



City of Palo Alto

City Council Staff Report

(ID # 7706)

Report Type: Consent Calendar

Meeting Date: 2/27/2017

Summary Title: Regulatory Agreement for 3020-3028 Emerson Street (Plum Tree Apartments)

Title: Review and Approval of a Regulatory Agreement, Declaration of Restrictive Covenants, and Option to Purchase for 3020-3038 Emerson Street (Plum Tree Apartments). The Project is Exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3).

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council approve the attached Regulatory Agreement, Declaration of Restrictive Covenants, and Option to Purchase for property at 3020-3038 Emerson Street (Plum Tree Apartments) and authorize the City Manager to execute the agreement.

Background & Discussion

The Plum Tree Apartments is a 10-unit apartment building located at 3020-3080 Emerson Street in Palo Alto. In December 1991, the City entered into a regulatory agreement with the Palo Alto Housing Corporation (PAHC), providing \$978,000 in Community Development Block Grant (CDBG) funds to PAHC for the purchase of the property in exchange for the organization's operation of low and moderate income housing. The City provided PAHC an additional CDBG loan in the amount of \$34,650 in June 2009 for rehabilitation costs. Among the various provisions of the 1991 regulatory agreement is the City's option to repurchase the property for one dollar at the expiration of the agreement. As required by the 1991 agreement, PAHC notified the City that the agreement would expire on December 19, 2016 and that the City had 90 days from expiration to exercise its option to purchase the property for one dollar. The City and PAHC agreed to extend the City's deadline to exercise its option to March 4, 2017. The City has until March 4, 2017 to exercise the option or negotiate a new regulatory agreement with PAHC.

Staff and PAHC have negotiated a new Regulatory Agreement, Declaration of Restrictive Covenants, and Option to Purchase (Attachment A) to ensure the continued affordability of the ten units at the Plum Tree Apartments.

Option to Purchase

Maintaining an option to repurchase for the City preserves a degree of ownership. However, options of this nature may pose challenges for PAHC should they seek to refinance in the future because it introduces a possible change in ownership to a lender within the time period of the loan. The staff recommendation includes a City option for a period of 55 years, but contemplates negotiation of potential changes if the option creates a disadvantage in the event of a future funding application by PAHC. If the City decides to exercise its option at the end of the 55 year period, the City may purchase the property for the purchase price of one dollar. In addition, the term of the option may be extended for an additional 44 years, or a total of 99 years, if PAHC elects to do so.

Affordability Restrictions

All ten units are required to be rented out exclusively to low and moderate income residents, with a minimum of 70% of the units to be made available to low income households at affordable rents. The maximum low income limit is 80% of area median income, which is currently \$79,250 for a four-person household in Santa Clara County. The units may also be occupied by Section 8 Assisted Households. In the event that a tenant's income exceeds the qualifying income for a low income household, the unit shall be occupied by income qualified household upon being vacated by the over-income household.

Policy Implications

The actions recommended in this report implement the City's Housing Element policies and programs supporting the preservation of low income housing. For example,

- Policy H1.2: *Support efforts to preserve multifamily housing units in existing neighborhoods.*
- Policy H3.1: *Encourage, foster, and preserve diverse housing opportunities for very low, low, and moderate income households.*

Resource Impact

The City is not providing additional funding to PAHC under this agreement.

Environmental Review:

The project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3) because it can be seen with certainty that there will

be no significant effect on the environment. There are no plans for rehabilitating or redeveloping the site. Any future proposal to reuse the site for another purpose or to redevelop the site would need to be reviewed pursuant to CEQA prior to any City decision to provide funding or approvals.

