

1 Free Recording in Accordance with
2 California Government Code
3 Sections 6103 and 27383
4 **Exempt from SB2 fee per Gov.
5 Code Sect 27388.1 (a)(2)(D)**

6 Recording requested by
7 **County of Fresno**

8 And when recorded, return to:
9 County of Fresno
10 Department of Public Works and Planning
11 Community Development Division
12 Affordable Housing Programs
13 2220 Tulare Street, Sixth Floor
14 Fresno, California 93721
15 Stop #213

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**FEDERAL HOME REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS FEDERAL HOME REGULATORY AGREEMENT and DECLARATION OF RESTRICTIVE COVENANTS
("Regulatory Agreement") is made and entered into on _____, 2026 ("Effective Date") by
and between the County of Fresno, a political subdivision of the State of California ("County"), and Reedley
Elderly L.P., a California limited partnership ("Owner").

RECITALS

A. WHEREAS, pursuant to and with primary funding under the United States Department of
Agriculture ("USDA") Section 515 of the Housing Act of 1949 (42 U.S.C. Section 1485) "USDA Debt" and
Section 42 of the Internal Revenue Code of 1986, as amended the Low-Income Housing Tax Credit
("LIHTC") ("LIHTC Requirements"), Owner is developing upon the Property, as defined herein, (via
rehabilitation of existing housing units) a 23-unit (including a manager's unit) affordable housing rental
project for elderly households ("Project"); and

B. WHEREAS, Owner owns certain real property currently known as Reedley Elderly, which will
become known as Reedley Heritage, located at 172 S. East Avenue, Reedley, CA 93654, in the county of
Fresno, State of California ("the Property"), which is more fully described in EXHIBIT A, attached and

1 incorporated by this reference, including the improvements thereon and by its subscription below,
2 Owner consents to the recordation of this Regulatory Agreement; and

3 C. WHEREAS, the County is providing funding to the Project pursuant to the Home Investment
4 Partnerships Program (the "HOME Program"), established and governed by Title II to the Cranston-
5 Gonzalez National Affordable Housing Act of 1990, as amended by the Housing and Community
6 Development Act of 1992, as implemented by and subject to Title 24 Code of Federal Regulations
7 ("CFR") Part 92, and as further governed by and subject to that award of funding to the County of Fresno
8 as a HOME Participating Jurisdiction; and

9 D. WHEREAS, as a condition of receiving HOME Program funds for the Project, which is considered
10 to be HOME-assisted, the Owner must agree to place specific restrictions upon the use and transfer of
11 the Property, including but not limited those identified at 24 CFR 92.252. It is the intent of the parties to
12 this Regulatory Agreement to evidence Owner's compliance with the Federal HOME Regulatory
13 Requirements HOME Program and place such restrictions upon the use and transfer of the Property to
14 ensure continued Project use, affordability, operation, and maintenance as required by the HOME
15 Program regulations for the duration of construction and the Federal HOME Period of Affordability; and

16 E. WHEREAS, the Owner has requested an Extended Post-Regulatory Repayment Period following
17 the conclusion of the Federal Period of Affordability, so the County seeks to place extended restrictions
18 upon the use and transfer of the Property to ensure continued Project affordability, maintenance, and
19 operation for the period of time following the end of the Federal Period of Affordability until the
20 County's loan of funding has been satisfied.

21 F. NOW, THEREFORE, in consideration of the foregoing covenants and other valuable
22 consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce the
23 County to enter into the County's Affordable Housing Agreement ("the AHA"), the terms of which are
24 incorporated by reference, with Owner and loan Federal HOME funds administered by the County to
25 Owner for this Project, County and Owner hereby agree and declare as follows:

26 **Article 1 Declaration of Restrictive Covenants and Two Periods of Affordability**

1.01 The Property is and shall be held, transferred, encumbered, used, sold, conveyed, and occupied

1 subject to the covenants, restrictions, and limitations set forth in this Regulatory Agreement, all of which
2 are declared and agreed to be in furtherance of the Project, the County's General Plan, Consolidated
3 Plan, Annual Action Plans, Sixth Cycle Housing Element, and Federal HOME Investment Partnerships
4 Program requirements at 24 CFR Part 92 applicable to the rehabilitation of affordable rental housing
5 units and ongoing compliance, monitoring, affordability, and property requirements.

6 1.02 All of the restrictions, covenants, and limitations set forth herein shall run with the land and
7 shall be binding on all parties having or acquiring any right, title, or interest in the Property or any part
8 thereof, shall inure to the benefit of the County, and shall be enforceable by the County.

9 1.03 Any purchaser under a contract of sale or other transferee of an interest covering any right, title,
10 or interest in any part of the Property, by accepting a deed, contract of sale, or agreement of purchase,
11 accepts such instrument subject to, and agrees to be bound by, any and all restrictions, covenants, and
12 limitations set forth in this Regulatory Agreement.

13 1.04 **Federal HOME Period of Affordability and Pre-Completion Compliance.** Owner acknowledges
14 that under 24 CFR Part 92, the official Federal HOME Period of Affordability does not commence until
15 the entire Project is completed and is marked as completed by the County in the Federal Integrated
16 Disbursement and Information System ("IDIS") database. However, because the Project consists of
17 occupied rehabilitation where units will be completed and re-occupied in rolling waves, Owner
18 covenants and agrees to comply fully with all HOME restrictions set forth in Article 2, including those
19 terms specific to rent, income, and habitability, and comply with Exhibit B of the AHA for any HOME-
20 assisted unit immediately upon completion of that specific unit's rehabilitation, throughout the
21 construction period, and prior to final Project completion. During active construction of an individual
22 unit, Owner shall maintain habitability standards insofar as is practical, provided that no unit shall be re-
23 occupied by a tenant until it fully complies with all applicable habitability and property standards.
24 Following final Project completion and the County's entry of the completion date in IDIS, these
25 restrictions shall remain in full force and effect for a formal Federal HOME Period of Affordability of
26 fifteen (15) years. The County shall subsequently record an "Affirmation of Federal HOME Period of
Affordability Dates," identifying the exact beginning and end dates of the Federal HOME Period of

1 Affordability based on the IDIS entry. The dates contained within this recorded affirmation, which shall
2 truly and accurately represent the contents of the Federal IDIS database, shall be binding and shall
3 control; not the date the Affirmation itself is recorded, nor the date the Owner records a construction
4 Notice of Completion. The recordation of the “Affirmation of Federal HOME Period of Affordability
5 Dates” shall not alter any other terms of this Regulatory Agreement, or the County’s AHA, but shall serve
6 as definitive public notice of the specific compliance dates.

