

AFTER RECORDING RETURN TO:

ALASKA HOUSING FINANCE CORPORATION
PO BOX 101020
ANCHORAGE, AK 99510-1020
ATTN: Low Income Housing Tax Credit Program

DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR
EMERGENCY RENTAL ASSISTANCE – 2 (ERA-2) FUNDING
UNDER THE LOW-INCOME HOUSING TAX CREDIT PROGRAM
IN THE STATE OF ALASKA

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS (this "Agreement"), dated as of _____, 2025, is given by The City of Saxman, an Alaska municipality (the "Owner"), whose address is 2841 S Tongass Hwy, Ketchikan, AK 99901, as a condition to the award of ERA-2 funding by the ALASKA HOUSING FINANCE CORPORATION, an instrumentality of the State of Alaska (the "Agency") whose address is P.O. Box 101020, Anchorage, AK 99510-1020.

WHEREAS, ERA-2 funding may be used to fund the construction of rental housing for Very Low-Income Housing in accordance with the U.S. Department of Treasury Emergency Rental Assistance Frequently Asked Questions 46 (FAQ 46). A rental housing project funded with ERA-2 funds must conform to and meet the program regulation and other requirements of one of a list of federal house programs. Saxman has chosen to conform to the Low-Income Housing Tax Credit program.

WHEREAS, the Owner is, or shall be, the owner of a rental housing development located on real property located in Saxman, State of Alaska, legally described as set forth below ("Complex Land") more particularly to be known by four (4) buildings named "Saxman Homes" (the "Complex") and is described as follows:

Lot 2, Block 3, Lots 9 and 10, Block 23 and Lot 11, Block 24 According to Saxman Indian Townsite Plat – USS 1652A, Ketchikan Recording District, First Judicial District, State of Alaska.

With local addresses of: 2707 Bear Clan St, 2402 Eagle Ave, 2404 Eagle Ave, and 300 Wolf St, Ketchikan, AK 99901

WHEREAS, the Owner has certified to the Agency that the Owner shall lease (i) ninety three percent (93%) of the residential units (13 units total) in the Complex to households whose income is fifty percent (50%) or less of the area median gross income adjusted for household size (Very Low Income Tenants). There will be a total of fourteen (14) units in the Complex; thirteen (13) residential units and one (1) non-residential unit reserved for on-site managers. One (1) unit is not rent restricted and thus available for market rate tenants or managers.

Saxman LFHI Homes
Declaration of Land Use Restrictive Covenants

WHEREAS, the Internal Revenue Code of 1986, as amended, including the regulations promulgated there under (the "Code"), is required as a condition precedent to the award of ERA-2 dollars (the "Credit") that the Owner execute, deliver and record in the official land deed records of the recording district in which the Complex is located this Agreement to create certain covenants running with the land for the purpose of enforcing the requirements of Section 42 of the Code and restricting the use and occupancy and transfer of the Complex as set forth herein;

WHEREAS, pursuant to Section 42(g)(2)(A) of the Code and Revenue Procedure 94-57, the Owner has irrevocably elected to fix the effective income limitation, for purposes of calculating the gross rent floor, as of the placed in service date; and

WHEREAS, the Owner, under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Complex shall be and are covenants running with the Complex land for the term stated herein and shall be binding upon all subsequent owners of the Complex for such term, and are not personal covenants of the Owner.

NOW, THEREFORE, in consideration of the promises and covenants set forth herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner agrees as follows:

SECTION 1 - DEFINITIONS

All words and phrases defined in this Agreement that are defined in Section 42 of the Code or by the United States Department of Treasury or the United States Department of Housing and Urban Development in rules and regulations pertaining thereto shall have the same meanings in this Agreement.

SECTION 2 - RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

- (a) Upon execution and delivery by the Owner, the Owner shall cause this Agreement and all amendments hereto to be recorded in the official public land deed records of the recording district in which the Complex is located. **Upon recording, the Owner shall immediately transmit to the Agency a conformed copy of the recorded Agreement showing the date and document numbers of record.** The Owner agrees that the Agency will not issue the Internal Revenue Service Form 8609 constituting final allocation of the Credit until the Agency has received the recorded executed original of the Agreement.
- (b) The Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Complex during the term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Complex, (i) shall be and are covenants running with the Complex Land, encumbering the Complex Land for the term of this Agreement, binding upon the Owner's successors in title and all subsequent owners and operators of the Complex and Complex Land, (ii) are not merely personal covenants of the Owner, and (iii) shall bind the Owner (and the benefits shall inure to the Agency and any past, present or prospective tenant of the Complex) and its respective successors and assigns during the term of this Agreement.