Attachments:

Attachment A: Regulatory Agreement, Declaration of Restrictive Covenants and Option to Purchase (PDF)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Palo Alto
Office of City Attorney
250 Hamilton Avenue
Palo Alto, CA 94301

RECORDED WITHOUT CHARGE
GOVERNMENT CODE §§ 6103, 27383

**REGULATORY AGREEMENT, DECLARATION OF RESTRICTIVE COVENANTS,
AND OPTION TO PURCHASE**

(3020-3038 Emerson Street, Palo Alto, California)

This REGULATORY AGREEMENT, DECLARATION OF RESTRICTIVE COVENANTS, AND OPTION TO PURCHASE (the "Agreement") is made and entered into as of _____, 2017 (the "Effective Date"), by and between the CITY OF PALO ALTO, a chartered city and a municipal corporation ("City") and PAHC PROPERTIES CORPORATION (formerly Palo Alto Housing Corporation), a California nonprofit public benefit corporation (the "Owner"), with reference to the following facts.

RECITALS

A. The Owner owns and operates ten (10) residential units located at 3020-3038 Emerson Street, as more particularly described in Exhibit A attached hereto (the "Property"), as affordable housing.

B. The City and the Owner entered into an Agreement for the Provision of Community Development Block Grant Funds dated as of December 19, 1991 (the "1991 Agreement"), under which the City agreed to make a loan to the Owner in the amount of Nine Hundred Seventy Eight Thousand Seven Hundred Dollars (\$978,700) of Community Development Block Grant funds (the "1991 Loan") to assist in the acquisition of the Property. As material consideration for the 1991 Loan, the Owner agreed to ensure the long term affordability of the Property at affordable rents to those with low incomes, and granted the City an option to purchase the Property under certain conditions (the "1991 Purchase Option"). The 1991 Agreement memorialized the affordable housing use restrictions and the 1991 Purchase Option and was recorded against the Property in the Official Records of Santa Clara County on December 24, 1991 as Instrument No. 11178146. As security for the 1991 Loan and performance under the 1991 Agreement, the Owner provided the City a promissory note and deed of trust.

C. The City and the Owner also entered into an "Agreement No. C101B4151" dated as of June 1, 2009 (the "2009 Agreement") under which the City made an additional loan to the Owner in the amount of Thirty Four Thousand Six Hundred Fifty Dollars (\$34,650) of Community Development Block Grant funds to fund certain rehabilitation costs of the Property

(the "2009 Loan"). Included as Exhibit D of the 2009 Agreement is a regulatory agreement (the "2009 Regulatory Agreement") memorializing affordability restrictions requiring that a minimum of seventy percent (70%) of the Property's units be rented to Low Income Households at no more than the Low Income Rent.

D. The City has agreed to waive its rights to purchase the Property under the 1991 Purchase Option in return for the Owner's agreement to enter into this Agreement. In addition, this Agreement is intended to replace the 2009 Regulatory Agreement.

AGREEMENT

THEREFORE, the City and the Owner hereby agree as follows. The foregoing recitals are hereby incorporated by reference and made part of this Agreement.

ARTICLE 1 DEFINITIONS

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

(a) "1991 Note" is the promissory note from the Owner to the City evidencing the 1991 Loan.

(b) "2009 Note" is the promissory note from the Owner to the City evidencing the 2009 Loan

(c) "Actual Household Size" is the actual number of persons in the applicable household.

(d) "Agreement" is this Regulatory Agreement, Declaration of Restrictive Covenants, and Option to Purchase.

(e) "Area Median Income" is the area median income for Santa Clara County as published and periodically updated by the United States Department of Housing and Urban Development ("HUD"), adjusted for Actual Household Size or Assumed Household Size as specified in this Agreement.

(f) "Assumed Household Size" is defined in Section 2.2(b).

(g) "City" is defined in the first paragraph of this Agreement.

(h) "Deed of Trust" is the deed of trust to the City on the Property that secures repayment of the 1991 Loan and the performance of all covenants of the Loan Documents.

(i) "Default" is defined in Section 7.7(a).

(j) "Effective Date" is defined in the first paragraph of this Agreement.

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

(l) "1991 Agreement" is defined in Recital B.

(m) "Loan Documents" are the 1991 Agreement, the 2009 Agreement, the 1991 Note, the 2009 Note, the Deed of Trust, and this Agreement.

