



# **RESOLUTION No. 20-069**

## **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

### **RESOLUTION APPROVING A LOAN AGREEMENT WITH PENN VALLEY PACIFIC ASSOCIATES, LP TO PROVIDE A HOME PROGRAM INCOME LOAN IN FURTHERANCE OF THE DEVELOPMENT OF THE PENN VALLEY LONE OAK SENIOR APARTMENT PROJECT IN THE AMOUNT OF \$304,768**

WHEREAS, the Board of Supervisors established a 2019 Board Objectives A Priority to "Coordinate with local jurisdictions, developers and other partners to maximize leveraging opportunities with new state funding for affordable and workforce housing development," and

WHEREAS, the Regional Housing Authority (RHA) and Penn Valley Pacific Associates, LP are co-developers of the proposed Lone Oak Senior Apartment project, a thirty-one-unit senior affordable housing project located in Penn Valley, CA ("Project"); and

WHEREAS, the Federal Low-Income Tax Credit program was established by the Tax Reform Act of 1986 to encourage the construction and rehabilitation of low-income rental housing, and the California Tax Credit Allocation Committee (CTCAC) is responsible for allocating tax credits to owners of qualifying residential rental housing projects; and

WHEREAS, CTCAC encourages local government agencies to provide financial assistance to aid in the development and construction of low-income rental housing; and

WHEREAS, the County of Nevada was previously approached by the RHA with a request to provide loans from funds earmarked for affordable housing to the Lone Oak Senior Apartments project; and

WHEREAS, the Project will further the public purpose and Nevada County Board of Supervisors' Objectives A Priority of addressing affordable housing needs within the County of Nevada; and

WHEREAS, on May 28, 2019, the Nevada County Board of Supervisors, per Resolution 19-239, approved a loan commitment in furtherance of the Project, allocating the amount of \$304,768 in HOME Program Income Funds; and

WHEREAS, the approved loan commitment in furtherance of the Project was contingent on the developer successfully securing tax credits for the Project through the competitive TCAC process; and

WHEREAS, the Developer has satisfied the condition laid out in the previous resolutions to secure award of Federal tax credits from CTCAC in order to receive the loan amounts indicated by resolution; and

WHEREAS, the loan will be made to Penn Valley Pacific Associates, LP and will comply with HOME Program regulations, secured by a loan agreement, deed of trust and promissory note in the amount of \$304,768 for a term of fifty-five (55) years from issuance of the certificate of occupancy, at an interest rate of 3% per annum, repaid from residual cash flow from the Project.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Supervisors of the County of Nevada authorizes the Chair of the Board of Supervisors to sign the Loan Agreement, and Promissory Note in substantially the same forms attached hereto between the County of Nevada and Penn Valley Pacific Associates, LP authorizing the loan of HOME Program Income funds in the amount of \$304,768 with a repayment term of fifty-five (55) years from issuance of the certificate of occupancy, at an interest rate of 3% per annum with loan payments made from residual cash flow from the project.

BE IT FURTHER RESOLVED, that the Health and Human Services Agency Director or his/her designee(s) is authorized to sign any/all amendments to the Loan Agreement and/or other documents necessary to complete the loan transaction.

To be disbursed from 1611-50601-451-1000/522090

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 10th day of March, 2020, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 

  
Heidi Hall, Chair

3/10/2020 cc: Housing\*  
AC\* (Hold)

3/16/2020 cc: Housing\*  
AC\* (Release)

## HOME LOAN AGREEMENT

THIS HOME LOAN AGREEMENT (this "Agreement") is entered into as of March 11, 2020 ("Effective Date"), between County of Nevada, a Political Subdivision of the State of California ("County"), and Penn Valley Pacific Associates, a California Limited Partnership ("Borrower"). Borrower and COUNTY are hereinafter collectively referred to as the "Parties."

### RECITALS

A. There is a great demand for affordable rental homes in Penn Valley, California and Borrower has agreed to restrict at least two units to occupancy by low- and very low-income senior households.

B. County therefore desires to assist in the development of senior rental housing in Penn Valley, California known as the Lone Oak Apartments (collectively, the "Project").

C. Borrower has agreed to purchase a certain parcel of real property known as Assessor Parcel Number 051-151-066-000 more particularly described in Exhibit A attached hereto (the "Apartment Parcel") and agrees to construct the housing Project on the Apartment Parcel.

D. Borrower has requested and County has agreed to make a HOME loans to Borrower in a total amount not to exceed \$304,768.00 (the "HOME Loan"). County represents that no portion of the principal of the HOME Loan are derived from proceeds of issuance of tax-exempt bonds.

E. Concurrently herewith, Borrower shall execute: (i) a promissory note in the amount of \$304,768.00 to evidence the HOME Loan (the "HOME Loan Note"), (ii) a Deed of Trust and Security Agreement ("HOME Deed of Trust") to provide County with a security interest in the Property and the Project (collectively, the "Development") and (iii) a HOME Regulatory Agreement (the "HOME Regulatory Agreement"). This Agreement, the HOME Loan Note, the HOME Deed of Trust and the HOME Regulatory Agreement are hereinafter collectively referred to as the "Loan Documents."

F. County has determined that the Loans are necessary to make the Development economically feasible and affordable to low- and very low-income households.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1. "Agreement" means this HOME Loan Agreement.



1.2. "Annual Operating Expenses" means for each calendar year during the term of the Loans, the following costs reasonably and actually incurred for operation and maintenance of the Development to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: all state and local property and other taxes and annual assessments imposed on the Development; premiums for property damage and liability insurance; debt service currently due and payable on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Development) on loans that have been approved by County and which are secured by deeds of trust senior in priority to County's Deed of Trust ("Approved Senior Loan"); utility services not paid for directly by tenants, including but not limited to water, sewer, trash collection, gas and electricity; maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and others; any annual license or certificate of occupancy fees required for operation of the Development; general administrative expenses including but not limited to advertising and marketing, security services and systems, and professional fees for legal, audit and accounting; property management fees and reimbursements including on-site manager expenses, not to exceed fees and reimbursements which are standard in the industry and pursuant to a management contract approved by County; and cash deposited into a reserve for capital replacements of Development Projects and an operating reserve in such reasonable amounts as are approved by County, (i) Asset Management Fee (as that term is defined in the Amended and Restated Agreement of Limited Partnership of Borrower (the "Partnership Agreement")) paid to the limited partner of Borrower pursuant to the Partnership Agreement, (ii) Partnership Management Fee (as that term is defined in the Partnership Agreement) equal to \$3,100.00 per year paid to the nonprofit Managing General Partner of Borrower and deferred developer fees payable out of Residual Receipts, (iii) Incentive Leasing Fee (as that term is defined in the Partnership Agreement) not to exceed \$75,000.00 payable out of Residual Receipts, and (iv) Incentive Management Fee (as that term is defined in the Partnership Agreement) paid to the Administrative General Partner pursuant to the Partnership Agreement. Annual Operating Expenses shall not include the following: debt service payments on any loan which is not an Approved Senior Loan, including without limitation, unsecured loans or loans secured by deeds of trust which are subordinate to County's Deed of Trust other than the deferred developer fee loan; depreciation, amortization, depletion or other non-cash expenses; capital expenditures; expenses paid for with disbursements from any reserve account except to the extent such disbursement is accounted as Gross Revenue; any amount paid to Borrower, or any entity controlled by the persons or entities in control of Borrower (unless such payment to Borrower consists of fees paid to a property management agent or resident services agent or is specifically provided for hereinabove including, without limitation, the deferred developer fee).

1.3. "HOME Loan" is defined in Recital D of this Loan Agreement.

1.4. "HOME Loan Note" means the promissory note that will evidence Borrower's obligation to repay the HOME Loan.

1.5. "Development" means the Property and the Project constructed thereon.

1.6. "Gross Revenue" means for each calendar year during the term of the Loans, all revenue, income, receipts and other consideration actually received by Borrower from operation and leasing of the Development. Gross Revenue includes, but is not limited to: all rents, fees and



charges paid by tenants; Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Development; and condemnation awards for a taking of part or all of the Development for a temporary period. Gross Revenue shall also include the fair market value of any goods or services provided in consideration for the leasing or other use of any portion of the Development and the release of funds from replacement and other reserve accounts to Borrower other than for costs associated with the Development. Gross Revenue shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

1.7. "Note" means the HOME Loan Note.

1.8. "Parties" means County and Borrower.

1.9. "Project" is defined in Recital B of this Loan Agreement.

1.10. "Property" means the real property located in Penn Valley, California as more particularly described in the attached Exhibits A.

1.11. "Residual Receipts" means for each calendar year during the Term (as defined in the Note), the amount by which Gross Revenue (as defined above) exceeds Annual Operating Expenses for the Development. Residual Receipts shall also include, unless otherwise provided herein and subject to the rights of senior lenders, condemnation awards for a permanent taking of part or all of the Property or the Projects to the extent not utilized to repair or rebuild Development.

1.12. "County Director" means the Director or Executive Director of County or his/her designee.

1.13. Exhibits. The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

EXHIBIT A: Legal Description of the Apartment Parcel

## **ARTICLE II**

### **LOAN PROVISIONS**

2.1. HOME Loan.

(a) HOME Loan Amount. County agrees to lend to Borrower the amount of \$304,768.00 ("HOME Loan Proceeds"). The HOME Loan shall be evidenced by the HOME Loan Note executed by Borrower.

(b) HOME Loan Interest. Commencing on the date of initial disbursement of all or a portion of HOME Loan Proceeds and continuing through the date that all indebtedness and other amounts payable under this Agreement and the HOME Loan Note are paid in full, the interest on the HOME Loan shall bear interest at a simple rate of three percent (3%) per year.

(c) Term. All unpaid principal, accrued and unpaid interest, and any other amounts payable under this Agreement is due and payable 55 years from the date the Certificate of Occupancy is issued for the Project by the County of Nevada (the "HOME Loan Maturity Date".)

(d) Payment Terms. Borrower shall pay the HOME Loan in accordance with the terms set forth in Section 2.2 of this Agreement.

## 2.2. Repayment of Loans

(a) Annual Payments. Borrower shall make payments on the outstanding principal and accrued interest on the HOME Loan in amounts equal to County Prorated Share (as defined below) of the Residual Receipts for each Loan. Such annual payments shall be due and payable in arrears no later than May 1<sup>st</sup> of each year with respect to the previous calendar year, commencing on the May 1<sup>st</sup>, following conversion from the construction loan to the permanent loan, and shall be accompanied by the Borrower's report of Residual Receipts. The Borrower shall provide County with any documentation reasonably requested by County to substantiate the Borrower's determination of Residual Receipts. Payments made shall be credited first against accrued interest and then against outstanding principal of the HOME Loan. The "County's Prorated Share" means the percentage of Residual Receipts allocated to payment of the respective loan pursuant to the Partnership Agreement.

(b) Payment in Full. All unpaid principal and interest on the HOME Loan shall be due upon the earliest of:

(i) A Transfer (as such term is defined in Section 2.3, below) of the Development other than a Transfer permitted or approved by County as provided in this Agreement;

(ii) The occurrence of an Event of Default for which County exercises its right to cause Loan indebtedness to become immediately due and payable; or

(iii) The HOME Loan Maturity Date for the HOME Loan.

(c) Prepayments. The Loans or any portion of the outstanding principal balance of the Note may be prepaid at any time and from time to time without penalty or premium. Prepayments shall be applied first to any unpaid late charges and other costs or fees then due, then to accrued but unpaid interest and then to principal.

(d) Reports and Accounting of Residual Receipts.

(i) Audited Financial Statement. In connection with the annual repayment of the Loans, within 120 days of Borrower's Fiscal Year end Borrower shall furnish to County an audited statement duly certified by an independent firm of certified public accountants approved by County, setting forth in reasonable detail the computation and amount of Residual Receipts during the preceding Development Fiscal Year.

(ii) Books and Records. Borrower shall keep and maintain on the Property or at another location within County full, complete and appropriate books, record and accounts relating to the Development, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail Borrower's calculation of Residual Receipts Books, records and accounts relating to Borrower's compliance with the terms, provisions, covenants and conditions of this Agreement shall be kept and maintained in accordance with generally accepted accounting principles consistently applied, and shall be consistent with requirements of this Agreement which provide for the calculation of Residual Receipts on a cash basis. All such books, records, and accounts shall be open to and available for inspection by County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Copies of all tax returns and other reports that Borrower may be required to furnish any governmental County shall at all reasonable times to open for inspection by County at the place that the books, records and accounts of the Borrower are kept. The Borrower shall preserve records on which any statement of Residual Receipts is based for a period of not less than five (5) years after such statement is rendered, and for any period during which there is an audit undertaken pursuant to subsection (c) below then pending.

(e) County Audits.

(i) The receipt by County of any statement pursuant to subsection (a) above or any payment by Borrower shall not bind County as to the correctness of such statement or such payment. Within one (1) year after the receipt of any such statement, County or any designated agent of employee of County at any time shall be entitled to audit the Residual Receipts and all books, records, and accounts pertaining thereto.

(ii) Such audit shall be conducted during normal business hours at the principal place of business of Borrower and other places where records are kept. Immediately after the completion of an audit, County shall deliver a copy of the results of such audit to Borrower. If it shall be determined as a result of such audit that there has been a deficiency in a loan repayment to County, then such deficiency shall become immediately due and payable with interest at the default rate set forth in this Agreement, determined as of and accruing from the date that said payment should have been made. In addition, if Borrower's auditor's statement for any Development Fiscal Year shall be found to have understated Residual Receipts by more than five percent (5%), Borrower shall pay, in addition to the interest charges referenced hereinabove, all of County's reasonable costs and expenses connected with any audit or review of Borrower's accounts and records.

