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Dept. of Health, Housing
& Community Services
2180 Milvia Street, 2nd Floor
Berkeley, CA 94704



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REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of June 1, 2017 by and between the City of Berkeley, a charter city (the "City"), and Resources for Community Development, a California nonprofit public benefit corporation (the "Borrower").

RECITALS

A. The City and the Borrower have entered into a Loan Agreement (the "Loan Agreement"), Contract Number 10691, of even date herewith which contract was authorized by the Berkeley City Council by Resolution Number 67,480-N.S., pursuant to which the City provided a loan (the "City Loan") to the Borrower pursuant to the City's Housing Trust Fund Program (the "Program") in the amount of \$278,126 for that certain property located in the City as more particularly described in Exhibit A attached hereto (the "Property") which has twelve (12) residential units affordable to households containing low and moderate income individuals (the "Project"). Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the Loan Agreement.

E. The City has agreed to make the City Loan to the Borrower on the condition that the Project be maintained and operated in accordance with restrictions concerning affordability, operation, and maintenance of the Project, as specified in this Agreement, the Loan Agreement, and the Guidelines governing the Program adopted by the City Council, as last revised on April 5, 2016 (the "Program Guidelines").

E. In consideration of receipt of the City Loan at an interest rate significantly below the market rate, the Borrower has further agreed to observe all the terms and conditions set forth below.

F. In order to ensure that the entire Project will be used and operated in accordance with these conditions and restrictions, the City and the Borrower wish to enter into this Agreement.

THEREFORE, the City and the Borrower hereby agree as follows.

ARTICLE 1 DEFINITIONS

1.1 Definitions

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

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

(b) "Adjusted Income" shall mean the total anticipated Annual Income of all persons in a household as defined under 24 CFR 5.609 and calculated pursuant to 24 C.F.R. 5.611 and as further references in 24 C.F.R. 92.203.

(c) "Annual Income" has the definition set forth in 24 CFR 5.609.

(d) "Agreement" shall mean this Regulatory Agreement and Declaration of Restrictive Covenants.

(e) "Borrower" means Resources for Community Development, a California nonprofit public benefit corporation, and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

(f) "City-Assisted Units" shall mean the ten (10) Units designated as assisted by the City.

(g) "City Deed of Trust" shall mean the deed of trust to the City on the Property which secures repayment of the City Loan and the performance of the Loan Agreement and this Agreement.

(h) "City Loan" shall mean all funds loaned to the Borrower by the City pursuant to the Loan Agreement.

(i) "City Note" shall mean the promissory note from the Borrower to the City evidencing all or any part of the City Loan.

(j) "Existing Tenant" shall mean any one of the twelve (12) households that occupy one of the Units as of the date of this Agreement.

(k) "HUD" means the United States Department of Housing and Urban Development.

(l) "Loan Agreement" shall mean the Development Loan Agreement entered into by and between the City and the Borrower, of even date herewith.

(m) "Median Income" shall mean the median gross yearly income, adjusted for Actual Household Size, for Berkeley, California (currently the Oakland-Fremont HMFA), as published from time to time by HUD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the City shall provide the Borrower with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD.

(n) "Project" shall mean the Property and the twelve (12) residential units on the Property, as well as any additional improvements, and all landscaping, roads and parking spaces existing thereon, as the same may from time to time exist.

(o) "Property" shall mean the real property described in Exhibit A attached hereto and incorporated herein.

(p) "Rent" shall mean the total of monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities, including parking; any separately charged fees or service charges assessed by the Borrower which are required of all Tenants (subject to the limitations set forth in 24 C.F.R. 92.214(b)(3)), other than security deposits; an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Borrower, and paid by the Tenant.

(q) "Sixty Percent Income Households" shall mean a household with an Adjusted Income that does not exceed sixty percent (60%) of Median Income.

(r) "Sixty Percent Income Rent" shall mean the maximum allowable rent for a Sixty Percent Income Unit pursuant to Section 2.2(c) below.

(s) "Sixty Percent Income Units" shall mean the Units which, pursuant to Section 2.1(c) below, are required to be occupied by Sixty Percent Income Households.