7 **1.05 Extended Post-Regulatory Repayment Period of Affordability.** Upon the expiration of the
8 Federal HOME Period of Affordability set forth in Section 1.04, the Project shall immediately enter an
9 Extended Post-Regulatory Repayment Period of Affordability (“EPRRPOA”). The EPRRPOA shall
10 terminate on March 31, 2083, unless terminated earlier pursuant to the full satisfaction and repayment
11 of the County loan, as evidenced by the County’s recordation of a full Reconveyance of the Deed of Trust
12 securing the Federal HOME funds. During the EPRRPOA, the Property shall remain subject to all general
13 affordable housing covenants, applicable USDA restrictions, and applicable LIHTC requirements.
14 Furthermore, Owner’s obligation to provide the County with prior written notice of any proposed
15 transfer, sale, or change in Property ownership, as detailed in Article 3, shall remain in full force and
16 effect throughout the duration of the EPRRPOA.

17 **Article 2 Federal HOME Restrictive Covenants**

18 **2.01 Declaration of HOME Regulatory Agreement and Restrictive Covenants.** Owner declares that
19 the Property is and shall be subject to the covenants and restrictions hereinafter set forth, all of which
20 are declared to be in furtherance of the Property, the Project, the HOME Regulatory Agreement, the
21 County's general, consolidated, and annual action plans and housing element(s) therein including HOME
22 Program affordability requirements, covenants and restrictions at 24 CFR 92.252; 24 CFR 92.504 (c) (3)
23 (vii)), and are established and agreed upon for the purpose of enhancing and protecting the value of the
24 Property and in consideration of the County’s AHA and the above recitals. All terms not otherwise
25 defined herein shall have the meanings ascribed to such terms in the County’s AHA.

26 **2.02 Restrictions.** The following covenants and restrictions on the use and enjoyment of the Property
shall be in addition to any other covenants and restrictions affecting the Property, are for the benefit

1 and protection of the County and shall run with the Property and be binding on any future owners of the
2 Property and inure to the benefit of and be enforceable by the County. The covenants and restrictions
3 are as follows:

4 (A) Owner, for itself and its successor(s) on title, covenants and agrees that for the period of time
5 defined in Section 1.04 above, the Federal HOME Period of Affordability, it shall ensure that
6 upon Project completion, eleven (11) Low HOME units and zero (0) High HOME units that float
7 within the 23-unit Project's 22 affordable units funded through the County's AHA shall be used
8 as housing affordable to low and very low-income families, as specifically defined by HUD for the
9 HOME Program. During the period in which Project-Based Rental Assistance ("PBRA")
10 administered by USDA applies to the Property, one-hundred percent (100%) of the eleven (11)
11 HOME-assisted units shall, at initial lease-up of any individual household (including subsequent
12 unit turnovers), be rented to households whose incomes do not exceed fifty percent (50%) of
13 the Area Median Income ("AMI") for the Fresno Metro Area. To the extent that USDA PBRA,
14 LIHTC, and HOME regulations impose overlapping or differing income and rent restrictions, the
15 Owner shall comply with the most restrictive standard. In the event of an irreconcilable conflict
16 between the Federal HOME regulations and USDA program requirements, the parties shall
17 submit the matter to the HUD Local Field Office for an administrative determination. Unless
18 otherwise provided in the County's AHA, the term "affordable rental housing" shall include
19 without limitation, compliance with the following:

20 (i) **Applicable Requirements.** All Federal HOME requirements identified in Exhibit F of the
21 County's AHA.

22 (ii) **Nondiscrimination.** Consistent with the HOME Program, the USDA 515 Program and LIHTC
23 requirements, there shall be no discrimination against nor segregation of any person or group
24 of persons on account of race, color, creed, religion, sex, marital status, age, national origin,
25 ancestry, or disability in the sale, transfer, use, occupancy, tenure, or enjoyment of any of the
26 Property. Nor shall Owner or any person claiming under the Owner, establish or permit any
practice of discrimination or segregation with reference to the selection, location, number, use

1 or occupancy of owners or vendees of the Property. Operation of the Property must at all
2 times be in accordance with 24 CFR Part 92.350 and its referenced requirements, 24 CFR Part
3 100, and all legally-enforceable Executive Orders not subject to a judicial stay. Owner shall not
4 permit any discriminatory action under the California Fair Employment and Housing Act
5 (Government Code Section 12900 et seq.), including but not limited to discrimination based on
6 source of income or use of a housing voucher.

7 (iii) **Accessibility.** Owner covenants that it shall comply with 24 CFR 92.251(a)(3)(i), including,
8 without limitation, the construction and rehabilitation of the Project so that it meets the
9 applicable accessibility requirements, and in its response to requests for Reasonable
10 Accommodation for a disability under Federal and State law, including but not limited to 24
11 CFR Part 100, Subpart D.

12 (iv) **Tenant Protections and Selection.** Owner shall comply with all tenant protection and
13 selection requirements mandated by 24 CFR 92.253. Including, but not limited to:

14 1) **Lease Requirements.** There shall be a written lease between the Owner and any tenant
15 in a HOME-assisted unit that has a minimum term of one (1) year, unless both parties
16 mutually agree upon a shorter term in writing.

17 2) **Prohibited Lease Terms.** Owner agrees that no lease for a HOME-assisted unit shall
18 contain any of the following provisions: agreement to be sued; treatment of tenant's
19 personal property as subject to a lien; excusing Owner from legal liability for negligence;
20 waiver of legal proceedings; waiver of a jury trial; waiver of right to appeal a court decision;
21 tenant agreement to pay Owner's legal costs regardless of the outcome of a dispute; or
22 mandatory supportive services.