(f) Non-Recourse. Except as provided below, neither Borrower nor any partner of the Borrower shall have any direct or indirect personal liability for payment of the principal of, or interest on, the HOME Loan or the performance of the covenants of the Borrower under the Deed of Trust and the HOME Loan Note. The sole recourse of County with respect to the principal of, or interest on, the HOME Loan Note and defaults by Borrower in the performance of its covenants under the Deed of Trust shall be to foreclose on the Property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability shall:

(i) Limit or impair the enforcement against all such security for the Note of all the rights and remedies of County thereunder, or



(ii) Be deemed in any way to impair the right of County to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note and the performance of the Borrower's obligations under the Deed of Trust, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of its obligation to indemnify County under Sections 4.9 and 5.3 of this Agreement, or liability for:

(A) Fraud or willful misrepresentation;

(B) The fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; and

(C) The misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property.

2.3. Due on Sale, Refinance or Transfer of Property. Unless County agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the Loan Documents shall be due and payable upon the transfer, refinance or sale (each a "Transfer") of all or any part of, or interest in, the Property, except any Transfer after which the Property is subject to deed restrictions requiring the Property to continue to be operated as an affordable rental housing development at least as affordable as described in Recital B, above (an "Affordable Development"), through at least the HOME Loan Maturity Date for the HOME Loan. Moreover, County hereby subordinates to the loan(s), loan documents and security interest(s) in the Property of any lender financing a Transfer which is conditioned upon the Property continuing to be operated as an Affordable Development and hereby agrees to execute any document(s) necessary to perfect such subordination(s) or to satisfy the requirements of any such lender. Notwithstanding the foregoing, following the admission of the limited partner of Borrower, the transfer of a limited partners' limited partnership interest shall not constitute an accelerating Transfer and shall not require the consent of County. Moreover, notwithstanding the foregoing, a limited partner of Borrower shall be permitted to remove and replace a general partner thereof for cause in accordance with the Partnership Agreement without the consent of County.

2.4. Security. As security for repayment of the Note, Borrower shall execute the Deed of Trust pursuant to which Borrower shall provide County a lien against the Property. The Deed of Trust shall be dated as of the Effective Date and shall be recorded in the official records of Nevada County.

2.5. Conditions Precedent to County's Obligation to Disburse. The obligation of County to fund the Loans and disburse the proceeds thereof is conditioned upon the receipt by County of the following:

(a) The executed Loan Documents, acknowledged where appropriate;

(b) A copy of Borrower's enabling operating agreement or enabling documents, certificate of good standing, partnership borrowing resolution and such other evidence satisfactory to County that Borrower is duly formed, validly existing, in good standing under the laws of the State of California, has the power and authority to enter into the Loan Documents, and shall be bound by their terms when executed and delivered;

(c) Borrower's delivery to County of each of the following:

(i) A copy of Borrower's articles of organization;

(ii) Certificate of good standing, certified by the Secretary of State indicating that Borrower is properly organized and authorized to do business in the State of California; and

(iii) Partnership resolution indicating that Borrower has authorized this transaction and that the persons executing the Loan Documents on Borrower's behalf have been duly authorized to do so;

(d) Recordation of the Deed of Trust in the official records of Nevada County;

(e) With respect to the HOME Loan of proceeds from Nevada County, a copy of a certificate of substantial completion issued by the architect for the Project; and

(f) Copies of such other documents related to the acquisition and financing of the Property and the Improvements as County may reasonably request.

2.6. No Obligation to Disburse Proceeds upon Default. Notwithstanding any other provision of this Agreement, County shall have no obligation to disburse any portion of the HOME Loan Proceeds if Borrower's representations and warranties fail to be true and correct in all material respects.

2.7. Use of Funds. Borrower agrees to use the HOME Loan Proceeds solely to finance a portion of the predevelopment, development, and construction costs of the Project. Construction costs will include the cost of all fees necessary for the issuance of building permits, notwithstanding the fact that the Loan proceeds shall be disbursed so that the building permits may be issued prior to the Project's construction loan closing.

2.8. Disbursement of Loan Proceeds. Upon satisfaction of the conditions set forth in Section 2.5 herein, County shall fund the amount of the HOME Loan Proceeds.

### **ARTICLE III**

#### **BORROWER REPRESENTATIONS AND WARRANTIES**

3.1. Duly Organized. Borrower warrants that it is duly organized under applicable laws of the State of California, is qualified to do business in the State of California, and is in compliance in all material respects with all laws and regulations necessary to acquire the Property.

3.2. Authority. Borrower warrants that it has authority, and has completed all proceedings and obtained all approvals necessary to execute, deliver, and perform its obligations under the Loan Documents and the transactions contemplated thereby.

3.3. No Contravening Agreements. Borrower warrants that the execution, delivery, and performance of the Loan Documents will not contravene, or constitute a default under or result in a lien upon assets of Borrower pursuant to any applicable law or regulation, any charter document of Borrower, or any instrument binding upon or affecting Borrower, or any contract, agreement, judgment, order, decree, or other instrument binding upon or affecting Borrower.

3.4. Valid and Binding Obligations. Borrower warrants that, when duly executed by Borrower, this Agreement and the Note shall constitute the valid and binding obligations of Borrower enforceable in accordance with their respective terms. Borrower hereby waives any defense to the enforcement of the terms of the Loan Documents related to alleged invalidity of any provisions or conditions contained therein.

3.5. No Adverse Action. Borrower warrants that there is no action, suit or proceeding pending or threatened against it which might adversely affect Borrower in any material respect.

#### **ARTICLE IV**

##### **BORROWER COVENANTS**

4.1. Use of Proceeds. Borrower agrees to use the HOME Loan Proceeds solely to finance a portion of the predevelopment, development, and construction costs of the Project.

4.2. Punctual Payment. Borrower covenants to punctually pay the principal balance of HOME Loan, and interest accrued thereon, at the times and place and in the manner specified herein and in the Note.

4.3. Taxes and Other Liabilities. Borrower shall pay and discharge when due any and all indebtedness, obligations, assessments, taxes, including federal and state income taxes, property taxes, and special taxes or assessments due to the County of Nevada which are the obligations of Borrower in relation to the Property except those that Borrower may in good faith contest or as to which a bona fide dispute may arise, provided provision is made to the satisfaction of County for eventual payment thereof in the event that it is found that the same is an obligation of Borrower.

4.4. Compliance with Laws. Borrower covenants to comply with all federal, state and local laws, regulations, ordinances and rules applicable to the Property. Without limiting the generality of the foregoing, Borrower shall comply with all applicable requirements of state and local building codes and regulations, and all applicable statutes and regulations relating to accessibility for the disabled.

4.5. Assignment. Borrower shall not cause or permit any voluntary transfer, assignment or conveyance of this Agreement. Any transfer, assignment or conveyance shall be voidable and shall constitute a default under Article 6 of this Agreement.



4.6. Insurance. Borrower covenants to maintain insurance equivalent to a commercial general liability policy in the amount of One Million Dollars (\$1,000,000) combined single limit, including contractual liability coverage. Such insurance shall be written on an occurrence basis and shall name County as loss payee as its interests may appear. Borrower covenants to maintain and keep the Property insured against loss or damage by fire and such other hazards, casualties and contingencies and by such companies on such forms and in the amount of the replacement cost of the Property and any improvements thereon, and shall deliver a copy of all such policies to County, together with receipts satisfactory to County evidencing payment of the premiums. Borrower shall provide County not less than thirty (30) days advance written notice of the cancellation, expiration or termination of any such policy or any material change in the coverage afforded by it. Renewal policies and any replacement policies, together with premium receipts satisfactory to County, shall be delivered to County at least thirty (30) calendar days prior to the expiration of existing policies. Neither Borrower nor County shall by reason of accepting, rejecting, approving or obtaining insurance incur any liability for the existence, nonexistence, form or legal sufficiency of such insurance, or solvency of any insurer for payment of losses. All insurance proceeds for such losses must be utilized for the repair or restoration of the Property and improvements thereon.

4.7. Accounting Records; Property Inspection. Borrower covenants to maintain accurate books and records in accordance with standard accounting principles consistently applied, and to permit County, during business hours and upon reasonable notice to inspect, audit and examine such books and records with respect to the Project, the Property and the Loan Documents and to inspect the Property and Improvements during normal business hours upon reasonable notice.

4.8. Maintenance. During the term of this Agreement, Borrower shall maintain the Property in good repair and in a neat, clean and orderly condition. If there arises a condition in contravention of this requirement, and if Borrower has not cured such condition within thirty (30) days after receiving an County notice of such a condition (or such additional time as may be necessary provided Borrower has commenced to cure the same within such 30-day period), then in addition to any other rights available to County, County shall have the right to perform all acts necessary to cure such condition.

4.9. Indemnification. Borrower shall indemnify, defend (with counsel reasonably acceptable to County), and hold harmless County and its officials, officers, agents, and employees (collectively the "Indemnitees"), from and against, and shall pay on demand, any and all losses, liabilities, damages, costs, claims, demands, penalties, fines, orders, judgments, injunctive or other relief, expenses and charges (including attorneys' fees and expenses of attorneys) (collectively "Liabilities") arising directly or indirectly in any manner in connection with or as a result of: (a) any breach of Borrower's covenants under the Loan Documents, (b) any failure of Borrower's representations and warranties to be true and correct in all material respects when made, (c) any injury or death to persons or damage to property or other loss occurring on the Property, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction or maintenance or any other condition or otherwise, or (d) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnatee which relates to or arises out of the Loan, the Loan Documents, or any transaction contemplated thereby, or any

failure of Borrower to comply with all applicable state, federal and local laws and regulations, provided that no Indemnitee shall be entitled to indemnification under this Section for matters caused by such Indemnitee's gross negligence or willful misconduct. The obligations of Borrower under this Section shall survive the expiration or termination of this Agreement.

4.10. Notice to County. Within three business days after any of the following shall occur, Borrower shall provide written notice thereof to County: (1) any change in name, identity, legal structure, business location, or address of Borrower; (2) any uninsured or partially uninsured loss affecting the Property or any improvements thereon through fire, theft, liability, or property damage in excess of an aggregate of Fifty Thousand Dollars (\$50,000); and (3) Borrower's receipt of a notice of default under any mortgage or other financing document affecting the Property or any improvements thereon.

4.11. Lease of Property. Unless County agrees and approves tenants in writing, Borrower shall not convey all or any part of the Property by lease, except in the ordinary course of operating the Development as a residential rental project.

4.12. Expenses of Collection or Enforcement. If at any time Borrower defaults under any provision of the Loan Documents, Borrower shall pay to County in addition to any other sums that may be due to County, an amount equal to the costs and expenses (including without limitation, attorneys' fees and expenses) County incurs in connection with the collection, enforcement, or correction of the default, and such amounts shall be a part of the indebtedness secured by the Deed of Trust.

4.13. Non-Discrimination. Borrower covenants by and for itself, and any successors in interest, that there shall be no discrimination against or segregation of, any person, or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Borrower itself or any person claiming under or through it establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of Borrower. The foregoing covenants shall run with the land.

Notwithstanding the foregoing, with respect to familial status, nothing herein shall be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code nor shall be construed to affect Section 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to this Section 4.13.

## **ARTICLE V**

### **ENVIRONMENTAL REQUIREMENTS**

5.1. Hazardous Materials. Borrower shall not cause or permit any Hazardous Materials (as defined in below) to be brought upon, kept, stored or used in, on, or about the Property by

Borrower, or the agents, employees, contractors or invitees of Borrower except for materials commonly used in construction activities similar to those related to the Improvements, or in the operation and maintenance of the Property and the Improvements, in each case in compliance with all applicable laws, and shall not cause any release of Hazardous Materials into, onto, under or through the Property. If any Hazardous Material is discharged, released, dumped, or spilled in, on, under, or about the Property and results in any contamination of the Property or adjacent property, or otherwise results in the release or discharge of Hazardous Materials in, on, under or from the Property, Borrower shall promptly take all actions at Borrower's sole expense as are necessary to comply with all Hazardous Materials Laws (as defined below).

## 5.2. Definitions.

(a) Hazardous Materials. As used in this Agreement, "Hazardous Materials" means any substance, material, or waste which is or becomes regulated by any local, state or federal authority, city or governmental body, including any material or substance which is: (i) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," "or any other terms comparable to the foregoing terms under any provision of California law or federal law as any such statutes and regulations now exist or may hereafter be amended, (ii) petroleum or petroleum products; (iii) asbestos; (iv) polychlorinated biphenyls, (v) radioactive chemicals, (vi) any material determined to hazardous based on deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity or toxicity, (vii) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317); (viii) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq. (42 U.S.C. §6903); (ix) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, et seq; or (x) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

(b) Hazardous Materials Laws. As used in this Agreement, "Hazardous Materials Laws" means all federal, state and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials, including without limitation, the laws, statutes and regulations cited in the preceding Section 5.2(a), as they may be amended from time to time.

5.3. Indemnification. Borrower shall indemnify, defend (with counsel reasonably acceptable to County), and hold the Indemnitees harmless from and against liabilities arising directly or indirectly in any manner in connection with or as a result of the breach of Borrower's covenants set forth in Section 5.1 or the actual or alleged release or presence of any Hazardous Materials on, under, in or about the Property, whether known or unknown, foreseeable or unforeseeable, regardless of the source of such release or when such release occurred or such presence is discovered. The foregoing indemnity includes, without limitation, all costs of investigation, assessment, containment, removal, remediation of any kind, and disposal of such Hazardous Materials, all costs of determining whether the Property is in compliance with Hazardous Materials Laws, all costs associated with bringing the Property into compliance with all applicable Hazardous Materials Laws, and all costs associated with claims for damages or injury to persons, property, or natural resources. The indemnity described in this Section shall survive the expiration or termination of this Agreement, the making and repayment of the Loan,



the release or reconveyance of the Deed of Trust, and any foreclosure proceeding, foreclosure sale or delivery of deed in lieu of foreclosure. Borrower's indemnity obligations under this Section will not extend to claims resulting solely from Indemnitees' gross negligence or willful misconduct.