(t) "Tenant" shall mean a household legally occupying a Unit pursuant to a valid lease with Borrower.

(u) "Term" shall mean the term of this Agreement, which shall commence on the date of this Agreement and unless sooner terminated pursuant to the terms of this Agreement, expires on the thirtieth (30th) anniversary of this Agreement.

(v) "Unit(s)" shall mean one or all of the twelve (12) rental units on the Property.

ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirements. The City-Assisted Units shall be occupied by Tenants meeting the following income requirements:

(a) Sixty Percent (60%) Income Units. Ten (10) of the City-Assisted Units shall be rented to and occupied by or, if vacant, available for occupancy by Sixty Percent (60%) Income Households.

Intermingling of Units. The City-Assisted Units shall be intermingled with, and shall be of comparable quality to, all other units on the Property. Ten of the City-Assisted Units shall Single Room Occupancy units

(b) Disabled Persons Occupancy. The Project shall be operated at all times in compliance with the provisions of: (i) the Unruh Act; (ii) the California Fair Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973; (iv) the United States Fair Housing Act, as amended, (v) the Americans with Disabilities Act of 1990; and (vi) any other applicable law or regulation. Borrower agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the City) the City, and its boardmembers, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Borrower's failure to comply with applicable legal requirements related to housing for persons with disabilities. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

2.2 Allowable Rent

(a) Sixty Percent (60%) Income Rent. Subject to the provisions of Section 2.3 below, the Rent (including utility allowance charged) charged to Tenants of the Sixty Percent (60%) Income Units shall not exceed the most current maximum rents for the 60% income level for the appropriate bedroom size, as published by the California Tax Credit Allocation Committee.

(b) City Approval of Initial and Subsequent Rents. Initial rents for all City-Assisted Units shall be approved by the City prior to occupancy. All rent increases shall also be

subject to City approval. The City shall provide the Borrower with a schedule of maximum permissible rents for the City-Assisted Units annually. The Borrower shall not charge any fee other than Rent to any Tenant of a City-Assisted Units for any housing or other services provided by Borrower pursuant to this Agreement and the Loan Agreement.

(c) Existing Tenants. Any Existing Tenant lawfully residing in the Project as of the date of this Agreement shall be entitled to remain a resident of the Project even if such Tenant does not meet the income criteria of this Section 2.2. Any increases in Rent shall be subject to the terms of this Agreement and the City's Rent Stabilization Ordinance.

2.3 Rent Increases.

(a) Rent Amount. The initial Rent for all City-Assisted Units must be approved by the City prior to occupancy. The City will provide Borrower with a schedule of maximum permissible Rents for the City-Assisted Units.

(b) Rent Increases. All Rent increases for all City-Assisted Units are subject to City approval. No later than sixty (60) days prior to the proposed implementation of any Rent increase affecting a City-Assisted Unit, Borrower shall submit to the City a schedule of any proposed increase in the Rent charged for City-Assisted Units. The Rent for such Units may be increased no more than once annually based upon the annual income certification described in Article 3. The City will disapprove a Rent increase if it violates the schedule of maximum permissible Rents for the City-Assisted Units provided to Borrower by the City, or is greater than a 5% increase over the previous year's Rent. Borrower shall give Tenants written notice at least thirty (30) days prior to any Rent increase, following completion of the City approval process set forth above.

2.4 Increase In Income

If, upon recertification of the income of a Tenant of a City-Assisted Unit, the Borrower determines that a former Sixty Percent Income Household has an Adjusted Income exceeding the maximum qualifying income for a Sixty Percent Income Household, as applicable, such Tenant shall be permitted to continue occupying the Unit at a Rent not to exceed the applicable Rent described below and the Borrower shall rent the next available Unit to a Sixty Percent Income Household to meet the requirements of Section 2.1 above. Upon rental of the next available unit to a Tenant meeting the income requirements necessary to meet the requirements of Section 2.1 above, the rent restrictions of subsections (a), (b), (c) and (d) below shall no longer apply.