23 3) **Termination of Tenancy.** Owner may not terminate the tenancy or refuse to renew the
24 lease of a tenant in a HOME-assisted unit except for serious or repeated violation of the
25 terms and conditions of the lease; for violation of applicable Federal, State, or local law; for
26 completion of the tenancy period for transitional housing; or for other good cause. Any
termination or refusal to renew must be preceded by not less than thirty (30) days' written

1 notice from the Owner to the tenant specifying the grounds for the action.

2 4) **Tenant Selection.** Owner shall adopt explicit, written tenant selection policies and
3 criteria that are consistent with the housing needs of low-income elderly households,
4 provide for the selection of tenants from a written waiting list in chronological order of
5 application, and prompt notification of any rejected applicant with an explanation of the
6 grounds for rejection. Owner shall not exclude housing voucher households from tenancy.

7 5) **Lease Addendums.** Owner shall utilize a Violence Against Women Act (VAWA) lease
8 addendum for all twenty-two (22) of the affordable units on the Property and a HOME
9 Tenancy addendum, as provided by the County, for all tenant households occupying all
10 HOME-assisted units.

11 **(v) Property Standards, Maintenance, and Resolution of NSPIRE Life-Threatening Deficiencies.**

12 Owner shall maintain the Project, including all interior areas, exterior areas, common areas,
13 and HOME-assisted units, in compliance with the National Standards for the Physical
14 Inspection of Real Estate (“NSPIRE”) established at 24 CFR Part 5, as may be amended from
15 time to time, and any specific standards applicable to the HOME program under 24 CFR
16 92.251. In accordance with Federal regulations, Owner shall repair, mitigate, or control the
17 life-threatening deficiency within twenty-four (24) hours of discovery or notice to the Owner.
18 If mitigation or control is utilized as an interim measure, full resolution must be completed
19 within a reasonable timeframe consistent with industry standards and as expeditiously as
20 possible.

21 **(vi) Principal Residence.** Each of the HOME-assisted units within the Project upon the Property
22 shall be leased only to natural persons, who shall occupy such units as a principal residence.
23 Transient housing or short-term rentals of less than thirty (30) days are strictly prohibited.
24 Tenants must certify their principal residency and household size annually.

25 **(vii) Income Requirements, Rent Limits, and Utility Allowances.** During the term of the USDA
26 PBRA each of the eleven (11) HOME-assisted units constituting the County-assisted Affordable
Rental Housing upon the Property may be leased only to elderly (age 62+, a population

1 identified in the County’s housing element and Consolidated Plan as severely rent-burdened
2 households. At the time of initial occupancy, one-hundred percent (100%) of the eleven (11)
3 units shall be occupied by households whose annual income is not greater than fifty percent
4 (50%) of the most recent Annual Median Income (“AMI”) calculated and published by HUD for
5 the Fresno Metropolitan Statistical Area applicable to such household's size, and leased at an
6 affordable monthly rental price (Owner to provide electricity, natural gas, water, sewer, and
7 trash at no additional fee or cost to the tenant) consistent with the applicable USDA PBRA and
8 HOME Program regulations. Annual tenant household income shall be recertified by the
9 Owner on an annual basis, and any subsequent changes to household income or unit
10 compliance shall be governed strictly by sub-clause (viii) below. In the event the Utility
11 Allowance Methodology is no longer governed by USDA PBRA’s schedule while the Federal
12 HOME Period of Affordability is in effect, Owner shall comply with 24 CFR 92.252(b) and the
13 waterfall Utility Allowance Methodology section of Exhibit B to the AHA, and receive the prior
14 written approval of the County before implementation of the new utility allowances on an
15 annual basis. In the unplanned event USDA PBRA restrictions end prior to the end of the 15-
16 year Federal HOME Period of Affordability, and HOME and LIHTC requirements remain, income
17 requirements and rent limits shall honor the applicable most-restrictive rule between the
18 HOME and LIHTC programs until the end of the Federal HOME Period of Affordability.

19 **(viii) Temporary HOME Non-Compliance & Over-Income Households.**

- 20 1) **Over-Income Adjustments (50% to 80% AMI).** If an existing tenant’s household income
21 recertifies above fifty percent (50%) AMI but below eighty percent (80%) AMI, the unit
22 continues to count as a Low HOME-assisted unit, and the household remains contractually
23 compliant. The Owner shall adjust the rent according to the waterfall schedule in Exhibit B to
24 the AHA, as applicable, and no unit shifting or active "Next Available Unit" tracking shall be
25 required of the Owner for this specific category of household.
- 26 2) **Over-Income Trigger (Over 80% AMI).** In accordance with 24 CFR 92.252(h)(2), a
temporary non-compliance trigger occurs only when an existing HOME-assisted tenant

1 household recertifies at an annual income exceeding eighty percent (80%) AMI.

2 3) **Requirement to Identify the Next Available Unit.** Upon the occurrence of a household
3 exceeding eighty percent (80%) AMI, the Owner shall adjust the over-income tenant's rent in
4 accordance with the over-income requirements in Exhibit B to the AHA, and shall restore
5 Project compliance by designating the next available non-HOME-assisted unit (either a new
6 move-in tenant or a new lease renewal) within the Project of a comparable or greater
7 bedroom count to become the replacement Low HOME unit. Said replacement unit shall be
8 leased to a household whose income is certified at or below fifty percent (50%) AMI. Upon
9 the formal execution of a lease with a qualifying fifty percent (50%) AMI household for the
10 replacement unit, the original over-income tenant's unit shall be stripped of its HOME
11 designation and shall revert to non-assisted status under this Regulatory Agreement. This
12 shifting process shall repeat as necessary to restore the Project to its full eleven (11) unit
13 commitment and preserve all affordability requirements throughout the entire Federal
14 HOME Period of Affordability.

15 (ix) **Audits and Recordkeeping.** Owner shall adhere to all applicable State and Federal and County
16 requirements governing audits, recordkeeping, and reporting for this Project.