## **ARTICLE VI**

### **DEFAULT AND REMEDIES**

6.1. Events of Default. Each of the following events will constitute an event of default ("Event of Default") under this Agreement:

(a) Failure to Make Payments. If Borrower fails to pay when due the principal and interest payable under the Note and such failure continues for ten (10) calendar days after COUNTY notifies Borrower thereof in writing.

(b) Noncompliance with Loan Documents. Borrower's failure, neglect or refusal to perform any promise, agreement, covenant or obligation contained in the Loan Documents after any applicable cure periods.

(c) Noncompliance with Governmental Requirements. Borrower's failure to timely comply with any governmental requirements, including but not limited to obtaining licenses and permits.

(d) False Representations. If any material representation or disclosure made to COUNTY by Borrower in connection with the Loan Documents proves to be false or misleading in any material adverse respect when made.

(e) Bankruptcy. The filing by or against Borrower of a voluntary or involuntary petition in bankruptcy or the adjudication of Borrower as bankrupt or insolvent, or the filing of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or the seeking or consenting to or acquiescing in the appointment of any trustee, receiver, liquidator of Borrower or any substantial part of or all of the property of Borrower, and if any such proceeding is not dismissed within sixty (60) days; Borrower is named in any such proceeding and the same is not dismissed within one hundred twenty (120) days.

(f) Lease. Conveyance of all or a portion of the Property by lease without the prior written consent of County to such conveyance, except in the ordinary course of operating the Development as a residential rental project.

(g) Transfer. The occurrence of a Transfer in violation of Section 2.3 of this Agreement.

(h) Occurrence of an Event of Default in Other Loan Documents. An event of default under any Loan Document, or any other loan agreement and related documents by and between Borrower and County other than the Loan Documents, subject to the expiration of any applicable cure period set forth in such documents.

6.2. Declaring Default. Whenever any Event of Default has occurred COUNTY shall give written notice of default to Borrower, and each limited partner of Borrower at the time of such notice. County agrees to accept cure from any limited partner of Borrower. If the default is not cured by any of the noticed parties within thirty (30) business days after the Date of Default (defined herein), or any extension approved in writing by County, County may enforce its rights and remedies under Section 6.3 below. Any default that has occurred shall be deemed to commence on the date that written notice of default is effective per Section 7.4 of this Agreement (the "Date of Default"). If Default is of a nature that will reasonably take longer to cure than thirty (30) days, Borrower shall have such additional time as may be reasonably necessary to cure any condition that provided Borrower commences to cure within 30 days of notice of default and diligently pursues to cure.

6.3. Remedies. Upon the occurrence of any Event of Default, in addition to its other rights in this Agreement, and the Note, at law, or in equity, County may exercise any one or more of the following rights and remedies:

(a) Accelerate and declare the entire unpaid principal balance of the Note together with all accrued interest thereon, and all other sums owing to County immediately due and payable; and

(b) Proceed at law, or in equity, to require Borrower to perform its obligations and covenants under the Loan Documents; and

(c) Proceed as authorized at law or in equity with respect to the Event of Default, and in connection with that, pursue any and all other remedies available under law to enforce the terms of this Agreement or any other Loan Document.

The remedies provided herein are cumulative and not exclusive of, and shall not prejudice any other remedy provided in any Loan Document.

## **ARTICLE VII**

### **MISCELLANEOUS**

7.1. Relationship of Parties. Nothing contained in this Agreement shall be construed as creating the relationship of employer and employee or principal and agent between County and Borrower or Borrower's agents or employees, and Borrower shall at all times be deemed a borrower and shall be wholly responsible for the manner in which it or its agents, or both, perform under this Agreement.

7.2. No Third Party Claims. Nothing contained in this Agreement shall create or justify any claim against County by any third person whom Borrower may have employed or contracted or may employ or contract relative to the purchase of any material, supplies or equipment, or the furnishing or the performance of any work or services with respect to any programs or projects being undertaken by Borrower.

7.3. Conflict of Interest. Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of County or Borrower who exercises or has exercised any function or responsibilities with respect to activities assisted by tax increment funds

in whole or in part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities assisted under this Agreement, may obtain a personal or financial interest in or benefit from the activities assisted under this Agreement, or have an interest, direct or indirect, in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder either for himself/herself or for those with whom he/she has family or business ties, during his/her tenure and for one year thereafter.

7.4. Notices. Any notice, request or consent required pursuant to this Agreement shall be deemed delivered upon receipt when delivered personally or by facsimile transmission, provided that a transmission report is generated reflecting the accurate transmission thereof, or three (3) business days after being deposited in the U.S. mail, first class postage prepaid, return receipt requested, or one (1) day after deposit with a nationally recognized overnight carrier addressed as follows:

COUNTY: County of Nevada  
Housing and Community Services  
950 Maidu Ave  
Nevada City CA 95959

Borrower: Penn Valley Pacific Associates,  
A California Limited Partnership  
430 E. State Street, Ste.100  
Eagle, ID 83616  
Attn: Caleb Roope

With copy to:

RBC Community Investments, LLC  
c/o RBC Community Investments, LLC  
600 Superior Avenue  
Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

with a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West Fifth Street, 64th Floor  
Los Angeles, California 90071  
Attention: Kyle Arndt, Esq.

or to such other addresses as the parties may designate by notice as set forth above.

7.5. Successors and Assigns. All of the terms of this Agreement shall apply to and be binding upon, and inure to the benefit of, the successors and permitted assigns of County and Borrower, respectively, and all persons claiming under or through them.

7.6. Attorneys' Fees. If any action is instituted by any Party to this Agreement to enforce this Agreement, the Loan or the Note, or to collect any sums due hereunder or pursuant to the Loan or the Note, the prevailing Party in such action shall be entitled to recover its costs and reasonable attorneys' fees as awarded by the court in that action.

7.7. Severability. If one or more provisions of this Agreement are found invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions shall not in any way be affected, prejudiced, disturbed or impaired thereby, and all other provisions of this Agreement shall remain in full force and effect.

7.8. Amendments/Entire Agreement. County and Borrower reserve the right to amend this Agreement by mutual consent. It is mutually understood and agreed that no amendment, modification, alteration or variation of the terms of this Agreement shall be valid unless in writing and signed and acknowledged and approved by both parties. This Agreement constitutes the entire agreement of the parties and no oral understandings or agreement not incorporated herein shall be binding on either Party.

7.9. Joint and Several Liability. If Borrower consists of more than one person or entity, each shall be jointly and severally liable to County for the performance of this Agreement.

7.10. Time. Time is of the essence in the performance of the terms and conditions of this Agreement.

7.11. Governing Law. The laws of the State of California shall govern this Agreement.

7.12. Non-Liability of County and County Officials, Employees and Agents. No member, official, employee or agent of County or County shall be personally liable to Borrower, or any successor in interest to Borrower, in the event of any default or breach by County or for any amount which may become due to Borrower or any successor under the terms of this Agreement.

7.13. County's Rights and Consent. No forbearance, failure or delay by County in exercising any right, power or remedy, nor any single or partial exercise by County of any right or remedy hereunder shall preclude the further exercise of such right, power or remedy.

County's consent to any act or omission by Borrower may not be construed as County's consent to any other or subsequent act or omission or as a waiver of the requirement to obtain County's consent in any other instance. All of County's rights, powers and remedies are cumulative and shall continue in full force and effect until specifically waived in writing by County.

7.14. Duration/Survival. This Agreement shall continue in full force and effect until the obligations due under this Agreement and the Note have been paid in full. Notwithstanding the foregoing, the indemnification provisions of Section 4.9 and Section 5.3 of this Agreement shall survive the expiration of this Agreement and the making and repayment of the Loan.

7.15. Assignment or Assumption. This Agreement and the Loan Documents may not be assigned to, or assumed by, a third party. Any attempt to assign or assume the Loan Documents shall be void.



7.16. Headings. The headings within this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms of this Agreement.

7.17. Counterparts, Facsimile Copies. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. This Agreement shall be effective upon transmission by any Party to the other parties of a fully signed facsimile copy of the Agreement after the formal approval by the governing body of County, so long as a copy of the Agreement signed by the transmitting Party is delivered to the other parties within five (5) business days thereafter. In case of any conflict, the counterpart maintained by County shall be deemed to be determinative.

7.18. Indemnity. All indemnification provision in the Loan Documents in favor of County shall apply only to losses, claims, liabilities and/or damages actually incurred and shall not include any claim or liability resulting from County's gross negligence or willful misconduct.

7.19. Consent Standard. In any approval, consent or other determination by County required under any of the Loan Documents, County shall act reasonably and in good faith.

**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, COUNTY and Borrower have executed this Agreement as of the date first above written.

COUNTY

County of Nevada,  
a Public Body Corporate and Politic

By: Heidi Hall  
Heidi Hall, Chair, Board  
of Supervisors

BORROWER:

Penn Valley Pacific Associates, a California  
Limited Partnership

By: TPC Idaho Holdings VII, LLC,  
its Administrative General Partner

By: [Signature]  
Name: Caleb Roope  
Title: Manager

By: Lone Oak 1 - BBP, LLC, a California limited  
liability company, its Managing General Partner

By: Building Better Partnerships, Inc., a  
California nonprofit public benefit corporation,  
its sole member and manager

By: [Signature]  
Name: Gustavo Becerra  
Title: President

**LEGAL DESCRIPTION**

Real property in the unincorporated area of the County of Nevada, State of California, described as follows:

PARCEL ONE:

PARCEL 2, AS SHOWN ON THE PARCEL MAP FILED FOR RECORD JULY 18, 2018 IN VOL. 21 OF PARCEL MAPS PAGE 55 OF NEVADA COUNTY RECORDS.

PARCEL TWO:

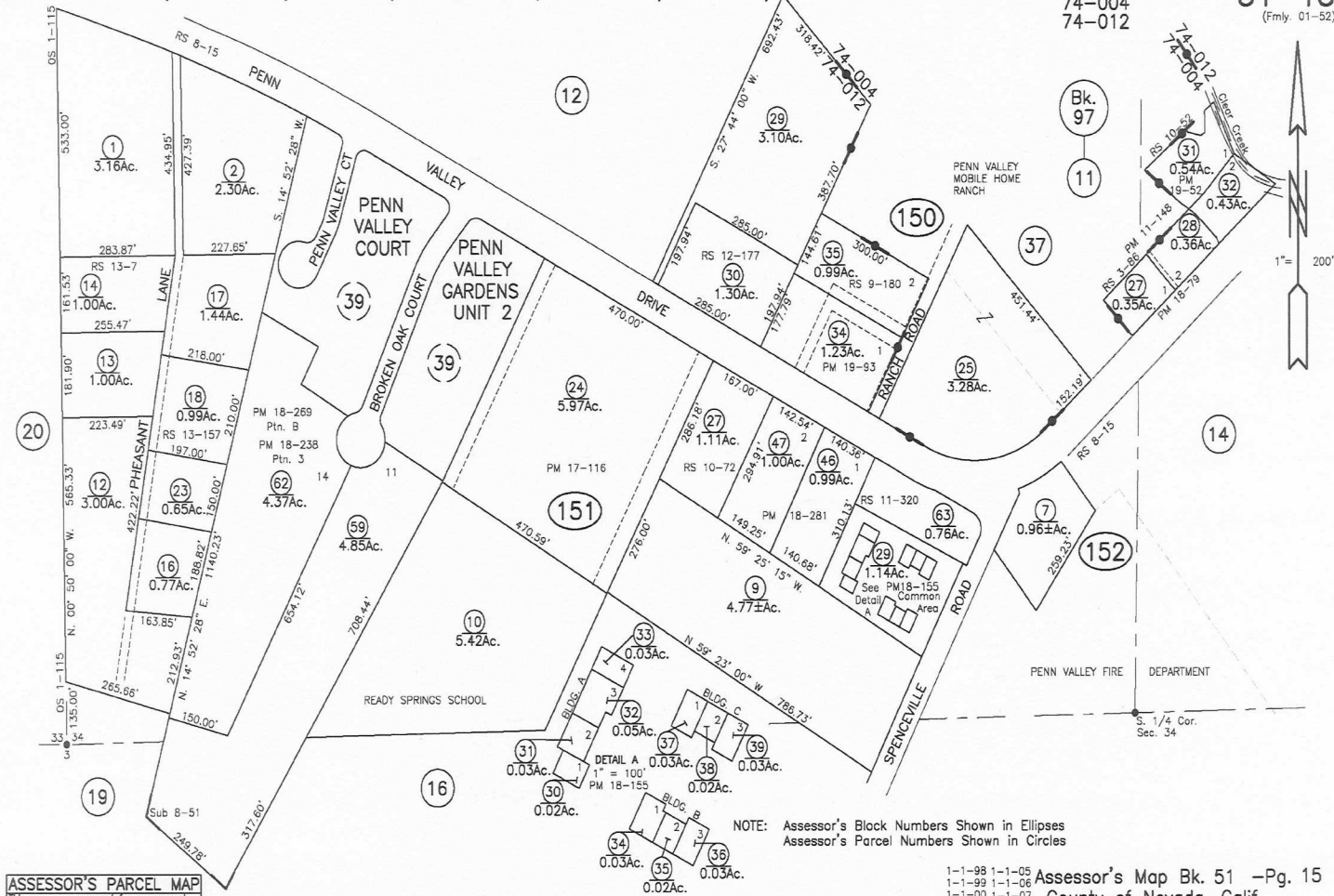
AN EASEMENT FOR INGRESS AND EGRESS ACROSS THAT PORTION OF PARCEL 1, AS SHOWN ON THE PARCEL MAP FILED FOR RECORD JULY 18, 2018 IN VOL. 21 OF PARCEL MAPS PAGE 55 OF NEVADA COUNTY RECORDS.