(n) "Low Income Household" is a household with an annual income which does not exceed eighty percent (80%) of Area Median Income, adjusted for Actual Household Size.

(o) "Low Income Rent" is the maximum allowable Rent for a Unit pursuant to Section 2.2(a).

(p) "Management Agent" is defined in Section 5.2.

(q) "Official Records" is the office of Official Records for Santa Clara County.

(r) "Option to Purchase" is defined in Section 6.3(a).

(s) "Owner" is defined in the first paragraph of this Agreement.

(t) "Property" is defined in Recital A.

(u) "Rent" is the total of monthly payments by the Tenant of a Unit for the following: use and occupancy of the Unit and land and associated facilities, including parking; any separately charged fees or service charges assessed by the Owner which are required of all Tenants, other than security deposits; an allowance for the cost of an adequate level of service for utilities paid by the Tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Owner, and paid by the Tenant.

(v) "Tenant" is a household legally occupying a Unit pursuant to a valid lease with Owner.

(w) "Term" is defined in Section 6.1.

(x) "Unit" is one of the ten (10) housing units constructed on the Property, including one unit for occupancy by a resident manager.

1.2 Exhibits. The following exhibit is attached to this Agreement and incorporated into this Agreement by this reference:

EXHIBIT A: Legal Description of the Property

ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirements. Within ninety (90) days of the Effective Date, the Owner shall certify the income of the Property's existing tenants using the procedures specified in Section 3.1 of this Agreement. If any of the Units are occupied by households that are not Low Income Households, such households shall be permitted to remain as Tenants on the Property subject to the provisions of this Agreement, and rents of any such Tenants shall be increased consistent with Section 2.3. As and when Units on the Property become vacant, they shall be rented to and occupied by Low Income Households, very low-income or extremely low-income households, until at least seventy percent (70%) of the Units are occupied by Low Income Households or households of a lower income category. With the exception of over-income Tenants pursuant to Section 2.3 of this Agreement, at all times during the Term of this Agreement, seventy percent (70%) of the Units shall be rented to and occupied by, or if vacant, made available for rental and occupancy by, Low Income Households or households of a lower income category.

2.2 Allowable Rent.

(a) Subject to the provisions of Section 2.3 below, the maximum Rent (including utility allowance) charged to Tenants of the Units shall not exceed one-twelfth (1/12) of thirty percent (30%) of eighty percent (80%) of Area Median Income, adjusted for Assumed Household Size (the "Low Income Rent").

(b) Assumed Household Size. In calculating the allowable Rent for the Units, it shall be assumed that every two-bedroom Unit houses three individuals (the "Assumed Household Sizes") except that if any federal statutes or regulations require use of alternate household size assumptions in calculating rents, such federally-mandated household size assumptions shall be used instead of the Assumed Household Size.

(c) City Approval of Rents. The initial Rents for all Units shall be approved by the City. All Rent increases shall also be subject to City approval and in accordance with CDBG regulations and based on the income limits approved by HUD. The Owner shall not charge any fee other than Rent to any Tenant of Units for any housing or other services provided by Owner.

(d) In the event that income determinations are no longer published by HUD, or are not updated for a period of at least eighteen (18) months, the City shall provide the Owner with other income and Rent determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD.

2.3 Increased Income of Tenants. If, upon recertification of a Tenant's income, the Owner determines that a Tenant's income exceeds the qualifying income for a Low Income Household, then, upon expiration of the Tenant's lease or upon annual recertification, as applicable:

(a) Such Tenant's Rent shall be increased to equal one-twelfth (1/12th) of thirty percent (30%) of Tenant's actual income or market Rent, whichever is less, upon ninety (90) days written notice to the Tenant; and

(b) The Owner shall rent the next available Unit to a Low Income Household or household with lower income to ensure that at least seventy percent (70%) of the units are to be rented and occupied by Low Income Households or households with very low or extremely low-income eligibility throughout the Term of this Agreement, at a Rent not exceeding the maximum Rent specified in Section 2.2(a).