17 (x) **Rights of HOME Beneficiaries.** Pursuant to 24 CFR 92.504(c)(3)(vii), the low-income tenant
18 intended beneficiaries of this Project shall have the right (but not the obligation) to bring forth
19 or cause to bring forth enforcement of the affordability requirements of this Regulatory
20 Agreement for the duration of the Federal HOME Period of Affordability.

21 2.03 **Event of Default.** Any failure of Owner to ensure the Project does not abide by the requirements
22 of this Section 2.02 during the period of time covered by Section 1.04 shall be an Event of Default.

23 **Article 3 EPRRPOA Restrictive Covenants**

24 3.01 **Declaration of EPRRPOA Regulatory Agreement and Restrictive Covenants.** Owner hereby
25 declares that the Property is and shall be subject to the covenants and restrictions hereinafter set forth,
26 all of which are declared to be in furtherance of the Property, the Project, the County's goals to promote
affordable housing, and the County's financial interest as a lienholder against the Property. All terms not

1 otherwise defined herein shall have the meaning ascribed to such term in the County's AHA.

2 3.02 **Restrictions.** The following covenants and restrictions on the use and enjoyment of the Property
3 shall be in addition to any other covenants and restrictions affecting the Property, and all such
4 covenants and restrictions are for the benefit and protection of the County and shall run with the
5 Property and be binding on any future owners of the Property and inure to the benefit of and be
6 enforceable by County. These covenants and restrictions are as follows:

7 (A) **Applicability.** Owner, for itself and its successor(s) on title, covenants and agrees that for the
8 period governed by Section 1.05 above, the EPRRPOA, it shall maintain the Property as
9 affordable housing under all remaining applicable regulatory requirements, whether established
10 by USDA or LIHTC for the 23-unit Project's 22 affordable units. Owner shall ensure that all
11 regulatory requirements of the units are satisfied so as not to injure the long-term affordability
12 (anticipated to be a minimum of 55 years) of the Project. Unless otherwise provided in the
13 County's AHA, the term "affordable rental housing" shall include without limitation, compliance
14 with the following:

15 (i) **Nondiscrimination.** Consistent with the HOME Program, the USDA 515 Program and LIHTC
16 requirements, there shall be no discrimination against nor segregation of any person or group
17 of persons on account of race, color, creed, religion, sex, marital status, age, national origin,
18 ancestry, or disability in the sale, transfer, use, occupancy, tenure, or enjoyment of any of the
19 Property. Nor shall Owner or any person claiming under the Owner, establish or permit any
20 practice of discrimination or segregation with reference to the selection, location, number, use
21 or occupancy of owners or vendees of the Property. Operation of the Property must at all
22 times be in accordance with 24 CFR Part 92.350 and its referenced requirements, 24 CFR Part
23 100, and all legally-enforceable Executive Orders not subject to a judicial stay. Owner shall not
24 permit any discriminatory action under the California Fair Employment and Housing Act
25 (Government Code Section 12900 et seq.), including but not limited to discrimination based on
26 source of income or use of a housing voucher.

(ii) **Accessibility.** Owner covenants that it shall comply with 24 CFR 92.251(a)(3)(i), including,

1 without limitation, the construction and rehabilitation of the Project so that it meets the
2 applicable accessibility requirements, and in its response to requests for Reasonable
3 Accommodation for a disability under Federal and State law, including but not limited to 24
4 CFR Part 100, Subpart D.

5 (iii) **Property Standards & Maintenance.** In the furtherance of Fair Housing requirements and the
6 County’s Sixth Cycle Housing Element, Owner shall maintain the Project, including all interior
7 areas, exterior areas, common areas, and units, in a decent, safe, and sanitary manner.

8 (iv) **Audits and Recordkeeping.** Owner shall adhere to all applicable State and Federal and County
9 requirements governing audits, recordkeeping, and reporting for this Project.

10 3.03 **Event of Default.** Any failure of Owner to ensure the Project does not abide by the
11 requirements of this Section 3.02 during the period of time covered by Section 1.05 shall be an Event of
12 Default.

13 **Article 4 Prohibited Transfers**

14 4.01 **Prohibition on Unapproved Transfers and Event of Default.** The Owner covenants and agrees
15 that the restrictions on the sale, transfer, assignment, conveyance, or lease of the Property as a whole
16 constitute a material restriction on the use and alienability of the land. The Owner shall not execute any
17 such transfer, nor attempt or execute a transfer of a controlling interest (greater than 50%) in the
18 Managing General Partner entity of the Limited Partnership, during the combined Period of Affordability
19 governed by Sections 1.04 and 1.05 together, without the express, prior written and executed consent
20 of the County. Any transfer made without such prior written consent shall be null, *void ab initio*, and
21 shall constitute an immediate, material Event of Default under this Regulatory Agreement, the County’s
22 AHA, and the recorded Deed of Trust; subject to the notice and Investor Limited Partner cure rights
23 explicitly detailed in Section 5.02.

24 4.02 **Condition Precedent to Title Transfer.** As an absolute condition precedent to the closing of any
25 sale or transfer of title, the purchasing entity (the “transferee”) must execute a formal, recordable
26 Assignment and Assumption Regulatory Agreement in a form prepared and approved by the County.

4.03 **Assumption Mechanism.** Under the terms of the Assignment and Assumption Regulatory

1 Agreement, the transferee shall explicitly assume all of the obligations, liability, and terms set forth in
2 the original unrecorded County AHA, (a copy of which may be obtained by contacting the County's
3 Community Development Division or the County Clerk and identifying the County's Regulatory
4 Agreement No. _____ as authorized by the Board of Supervisors on _____ and as
5 amended and executed by the County's Director of the Department of Public Works and Planning on
6 _____), the Promissory Note, and the Deed of Trust.

7 **4.04 Escrow Hold.** The Owner agrees that no title company or escrow office may record a deed
8 transferring title to a new owner unless the fully executed Assignment and Assumption Regulatory
9 Agreement is recorded concurrently with said deed.

10 **4.05 Notice to Title Insurance Companies and Escrow Agents.** This Regulatory Agreement serves as
11 explicit public notice to all title insurance underwriters, escrow officers, and closing agents that the
12 County of Fresno holds an absolute right of approval over the transfer of title for this Property for the
13 period of time covered by Sections 1.04 and 1.05.