APN: 051-151-066-000 formerly a portion of 051-151-062-000  
NEW APN NOT YET ASSESSED

PTN. SEC. 3, T. 15 N., R. 7 E., & SEC. 34, T. 16 N., R. 7 E., M.D.B. & M.

Tax Area Code  
74-004  
74-012

51-15  
(Fmly. 01-52)



**ASSESSOR'S PARCEL MAP**  
This map was prepared for assessment purposes only. No liability is assumed for the accuracy of data shown. Assessor's parcels may not comply with local lot-split or building site ordinances.

PENN VALLEY GARDENS SUB. Bk. 8, Pg. 51  
STINSON ACRES, O.S. Bk. 1, Pg. 115

NOTE: Assessor's Block Numbers Shown in Ellipses  
Assessor's Parcel Numbers Shown in Circles

1-1-98 1-1-05 Assessor's Map Bk. 51 -Pg. 15  
1-1-99 1-1-06 County of Nevada, Calif.  
1-1-00 1-1-07 1997  
1-1-01 1-1-10  
1-1-02  
1-1-03  
1-1-04  
LAST UPDATE: 4-26-12 NW 10/97



**HOME LOAN AGREEMENT**

**by and between**

**COUNTY OF NEVADA**

**and**

**PENN VALLEY PACIFIC ASSOCIATES,  
A CALIFORNIA LIMITED PARTNERSHIP**

## HOME LOAN PROMISSORY NOTE

\$304,768.00

MARCH 11, 2020

FOR VALUE RECEIVED and pursuant to that certain HOME Loan Agreement (the "HOME Loan Agreement") dated as of even date herewith entered by Penn Valley Pacific Associates, a California Limited Partnership ("Maker") and County of Nevada, a Public Body Corporate and Politic ("Holder"), Maker hereby promises to pay Holder the sum of \$304,768.00 (the "HOME Loan") or so much thereof as may be advanced by Holder pursuant to the HOME Loan Agreement, together with interest on the outstanding principal balance in accordance with and on the terms set forth herein below. Capitalized terms used but not defined herein shall have the same meaning as set forth in the HOME Loan Agreement.

Section 1. Purpose. Pursuant to the HOME Loan Agreement, Holder agreed to make the HOME Loan in connection with development and construction of that certain 31-unit senior affordable apartment complex (the "Project") being developed by Maker in Penn Valley, California.

Section 2. Interest. Commencing on the date of initial disbursement of all or a portion of HOME Loan Proceeds and continuing through the date that all indebtedness and other amounts payable under this Agreement and the HOME Loan Note are paid in full, the interest on the HOME Loan shall bear interest at a simple rate of three percent (3%) per year.

Section 3. Term and Repayment Requirements. The term of this Note (the "Term") shall commence upon the date of issuance of certificates of occupancy for the Project and shall expire upon the fifty-fifth anniversary of such date (the "Maturity Date"). The repayment of this Note shall be nonrecourse to Maker and its partners as set forth in more particularity in the HOME Loan Agreement and shall be secured by that certain Deed of Trust and Security Agreement executed by Maker for the benefit of Holder on even date herewith.

Section 4. Repayment. This Note shall be repaid as follows:

a. Annual Payments. Until the original principal amount of this Note and interest accrued thereon is repaid in full, Maker shall make annual payments to Holder of a sum equal to the amount of Residual Receipts (as defined in the HOME Loan Agreement) to which Holder is entitled in accordance with Section 2.2(a) of the HOME Loan Agreement. All annual payments shall be made in arrears no later than May 1st of each year with respect to the previous calendar year. Payments made hereunder shall be credited first against accrued interest and then against outstanding principal. Notwithstanding anything herein to the contrary, Maker's obligation to make payments hereunder shall be only to the extent of Residual Receipts from the calendar year preceding such payment (and specifically, without limitation, not from proceeds of any sale or refinancing transaction) such that to the extent any payment required hereunder exceeds the amount of such Residual Receipts, any amounts that cannot be paid from Residual Receipts shall accrue and be paid from future year(s) Residual Receipts until paid.

IN WITNESS WHEREOF, Maker has executed this Note as of the date first written hereinabove.

MAKER:

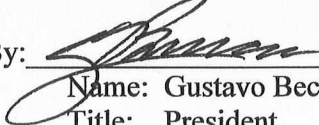
Penn Valley Pacific Associates, a California Limited Partnership

TPC Holdings VII, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By:   
Name: Caleb Roope  
Title: Manager

Lone Oak I - BBP, LLC,  
a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
A California nonprofit public benefit corporation  
Its: Sole Member and Manager

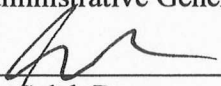
By:   
Name: Gustavo Becerra  
Title: President

IN WITNESS WHEREOF, Maker has executed this Note as of the date first written hereinabove.

MAKER:

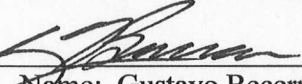
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A California nonprofit public benefit corporation  
Its: Sole Member and Manager

By:   
Name: Gustavo Becerra  
Title: President



Recording Requested by  
and when Recorded, return to:

County of Nevada

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

copy

### HOME DEED OF TRUST AND SECURITY AGREEMENT

THIS HOME DEED OF TRUST AND SECURITY AGREEMENT ("**HOME Deed of Trust**") is made as of \_\_\_\_\_, 2020 by Penn Valley Pacific Associates, a California Limited Partnership ("**Trustor**") to First American Title Company as trustee ("**Trustee**") for the benefit of County of Nevada, a Public Body Corporate and Politic ("**Beneficiary**").

#### RECITALS

- A. Trustor owns fee simple title to the real property known as APN \_\_\_\_\_ as more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("**Land**").
- B. Trustor has agreed to and will construct 31 senior units of rental housing (including 1 manager's unit) (the "**Project**") on the Land.
- C. Trustor and Beneficiary have entered into the HOME Loan Agreement dated on even date herewith ("**HOME Loan Agreement**") pursuant to which Beneficiary will provide a HOME loan in an amount not to exceed \$304,768.00 (the "**HOME Loan**").
- D. As a condition to making the HOME Loan, Beneficiary has required that Trustor enter into this HOME Deed of Trust and grant to Trustee for the benefit of Beneficiary, a lien and security interest in the Property (as defined below) to secure repayment of the Loan.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustee agrees as follows:

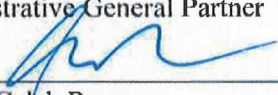
1. Grant in Trust. Trustor irrevocably grants and conveys the Land to Trustee, in trust, with power of sale, together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), all of which shall be deemed to be and remain a part

IN WITNESS WHEREOF, Trustor has executed this HOME Deed of Trust as of the date first above written.

**TRUSTOR**

Penn Valley Pacific Associates, a California Limited Partnership

TPC Holdings VII, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By:   
Name: Caleb Roope  
Title: Manager

Lone Oak I - BBP, LLC,  
a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
A California nonprofit public benefit corporation  
Its: Sole Member and Manager


By: \_\_\_\_\_  
Name: Gustavo Becerra  
Title: President

IN WITNESS WHEREOF, Trustor has executed this HOME Deed of Trust as of the date first above written.

**TRUSTOR**

Penn Valley Pacific Associates, a California Limited Partnership

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Its: Administrative General Partner

By:   
Name: Caleb Roope  
Title: Manager

Lone Oak I - BBP, LLC,  
a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
A California nonprofit public benefit corporation  
Its: Sole Member and Manager

By: \_\_\_\_\_  
Name: Gustavo Becerra  
Title: President

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.

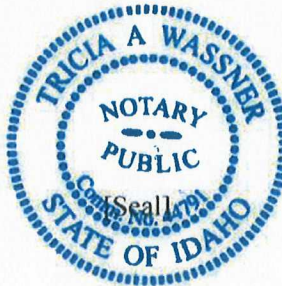
STATE OF Idaho )  
 ) SS  
COUNTY OF Ada )

On this 12 day of March, before me, Tricia A. Wassner, 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 Idaho that the foregoing is true and correct.

WITNESS my hand and official seal.

Tricia A. Wassner  
(Signature)  
Name: TRICIA A. WASSNER  
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.

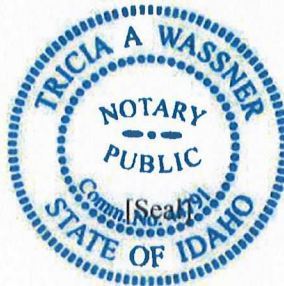
STATE OF Idaho )  
 ) SS  
COUNTY OF Ada )

On this 12 day of March, before me, Tricia A. Wassner, Notary Public, personally appeared Caleb Roope, 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 Idaho that the foregoing is true and correct.

WITNESS my hand and official seal.

Tricia A. Wassner  
(Signature)  
Name: Tricia A. Wassner  
NOTARY PUBLIC



IN WITNESS WHEREOF, Trustor has executed this HOME Deed of Trust as of the date first above written.

**TRUSTOR**

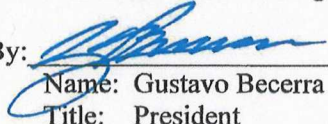
Penn Valley Pacific Associates, a California Limited Partnership

TPC Holdings VII, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By: \_\_\_\_\_  
Name: Caleb Roope  
Title: Manager

Lone Oak I - BBP, LLC,  
a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
A California nonprofit public benefit corporation  
Its: Sole Member and Manager

By:  \_\_\_\_\_  
Name: Gustavo Becerra  
Title: President

IN WITNESS WHEREOF, Trustor has executed this HOME Deed of Trust as of the date first above written.

**TRUSTOR**

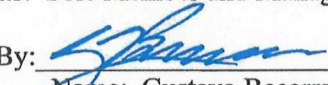
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Its: Administrative General Partner

By: \_\_\_\_\_  
Name: Caleb Roope  
Title: Manager

Lone Oak I - BBP, LLC,  
a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
A California nonprofit public benefit corporation  
Its: Sole Member and Manager

By:  \_\_\_\_\_  
Name: Gustavo Becerra  
Title: President



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 )  
 ) SS  
COUNTY OF Sutter )

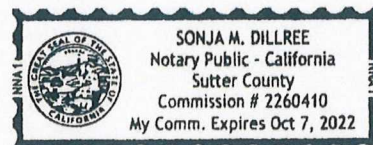
On this 11 day of March 2020, before me, Sonja M. Dillree, Notary Public, personally appeared Gustavo Becerra, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same 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 is true and correct.

WITNESS my hand and official seal.

Sonja M. Dillree  
(Signature)  
Name: Sonja M. Dillree  
NOTARY PUBLIC

[Seal]





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 )  
 ) SS  
COUNTY OF Sutter )

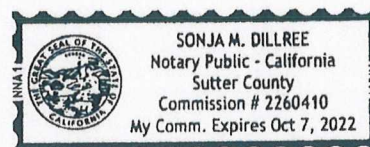
On this 11 day of March 2020, before me, Sonja M. Dillree, Notary Public, personally appeared Gustavo Becerra, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same 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 is true and correct.

WITNESS my hand and official seal.

Sonja M. Dillree  
(Signature)  
Name: Sonja M. Dillree  
NOTARY PUBLIC

[Seal]



**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:**

**County of Nevada**

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## HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)

### REGULATORY AGREEMENT

THIS REGULATORY AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2020 (the "Effective Date"), by and between Penn Valley Pacific Associates, a California Limited Partnership ("Borrower") and County of Nevada, a Public Body Corporate and Politic ("County"). Borrower and County are referred to collectively herein as the "Parties".

#### Recitals

- A. Borrower is the owner of real property located in the city of Penn Valley, California and more fully described in Exhibit A (the "Property").
- B. Borrower has proposed to develop the Property by constructing thereon a 31-unit rental housing development (including 1 manager's unit) of which three units will be Assisted Units (defined below) to be occupied by Low Income Households (the "Development").
- C. The Development will be financed in whole or in part and regulated by a permanent loan from County in a principal amount of not to exceed \$304,768.00 (the "HOME Loan") from proceeds of loans previously made under the Home Investment Partnerships Program (the "HOME Program"). The HOME Loan will be provided to Borrower by County in accordance with 42 USC 12741 et seq., 24 CFR Part 92, California Health and Safety Section 50896 and Title 25, California Code of Regulations, Sections 8200 through 8220, (together, the "HOME Regulations"). The proceeds of the HOME Loan shall be disbursed, used and governed by the HOME Loan Agreement by and between County and Borrower of even date herewith ("HOME Loan Agreement").
- D. The HOME Loan Agreement, including all exhibits and attachments thereto, are incorporated in full by reference into this Agreement. In the event of any inconsistencies between the terms set forth in the HOME Loan Agreement and the terms of this Agreement, the terms of this Agreement shall prevail.
- E. Borrower agrees to abide by all provisions of the HOME Loan Agreement with respect to the Development. Borrower shall execute a promissory note evidencing its obligation to repay the HOME Loan (the "Note") and a deed of trust in favor of County to be recorded against Borrower's interest in the Property securing repayment of the Note (the "Deed of Trust"). Borrower agrees to be bound by all terms and conditions of the Note and Deed of Trust. The Note, the Deed of Trust, the HOME Loan Agreement, the Subordination Agreement dated \_\_\_\_\_ (the "Subordination Agreement"), and this Agreement are collectively referred to herein as the "HOME Loan Documents".
- F. As further consideration for the HOME Loan and in furtherance of the purposes of the HOME Program, Borrower has agreed to enter into this Agreement. The purpose of this Agreement is to regulate and restrict occupancy, rents, operations, ownership and management of the Development in compliance with the requirements of the HOME Program.

G. The Borrower has agreed to pay an Annual Monitoring Fee and has included said fee in their HOME application and operating budget.