(a) If the Tenant's income exceeds the income limit for a Sixty Percent Income Household, upon expiration of the Tenant's lease and upon sixty (60) days' written notice, the Rent shall be increased to the lesser of one-twelfth (1/12th) of thirty percent (30%) of actual Adjusted Income of the Tenant, or fair market rent.

2.5 Termination of Occupancy. Upon termination of occupancy of a City-Assisted Unit by a Tenant, such City-Assisted Unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Sixty Percent Income Household) as the initial income

level of the vacating Tenant, until such Unit is reoccupied, at which time the income character of the City-Assisted Unit (e.g., Sixty Percent Income Unit) shall be redetermined. In any event, Borrower shall maintain the occupancy requirements set forth in section 2.1 above.

2.6 Units Available to the Disabled. All alterations to the Project shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulations (24 CFR 8). Any alterations to dwelling units in the Project shall comply with 24 CFR 8.23, including the requirements that a specific percentage of Units be made accessible. In addition, in compliance with 24 CFR 8.23, any alterations to common areas or parts of the Project affecting accessibility to the units shall also, to the maximum extent feasible, be made readily accessible.

ARTICLE 3 INCOME CERTIFICATION AND REPORTING

3.1 Income Certification.

On an annual basis, Borrower shall obtain, complete, and maintain on file income certifications from each Tenant renting any of the City-Assisted Units. Borrower shall make a good faith effort to verify the accuracy of the income provided by the applicant or occupying household, as the case may be, in an income certification. To verify the information, Borrower shall take two or more of the following steps: (i) obtain a pay stub for the most recent pay period; (ii) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (iv) obtain an income verification form from the applicant's current employer; (v) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (vi) if the applicant is unemployed and does not have a tax return, obtain another form of independent verification. Where applicable, Borrower shall examine at least two (2) months of relevant source documentation. Copies of Tenant income certifications are to be available to the City upon request.

3.2 Annual Report to City.

The Borrower shall submit to the City not later than the sixtieth (60th) day after the close of each calendar year, or such other date as may be requested by the City, a report that includes the following data for each Unit and specifically identifies which Units are City Assisted Units: (i) Tenant income, (ii) the number of occupants, (iii) the Rent, (iv) the number of bedrooms, and (v) the initial address of each Tenant. To demonstrate continued compliance with Section 2.1

Borrower shall cause each annual report after the initial report to include a record of any subsequent Tenant substitutions and any vacancies in City Assisted Units that have been filled.

Borrower shall submit to the City within forty-five (45) days after receipt of a written request, or such other time agreed to by the City, any other information or completed forms requested by the City in order to comply with reporting requirements of HUD, the State of California, and the City.

3.3 Additional Information.

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

3.4 Tenant Records.

(a) The Borrower shall keep and maintain on the Property, or elsewhere with the City's written consent, in accordance with generally accepted accounting principles consistently applied, complete, accurate and current records pertaining to the Project, and shall permit any duly authorized representative of the City to inspect records, including records pertaining to income and household size of Tenants, Rent charged Tenants, and affirmative marketing requirements. All Tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the City, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the City. The Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least five (5) years after creation.

(b) The City shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

3.5 On-site Inspection.

The City shall have the right to perform an on-site inspection of the Project at least one (1) time per year to verify compliance with the requirements of this Agreement, the Loan Agreement, the Program Guidelines, and all applicable property standards set forth in 24 CFR 92.251. The Borrower agrees to cooperate in such inspection. If City desires to inspect the interior of the residential units, City shall give Borrower sufficient notice to allow Borrower to give seventy-two (72) hours notice to residents.

ARTICLE 4
OPERATION OF THE DEVELOPMENT

4.1 Residential Use.

The Project shall be operated only for residential use. No part of the Project shall be operated as transient housing in which the term of Tenant occupancy is less than thirty (30) days.

4.2 Compliance with Loan Agreements and Program Requirements.

Borrower's actions with respect to the Property shall at all times be in full conformity with: (i) all requirements of the Loan Agreement; (ii) the Program Guidelines; and (iii) any other regulatory requirements imposed on the Project.