- (c) The Owner hereby agrees that any and all requirements of the laws of the State of Alaska to be satisfied for the provisions of this Agreement to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements of privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the land. For the term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Complex Land or portion thereof shall expressly provide that such conveyance is subject to this Agreement; provided, however, the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Complex Land or portion thereof, provides that such conveyance is subject to this Agreement.
- (d) The determination of whether a tenant meets the low income requirements shall be made by the Owner based on the requirements under Section 42 of the Code.
- (e) The Owner covenants to obtain the consent of any prior recorded lienholder on the Complex to this Agreement and such consent shall be a condition precedent to grant close-out.

SECTION 3 - REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE OWNER

The Owner hereby represents, covenants and warrants as follows:

- (a) The Owner (i) is a municipality duly organized under the laws of the State of Alaska and is qualified to transact business under the laws of the State of Alaska, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.
- (b) The Complex constitutes a qualified low income project, as applicable as defined in Section 42 of the Code and any applicable regulations.
- (c) During the term of this Agreement, all units subject to the Credit shall be leased and rented or made available to members of the general public who qualify for occupancy under the applicable election specified in Section 42(g) of the code. Additionally, for purposes of Section 42(g)(1) of the Code, not less than forty percent (40%) of the units in the Complex shall be rent-restricted and occupied by individual whose income is sixty percent (60%) or less of area median gross income.
- (d) The Owner agrees to comply fully with the requirements of all federal, state and local fair housing laws, regulations and ordinances and the Alaska Landlord Tenant Act as they may from time to time be amended.
- (e) The Owner agrees to notify the Agency in writing of any sale, transfer or exchange of the entire Complex or any low income portion of the Complex within a reasonable amount of time prior to the sale, transfer or exchange.

- (f) Subject to the requirements of Section 42 of the Code and this Agreement, the Owner may sell, transfer or exchange no less than the entire Complex at any time, but the Owner shall notify in writing and obtain the agreement of any buyer or successor or other person acquiring the Complex or any interest therein that such acquisition is subject to the requirements of this Agreement and to the requirements of Section 42 of the Code and any applicable regulations. This provision shall not act to waive any other restrictions on sale, transfer or exchange of the Complex or any low income portion of the Complex. The Owner agrees that the Agency may void any sale, transfer or exchange of the Complex if the buyer or successor or other person fails to assume in writing the requirements of this Agreement and the requirements of Section 42 of the Code.
- (g) The Owner will, at the time of execution and delivery of this Agreement, have good and marketable title to a leasehold interest in the Complex Land that is free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Complex or other permitted encumbrances).
- (h) The Owner warrants that it has not executed, and will not execute, any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- (i) The Owner hereby covenants that it will not refuse to lease a rental unit to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder.
- (j) During the term of this Agreement, the Owner agrees not to permit (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low- income unit, or (ii) any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 of the Code.
- (k) The Owner shall fully comply with the requirements of Section 42 of the Code and any applicable regulations as they may from time to time be amended.

SECTION 4 - OTHER RESTRICTIONS

The Owner represents, warrants, and covenants throughout the term of this Agreement and in order to satisfy the requirements of Section 42 of the Code and fulfill certifications made to the Agency as prerequisites for receiving an allocation of low income housing tax credits that:

- (a) The term of this Agreement and its provisions shall terminate 5 years from the end of the 15 year compliance period.
- (b) Owner reserves the right to request a "Qualified Contract" pursuant to Section 42(b)(6)(e)(i)(II) of the Code and all applicable regulations.
- (c) Repair and Replacement Fund: The Owner must establish and maintain a Repair and Replacement ("RRF") fund as part of the Owner's ongoing project operations. The RRF must be funded on a routine basis from project cash flow and deposits must be placed in a specific general ledger account, or other bank account as approved by the Agency, and identified as such. The RRF must be used for the repair or replacement of such items as carpet, painting, roof systems, appliances or other elements

of the building systems. Unless otherwise approved by the Agency in writing, the annual contribution to the RRF must equal at least \$5,600.00, except that the RRF will be capped at \$28,000.00. If the RRF balance reaches or exceeds \$28,000.00, additional payments will not be required until such time that the balance decreases to below \$28,000.00. This subsection (b) shall not act to affect, limit, or modify any loan document requirement for a similar replacement reserve account established by the loan documents relating to any loan by The Agency or any other lender, or equity investor, which are secured by the Complex.

Furthermore, the RRF requirements of this subsection (b) shall be deemed satisfied so long as replacement reserves, in amounts not less than described above, are collected pursuant to loan documents with the Agency or any other lender which are secured by the Complex, and the RRF requirements in this subsection (b) need not be separately funded until such time as similar replacement reserves are no longer fully funded under the loan documents with The Agency or any other lender which are secured by the Complex or until the time such loans are paid in full.