2.4 Section 8 Voucher and Certificate Holders. The Owner will accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing certificate program or the Housing Choice Voucher Program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that is more burdensome than criteria applied to all other prospective Tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Units which have the effect of precluding occupancy of Units by such prospective Tenants.

2.5 Lease Provisions. The Owner shall use a form of Tenant lease approved by the City for the Units. The form of Tenant lease shall also comply with all requirements of the Loan Documents and shall, among other matters:

(a) provide for termination of the lease and consent by the Tenant to immediate eviction for failure: (1) to provide any information required under this Agreement or reasonably requested by the Owner to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy of the Units in accordance with the standards set forth in this Agreement, or (2) to qualify as a Low Income Household as a result of any material misrepresentation made by such Tenant with respect to the income computation or certification;

(b) be for an initial term of not less than one (1) year unless otherwise approved by the City. After the initial year of tenancy, the lease may be month to month, however the Rent may not be raised more often than once every twelve (12) months after such initial year. The Owner will provide each Tenant with at least thirty (30) days' written notice of any increase in Rent applicable to such Tenant, and with such further notice as may be required by Section 2.3 above;

(c) prohibit subleasing of the Unit, contain nondiscrimination provisions, and include the Tenant's obligation to inform the Owner of any need for maintenance or repair;

(d) include reasonable rules of conduct consistent with California law; and

(e) allow termination of the tenancy only for good cause, including serious or repeated violation of the terms and conditions of the rental agreement, violations of applicable federal, state, or local law; or other good cause.

2.6 Security Deposits. Any security deposits collected by Owner or Owner's agent shall be kept separate and apart from all other funds in a trust account with a depository insured by the Federal Deposit Insurance Corporation or other comparable federal deposit insurance program and shall be held and disbursed in accordance with California law. The balance in the trust account shall at all times equal or exceed the aggregate of all outstanding obligations, plus accrued interest thereon.

ARTICLE 3 INCOME CERTIFICATION AND REPORTING

3.1 Income Certification. The Owner will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications for each Tenant renting any of the Units. Owner shall make a good faith effort to verify that the income statement provided by an applicant or Tenant is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a minimum of the three (3) most current pay stubs for all adults age eighteen (18) or older; (b) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (c) obtain the three (3) most current savings and checking account bank statements; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Tenant income certifications shall be made available to the City upon request.

3.2 Annual Report to City.

(a) The Owner shall provide any information reasonably requested by the City in connection with the Property. Without limitation, and on an annual basis, the Owner shall provide the City PDF copies of the following documents for the immediately preceding fiscal year, but no earlier than one hundred fifty (150) days after the close of such fiscal year:

(1) audited financial statements for the Property;

(2) an occupancy report including: (i) the verified income of each Tenant, (ii) the number of tenants in each household; (iii) the current Rents charged Tenant and whether these Rents include utilities, and (iv) the date tenancy commenced for each Unit;

(b) The Owner shall provide the City, upon written request, PDF copies of the following documents for the immediately preceding fiscal year or any years identified by the City.

(1) certifications of eligibility for all Tenants of Units at the time of initial occupancy and upon the yearly anniversary of their continuing tenancies. Such certification shall include verified income statements. Owner shall retain in the Tenant's file all verifications of Tenant's income (tax returns, W-2 forms, paycheck stubs, etc.);

(2) post-acquisition notices provided to and signed by Tenants;

(3) insurance certificates providing evidence of all required coverage;

and

(4) evidence of payment of property taxes or property tax exemption for the Property, as applicable.

(c) Within fifteen (15) days after receipt of a written request, Owner shall provide any other information or completed forms requested by the City to ensure compliance with the Loan Documents or this Agreement.

(d) Substitution of Monitoring and Compliance Reports Prepared for Other Financing Programs. If similar reports on some or all of the Units are required for regulatory compliance with other financing programs, those reports may be deemed satisfactory for the purpose of this Section by the City, with respect to the portion of the requirements of this Section covered by such reports, provided that copies are provided on an annual basis to the City with an owner certification addressed to the City certifying that the Owner has complied with this Agreement.

