

FREE RECORDING IN ACCORDANCE
WITH CALIFORNIA GOVERNMENT
CODE SECTIONS 6103 AND 27383

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Coachella
53-990 Enterprise Way
Coachella, CA 92236
Attn: City Manager

AFFORDABLE HOUSING REGULATORY AGREEMENT

This Affordable Housing Regulatory Agreement (the “**Regulatory Agreement**”) dated August 1, 2023, for reference purposes only, by CVDH LP, a California limited partnership (“**Owner**”), hereby given to and on behalf of the City of Coachella (the “**City**”).

RECITALS

This Regulatory Agreement affects that certain real property located at 84908, 84910, 84912, and 84914 Bagdad Avenue in the City of Coachella, County of Riverside, State of California, as more particularly described in the Legal Description attached hereto as **Exhibit “A”** and incorporated herein by this reference (the “**Property**”) and is entered into based on the following facts and understandings:

1. Pursuant to the terms of the Affordable Housing Loan Agreement dated as of April 26, 2022 (the “**Loan Agreement**”), the City agreed to provide Owner with a loan (the “**Loan**”) in an amount not to exceed \$3,794,000. The Loan Agreement requires Owner to use the Loan to prepay the special assessments to be imposed upon a 56-unit affordable housing development (the “**Affordable Housing Development**”) to be constructed on the Property for the next fifty-five (55) years, all as specified in the Loan Agreement.
2. To ensure the operation and maintenance of the property as affordable housing for the purposes of the City, Owner agreed to enter into this Regulatory Agreement to set forth the restrictions on occupancy, rents, and use applicable to the Affordable Housing Development as approved by the City.

3. The term "Owner" as used in this Regulatory Agreement shall include all successors, assigns and transferees of any or all of the Owner's interest in the Affordable Housing Development and the Property.

NOW, THEREFORE, Owner, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner hereby covenants, agrees and declares that the Property shall be owned, held, used, maintained, and transferred pursuant to the following restrictive covenants (the "**Covenants**") and that such Covenants shall be binding upon all of Owner's successors, assigns and transferees to the Property, and all leases, tenants, contractors, agents, and all persons claiming an interest in the Property, or claiming an interest by and through any of the foregoing.

COVENANTS

1. **Affordability Restrictions.** Owner, for itself and for any successors-in-interest to and transferees or assigns of the Property, hereby declares and covenants that the Property is restricted to the development and use of the Affordable Housing Development as set forth herein. The Affordable Housing Development shall be comprised of, at the minimum, the number of units and have such affordability restrictions and such other characteristics as are described in **Exhibit B, "Affordable Housing Development Description,"** attached hereto and incorporated herein by this reference.

2. **Repair and Maintenance of the Property and other Building or Improvements of the Affordable Housing Development.** Owner agrees:

- a. To keep the Property in a decent, safe, sanitary, rentable, tenantable condition and repair, and permit no waste thereof;
- b. Not to commit or suffer to be done or exist on or about the Property any condition causing the Property to become less valuable;
- c. Not to construct any buildings or improvements on the Property, other than the buildings and improvements contemplated as part of the Affordable Housing Development or add to, remove, demolish or structurally alter any buildings and improvements now or hereinafter located on the Property;
- d. To repair, restore or rebuild promptly any buildings or improvements on the Property that may become damaged or be destroyed while subject to this Covenant;
- e. To comply with all applicable laws, ordinances and governmental regulations affecting the Property or requiring any alteration or improvement thereof, and not to suffer or permit any violations of any such law, ordinance or governmental regulation, nor of any covenant, condition or restriction affecting the Property;
- f. Not to initiate or acquiesce in any change in any zoning or other land use or legal classification which affects any of the Property without the City's prior written consent; and

- g. Not to alter the use of all or any part of the Property without prior written consent of the City.

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

- a. Except with the City's prior written approval, which shall not be unreasonably withheld, Owner shall not make any sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, or transfer in any other form of the Property or the Affordable Housing Development or of any of its interest in either of them.
- b. The City may grant its approval for a sale, transfer or conveyance of the Property or the Affordable Housing Development subject to such terms and conditions as may be necessary to preserve or establish the fiscal integrity of the Property or the Affordable Housing Development
- c. Notwithstanding anything to the contrary herein, City consent is not required for (i) a transfer of general partner interest in the event that the investor limited partner removes the general partner in accordance with Owner's limited partnership agreement or (ii) a transfer of the property or an interest in the property to an affiliate of Owner in accordance with the investor limited partner's exit at the end of the initial low income housing tax credit compliance period.