14 **4.06 Penalties.** In the event of an unapproved transfer, the County reserves the right to immediately
15 accelerate the companion Promissory Note, declare the entire loan balance immediately due and
16 payable, and initiate judicial or non-judicial foreclosure proceedings under the Deed of Trust to strip the
17 unauthorized purchaser of title.

18 **Article 5 Events of Default & Enforcement of Restrictive Covenants**

19 **5.01 Events of Default.** The occurrence of any one or more of the following events shall constitute an
20 immediate "Event of Default" under this Regulatory Agreement, following the expiration of any
21 applicable notice and cure periods set forth in Section 5.02 below:

22 (A) **Breach of Restrictive Covenants.** A failure by the Owner to adhere to, fulfill, or maintain any of
23 the Restrictive Covenants in Article 2 or Article 3 of this Regulatory Agreement.

24 (B) **Unauthorized Transfer.** Any sale, conveyance, assignment, lease of the Property as a whole, or
25 transfer of a controlling interest in the General Partner executed in violation of Article 4 of this
26 Regulatory Agreement.

(C) **Cross-Default, Recapture, and Integration of AHA Remedies.** County and Owner agree that

1 County shall have available all remedies identified in Article 6 to the County's AHA at its disposal
2 to satisfy Owner's failure to adhere to the terms of this Regulatory Agreement or the County's
3 AHA. To that end, any "Event of Default" declared by the County under Article 6 of the AHA shall
4 automatically constitute an immediate and concurrent Event of Default under this Regulatory
5 Agreement, without the necessity of separate notice or an additional cure period, as the AHA
6 already includes notice and cure language. The County shall make a good-faith effort to provide
7 a copy of such declaration to the Investor Limited Partner pursuant to Section 5.02, provided
8 that any inadvertent delay or failure by the County to deliver such duplicate notice shall not
9 invalidate the default as against the Owner, but shall merely extend the Investor Limited
10 Partner's specific period to cure until ninety (90) days following their actual receipt of notice.
11 Upon the occurrence of such an Event of Default, the County may, in its sole discretion, exercise
12 any remedy available under this Regulatory Agreement, any remedy available under Article 6 of
13 the AHA, or any combination thereof, either sequentially or concurrently as cumulative, non-
14 exclusive remedies. In the event of an irreconcilable conflict between the enforcement
15 mechanisms listed at Section 6.07 herein and those listed in Article 6 of the AHA, the provision
16 that provides the County with the maximum protective authority or the most restrictive
17 covenant preservation outcome shall control.

18 **5.02 Notice and Cure Rights of the Investor Limited Partner.** The County agrees that whenever it
19 delivers any notice, demand, or declaration of default to the Owner under this Regulatory Agreement,
20 the County shall concurrently deliver a duplicate copy of such notice to the Owner's Limited Partner (the
21 "Investor Limited Partner") at the address specified below. The Investor Limited Partner shall have the
22 right, but not the obligation, to cure any default or breach within the same timeframe permitted to the
23 Owner, plus an additional ninety (90) calendar days following the expiration of the Owner's cure period.
24 The County shall accept any cure of an Event of Default tendered by the Investor Limited Partner on
25 behalf of the Owner as if it were performed by the Owner itself. No remedy, acceleration of the
26 companion Promissory Note, or exercise of the Purchase Option or Deed-in-Lieu of Foreclosure shall be
pursued by the County until the Investor Partner has received such notice and its specific cure period

1 has elapsed without a cure being effected.

2 Investor Partner Address for Notices:

3 MCC Housing LLC

4 c/o Merritt Community Capital Corporation

5 1901 Harrison Street, Suite 1650

6 Oakland, California 94612

7 Attention: President & CEO

8 **Article 6 Recorded Option to Purchase and Restriction on Alienation**

9 6.01 **Covenant Running with the Land.** This Regulatory Agreement serves as explicit public notice
10 that the Property and Project are subject to a restrictive covenant regarding transfer of title and
11 ownership. This Section 6.01 constitutes a reasonable restraint on alienation necessary to meet and
12 preserve Federal and State low-income housing goals and investments and shall run with the land,
13 binding all current owners, successors, heirs, transferees, and assigns for the duration of the combined
14 period of time covered by Sections 1.04 and 1.05.

15 6.02 **Mandatory County Consent.** Fee simple title to the Property, or a controlling interest in the
16 General Partner of the title-holding Limited Partnership, shall not be transferred, sold, or assigned to
17 any third party without a formal, written "Consent to Transfer" approved and executed by the County of
18 Fresno and recorded concurrently with the deed of transfer.

19 6.03 **Grant of Option to Purchase.** The Owner hereby grants to the County of Fresno (and its
20 designated non-profit designees) an absolute Option to Purchase the Property, which shall run with the
21 land for the period of time described in Sections 1.04 and 1.05. This Option shall become exercisable
22 following and Event of Default under Article 4, and the expiration of all applicable notice and cure
23 periods set forth in Section 5.02. As a condition to the closing of any Property transfer resulting from the
24 exercise of this Option, Owner shall cooperate in obtaining all consents from any lender, governmental
25 agency, and holder of a deed of trust on the Property, whose consent to a sale is required.

26 6.04 **Option Terms and Title Cloud.** Upon an Event of Default under Article 4 and the expiration of all
applicable notice and cure periods set forth in Section 5.02 without a cure being effected, the County

1 may exercise this Option by recording an "Affidavit of Default and Exercise of Option" in the Official
2 Records of Fresno County. The recordation of the County's Affidavit shall immediately cloud the
3 marketability of the title, rendering it uninsurable by any title insurance company operating in the State
4 of California, and blocking any subsequent refinancing, sale, or encumbrance until the County executes a
5 formal release, which shall not be unduly withheld.