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

3.4 Records.

(a) The Owner shall maintain complete, accurate and current records pertaining to the Units, and shall permit any duly authorized representative of the City to inspect records, including but not limited to records pertaining to income and household size of Tenants and Rent charged Tenants and post-acquisition notices, upon reasonable prior notice during normal business hours. All Tenant lists, applications and waiting lists relating to the Units shall at all times be kept separate and identifiable from any other business of the Owner and shall be maintained as required by the City, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the City. The Owner shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least five (5) years and shall retain signed post-acquisition notices permanently.

(b) The City shall notify Owner of any records it deems insufficient. Owner shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Owner shall begin to correct the deficiency within fifteen (15) days and correct the deficiency within thirty (30) days, or as otherwise agreed by City if a longer time period is reasonably required.

3.5 On-Site Inspection. The City shall have the right to perform on-site inspections of the Property, including the Units, as is reasonably required to ensure compliance with the Loan Documents, but in any case at least once per year. The Owner agrees to cooperate in such inspection(s). If City desires to inspect the interior of the Units, City shall give Owner sufficient notice to allow Owner to give seventy-two (72) hours' notice to Tenants.

ARTICLE 4 OPERATION OF THE DEVELOPMENT

4.1 Residential Use. The Property and the Units shall be used only for rental residential purposes consistent with the Loan Documents, and the Units shall be operated and maintained as rental residences for the Term of this Agreement. No part of the Units shall be

operated as transient housing in which the term of occupancy is less than thirty (30) days, nor shall the Owner convert or apply to convert the Property to condominium or cooperative ownership or to a community apartment project or sell condominium or cooperative conversion rights in the Property or the rights to convert the Property to condominium or cooperative ownership or to a community apartment project.

4.2 Compliance with Loan Documents. Owner shall comply with all the terms and provisions of the Loan Documents.

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

ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

5.1 Management Responsibilities. The Owner is responsible for all management functions with respect to the Units, including without limitation the selection of Tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Units. The Owner shall retain a professional property management company approved by the City in its reasonable discretion to perform its management duties hereunder.

5.2 Management. The Property shall at all times be managed by an experienced management agent reasonably acceptable to the City, with demonstrated ability to operate residential facilities like the Property in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). The City hereby approves PAHC Management and Services Corporation, a California nonprofit public benefit corporation, as the initial Management Agent. The Owner shall also submit such additional information about the background, experience and financial condition of any replacement Management Agent as is reasonably necessary for the City to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, the City shall approve the proposed Management Agent by notifying the Owner in writing. Unless the proposed Management Agent is disapproved by the City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved.

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

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

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

Any contract for the operation or management of the Property entered into by Owner shall provide that the contract can be terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute Default under this Agreement, and the City may enforce this provision through legal proceedings as specified in Section 7.7 below.

5.5 Approval of Management Policies. The Owner shall submit its written management policies with respect to the Units to the City for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

5.6 Property Maintenance.

(a) The Owner agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

(1) Landscaping. The Owner agrees to have landscape maintenance performed every other week, including replacement of dead or diseased plants with comparable plants. Owner agrees to adequately water the landscaping on the Property. No improperly maintained landscaping on the Property shall be visible from public streets and/or rights of way.

(2) Yard Area. No yard areas on the Property shall be left unmaintained, including:

(A) broken or discarded furniture, appliances and other, household equipment stored in yard areas for a period exceeding one (1) week;

(B) packing boxes, lumber trash, dirt and other debris in areas visible from public property or neighboring properties; and

(C) vehicles parked or stored in other than approved parking areas.

(3) Building. No buildings located on the Property may be left in an unmaintained condition so that any of the following exist:

(A) violations of state law, uniform codes, or City ordinances;

(B) conditions that constitute an unsightly appearance that detracts from the aesthetics or value of the Property or constitutes a private or public nuisance;

(C) broken windows;

(D) graffiti (must be removed within 72 hours); and

(E) conditions constituting hazards and/or inviting trespassers, or malicious mischief.

