Payments of Interest and Principal