6 **6.05 Purchase Price.** The purchase price to be paid by the County upon the exercise of this Option
7 shall be determined, in accordance with the Subordination and Preservation of Senior Federal
8 Covenants included in Section 6.08 below, based on the date the County records its Affidavit of Default
9 and Exercise of Option as follows:

10 (A) **Tax Credit Compliance Period.** If the Option is exercised on or prior to the last day of the fifteen
11 (15) year LIHTC compliance period ending on _____; the following
12 provisions shall apply:

13 (i) **Formula.** The purchase price shall be an amount equal to the sum of:

- 14 1) The outstanding principal balance of, and all accrued, unpaid interest on, the senior
15 USDA debt and any other senior permitted encumbrances, and
- 16 2) An amount equal to the actual Federal and State tax liability (including exit taxes)
17 incurred by the Owner's partners as a direct result of the transfer of the Property to the
18 County.

19 (ii) **Verification.** Within forty-five (45) days following the delivery of the County's notice of
20 default, the Owner (or its investor Limited Partner) shall deliver to the County a written, good-
21 faith itemized calculation of the tax liability described in Section 6.05(A)(i) above, certified as
22 true and correct by a financial officer of the Owner or its investor Limited Partner. This
23 calculation must be accompanied by the Project's most recent IRS Form 1065 (Schedule K-1)
24 demonstrating the partners' capital account balances. The County reserves the right, at its own
25 expense, to audit such calculation using an independent Certified Public Accountant of its
26 choosing prior to the close of escrow; provided, however, that if the County's audit reveals
that the Owner's initial calculation overstated the actual tax liability by more than five percent

1 (5%), the Owner shall reimburse the County for the full cost of the audit at the close of escrow.

2 (B) **Post-Tax Credit Period.** If the Option is exercised at any time after the LIHTC compliance period
3 end date, the following provisions apply:

4 (i) **Formula.** The purchase price shall be the sum of:

5 1) The outstanding principal balance of, and all accrued, unpaid interest on, the senior
6 USDA debt and any other senior permitted encumbrances, PLUS:

7 2) The Owner's Equity, which shall be calculated as the lesser of:

8 a) The Fair Market Value of the Property, determined by an independent Member of
9 the Appraisal Institute appraiser selected by the County, taking into account the
10 remaining restricted term of this Regulatory Agreement, the permanent USDA
11 affordability restrictions on the property, and any deferred maintenance or
12 physical depreciation, MINUS the senior debt; or

13 b) The total amount of County HOME funds originally invested in the Project.

14 (C) **County's Public Funds Only (Inapplicable to this Project).** The parties explicitly acknowledge
15 that because this Project utilizes LIHTC and USDA funds awarded solely to Owner as of the
16 Effective Date, this Section 6.06(C) does not apply to this Project. However, this section is
17 retained herein as standard County regulatory boilerplate for transactions where it would apply:
18 If the Option is exercised at any time and the Project was fully funded by public funds
19 administered by or awarded to the County (acting independently or with a co-applicant entity)
20 and never included LIHTC funds at any time, the following provision applies:

21 (i) **Formula.** The purchase price shall be \$1.00.

22 6.06 **Notice to Title Insurance Companies and Escrow Officers.** All escrow agents, closing attorneys,
23 and title insurance underwriters are hereby notified that closing a transaction, moving funds, or
24 recording a deed regarding this Property without an attached, executed County Consent to Transfer
25 shall trigger an immediate title defect and activate the County's right to strip the unauthorized
26 purchaser of title for the consideration calculated in accordance with Section 6.05.

6.07 **Remedies Upon Default and Exercise of Reversionary Rights.** Upon the occurrence of an

1 unapproved sale, transfer, assignment, or encumbrance of the Property executed in violation of Article
2 4, and following the expiration of all applicable notice and cure periods granted to the Owner and the
3 Investor Limited Partner under Section 5.02, the County shall be entitled to the following options, as
4 applicable:

5 (A) **Traditional LIHTC Project.** If this Project was funded through a mix of County-administered
6 State/Federal funds and public/private funds obtained through independent action of the
7 Owner or its Managing General Partner, then the County shall be entitled to any or all of the
8 remedies, which shall be cumulative and non-exclusive:

9 (i) **Specific Performance and Injunctive Relief.** The County shall have the right to seek specific
10 performance of this Agreement, or a temporary restraining order, preliminary injunction, or
11 permanent injunction from a court of competent jurisdiction to restrain, enjoin, or cure any
12 unauthorized sale, transfer, assignment, or encumbrance of the Property, or to compel the
13 Owner to reverse and undo any transfer executed in violation of Article 4. The Owner hereby
14 explicitly acknowledges that any violation of the transfer restrictions contained herein causes
15 irreparable harm to the County's public purposes and that monetary damages would be an
16 inadequate remedy.

17 (ii) **Judicial or Non-Judicial Foreclosure.** The County shall have the right to declare all outstanding
18 principal and accrued interest on any County loan notes immediately due and payable, and to
19 initiate judicial foreclosure or non-judicial foreclosure (trustee's sale) proceedings against the
20 Property in strict compliance with the power of sale granted under the subordinate County
21 Deed of Trust.

22 (iii) **Appointment of a Receiver.** In tandem with any foreclosure proceeding or action for specific
23 performance, the County shall have the right to petition a court for the immediate
24 appointment of a receiver to take possession of, operate, and manage the Property, collect
25 rents, and maintain compliance with this Regulatory Agreement, without regard to the
26 adequacy of any security for the indebtedness.

(iv) **Incorporation of AHA Article 6 Remedies.** The remedies provided in this Section 6.07(A) are

1 cumulative and non-exclusive, and are in addition to all rights and remedies available to the
2 County under law, equity, or the subordinate loan documents. Following the expiration of all
3 applicable notice and cure periods, the County shall be fully entitled to exercise any and all
4 administrative, financial, contractual, and legal remedies set forth in Article 6 of the AHA
5 executed between the Owner and the County, dated _____, which Article 6 is
6 hereby incorporated into this Regulatory Agreement by reference as though fully set forth
7 herein.