NOW, THEREFORE, the Parties agree as follows:

1. Recitals. The foregoing recitals are a part of this Agreement.
2. Property. The Development will be located on the Property.
3. Definitions. Unless the context requires otherwise, the terms used in this Agreement shall be governed by the definitions set forth in 24 CFR Part 92, and 25 Cal. Code of Regulations Section 8201. All references to code sections refer to Title 25 of the California Code of Regulations, unless otherwise noted. Capitalized terms used but not defined herein shall have the respective meanings given to them in the HOME Loan Agreement.

For the purposes of this Agreement, the following additional definitions shall apply:

- a. "Area Median Income" means the median income applicable to Penn Valley, CA or Nevada County, CA, as applicable, as published from time to time by the United States Department of Housing and Urban Development ("HUD").
- b. "Assisted Unit" means a dwelling unit, the construction and operation of which is regulated by this Agreement.
- c. "Eligible Households" means Low Income Households as determined by the tenant selection provisions of a County approved Management Plan.
- d. "Fiscal Integrity" means that the total of Operating Income plus funds released pursuant to this Agreement from the Operating Reserve account is sufficient to (1) pay all current Operating Expenses, (2) pay all current approved debt service, (3) fully fund for at least 12 consecutive months all reserves established pursuant to this Agreement, and (4) pay other extraordinary costs permitted by this Agreement. The ability to pay any or all of the annual permitted distribution shall not be considered in determining fiscal integrity.
- e. "High HOME Rents" means rents calculated annually by HUD and that are the lesser of the Fair Market Rents, as determined by HUD, or a rent that does not exceed thirty percent (30%) of sixty-five percent (65%) of Area Median Income.
- f. "Initial Operating Year" means the first year of operations, or portion thereof, of the rehabilitated or newly constructed rental housing development beginning at the time of initial occupancy of an Assisted Unit and ending on the last day of the fiscal year of the Development.
- g. "Low HOME Rents" means rents calculated annually by HUD and that are thirty percent (30%) of fifty percent (50%) of Area Median Income.



- h. "Low Income Household" means persons or families whose incomes are eighty percent (80%) or less of the Area Median Income.
- i. "Net Cash Flow" means Residual Receipts as determined under Section III (i) hereof.
- j. "Operating Expenses" for each calendar year during the term of the Loans, the following costs reasonably and actually incurred for operation and maintenance of the Development to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: all state and local property and other taxes and annual assessments imposed on the Development; premiums for property damage and liability insurance; debt service currently due and payable on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Development) on loans that have been approved by County and which are secured by deeds of trust senior in priority to County's Deed of Trust ("Approved Senior Loan"); utility services not paid for directly by tenants, including but not limited to water, sewer, trash collection, gas and electricity; maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial, supplies, and others; any annual license or certificate of occupancy fees required for operation of the Development; general administrative expenses including but not limited to advertising and marketing, security services and systems, and professional fees for legal, audit and accounting; property management fees and reimbursements including on-site manager expenses, not to exceed fees and reimbursements which are standard in the industry and pursuant to a management contract approved by County; and cash deposited into a reserve for capital replacements of Development Projects and an operating reserve in such reasonable amounts as are approved by County, (i) Asset Management Fee (as that term is defined in the Amended and Restated Agreement of Limited Partnership of Borrower (the "Partnership Agreement")) paid to the limited partner of Borrower pursuant to the Partnership Agreement, (ii) Partnership Management Fee (as that term is defined in the Partnership Agreement) equal to \$3,100.00 per year paid to the nonprofit Managing General Partner of Borrower and deferred developer fees payable out of Residual Receipts, (iii) Incentive Leasing Fee (as that term is defined in the Partnership Agreement) not to exceed \$75,000.00 payable out of Residual Receipts, and (iv) Incentive Management Fee (as that term is defined in the Partnership Agreement) paid to the Administrative General Partner pursuant to the Partnership Agreement. Annual Operating Expenses shall not include the following: debt service payments on any loan which is not an Approved Senior Loan, including without limitation, unsecured loans or loans secured by deeds of trust which are subordinate to County's Deed of Trust other than the deferred developer fee loan; depreciation, amortization, depletion or other non-cash expenses; capital expenditures; expenses paid for with disbursements from any reserve account except to the extent such disbursement is accounted as Gross Revenue; any amount paid to Borrower, or any entity controlled by the persons or entities in control of Borrower (unless such payment to Borrower consists of fees paid to a property management agent or resident services agent or is specifically provided for hereinabove including, without limitation, the deferred developer fee).



- k. "Operating Income" means all income generated in connection with operation of the rental housing development including rental income from Assisted Units and non-Assisted Units, rental income from nonresidential space, laundry or equipment rental fees, insurance proceeds from business interruption or lost income, forfeited deposits, rental subsidy payments, and interest on any accounts related to the rental housing development. "Operating Income" does not include tenant security and equipment deposits (except to the extent surrendered to cover rent, damages or other sums owed by the tenant under their lease agreements), payments received from voluntary direct or supportive tenant services, or tax benefits received by the sponsor.
- l. "Operating Loans" means loans made by the general partner of the Borrower to the project, for the purpose of covering any operating deficits, and to be repaid through distributions of Net Operating Income.
- m. "Period of Affordability" is defined in Section 8 hereof.
- n. "Rent" means all charges, other than deposits, paid by the tenant for the use and occupancy of an Assisted Unit and any mandatory charge for direct or supportive tenant services in a rental housing development, including a utility allowance in an amount determined by HUD.
- o. "Residual Receipts" means the balance of Operating Income minus Operating Expenses as defined in Section III (i) hereof.
- p. "Tax Credit Adjuster Payments" means any payments required to compensate the investor limited partner for the amount by which the actual tax credits are or will be less than the projected tax credits over the credit period. Payment is provided for in the Partnership Agreement.
- q. "Very Low Income Household" means low-income persons or families whose incomes are fifty percent (50%) or less of the Area Median Income.
- r. Reserved
- s. "Annual Monitoring Fee" means the fee paid by Borrower to the County to cover the cost of monitoring the project. The total amount of the Annual Monitoring Fee in the Initial Operating Year shall be \$2,000, which shall increase annually at a rate of 3.00%. If in any given year the Borrower determines that the payment of the Annual Monitoring Fee will negatively affect the project, a full or partial deferral of the fee may be requested. The County will review the request and make a determination. If a deferral of the Annual Monitoring Fee is granted by the County, said fee shall be paid in future years, prior to any distribution of Asset Management Fees.

4. Compliance with Program Requirements.

- a. Borrower agrees that at all times its acts regarding the Development and the use of funds provided herein shall be in conformity with all provisions of the HOME Program, including the statutes, the HOME Regulations and such policies and procedures of County, the Department and HUD pertaining thereto. Borrower acknowledges that it is familiar with such applicable provisions and has been professionally advised to the extent necessary for the purpose of enabling Borrower to fully comply with such provisions.
  - b. The financial assistance provided under the HOME Program is governed by 24 CFR Part 92. With respect to the assistance, Borrower agrees to comply with all requirements and obligations as described in 24 CFR Part 92, as well as all provisions governing the use of HOME funds. Borrower further agrees to comply with the directives of County as necessary to ensure compliance with the obligations of County as set forth in its agreements with HUD and/or the Department regarding the use of HOME funds.
  - c. County acknowledges that the Development is being developed and operated so that one hundred percent (100%) of the units (other than the unit occupied by resident managers) will qualify for low income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code") ("LIHTCs"). County agrees that nothing in the HOME Loan Documents shall require Borrower to violate the requirements of Section 42 of the Code or the Treasury Regulations promulgated thereunder, or to operate the Development in a manner that would prevent one hundred percent (100%) of the units (other than units occupied by resident managers) from qualifying for LIHTCs.
5. Term of Agreement. The term of this Agreement shall commence upon its recordation in the Official Records of Nevada County and remain in full force and effect and apply to the Development through and including the date which is fifty-five (55) years from the date of "Project Completion" as specified at 24 CFR 92.2, regardless of any prepayment of the HOME Loan or sale, assignment, transfer or conveyance of the Development, unless terminated earlier by County pursuant to the terms of this Agreement or extended by the mutual consent of the Parties. Notwithstanding the foregoing, this Agreement shall terminate upon the involuntary non-compliance with the provisions of this Agreement caused by fire, seizure, change in federal law or action of a federal agency after the date hereof which prevents County from enforcing the provisions hereof, or condemnation or a similar event; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions.
  6. Assisted Unit Schedule. Upon occupancy following the completion of construction, Borrower shall rent Assisted Unit in accordance with this Agreement, the Schedule of Assisted Units set forth in Exhibits B and E, attached hereto and incorporated herein.

7. Tenant Selection Standards. Borrower shall rent Assisted Units in the Development only to Eligible Households in accordance with the Management Plan approved by and on file with County pursuant to this section. Such Management Plan may be periodically altered and such alteration must be submitted to and approved by County prior to use. At all times, a minimum of twenty percent (20%) of the Assisted Units must be rented to Very Low Income Households and, at initial occupancy, no less than ninety percent (90%) of the Assisted Units shall be occupied by households whose incomes are at sixty percent (60%) and below of Area Median Income, unless stricter limitations are set forth in Exhibits B and E, attached hereto and incorporated herein. The Management Plan shall include among other things: (1) detailed actions to be taken by Borrower to affirmatively market vacant units in a manner which ensures equal access to all persons in any category protected by federal, state or local laws governing discrimination, and regardless of any arbitrary factor; (2) specific reasonable criteria for determination of tenant eligibility, including household size in accordance with the minimum occupancy standard specified in the HOME Regulations; (3) a requirement that eligible tenants be selected based on order of applications, lottery, or other reasonable method approved by County; (4) specific procedures through which tenant applicants deemed to be ineligible shall be notified of the reason for their ineligibility and may appeal this determination; (5) a requirement for maintenance of a waiting list of eligible applicants; (6) specific procedures for obtaining information regarding prospective tenants' incomes as necessary to certify that such income does not exceed the lower or very low income limit; and (7) affirmative fair housing marketing procedures as specified in the Affirmative Fair Housing Marketing Plan Compliance Regulations of HUD, 24 CFR Part 200.620(a)-(c), or similar affirmative fair housing marketing plan as approved by County.
8. Period of Affordability. "Period of Affordability" means a period of the years as listed below beginning from the date of Project Completion as defined by 24 CFR 92.2 wherein the Development must meet the affordability requirements contained herein. The period of years shall consist of the Federal period of affordability (the "Federal Period") and the State period of affordability (the "State Period") which shall run concurrently from the date of Project Completion. The Federal Period is a term of twenty (20) years, and the State Period is a term of fifty-five (55) years. The Federal Period is established by HOME Federal Regulations (the "Final Rule"), 24 CFR 92.254(e), and the State Period is established by HOME Investment Partnership Program Regulations section 8208 in effect as of March 26, 1996.
9. Marketing Plan.
  - a. Borrower shall prepare and implement a Marketing Plan, subject to prior approval by County, which approval shall not be unreasonably withheld or delayed, which specifies how Borrower intends to market the Development to prospective tenants in the Development's market area. The Marketing Plan shall specifically address how Borrower intends to market the Development to underserved populations in Development market area and the frequency of marketing efforts. County agrees that Borrower may utilize the HUD 935.2 Affirmative Fair Housing Marketing Plan for these purposes.

- b. Borrower agrees to evaluate the effectiveness of the Marketing Plan in reaching underserved populations on an annual basis and to revise it as necessary to better reach underserved populations that are not being reached. The revised Marketing Plan shall be submitted to County for approval, which approval shall not be unreasonably withheld or delayed, prior to implementation.

10. Nondiscrimination. Borrower shall not discriminate against any tenant or prospective tenant on the basis of race, color, national origin, religion, sex, age, disability, familial status, nor any other arbitrary factor in violation of any state, federal or local law governing discrimination in rental housing.

11. Rental Agreement and Occupancy Procedures (the "Lease").

- a. Each Eligible Household selected to occupy a unit in the Development shall enter into a written rental agreement with Borrower on a form approved by County, containing such provisions as are required by the HOME Regulations (the "Lease"). The Lease shall be for a term of not less than one (1) year unless a shorter term is mutually agreed upon between Borrower and tenant, but in no event shall any lease be for a term of less than six (6) months.
- b. Each Lease shall not contain any of the following provisions:
  - 1) Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of Borrower or Borrower's agent in a lawsuit brought in connection with the Lease;
  - 2) Agreement by the tenant that Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Borrower may dispose of this personal property in accordance with State law;
  - 3) Agreement by the tenant not to hold Borrower or Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent;
  - 4) Agreement of the tenant that Borrower or Borrower's Agent may institute a lawsuit without notice to the tenant;
  - 5) Agreement by the tenant that Borrower or Borrower's agent may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;



- 6) Agreement by the tenant to waive any right to a trial by jury;
  - 7) Agreement by the tenant to waive tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the Lease; and
  - 8) Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- c. Borrower shall establish reasonable rules of conduct and occupancy. Such rules shall be consistent with state law and the HOME Regulations. Said rules shall be in writing and shall be given to each tenant upon occupancy. Any change shall become effective no fewer than thirty (30) days after giving written notice thereof to each household.
  - d. Borrower shall not terminate the tenancy or refuse to renew the Lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the Lease; for violation of tenancy period; or for other good cause. Any termination or refusal to renew a Lease shall be by the owner's service upon the tenant of a written notice in compliance with State law and specifying the grounds for the action.
  - e. Borrower shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

## 12. Rents.

- a. For all Assisted Units, Rents shall not exceed High HOME Rents less a utility allowance. For Assisted Units that are set-aside for Very Low Income Households, HOME rents shall not exceed Low HOME Rents less a utility allowance.
- b. A minimum of twenty percent (20%) of all Assisted Units shall be occupied by Very Low Income Households at Rents that are no greater than the Low HOME Rents less a utility allowance, unless stricter limitations are set forth in Exhibits B and E, attached hereto and incorporated herein.
- c. Any household certified as an Eligible Household upon occupancy but whose income increases above the eligibility level must pay as Rent the lesser of the amount payable by the tenant under State or local law or thirty percent (30%) of the household's adjusted monthly income; except that, Assisted Units subject to low-income tax credit rules under Section 42 of the Code shall be governed by such rules.
- d. Notwithstanding the foregoing or any other requirements and/or restriction contained herein, the Rent charged on the Assisted Units shall not exceed the rent applicable to an individual or family qualifying under the percentage of Area Median Income as follows: Three (3) Assisted Units shall be rented at thirty percent (30%) of Area Median Income. See Exhibit E for specifics.