4.1 Marketing Plan and Tenant Selection Plan.

(a) Marketing Plan.

(1) No later than sixty (60) days after this Agreement, Borrower shall submit to the City for approval its plan for marketing the Project to income-eligible households as required by this Agreement (the "Marketing Plan"). The Marketing Plan must include information on affirmative marketing efforts and compliance with fair housing laws and 24 C.F.R. 92.351(a).

(2) Upon receipt of the Marketing Plan, the City will promptly review the Marketing Plan and will approve or disapprove it within thirty (30) days after receipt. If the Marketing Plan is not approved, the City will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Marketing Plan within thirty (30) days of notification of the City's disapproval. Borrower shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the City. If the Borrower does not submit a revised Marketing Plan that is approved by the City more than 120 days after this Agreement, Borrower will be in default of this Agreement.

(b) Tenant Selection Plan.

(1) No later than sixty (60) days after this Agreement, Borrower shall submit to the City, for its review and approval, Borrower's written tenant selection plan (the "Tenant Selection Plan"). Borrower's Tenant Selection Plan must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. 92.253(d), and any modifications thereto.

(2) Upon receipt of the Tenant Selection Plan, the City will promptly review the Tenant Selection Plan and will approve or disapprove it within thirty (30) days after receipt. If the Tenant Selection Plan is not approved, the City will give Borrower specific reasons for such disapproval and Borrower shall submit a revised Tenant Selection Plan within thirty (30) days of notification of the City's disapproval. Borrower shall follow this procedure for resubmission of a revised Tenant Selection Plan until the Tenant Selection Plan is approved

by the City. If the Borrower does not submit a revised Tenant Selection Plan that is approved by the City more than 120 days after this Agreement, Borrower will be in default of this Agreement.

4.2 Taxes and Assessments.

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

ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

5.1 Management Responsibilities.

The Borrower is responsible for all management functions with respect to the Project, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Project. The Borrower shall retain a professional property management company approved by the City in its reasonable discretion to perform its management duties hereunder. All management agreements shall include a copy of this Agreement, which shall be incorporated therein, and made a part of the contract.

5.2 Management Agent; Periodic Reports.

The Project shall at all times be managed by an experienced management agent reasonably acceptable to the City, with demonstrated ability to operate residential facilities like the Project in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). The Borrower shall submit for the City's approval the identity of any proposed Management Agent (and the City pre-approves, as Management Agent, the John Stewart Company). The Borrower shall also submit such additional information about the background, experience and financial condition of any proposed Management Agent as is reasonably necessary for the City to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, the City shall approve the proposed Management Agent by notifying the Borrower in writing. Unless the proposed Management Agent is disapproved by the City within thirty (30) days, which

disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved.

5.3 Performance Review.

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

5.4 Replacement of Management Agent.

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

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

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

5.5 Approval of Management Policies.

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

5.6 Property Maintenance.

(a) Borrower shall maintain, for the entire Term of this Agreement, all interior and exterior Improvements, including landscaping in decent, safe and sanitary condition, and in good condition and repair, in accordance with (i) 24 C.F.R. Section 92.251, as applicable and (ii) the City's Housing Code. The Housing Code and this Agreement implement 24 C.F.R. Section 92.251. Borrower shall cause the Project to be: (i) maintained in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other

governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, including but not limited to the lead-based paint requirements in 24 C.F.R. part 35; and (ii) free of all health and safety defects. Borrower shall correct any life-threatening maintenance deficiencies, including those set forth in this section immediately upon notification.

(b) At the beginning of each year of the Term, Borrower shall certify to the City that the Development is in compliance with this section.

(c) The City will perform on-site inspections of the Project during the Term to ensure compliance with this section. The City will perform an on-site inspection within twelve months after this Agreement and at least once every three (3) years during the Term. If the Project is found to have health and safety violations, the City may perform more frequent inspections. Borrower shall cooperate in such inspections.