8 (B) **County's Public Funds (Inapplicable to this Project).** The parties explicitly acknowledge that
9 because this Project utilizes LIHTC and USDA funds awarded solely to Owner as of the Effective
10 Date, this Section 6.07(B) does not apply to this Project. However, this section is retained herein
11 as standard County regulatory boilerplate for transactions where it would apply. If this Project
12 was wholly funded by State and Federal funding administered by or awarded to the County
13 (acting independently or with a co-applicant entity) then the County shall be entitled to the
14 following concurrent remedies:

15 (i) The County shall be authorized to record the Conditional Deed-in-Lieu of Foreclosure held in
16 escrow, thereby vesting 100% fee simple title to the real property and improvements in the
17 County (or its non-profit designee) for the consideration calculated in accordance with Section
18 6.05(C).

19 (ii) The Owner, its Managing General Partner, and all parent, subsidiary, or affiliated corporate
20 entities shall immediately vacate the Property, transfer all operational records to County, and
21 forfeit all claims to subsequent property management fees.

22 (iii) Subject to senior Federal regulations, any accumulated project bank balances, operational
23 reserves, and replacement reserves shall remain with the Project accounts to ensure
24 uninterrupted operations and physical maintenance of the facility, and shall not be distributed
25 to the defaulting General Partner.

26 6.08 **Subordination and Preservation of Senior Federal Covenants.**

(A) **Subordination to USDA.** This Regulatory Agreement, including the Right of First Refusal and the

1 Option to Purchase triggered by an Event of Default, is and shall remain fully subordinate to the
2 senior Regulatory Agreements, Use Restrictions, and Deed of Trust recorded by USDA.

3 (B) **Covenant of Non-Disturbance.** The County explicitly covenants that any exercise of its right to
4 compel a transfer of title for the purchase price calculated under Section 6.05 under the USDA
5 program requirements shall be executed "subject to" the senior USDA restrictions. The
6 recordation of a Deed-in-Lieu of Foreclosure by the County shall not merge, alter, terminate, or
7 disturb USDA's first-priority land-use restrictions, which shall remain active and binding upon
8 the County (or its non-profit designee) for the full remainder of its requisite compliance term, or
9 as otherwise set forth in any surviving, permanent affordability covenants of record affecting
10 the Property.

11 **Article 7 General Provisions**

12 7.01 **Enforcement of Restrictions.** Without waiver or limitation, the County shall be entitled to
13 injunctive or other equitable relief against any violation or attempted violation of any covenants and
14 restrictions, and shall be entitled to damages for any injuries or losses resulting from any violations
15 thereof.

16 7.02 **Acceptance and Ratification.**

17 (A) **Binding Effect.** All present and future owners of the Property and other persons claiming by,
18 through, or under them shall be subject to and shall comply with the covenants and restrictions
19 of this Regulatory Agreement. The acceptance of a deed of conveyance to the Property shall
20 constitute an agreement that the covenants and restrictions, as such may be amended or
21 supplemented from time to time, are accepted and ratified by such future owners, tenants, or
22 occupants.

23 (B) **Preservation.** This Regulatory Agreement is subject and subordinate to the senior Regulatory
24 Agreements, Use Restrictions, and Deed of Trust recorded by the USDA. However, in accordance
25 with 24 CFR 92.252, if this Regulatory Agreement is terminated via foreclosure or deed-in-lieu of
26 foreclosure by a senior lender, the covenants, affordability restrictions, and rent limitations
contained herein shall run with the land and shall not be extinguished, terminated, or rendered

1 of no further force and effect by any foreclosure, deed-in-lieu of foreclosure, or transfer to a
2 senior lender or its assignee. Any party acquiring title to the Property through a foreclosure sale,
3 trustee's sale, or deed-in-lieu of foreclosure shall take title subject to all restrictions, covenants,
4 and limitations set forth in this Regulatory Agreement for the full duration of the periods
5 defined in Sections 1.04 and 1.05. Consistent with 24 CFR 92.252(d)(3), if the Property is
6 subsequently sold or transferred to any entity comprising the original Owner, or any parent,
7 affiliate, or subsidiary corporation of the original Owner or its partners, the restrictions of this
8 Regulatory Agreement shall immediately revive and attach to the title.

9 7.03 **Benefit.** This Regulatory Agreement shall run with and bind the Property for a term commencing
10 on the date this Regulatory Agreement is recorded In the Office of the Recorder of the County of Fresno.
11 state of California, and expiring upon the expiration of the Affordability Period. Beneficiaries of the
12 restrictive covenants of this Regulatory Agreement are the County and all households seeking or
13 inhabiting HOME-assisted units, subject to the responsibilities, restrictions, and benefits inherent
14 thereto.

15 7.04 **No Waiver.** The enforcement of covenants and restrictions under this Regulatory Agreement is
16 subject to the following rules regarding waivers:

17 (A) **Written Requirement; No Implied Waiver.** Any waiver by County of any obligation or condition
18 in this Regulatory Agreement must be in writing. No waiver will be implied from any delay or
19 failure by County, or any other person entitled to enforce this Regulatory Agreement, to take
20 action on any breach or default of Owner (or its assignee or transferee), or to pursue any
21 remedy allowed under this Regulatory Agreement, the County's AHA, or applicable law. The
22 failure or delay to act shall in no event be deemed a waiver of the provisions herein, or of the
23 right to compel compliance at any time thereafter, or an estoppel against the subsequent
24 exercise of any remedy.

25 (B) **Extensions and Future Consents.** Any extension of time granted to Owner, its assignee, or
26 transferee to perform any obligation under this Regulatory Agreement shall not operate as a
waiver or release from any of its obligations herein. Consent by the County to any act or

1 omission by owner, its assignee, or transferee shall not be construed as consent to any other or
2 subsequent act or omission, nor shall it waive the requirement for County's written consent to
3 future actions.

4 (C) **No Exemption from Liability.** Neither Owner nor any future owner of the Property may exempt
5 itself from liability for failure to comply with the covenants and restrictions required in this
6 Regulatory Agreement.