13. Security Deposits.

- a. Security deposits shall be required of tenants only in accordance with State law and this Agreement.
- b. Any security deposits collected by Borrower or Borrower's agent shall be kept separate and apart from all other funds of the Development in a trust account with a depository insured by the Federal Deposit Insurance Corporation (F.D.I.C.), or other comparable federal deposit insurance program, and shall be held and disbursed in accordance with State law. The balance of such account shall at all times equal or exceed the aggregate of all outstanding obligations under said account, plus accrued interest thereon.

14. Certification of Tenant Income and Household Size.

- a. The income and household size of all households occupying Assisted Units shall be certified by Borrower prior to occupancy and re-certified annually thereafter in a manner approved by County and specified in the Development's Management Plan.
- b. If the income of a tenant upon re-certification exceeds the upper limit for Low Income Households, and there are no other requirements statutorily imposed by another federal or State funding source or tax credit program, including Section 42 of the code, that tenant shall not have his or her Lease terminated as a result thereof, but shall be charged Rents as provided in Section 12 (c).
- c. Subject to Section 14(b), where a household occupying a unit designated for occupancy by a Very Low Income Household no longer so qualifies at the time of re-certification, but qualifies as an otherwise Eligible Household, the Rent appropriated for that income level shall be charged.
- d. County acknowledges that the household size appropriate for each unit shall be determined according to the LIHTC rules and regulations.

15. Assisted Unit Substitutions.

- a. For purposes of this Section, "comparable" units shall be those listed in the same group in the Comparable Unit Schedule set forth in Exhibit C, attached hereto and incorporated herein.
- b. Number of people per bedroom:

Borrower shall rent vacant units to households with no less than the number of people specified in the following schedule:

Unit Size	Minimum Number of Persons in Household
SRO	1
0-BR	1
1-BR	1
2-BR	2
3-BR	4
4-BR	6
5-BR	8

- c. If, upon re-certification, the income of a household occupying an Assisted Unit reserved for occupancy by Low Income Households exceeds the upper limit for Low Income, Borrower may designate such household's unit as a non-Assisted Unit, provided that all of the following conditions are satisfied:
  - 1) Not later than the date Borrower designates the unit as non-Assisted, Borrower also makes available a comparable vacant unit previously designated as non-Assisted to be designated as an Assisted Unit, or designates a previously non-Assisted Unit occupied by a Low Income Household as an Assisted Unit, or agrees to occupy the next available unit with a Low Income Household; and
  - 2) The Rent charged for the newly designated Assisted Unit will not exceed the High HOME Rent as shown in Exhibit E attached hereto.
- d. Subject to the limitations imposed by Exhibit E, where a household occupying an Assisted Unit reserved for occupancy by Very Low Income Households no longer qualifies as Very Low Income at the time of re-certification, but qualifies as a Low Income Household, the following shall apply:
  - 1) Borrower shall designate the unit as an Assisted Unit for Low Income Households;

- 2) Borrower may increase the household's Rent up to the High HOME Rent as shown in Exhibit E attached hereto;
- 3) Borrower shall designate the next available comparable Assisted Unit reserved for Lower Income Households as an Assisted Unit reserved for Very Low Income Households as shown in Exhibit E attached hereto; and
- 4) The Rent charged for the newly designated Assisted Unit reserved for Very Low Income Households shall not exceed the Low HOME Rent as shown in Exhibit E attached hereto.

16. Rental Agreement and Grievance Procedures.

The rental agreement and grievance procedures shall be in accordance with California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 19, Section 8307.

- a. One-year Term. All rental or occupancy agreements for HOME-assisted units shall be for a term of not less than one (1) year unless by mutual agreement between the tenant and Borrower.
- b. County Approval. All rental or occupancy agreements shall be on a form approved by County and shall include the following:
  - 1) Provisions requiring good cause for termination of tenancy;
  - 2) A provision requiring that the facts constituting the grounds for any eviction be set forth in the notice provided to the tenant pursuant to state law;
  - 3) A notice of grievance procedures for hearing complaints of tenants and appeal of management action; and
  - 4) A requirement that the tenant actually recertify household income and size.

17. Foreclosure after Development Completion. Borrower promises, covenants, warrants and represents that it shall complete the Development. Whether or not the Development is in fact completed shall be solely determined by the County. Should the Development in fact have been completed, then the Period of Affordability shall terminate upon foreclosure or transfer in lieu of foreclosure, except that the affordability restrictions shall be revived according to the original terms if, (a) during the original Period of Affordability, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family business ties, obtains an ownership interest in the Development or the Property, or if (b) the foreclosing entity or transferee in lieu of foreclosure assumes in writing and agrees to be bound by the the HOME Loan Documents.

18. Maintenance and Management.

- a. Borrower is specifically responsible for all maintenance, repair and management functions for the Development, including without limitation, selection of tenants, re-certification of household income and size, evictions, collection of rents, routine and extraordinary repairs and replacement of capital items. Borrower shall maintain all units and common areas in a safe and sanitary manner in accordance with local health, building, and housing codes, HUD housing quality standards pursuant to 24 CFR Section 882.109, and the Management Plan described above.
- b. Borrower may, with the prior written approval of County, contract with a management agent for the performance of the services or duties required in Section 18(a). However, such an arrangement does not relieve Borrower of responsibility for proper performance of these duties. Such contract shall contain a provision allowing Borrower to terminate the contract without penalty upon no more than thirty day's (30) notice. Upon a determination by County, and notice to Borrower thereof, that the management agent has failed to operate the Development in accordance with this Agreement, Borrower shall exercise such right of termination forthwith and shall make immediate arrangements, which shall be subject to County approval, for continuing performance of the requirements of this Agreement.
- c. Borrower may operate the Development itself only with prior written approval of County. Subject to the terms of the Subordination Agreement and upon a determination by County and notice to Borrower thereof, that Borrower has failed to operate the Development in accordance with this Agreement, County may require Borrower to contract with management agent to operate the Development, or to make such other arrangements as County deems necessary to ensure performance of the requirements of this Agreement.

19. Hazard and Liability Insurance.

- a. Borrower shall at all times keep the Development insured against loss by fire, flood (as required pursuant to 24 CFR 92.358), and such other hazards, causalities, liabilities and contingencies, and in such amounts and for such periods as set forth in Exhibit D, attached hereto and made a part hereof. All insurance policies and renewals thereof shall be issued by a carrier and in a form acceptable to County. Property insurance policies shall name County as an additional loss payee and liability insurance policies shall name County as additionally insured, as approved by County.

- b. Insurance proceeds and condemnation awards for any loss to or taking of the Development, or any portion thereof, shall be applied or utilized by Borrower as provided in the Deed of Trust executed by Borrower and referred to in the Recitals hereof.

20. Annual Report. Borrower shall file with County an annual report, as required by 24 CFR part 92 and 25 Cal. Code of Regulations, Section 8218(a) (2) no later than ninety (90) days after the end of each fiscal year as established for the Development pursuant to Section 18(a) of this Agreement. The report shall contain a certification by Borrower as to such information as County may then require including, but not limited to the following:

- a. The fiscal condition of the Development, including a financial statement for the previous fiscal year that includes a balance sheet and a profit and loss statement indicating any surplus or deficit in operating accounts; a detailed itemized listing of income and expenses; the amounts of any fiscal reserves and the total amount of Residual Receipts (defined below) received. Such financial statement shall be prepared in accordance with the requirements of County. County may require that the financial statement be audited at Borrower's expense by an independent certified public accountant acceptable to County or other person designed by County.
- b. The substantial physical defects in the Development, including a description of any major repair or maintenance work undertaken or needed in the previous and current fiscal years. Such statement shall describe what steps Borrower has taken in order to maintain the Development in a safe and sanitary condition in accordance with applicable housing and building codes.
- c. The occupancy of the Development indicating:
  - 1) The verified income of each current household; and
  - 2) The current rents charged each household and whether these rents include utilities.
- d. General management performance, including tenant relations and other relevant information.
- e. A summary of the information received from the re-certification of tenants' incomes.
- f. Evidence of a currently paid hazard and flood insurance policy, with loss payable to County in the amounts specified in Exhibit D.



- g. Evidence of currently paid liability insurance policy, naming County as an additional loss payee in the amounts specified in Exhibit D.
- h. Other information reasonably required by County, including those items listed in Section II.D.1-8 of the HOME Loan Agreement.

21. COUNTY Review and Inspections.

- a. Upon not less than forty-eight (48) hours' notice to Borrower, County or its designee may, at any time during the term of the HOME Loan, enter and inspect the physical premises and inspect all accounting records pertaining to the construction or operation of the Development. Upon request by County, Borrower shall notify occupants of upcoming inspections of their units in accordance with State law.
- b. County may perform or cause to be performed audits of any and all phases of Borrower's activities related to the Development. At County's request, Borrower shall provide, at its own expense, an audit of the financial condition of the project certified by an independent certified public accountant.
- c. County may request any other information that it deems necessary to monitor compliance with requirements set forth in this Agreement. Borrower shall promptly provide such information.

22. Annual Operating Budget.

- a. The fiscal year for the Development shall commence on January 1 and conclude on December 31.
- b. No later than sixty (60) days prior to the beginning of each subsequent fiscal year of the Development, Borrower shall submit to County a proposed annual operating budget on a form provided by County. The proposed annual operating budget shall set forth Borrower's estimate of the Development's income, operating expenses and debt service for the upcoming year, reserves, proposed rent adjustments, and a year- to-date operating statement. Annual operating budgets and rent adjustments are subject to approval by County.
- c. Annual operating budgets are subject to written approval by County in accordance with the terms of the Subordination Agreement. Increases of three and one half percent (3.5%) or less in the total operating budget and increases in specific operating expense categories (i.e. renting expenses, special expenses, utility expenses, operations and maintenance expenses, taxes and insurance expenses) of three and one half percent (3.5%) or less shall be deemed approved by County.

Borrower shall operate the Development in accordance with the approved annual budget.

- d. Annual rent adjustments are subject to written approval by County. For the projects approved by County using High HOME rents, rent increases that do not exceed the upper limits for High HOME rents less a utility allowance shall be deemed approved by County. For projects approved by County using Low HOME rents less a utility allowance, rent increases that do not exceed the upper limits for Low HOME rents shall be deemed approved by County. For projects approved by County using rents below Low HOME rents, rent increases, which do not exceed the most, recently published annual Labor Statistics Consumer Price Index, Residential Rent for All Urban Consumers for the West (CPI) shall be deemed approved by County. In the event this particular CPI index is no longer published, County shall select a similar index for this purpose.
- e. Borrower shall operate the Development in accordance with the First-Year Operating Budget approved by and on file with County. Such budget shall show all anticipated income, debt service and expenses for management, operations, reserves and maintenance for the first fiscal year or portion thereof following initial occupancy.

23. Required Reserves.

- a. Commencing no later than the end of the second month following the initial occupancy of the Development or such other date, as County shall designate in writing, Borrower shall establish a segregated interest-bearing Replacement Reserve account in an F.D.I.C. or other comparable federally insured financial institution. Borrower shall make monthly deposits from Operating Income to the Replacement Reserve account in amounts as specified in the approved Initial Year Operating Budget and subsequent annual budgets. Initially, the annual deposit shall be Twelve Thousand Dollars and No Cents (\$12,000.00) based on \$500 per unit per year, or such other amount as approved by County in the Initial Year Operating Budget. County may review the adequacy of these monthly deposits on an annual basis, and require adjustments, as it deems necessary. Notwithstanding the foregoing, at a date that is five (5) years from the Effective Date of this Agreement and every five (5) years thereafter, and at the request of County, Borrower shall engage the services of a third- party professional to prepare a physical needs assessment of the replacement needs of the Development. The annual deposit to the Replacement Reserve account shall be adjusted based upon the results of the physical needs assessment report. The cost for the report shall be an eligible expense from the Replacement Reserve account. Withdrawals are subject to approval by County and the Department and shall only be made for capital improvements, such as replacing or repairing structural elements, furniture, fixtures or equipment of the Development that are reasonably required to

preserve the Development. The annual deposit required under the Replacement Reserve and Security Agreement executed in connection with Borrower's permanent financing is deemed to have satisfied the requirements under this Section so long as the annual deposit required thereunder is consistent with the requirements herein.

- b. Upon receipt of the third installment of capital contribution from Borrower's investor limited partner (as such installment is made pursuant to the terms of the Partnership Agreement), Borrower shall establish and fully fund an operating reserve account in the amount of Seventy Nine Thousand Ninety Dollars and No Cents (\$79,090.00) (the "Operating Reserve"). The Operating Reserve accounts shall be held in an F.D.I.C. or other comparable federally insured financial institution. Any funds remaining in the Operating Reserve at the end of the Compliance Period shall be released to the Borrower, subject to the terms of Borrower's Partnership Agreement and applied in accordance with Section 25(b)(2) hereof to the extent necessary to enable the Borrower to fully pay any Deferred Developer Fee (and accrued interest thereon) outstanding at such time. Any balance remaining shall continue to be retained by Borrower following the end of the Compliance Period, subject to the terms of Borrower's Partnership Agreement and used in accordance with this Section 23(b). Requests for withdrawal from the Operating Reserve must be approved or disapproved by County within sixty (60) days of receipt of written request. A written withdrawal request that is not disapproved within sixty (60) days of receipt shall be deemed approved. Borrower may make monthly deposits from project income in the priority set forth in the Partnership Agreement to replenish withdrawals from the Operating Reserve in order to restore the balance therein to the Operating Reserve Amount (As defined in the Partnership Agreement). Withdrawals from the Operating Reserve are subject to consent of Borrower's limited partners pursuant to the terms of the Partnership Agreement.
- c. Any reserves shall be the property of the Development and may not be distributed nor taken from the Development when it is sold or the limited partnership composition changes.
- d. County shall, at its sole discretion, require verification that the Operating Reserve is funded pursuant to the above Section 23(b) prior to release of the final five percent (5%) of the total amount of HOME funds.