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

(e) In the event that the Borrower breaches any of the covenants contained in this section and such default continues for a period of five (5) days after written notice from the City with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the City with respect to landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the City shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, which amount shall be promptly paid by the Borrower to the City upon demand.

ARTICLE 6 MISCELLANEOUS

6.1 Lease Provisions.

(a) In leasing the City-Assisted Unit in the Project the Borrower shall use a form of Tenant lease agreement approved by the City. The lease shall not contain any provision which is prohibited by 24 CFR Section 92.253 (b) and any amendments thereto. Borrower's form of lease must include any provisions necessary to comply with the requirements of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113-4, 127 Stat. 54) applicable

to HUD-funded programs. The form of Tenant lease shall also comply with all requirements of this Agreement and the Loan Agreement, and shall, among other matters:

(1) provide for termination of the lease and consent by the Tenant to immediate eviction for failure: (i) to provide any information required under this Agreement or reasonably requested by the Borrower to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy in the Project in accordance with the standards set forth in this Agreement, or (ii) to qualify as a Sixty Percent Income Household, as a result of any material misrepresentation made by such Tenant with respect to the income computation or certification; and

(2) be for an initial term of not less than one (1) year, unless by mutual agreement between the Tenant and the Borrower, and provide for no increase in Rent during such year. After the initial year of tenancy, the lease may be month to month by mutual agreement of the Borrower and the Tenant, however the Rent may not be raised more often than once every twelve (12) months after such initial year. The Borrower will provide each Tenant with at least sixty (60) days' written notice of any increase in Rent applicable to such Tenant, and with such further notice as may be required by Section 2.3 above.

(3) include a provision that requires a Tenant who is residing in a Unit required to be accessible pursuant to Section 2.6 and who is not in need of an accessible Unit to move to a non-accessible Unit when a non-accessible Unit becomes available and another Tenant or prospective Tenant is in need of an accessible Unit.

6.2 Nondiscrimination.

All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. The Borrower shall not give preference to any particular class or group of persons in renting or selling the Units, except to the extent that the Units are required to be leased to Sixty Percent Income Households. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. SSI), age (except for lawful senior housing), ancestry, pregnancy, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall the Borrower or any person claiming under or through the Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of any Unit.

6.3 Section 8 Certificate Holders.

The Borrower will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Borrower shall not apply selection criteria to Section 8 certificate or voucher holders that is more

burdensome than criteria applied to all other prospective Tenants, nor shall the Borrower apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of units by such prospective Tenants.

6.4 Term.

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

6.5 Notice of Expiration of Term.

At least six (6) months prior to the expiration of the Term the Borrower shall provide by first-class mail, postage prepaid, a notice to all Tenants in City-Assisted Units containing (a) the anticipated date of the expiration of the Term, (b) any anticipated Rent increase upon the expiration of the Term, (c) a statement that a copy of such notice will be sent to the City, and (d) a statement that a public hearing may be held by the City on the issue and that the Tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Borrower shall also file a copy of the above-described notice with the Housing & Community Services Manager of the City.

In addition, Borrower shall comply with the requirements set forth in California Government Code Sections 65863.10 and 65863.11. Such notice requirements include: (i) a twelve (12) month notice to existing tenants, prospective tenants and Affected Public Agencies (as defined in California Government Code Section 65863.10(a)) prior to the expiration of the Term, (ii) a six (6) month notice requirement to existing tenants, prospective tenants and Affected Public Agencies prior to the expiration of the Term; (iii) a notice of an offer to purchase the Project to "qualified entities" (as defined in California Government Code Section 65863.11(d)), if the Project is to be sold within five (5) years of the end of the Term; (iv) a notice of right of first refusal within the one hundred eighty (180) day period that qualified entities may purchase the Project.

6.6 Covenants to Run With the Land.

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

deed or other instrument, unless the City expressly releases such conveyed portion of the Property from the requirements of this Agreement.