7 7.05 **Indemnity.** Owner shall, from legally available funds, indemnify, save, hold harmless, and at
8 County's request, defend County, and its officers, agents, officials, and employees from any and all costs
9 and expenses (including reasonable attorney's fees and costs), losses, damages, liabilities, claims,
10 demands, judgement, actions, occurring or resulting to County in connection with the performance, or
11 failure to perform, by Owner, its officers, agents, or employees under this Regulatory Agreement, and
12 from any and all costs and expenses (including reasonable attorney's fees and costs), damages,
13 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be
14 injured or damaged by the performance, or failure to perform, of Owner, its officers, agents, or
15 employees under this Regulatory Agreement. The County may conduct or participate in its own defense
16 without affecting the Owner's obligation to indemnify and hold harmless or defend the County. The
17 provisions of this Section 7.05 shall survive the expiration or termination of the term of this Regulatory
18 Agreement.

19 7.06 **Relationship of Parties.** Nothing contained in this Regulatory Agreement shall be interpreted or
20 understood by any of the parties, or by any third person, as creating the relationship of employer and
21 employee, principal and agent, limited or general partnership, or joint venture between County and
22 Owner or its agents, employees or contractors. Except as County may specify in writing, Owner shall
23 have no authority to act as an agent of County, or to bind County to any obligation.

24 7.07 **Superiority of Regulatory Agreement.** Owner covenants that Owner has not, and shall not,
25 enter into or execute any other agreement with provisions contrary to the provisions of this Regulatory
26 Agreement, or contrary to the intent of maintaining the Affordability Covenant on the Property for the
full period of time governed by Sections 1.04 and 1.05.

1 7.08 **Parties Bound; Covenants Running with the Land.** The covenants, restrictions, and limitations
2 set forth in this Regulatory Agreement are intended to run with the land, and shall be binding on all
3 parties having or acquiring any right, title or interest in the Property of any part thereof for the entire
4 period of time governed by Sections 1.04 and 1.05, regardless of any assignment, payment, expiration,
5 extinguishment of any loan or note, any reconveyance of deed of trust, or any conveyance or transfer of
6 the Property, and the benefits hereof shall inure to the benefit of County and its successors and assigns.

7 7.09 **No Liability.** No member, officer, official, employee, or agent of County shall be personally liable
8 to Owner in the event of any default or breach by County for any amount that may become due to
9 Owner or for any obligation of County under the terms of this Regulatory Agreement.

10 7.10 **Governing Law.** This Regulatory Agreement shall be interpreted under and be governed by the
11 laws of the State of California.

12 7.11 **Venue.** If either party institutes legal action for enforcement or interpretation of any provision
13 contained herein, the venue of such action shall be in Fresno County, California.

14 7.12 **Costs and Attorney Fees.** In the event that any legal or administrative action is commenced to
15 interpret or to enforce the terms of this Regulatory Agreement, County shall be entitled to recover its
16 costs and all reasonable attorney's fees and costs incurred in such action.

17 7.13 **Severability.** Every provision of this Regulatory Agreement is intended to be severable. If any
18 provision of this Regulatory Agreement is held invalid, illegal, or unenforceable by a court of competent
19 jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be
20 affected or impaired.

21 7.14 **Titles.** Any titles of the section or subsections of this Regulatory Agreement are inserted for
22 convenience of reference only and shall be disregarded in interpreting any part of the Regulatory
23 Agreement's provisions.

24 7.15 **Interpretation.** The language of each and all paragraphs, terms and/or provisions of this
25 Regulatory Agreement, shall, in all cases and for any and all purposes, and in any way and all
26 circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against
any party hereto, and with no regard whatsoever to the identity or status of the person or persons who

1 drafted all or any portion of this Regulatory Agreement.

2 7.16 **Discretion Retained by County.** County’s execution of this Regulatory Agreement in no way
3 limits the discretion of County in the permit and approval process in connection with any improvements
4 by Owner.

5 7.17 **Recordation.** Owner acknowledges and agrees that this Regulatory Agreement shall be recorded
6 against the Property in the Office of the Recorder of the County of Fresno.

7 7.18 **Authority to Execute.** Each individual executing this Regulatory Agreement on behalf of Owner
8 represents and warrants that he or she is duly authorized to execute this Regulatory Agreement on
9 behalf of Owner.

10 7.19 **Entire Agreement.** This Regulatory Agreement constitutes the entire agreement between
11 Owner and County with respect to Owner’s compliance with the Loan requirements of the HOME
12 Program, and the restrictions upon the use and transfer of the Property, to ensure continued Project
13 use, affordability, operation and maintenance as required by HOME Program regulations, and
14 supersedes all previous Regulatory Agreement negotiations, proposals, commitments, writings,
15 advertisements, publications, and understandings of any nature whatsoever, unless expressly included
16 in this Regulatory Agreement.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Federal HOME Regulatory
2 Agreement and Declaration of Restrictive Covenants as of the day and year first hereinabove written.

3
4 Owner

5 Reedley Elderly L.P.,
6 a California limited partnership
7

8 By: Reedley Elderly LLC,
9 a California limited liability company,
10 its general partner
11

12 By: Self-Help Enterprises,
13 a California nonprofit public benefit corporation,
14 its sole member/manager
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16 By: _____
17 Thomas J. Collishaw,
18 President and Chief Executive Officer
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21 Date: _____
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ACKNOWLEDGMENT

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

State of California

County of _____)

On _____, before me, _____ a 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 this 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 entities upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

[SEAL]

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COUNTY OF FRESNO

Approved as to Content:

by: _____

Steven E. White,
Director of Public Works and Planning
Department of Public Works and Planning

Augustine C. Ramirez,
Division Manager of Community Development
Department of Public Works and Planning

Date: _____

Date: _____

Approved as to Legal Form:

Approved as to Accounting Form:

Douglas T. Sloan,
County Counsel

Oscar J. Garcia, CPA
Auditor-Controller/Treasurer-Tax Collector

by: _____

by: _____

Deputy

Deputy

Date: _____

Date: _____

All four (4) signatures on this page must be present for this Agreement to be fully executed by the County of Fresno; but only the Director's signature must be notarized.

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ACKNOWLEDGMENT

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

State of California

County of _____)

On _____, before me, _____ a 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 this 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 entities upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

[SEAL]

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EXHIBIT A
Legal Description of Property

[Reserved for Legal Description]