24. Accounting Records. In a manner subject to County approval, Borrower shall maintain on an accrual or modified accrual basis, a general ledger accounting system that is posted monthly and that accurately and fully shows all assets, liabilities, income and expenses of the Development. All records and books relating to this system shall be kept for a period of at least seven (7) years and in such a manner as to ensure that the records are reasonably protected from destruction or tampering. All records shall be subject to County inspection and audit.

25. Use of Income from Operations.

- a. Borrower, or Borrower's management agent, shall promptly deposit all Operating Income in a segregated account established exclusively for the Development with an F.D.I.C. or other comparable federally insured financial institution.
- b. Cash Flow Distribution. The requirement set forth herein shall be superior to and governing over requirements set forth in any other project document.
  - 1) Net Cash Flow shall be distributed in accordance with the Uniform Multifamily Regulations contained in the California Code of Regulations, Title 25, Section 8314, "Use of Operating Cash Flow" for the full extent of the HOME regulatory period.
  - 2) Net Cash Flow shall be distributed annually provided that there is no event of default outstanding or other current cash flow shortage under any project document in the following manner:
    - a. To payment of any Asset Management or Partnership Management, Incentive Management Fee and similar fees in a total combined amount not to exceed \$8,100 per annum (increasing annually by 3%);
    - b. To payment of any outstanding Deferred Developer Fee (including accrued interest thereon);
    - c. Then, fifty percent (50%) of the remaining cash flow to Distributions; and fifty percent (50%) of the remaining cash flow to repayment of the HOME loan and other residual receipts loans on a proportional basis.
  - 3) Payment of Distributions above shall in no year exceed fifty percent (50%) of Net Cash Flow remaining after payment of payments required under Sections 2(a) and 2(b) above.

26. Non-Assisted Units and Common Areas.

- a. Borrower shall establish and implement a rent structure for non-Assisted residential units, if any, that ensures Fiscal Integrity of the Development. Borrower shall estimate all income and expenses attributable to the non-Assisted Units in the annual operating budget described in Section 22 herein, and shall report all income and expenses attributable to non-Assisted units in the Annual Report described in Section 20 herein.

- b. Borrower shall maintain and report both Assisted and non-Assisted Units equally without regard to their designation as Assisted or non-Assisted.
- c. Tenant selection practices for non-Assisted Units shall comply with State and federal nondiscrimination laws.
- d. The exterior walls, windows, lighting, walkways, mailboxes, landscaping, nonresidential space, and other common areas of the Development shall be safe, clean, well maintained, and in good working order.

27. Distributions.

- a. "Distributions" shall refer to fifty percent (50% of amounts remaining after payment in full of expenses as provided in Section 25(b) 2) c. above and required payments on the Note. Distributions shall be available to be distributed to, or retained by, Borrower or any party having a beneficial interest in Borrower of the Development.
- b. Borrower shall receive Distributions only once for each fiscal year of the Development so long as Borrower has not received written notice from COUNTY that Borrower is in default of its obligations under this Agreement or the HOME Program requirements.
- c. No Distribution shall be made to Borrower in the following circumstances:
  - 1) When written notice of default has been issued by any entity with an equitable or beneficial interest in the Development;
  - 2) When County determines that Borrower or Borrower's management agent has failed to comply with County's written notice of any reasonable requirement for proper maintenance of the Development;
  - 3) If all currently required debt service and operating expenses have not been paid; or
  - 4) If the Replacement Reserves account or other reserve accounts are not fully funded pursuant to this Agreement.

28. Restrictions on Sale, Encumbrance, and Other Acts.

- a. Borrower shall not make any sale, encumbrance, hypothecations, assignment, refinancing, pledge, conveyance, or transfer in any other form of the Property or



the Development or of any of its interest therein, except with the prior written approval of County and the Department. Notwithstanding anything to the contrary hereinabove, the respective interest of Borrower's limited partners shall be transferrable without the consent of County or Department. Moreover, any limited partner of Borrower shall be permitted to remove a general partner thereof for cause in accordance with the terms of the Partnership Agreement.

- b. Other than routine maintenance, Borrower shall not add to, remodel, remove, reconstruct, or demolish any part of the Development without the prior written approval of County.
- c. Borrower shall not permit the use of the Development for any purpose other than that permitted by this Agreement without the prior written approval of County.
- d. Except as otherwise permitted under the terms of the HOME Loan documents, (i) Borrower shall not incur any liability or obligation in connection with the Development, other than for current operating, management and maintenance costs and for the indebtedness evidenced by the Note nor incur any liability, charge, assessment, or obligation whatsoever that is secured in whole or in part by any interest in or lien or encumbrance on the Property or the Development, without the prior written approval of County, and (ii). County may permit refinancing or additional financing secured by the Development only to the extent necessary to maintain or improve the Development's Fiscal Integrity, improve financial condition, or to maintain affordable rents. Notwithstanding the foregoing, Borrower shall be permitted to refinance the Approved Senior Loan pursuant to Section 2.3 of the HOME Loan Agreement.
- e. Borrower shall not enter into any contract relating to rehabilitating or managing the Development, except as authorized by County.
- f. Borrower shall not enter into any Lease for more than a single rental unit, ground lease of the Development or any interest therein without prior written approval of County. County may require that such lease allow for termination within thirty (30) days upon request by County.
- g. County may approve a sale, transfer or conveyance provided that all of the following conditions are met:
  - 1) The existing Borrower is in compliance with this Agreement or the sale, transfer or conveyance will result in the cure of any existing violations of the Agreement;
  - 2) The successor-in-interest to Borrower agrees to assume all obligations of the existing Borrower pursuant to this Agreement and the HOME Program, and meets any requirements, which may be in existence for Community

Housing Development Organizations (CHDOs) under the applicable regulations.

- 3) The successor-in-interest demonstrates to County's satisfaction that it can own and operate the Development in full compliance with all HOME Program requirements; and
- 4) Any terms of the sale, transfer or conveyance shall not threaten County's security or the successor's ability to comply with all requirements of the HOME Program and this Agreement.

h. If the County grants its approval for a sale, transfer or conveyance, such approval shall be subject to such terms and conditions as may be necessary to preserve or establish the Fiscal Integrity of the Development and to ensure compliance with HOME Program requirements and this Agreement. Such conditions may include the deposit of sales proceeds, or a portion thereof, to maintain required reserves or to offset negative cash flow, the recapture of syndication proceeds or other funds such other conditions as may be necessary to ensure compliance with the HOME Program requirements.

29. Covenant Running with the Land. Borrower is grantor and County is grantee in connection with the Deed of Trust. Upon recordation of the Deed of Trust, Borrower covenants to only use the Property in manner which conforms to all of the affordability requirements imposed by this Agreement and said affordability requirements shall run with the land so as to be binding upon successive owners of the Property for the Period of Affordability described in this Agreement, for the benefit of all real property interests conveyed to and otherwise owned by County in and adjacent to the Property. Any attempt to terminate said covenant prior to the expiration of the Period of Affordability shall be void if it is to any degree inconsistent with or violative of either any terms of the HOME Loan Documents or any related or applicable laws and regulations.

30. Use of Equity Proceeds. Borrower shall, pursuant to the terms of the Partnership Agreement, allocate, distribute and pay all equity proceeds, if any, towards the costs of completing the Development. County may approve, in writing, future syndications of the Development where it determines that such syndication is in the best interest of the Development.

31. Violation of Regulatory Agreement by Borrower.

- a. In the event of a breach or violation of the provisions of this Agreement, County may give written notice to Borrower and Borrower's limited partners thereof by certified mail or any express delivery service with a delivery receipt addressed to Borrower at the address stated in this Agreement. If the breach or violation is not cured to the

satisfaction of County within the time period specified in the notice, which shall not be fewer than thirty (30) days, County may declare a default and may seek legal remedies including the following:

- 1) Collect all rents and income in connection with the operation of the Development and use the same and the reserve funds for the operation and maintenance of the Development.
- 2) Take possession of the Development and bring any action necessary to enforce any rights of Borrower growing out of the operation of the Development, and operate the Development in accordance with the terms of this Agreement until such time as County, in its sole discretion, shall determine that Borrower is again in a position to operate the Development in accordance with the terms of this Agreement.
- 3) Apply to any court, State or federal, for specific performance of this Agreement or for the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement or for such other relief as may be appropriate. It is agreed by Borrower that the injury to County arising from a default under any of the terms of this Agreement would be irreparable and that the amount of compensation that would provide adequate relief to County, in light of the purposes of the Program, would be impossible to ascertain.
- 4) Subject to written authorization from lenders with a priority security interest in the Property and the Development, accelerate all amounts including outstanding principal and interest, due under the HOME Loan and demand immediate repayment thereof. Upon a failure to repay such accelerated amount in full, County may proceed with a foreclosure in accordance with the provisions of the Deed of Trust and State law regarding foreclosures.

However, in the event of a nonmonetary breach which cannot reasonable be cured within the time period set forth in such notice, the HOME Loan may not be accelerated hereunder if within said designated time period Borrower or any of Borrower's limited partners has given written notice to County of Borrower's intention to cure said breach, has commenced to cure such breach and has diligently prosecuted and effected such cure which shall be completed no later than sixty (60) days from the date notice of such breach is given.

- 5) County may seek such other remedies as may be available under law.
- b. In the event that the breach or violation involves the rents to tenants or other charges in excess of those permitted under this Agreement, County may demand, and seek as an additional remedy, the return of such excess rents or other charge to the affected household.

- c. The remedies of County hereunder are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by County of any one or more of its other remedies.
  - d. Notwithstanding anything to the contrary herein, any cure of any default or Event of Default made or tendered by a limited partner of Borrower shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower. Copies of all notices which are sent to Borrower under the terms of this Agreement shall also be sent to Borrower's managing general partner and Borrower's limited partner(s) as defined in Section 41.
32. Assignment of County Rights. County retains the right, at its sole discretion, to assign all or part of its rights under this Agreement for the purpose of ensuring compliance and enforcement of Borrower's duties and obligations hereunder. In addition, COUNTY may designate an agent to act on its behalf in monitoring compliance and enforcing the provisions hereof.
33. Amendment. This Agreement shall not be altered or amended except in writing, executed between the Parties.
34. Partial Invalidity. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
35. Binding on Successors. This Agreement shall bind, and the benefits thereof shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors in the office of interest, and assigns, provided, however, that Borrower may not assign this Agreement or any of its obligations hereunder, voluntarily or by operation of law, without the prior written approval of County and the Department.
36. Recording Agreement. This Agreement, and all amendments thereto, shall be executed by each of the Parties. This Agreement, or memorandum thereof, shall be recorded against the subject Property in the Official Records of Nevada County.
37. Hold Harmless. Borrower and its successors in interest agree to indemnify, defend, and hold harmless County and its respective agents, employees and officers from any and all claims, losses, liabilities or causes of actions (including reasonable attorneys' fees) arising from or in connection with Borrower's management, maintenance or operation of the Development.



38. Waiver. No waiver by County of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach thereto or default thereunder.
39. Captions. The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or the intent of this Agreement.
40. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California.
41. Notice. Written notices and other written communications by and between the parties hereto shall be addressed as set forth below unless and until a Party hereto has, in writing, communicated a different address to the other Party hereto.

Borrower:

Penn Valley Pacific Associates, a California Limited Partnership  
430 E. State Street, Suite 100  
Eagle, ID 83616  
Attn: Caleb Roope

Managing General Partner:

Building Better Partnerships, Inc., a California Nonprofit Benefit  
Corporation  
1455 Butte House Road  
Yuba City, CA 95993  
Attn: Gustavo Becerra

With a copy to Borrower's limited partner(s):

RBC Community Investments, LLC  
c/o RBC Community Investments, LLC  
600 Superior Avenue  
Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

with a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West Fifth Street, 64th Floor  
Los Angeles, California 90071  
Attention: Kyle Arndt, Esq.

COUNTY:

County of Nevada

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42. Attorneys' Fees. The prevailing party in any action to enforce this Agreement, including the residents of Assisted Units, shall be entitled to reasonable attorneys' fees, court and witness costs as determined by the tier of fact of the action.
43. Special Conditions. Borrower agrees to comply with the special conditions, if any, as set forth in Exhibit E, which is made a part hereof. In the event of any inconsistencies between the terms set forth in the Exhibit E, Special Conditions of the Regulatory Agreement and the terms of this Agreement, the terms of the Special Conditions shall prevail.
44. Superiority of Regulatory Agreement. Borrower covenants that it has not, and shall not, enter into or execute any other agreement with provisions contrary to the provisions of this Regulatory Agreement, or contrary to the intent of maintaining the affordability of the Property for the full Period of Affordability.
45. Incorporation. The following Exhibits, all attached hereto, are hereby incorporated into this Agreement:

Exhibit A: Legal Description  
Exhibit B: Schedule of Assisted Units  
Exhibit C: Comparable Unit Schedule  
Exhibit D: Insurance Requirements  
Exhibit E: Special Conditions  
Exhibit F: Operational Conditions

[Signature Pages Follow; Signatures Must Be Notarized.]