SECTION 5 - TERM OF AGREEMENT

- (a) Except as hereinafter provided, this Agreement and the provisions specified herein shall commence on the first day in which any building, which is part of the Complex, is placed in service and shall end on the date which is 20 years after the first day of the compliance period in which the Complex becomes a qualified low income housing project. Compliance period shall mean, with respect to any building in the Complex, the period of 15 taxable years beginning with the first taxable year of the credit period with respect thereto.
- (b) Notwithstanding subsection (a) above, the extended use period for any building which is part of the Complex shall terminate on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure) unless the Secretary of Treasury determines that such acquisition is part of an arrangement with the taxpayer, a purpose of which is to terminate the extended use period.
- (c) Notwithstanding subsection (b) above, the Section 42 rent requirements shall continue for a period of three (3) years following the termination of the extended use requirements. Throughout the term of this Agreement and during such three (3) year period, the Owner shall not evict or terminate the tenancy of an existing tenant of any low income unit other than for good cause and shall not increase the gross rent above the maximum allowed under Section 42 of the Code with respect to such low income unit.

SECTION 6 - ENFORCEMENT OF SECTION 42 OCCUPANCY RESTRICTIONS

- (a) The Owner hereby agrees to comply with Section 42 of the Code and with all applicable rules, rulings, policies, procedures, regulations, and official statements promulgated or proposed by the Department of Treasury, the Internal Revenue Service, the Department of Housing and Urban Development, and the Agency pertaining to the Owner's obligations under Section 42 of the Code.
- (b) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code and applicable regulations or this Agreement. Moreover, the Owner covenants to take any lawful action (including amendment of this Agreement as may be necessary, in the opinion of the Agency) to comply fully with the Code and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or

proposed by the United States Department of the Treasury, the Internal Revenue Service, the Department of Housing and Urban Development, and the Agency from time to time pertaining to the Owner's obligations under Section 42 of the Code and affecting the Complex.

- (c) The Owner in consideration for receiving ERA-2 funds for this Complex, hereby agrees and consents that the Agency and any individual who meets the income limitation applicable under Section 42 (whether prospective, present or former occupant) shall be entitled, for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Owner or its obligations under this Agreement in a State court of competent jurisdiction. The Owner hereby further specifically acknowledges that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.
- (d) The Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Agency and all persons interested in Complex compliance under Section 42 of the Code and the applicable regulations.
- (e) The Owner shall permit during normal business hours and upon reasonable notice, any duly authorized representative of the Agency, to inspect any books and records of the Owner regarding the Complex with respect to the occupancy restrictions specified in this Agreement, Section 42 of the Code and any other applicable regulations.
- (f) The Owner shall submit any other information, documents or certifications requested by the Agency which the Agency shall deem reasonably necessary to substantiate the Owner's continuing compliance with the occupancy restrictions specified in this Agreement, Section 42 of the Code and any other applicable regulations.
- (g) The Owner agrees to pay the Agency an annual monitoring fee. The fee will be established and reviewed annually by the Agency, to ensure that the actual administrative cost incurred by the Agency is reimbursed by the Owner.

SECTION 7 - MISCELLANEOUS

- (a) The recitals of this Agreement are incorporated herein by this reference as if fully set forth herein.
- (b) The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.
- (c) All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.
- (d) This Agreement shall not be terminated except as provided herein. This Agreement shall not be amended except in writing containing the signature of the Agency or its successor or assign and no such amendment shall be effective unless the amendment identifies this Agreement and is recorded in the official public land records where this Agreement is recorded and the Complex is located.

To the Agency: Attn: Low Income Housing Tax Credit Program
Alaska Housing Finance Corporation
P.O. Box 101020
Anchorage, AK 99510-1020

To the Owner: City of Saxman,
An Alaska municipality
2841 S Tongass Hwy,
Ketchikan, AK 99901

IN WITNESS WHEREOF, the Owner has executed this Agreement on the day and year first above written.

ACKNOWLEDGMENT AND ACCEPTANCE

City of Saxman,
An Alaska municipality

By _____
Frank Seludo, Mayor

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

This certifies that on this ____ day of _____, 2025, before me, a Notary Public in and for said State, personally appeared Frank Seludo (signer), known or identified to me to be the Mayor of the City of Saxman, an Alaska municipality, and acknowledged to me that he executed the within instrument on behalf of said general partner by proper authority, and that such general partner executed the same in said limited partnership name by proper authority and for the purposes stated therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Alaska
Residing at _____
My commission expires: _____