6.7 Enforcement by the City.

If the Borrower fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after the City has notified the Borrower in writing of the default or, if the default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within ninety (90) days, or such longer period as approved by the City, in writing, the City shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

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

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

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

6.8 Recording and Filing.

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

6.9 Governing Law.

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

6.10 Waiver of Requirements.

Any of the requirements of this Agreement may be expressly waived by the City in writing, but no waiver by the City of any requirement of this Agreement shall, or shall be deemed to, extend to or affect any other provision of this Agreement.

6.11 Amendments.

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

6.12 Notices.

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

Borrower: Resources for Community Development
2220 Oxford Street
Berkeley, CA 94704
Attention: Executive Director

Copies of notices sent to Borrower shall also be sent to any limited partner of the Borrower, as applicable, if such limited partner has requested such notice and provided the City with its address.

City: City of Berkeley
2180 Milvia Street
Berkeley, CA 94704
Attention: Housing & Community Services Manager

Such addresses may be changed by notice to the other party given in the same manner as provided above.

6.13 Severability.

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

6.14 Revival of Agreement after Foreclosure.

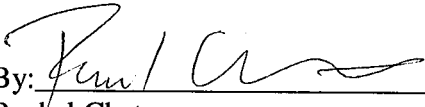
In the event there is a foreclosure of the Property, this Agreement will revive according to its original terms if, during the Term, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or Property.

6.15 Multiple Originals; Counterparts.

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

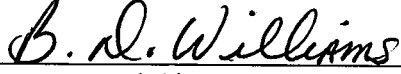
IN WITNESS WHEREOF, the City and the Borrower have executed this Agreement by duly authorized representatives, all on the date first written above.

APPROVED AS TO FORM:

By: 
Rachel Chatman,
Deputy City Attorney

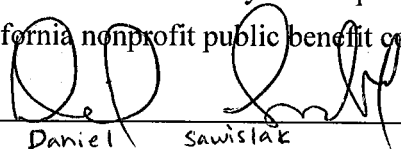
CITY:

CITY OF BERKELEY, a California
municipal corporation

By: 
B.D. Williams, City Manager


BORROWER:

Resources for Community Development,
a California nonprofit public benefit corporation

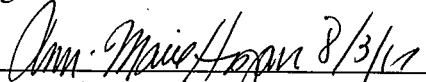
By: 
Daniel Sawistak

Its: Executive Director

ATTEST:


~~Rose Thomsen, Deputy City Clerk~~
Mark Numainville

Registered:

 8/3/12
Ann-Marie Hogan, City Auditor

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.

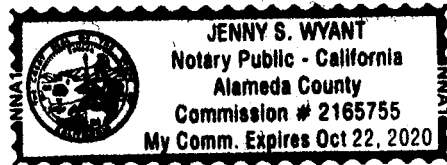
STATE OF CALIFORNIA)
)
COUNTY OF Alameda)

On August 2, 2017, before me, Jenny S. Wyant, Notary Public, personally appeared B.D. Williams, 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.

Jenny S. Wyant
Name: Jenny S. Wyant
Notary Public



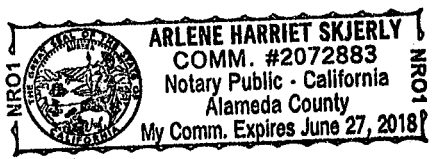
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF Alameda)

On 5/19/2017, before me, Arlene Harriet Skjerly Notary Public, personally appeared Daniel Sawistak, 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.



Arlene Harriet Skjerly
Name: Arlene Harriet Skjerly
Notary Public

EXHIBIT A
(Legal Description)

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

A portion of Block 10, Map showing subdivision of Block 10, Central Park Tract, filed May 7, 1897, Map Book 15, Page 60, Alameda County Records, described as follows:

Beginning at a point on the western line of Grove Street, distant thereon 50 feet northerly from the point of intersection thereof with the northern line of Ashby Avenue, formerly Mason Street; thence northerly along said line of Grove Street, 50 feet; thence westerly and parallel with said line of Ashby Avenue, 122.4 feet; thence southerly parallel with said line of Ashby Avenue, 122.4 feet to the point of beginning.

Commonly known as: 2942-2944 Martin Luther King, Jr. Way
APN: 53-1600-16