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

BORROWER:

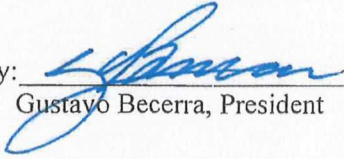
PENN VALLEY PACIFIC ASSOCIATES,  
a California Limited Partner

By: TPC HOLDINGS VII, LLC,  
an Idaho limited liability company  
its Administrative General Partner

By: \_\_\_\_\_  
Caleb Roope, Manager

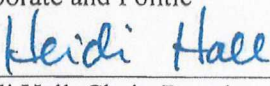
By: LONE OAK 1 - BBP, LLC,  
a California limited liability company  
its Managing General Partner

By: Building Better Partnerships, Inc., a  
a California nonprofit public benefit corporation,  
its sole member and manager

By:   
Gustavo Becerra, President

COUNTY:

COUNTY OF NEVADA,  
a Public Body Corporate and Politic

By:   
Heidi Hall, Chair, Board  
of Supervisor

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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 Nevada )  
 On March 10, 2020 before me, Mechelle L. Morgan,  
 Date Here Insert Name and Title of the Officer  
 personally appeared Heidi Hall  
 Name(s) of Signer(s)

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 Mechelle L. Morgan  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
 Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_



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STATE OF California )  
 ) SS  
COUNTY OF Sutter )

On this 11 day of March 2020, before me, Sonja M. Dillree, Notary Public, personally appeared Gustavo Becerra, 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.

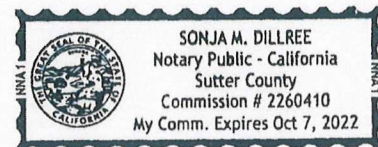
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

Sonja M. Dillree  
(Signature)

Name:

Sonja M. Dillree  
NOTARY PUBLIC [Seal]

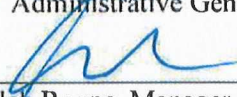


IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

BORROWER:

PENN VALLEY PACIFIC ASSOCIATES, a California Limited Partnership

By: TPC Holdings VII, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By:   
Caleb Roope, Manager

By: LONE OAK I - BBP, LLC,  
a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
a California nonprofit public benefit corporation  
Its: Sole Member and Manager

By: \_\_\_\_\_  
Gustavo Becerra, President

COUNTY:

COUNTY OF NEVADA,  
a Public Body Corporate and Politic

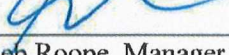
By: \_\_\_\_\_  
Heidi Hall, Chair, Board  
of Supervisor

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

BORROWER:

PENN VALLEY PACIFIC ASSOCIATES, a California Limited Partnership

By: TPC Holdings VII, LLC,  
an Idaho limited liability company  
Its: Administrative General Partner

By:   
Caleb Roope, Manager

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a California limited liability company  
Its: Managing General Partner

By: Building Better Partnerships, Inc.,  
a California nonprofit public benefit corporation  
Its: Sole Member and Manager

By: \_\_\_\_\_  
Gustavo Becerra, President

COUNTY:

COUNTY OF NEVADA,  
a Public Body Corporate and Politic

By: \_\_\_\_\_  
Heidi Hall, Chair, Board  
of Supervisor



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.

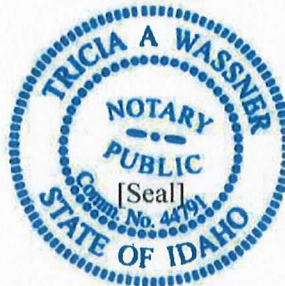
STATE OF Idaho )  
 ) SS  
COUNTY OF Ada )

On this 12 day of March, before me, Tricia A. Wassner, Notary Public, personally appeared Caleb Roope, 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 Idaho that the foregoing is true and correct.

WITNESS my hand and official seal.

Tricia A. Wassner  
(Signature)  
Name: TRICIA A. WASSNER  
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.

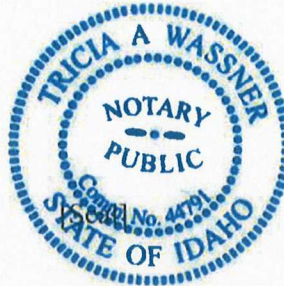
STATE OF Idaho )  
 ) SS  
COUNTY OF Ada )

On this 12 day of March, before me, Tricia A. Wassner, Notary Public, personally appeared Caleb Roope, 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 Idaho that the foregoing is true and correct.

WITNESS my hand and official seal.

Tricia A. Wassner  
(Signature)  
Name: TRICIA A. WASSNER  
NOTARY PUBLIC





**LEGAL DESCRIPTION**

Real property in the unincorporated area of the County of Nevada, State of California, described as follows:

PARCEL ONE:

PARCEL 2, AS SHOWN ON THE PARCEL MAP FILED FOR RECORD JULY 18, 2018 IN VOL. 21 OF PARCEL MAPS PAGE 55 OF NEVADA COUNTY RECORDS.

PARCEL TWO:

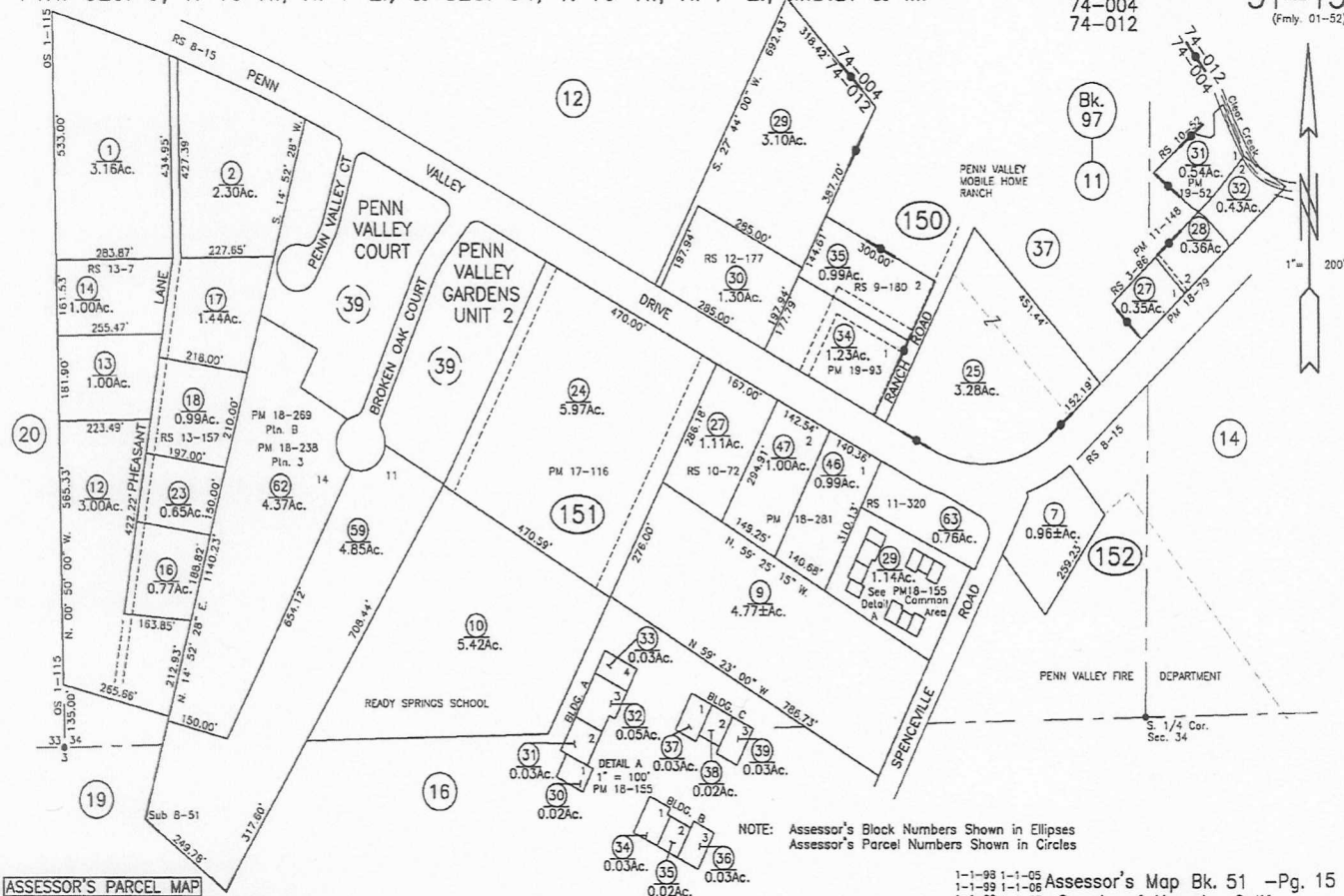
AN EASEMENT FOR INGRESS AND EGRESS ACROSS THAT PORTION OF PARCEL 1, AS SHOWN ON THE PARCEL MAP FILED FOR RECORD JULY 18, 2018 IN VOL. 21 OF PARCEL MAPS PAGE 55 OF NEVADA COUNTY RECORDS.

APN: 051-151-066-000 formerly a portion of 051-151-062-000  
NEW APN NOT YET ASSESSED

PTN. SEC. 3, T. 15 N., R. 7 E., & SEC. 34, T. 16 N., R. 7 E., M.D.B. & M.

Tax Area Code  
74-004  
74-012

51-15  
(Fmly. 01-52)



**Exhibit B to Regulatory Agreement**

**SCHEDULE OF ASSISTED UNITS**

Two (2) 1-bedroom units will be floating units.

One (1) 2-bedroom units will be a floating unit.

## **Exhibit C to Regulatory Agreement**

### **COMPARABLE UNIT SCHEDULE**

The two (2) 1-bedroom Assisted Units are deemed comparable to all other 1-bedroom units in the Development.

The one (1) 2-bedroom Assisted Unit is deemed comparable to all other 2-bedroom units in the Development.

## **Exhibit D to Regulatory Agreement**

### **INSURANCEREQUIREMENTS**

At close of escrow, COUNTY must receive a one-year prepaid Certificate of Insurance policy (or a binder followed by a certificate within thirty (30) days of HOME Loan closing) evidencing the following coverage:

#### **1. HAZARD (PROPERTY)**

Perils: All risk; or Fire & Lightning, Extended Coverage, Vandalism & Malicious Mischief.

Covered Property: Structure; and All risk contents coverage.

Amount: Replacement value (or less if approved by COUNTY).

Coinurance: No less than ninety percent (90%).

Deductible: \$2,500 maximum deductible per occurrence; or \$1,000 maximum deductible per occurrence if the completed project value is less than \$300,000

Endorsement: COUNTY's Loss Payable Endorsement requiring insuring

#### **COUNTY. OTHER PROPERTY INSURANCE**

Flood Insurance: Coverage required to eighty percent (80%) of replacement cost if the property is located in a one hundred (100)-year flood plain.

Steam Boiler & Related Machinery: (When applicable) eighty percent (80%) of replacement cost coverage is required.

#### **2. COMPREHENSIVE GENERAL LIABILITY**

Minimum Amount: \$1,000,000 per occurrence; or \$2,000,000 per occurrence for buildings with elevators.

#### **3. OTHER COVERAGE**

Loss of Rents: Coverage shall insure seventy-five percent (75%) of annual gross rents.

Workers Compensation: Required by State law if employees are involved.



ALL POLICIES MUST INCLUDE THE FOLLOWING

Name Insured: Borrower

Additional Insured: COUNTY and its officers, agents, employees, and servants must be named as additional insured.

Cancellation Clause: COUNTY must be notified thirty (30) days prior to cancellation of the insurance policy.

Notification: COUNTY must be notified prior to cancellation or lapse of coverage or in the event of any claim.

COUNTY should be identified on all insurance documents as follows:

County of Nevada

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## Exhibit E to Regulatory Agreement

### SPECIAL CONDITIONS

Notwithstanding anything else contained in this Agreement or any other documents applicable to the HOME Loan, throughout the term of this Regulatory Agreement, unit rents shall not exceed the applicable rents from the Multifamily Housing Program rent chart, or its successor, for the applicable percentage of Area Median Income ("AMI"), as specified in the HOME Loan and Grant Committee Project Report. The breakdown of Assisted Units and the applicable rent and income levels shall be as follows:

# of Bedrooms	30% AMI	40% AMI	50% AMI	60% AMI
1	2	0	0	0
2	1	0	0	0

## **Exhibit F to Regulatory Agreement**

### **OPERATIONAL CONDITIONS**

For the term of this Agreement, Borrower shall ensure the use and occupancy of the Property is in accordance with the following operational terms and conditions:

1. Borrower will include the designation of a pet area for use by the residents. This includes an additional gate to the retention pond area with a designated pet waste station at that location.
2. Borrower will include the installation of security cameras in the common areas of the development.
3. Borrower will notify the County when there is an absence of its on-site manager for more than 5 calendar days. Borrower will provide a written plan of substitute coverage to the County whenever there is an absence of the on-site manager of 6 calendar days or more. An absence of the on-site manager of 30 calendar days or more will be considered a breach of contract of this Agreement and the County may seek any available staffing to be paid for by the owner under this Agreement. The manager will notify the County Manager of any extended absences.
4. Common areas and common facilities must be accessible to the residents during normal day-time hours. Borrower will notify the County whenever common areas cannot be accessed by the project's residents during normal day-time hours for more than 5 calendar days. The manager will notify the County Manager of any extended absences.
5. Upon the completion of Phase II of the project, Borrower will notify its residents in writing that street parking adjacent to the project will be for visitors only. Borrower will also issue vehicle parking decals for identification of resident vehicles.
6. The County may physically inspect the Property twice a year.
7. Borrower agrees to a re-assessment of these operating terms and conditions upon each fifth year anniversary of its enactment.