4. Charges; Liens. Owner shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property or to the Affordable Housing Development, if any, by Owner making payment, when due, directly to the payee thereof. Owner shall promptly furnish to City all notices of amounts due under this paragraph, and in the event Owner shall make payment directly, Owner shall promptly furnish to City receipts evidencing such payments. Owner shall pay when due all encumbrances, charges, and liens, on the Property or to the Affordable Housing Development, any portion thereof and payments on notes or other obligations secured by an interest in the Property or Affordable Housing Development, any portion thereof, with interest in accordance with the terms thereof. Owner shall have the right to contest in good faith any claim or lien, or payment due thereunder, provided that Owner does so diligently and without prejudice to City.

5. Hazard and Liability Insurance and Condemnation.

- a. The Owner shall at all times keep the Property and the Affordable Housing Development insured against loss by fire and such other hazards, casualties, liabilities and contingencies, and in such amounts and for such periods as required by the City. All insurance policies and renewals thereof shall be issued by a carrier and in form acceptable to the City.
- b. In the event of any fire or other casualty to the Property or Affordable Housing Development or eminent domain proceedings resulting in condemnation of the Property or Affordable Housing Development or any part thereof, Owner shall have the right to rebuild the Property or the Affordable Housing Development, and, subject to the rights of senior lenders, to use all available insurance or

condemnation proceeds therefore, provided that, as determined by the City in its sole discretion, (a) such proceeds are sufficient to rebuild the Property or Affordable Housing Development in a manner that ensures continued operation of the Affordable Housing Development and as consideration for the Loan, (b) the City shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material breach or default then exists under the Loan. If the casualty or condemnation affects only part of the Property or Affordable Housing Development and total rebuilding is infeasible, then, subject to the rights of senior lenders, proceeds may be used for partial rebuilding and/or partial repayment of the Loan.

6. Covenants Run with the Land. The Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to these Covenants. All of the Covenants are intended to constitute both equitable servitudes and covenants running with the land. Owner expressly acknowledges and agrees that the Covenants are reasonable restraints on Owner's right to own, use, maintain, and transfer the Property and any estate or interest therein and are not and shall not be construed to be an unreasonable restraint on alienation. 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 the Covenants are set forth in such contract, deed or other instrument.

7. Binding Effect. Any purchaser of the Property or of any portion of or interest in the Property, by the acceptance of a deed therefor, whether from Owner or from any subsequent owner of the Property, or by the signing of a contract or agreement to purchase the Property, shall by the acceptance of such deed or by the signing of such contract or agreement be deemed to have consented to and accepted the Covenants set forth in this Regulatory Agreement.

8. Term of Regulatory Agreement. The Covenants in this Regulatory Agreement shall be binding, effective and enforceable commencing upon the execution of this Regulatory Agreement and shall continue in full force and effect for a period of fifty-five (55) years after a certificate of occupancy or its equivalent has been issued for the Affordable Housing Development by the local jurisdiction or, if no such certificate is issued, from the date of initial occupancy of the Affordable Housing Development.

9. Building Permits. Owner agrees not to apply for or accept any permits for the construction of improvements on the Property inconsistent with the Affordable Housing Development as described in **Exhibit B** hereto.

10. Default. Any failure to perform the Covenants under this Regulatory Agreement, which remains uncured for sixty (60) days following written notice to Owner thereof, shall constitute a default of this Regulatory Agreement and shall entitle the City to all of the remedies contained herein.

11. Remedies. The City and its successors and assigns may use any or all of the following provisions in the event of a default of this Regulatory Agreement. The failure by the City to exercise any specific right or remedy shall not preclude the City from exercising any other right or remedy, or from maintaining any action to which it may otherwise be entitled at law or in equity:

- a. **Specific Performance.** The development, use and maintenance of the Property as an Affordable Housing Development in accordance with **Exhibit B** attached to this Regulatory Agreement is of a special and unique kind and character, so that a breach of any material provision of this Regulatory Agreement by Owner, its successors, assigns or transferees, would not have an adequate remedy at law. Therefore, the City's rights in the affordable housing provisions may be enforced by an action for specific performance and such other equitable relief as is provided by the laws of the State of California.
- b. **Injunctive Relief.** In pursuing specific performance of the Covenants, the City shall be entitled to petition the court for injunctive relief to preserve the City's interests in the Property and its rights under this Regulatory Agreement. Such injunctive relief may include, but is not limited to, an order of the court restraining any development of the Property inconsistent with the Covenants made herein.

12. City Monitoring and Compliance Review.

- a. At any time during the term of this Regulatory Agreement and upon prior written notice of at least three business days, the City or its designee may enter and inspect the Property and inspect all accounting records pertaining to compliance with this Regulatory Agreement. Upon request by the City, the Owner shall notify occupants of upcoming inspections of their units in accordance with state law.
- b. At the City's request, the Owner shall provide, at Owner's expense, a special audit of the Affordable Housing Development certified by an independent certified public accountant.
- c. The City may request any other information that it deems necessary to monitor compliance with the Covenants set forth in this Regulatory Agreement. The Owner shall provide such information within 14 days from the City's written request for such information.
- d. The Owner agrees to regular monitoring of the housing development by the City or such designee the City may name at any time during the term of this Regulatory Agreement, to verify compliance with the requirements of this Regulatory Agreement. The Owner, or designee, shall submit annual reports as required by the City on forms approved or provided by the City, detailing components of the ongoing operations of the Affordable Housing Development, as noted in this subsection. The components of annual operations for which reporting is required, which the City retains the right to inspect, or cause to be inspected, include, and are not limited to:

- (1) The Affordable Housing Development, including interior of units, common areas, and exterior of the development;
- (2) Tenant files, demonstrating compliance with affordability standards under this Regulatory Agreement;
- (3) Financial records, including the right to request a certified financial audit of the revenue, expenses, and operations of the housing development; and
- (4) Insurance records to ensure continuous insurance coverage in accordance with City and Program requirements.

13. Owner Representations. Owner represents and warrants to the City that: (1) Owner has sufficient interest in the Property to own, develop, construct and operate the Affordable Housing Development in accordance with this Regulatory Agreement, (2) to Owner's actual knowledge and belief, there are no agreements, contracts, covenants, conditions or exclusions to which Owner (or its predecessor in interest) is a party which would, if enforced, prohibit or restrict the use of the Property in accordance with the terms of this Regulatory Agreement, (3) Owner has the full right and authority to enter into this Regulatory Agreement, (4) this Regulatory Agreement constitutes a valid and legally binding obligation on Owner, enforceable in accordance with its terms, and (5) Owner is duly organized and authorized to do business in the State of California.

14. Governing Law. This Regulatory Agreement shall be interpreted and be governed by the laws of the State of California.

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

IN WITNESS WHEREOF, the Owner has caused this Regulatory Agreement to be signed by its duly authorized representative, as of the day and year first written above.

OWNER:

CVDH LP,
a California limited partnership

By: SHOC2 LLC,
a California limited liability company,
its General Partner

By: Community Housing Opportunities Corporation,
a California nonprofit public benefit corporation,
its sole member and manager

By _____

Name _____

Title _____

All signatures must be acknowledged.

ADD NOTARY ACKNOWLEDGEMENT

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 _____, 20__ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____ (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Coachella, County of Riverside, State of California, described as follows:

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 37833 AS SHOWN BY MAP RECORDED DECEMBER 30, 2020 IN BOOK 250, PAGES 52-54 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY.

PARCEL A1:

A RECIPROCAL ACCESS EASEMENT FOR INGRESS AND EGRESS PURPOSES AND INGRESS AND EGRESS OF SERVICE AND EMERGENCY VEHICLES, AND PUBLIC UTILITIES AS SHOWN BY PARCEL MAP NO. 37833 RECORDED DECEMBER 30, 2020 IN BOOK 250, PAGES 52-54 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY AND AS SET FORTH IN TEMPORARY ACCESS AND UTILITY EASEMENT RECORDED ON APRIL 19, 2022 AS INSTRUMENT NO. 2022-183739, RIVERSIDE COUNTY OFFICIAL RECORDS.

PARCEL A2:

A PRIVATE WATER SERVICES EASEMENT, AS SHOWN BY PARCEL MAP NO. 37833 RECORDED DECEMBER 30, 2020 IN BOOK 250, PAGES 52-54 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY.

A.P.N.: 768-210-040 and 768-210-042

EXHIBIT “B”

AFFORDABLE HOUSING DEVELOPMENT

Description of Units

| | | | |
|--|--------------------------|--|-------------------|
| APNs 768-210-040 and 768-210-042 | | 84-908, 84-910, 84-912, and 84-914 Bagdad Avenue, Coachella, CA | |
| Enter the number of units and income level. | | | |
| # of Units | Restricted (ARPA) | Income Limit | (% of AMI) |
| 20 | 8 | 60% | |
| 23 | 8 | 50% | |
| 12 | 11 | 30% | |
| 1 | -- | manager | |
| Total 56 | Total 27 | | |