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

(c) In the event that the Owner breaches any of the covenants contained in this Section and such Default continues for a period of ten (10) days after written notice from the City with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the City with respect to landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the Default. Pursuant to such right of entry, the City shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, which amount shall be promptly paid by the Owner to the City upon demand.

5.7 Safety Conditions.

(a) The Owner acknowledges that the City places a prime importance on the security of City assisted projects and the safety of the residents and surrounding community. The Owner agrees to implement and maintain throughout the Term the following security measures in the Property:

(1) to the extent feasible employ defensible space design principles and crime prevention measures in the operation of the Property including but not limited to maintaining adequate lighting in parking areas and pathways;

(2) use its best efforts to work with the City Police Department to implement and operate an effective neighborhood watch program; and

(3) provide added security including dead-bolt locks for every entry door, and where entry doors are damaged, replace them with solid-core doors.

(b) The City shall have the right to enter on the Property and/or contact the City Police Department if it becomes aware of or is notified of any conditions that pose a danger to the peace, health, welfare or safety of the Tenants and/or the surrounding community, and to perform or cause to be performed such acts as are necessary to correct the condition.

ARTICLE 6

TERM, EXPIRATION OF TERM, AND GRANT OF OPTION TO PURCHASE

6.1 Term. The initial term of this Agreement ("Initial Term") shall commence on the date that this Agreement is recorded in the Official Records and shall continue until the fifty-fifth (55th) anniversary of the date that this Agreement is recorded in the Official Records, subject to the provisions of Subsections (a) and (b) below, unless this Agreement is sooner released by mutual agreement of the City and the Owner for the sole reason that the Property is to be redeveloped with housing affordable to Low Income Households. The Initial Term, as it may be extended pursuant to Subsection (a) or (b), is referred to as the "Term." Any extension of the Initial Term shall be binding on the Owner and Owner's successors until expiration of the Term.

(a) In the event that (i) the Property is to be refinanced or redeveloped with housing affordable to Low Income Households, and (ii) as a condition to the receipt of such financing this Agreement must expire at the end of the Initial Term, and the Owner provides satisfactory evidence to the City of such condition, and (iii) in connection with such financing, the Owner enters into a new regulatory agreement which restricts occupancy of the Property to Low Income Households, then this Agreement may be amended or terminated by mutual written agreement of both Parties. The parties acknowledge that, as a condition of the City's consent to amend or terminate this Agreement, any new regulatory agreement must impose affordability restrictions on the Property which are materially similar to or more restrictive than those imposed under this Agreement.

(b) In the event the Property is not to be refinanced or redeveloped in accordance with Subsection (a), then at the Owner's option, either:

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- (i) the Initial Term will be extended for a period of forty-four (44) years, and the City's Option to Purchase the Property under Section 6.3 shall automatically terminate and be of no further force or effect. In that case, this Agreement shall automatically terminate at the end of such additional 44-year period without the necessity of any further action by the parties, or
 - (ii) the Owner will give notice at least one (1) year but not more than eighteen (18) months prior to the expiration of the Initial Term that it will not extend the Initial Term, and the City shall retain its Option to Purchase the Property under Section 6.3.

(c) Upon the amendment or termination of this Agreement for any reason, the parties agree to execute such documents and take such actions as reasonably necessary, and at no cost or expense to the City, to cause this Agreement to be removed as a lien on the Property.

6.2. Notification to City and Tenants.

(a) If the Owner decides to pursue refinancing or redevelopment of the Property pursuant to Section 6.1(a) of this Agreement more than eighteen (18) months prior to the expiration of the Initial Term, Owner shall provide written notice to the City within thirty (30) days of commencing the refinancing or redevelopment process.

(b) At least one (1) year but not more than eighteen (18) months prior to the expiration of the Initial Term, the Owner shall provide written notice to the City regarding whether Owner intends to proceed under Section 6.1(a), (b)(i) or (b)(ii) above. If notice had previously been provided pursuant to Section 6.2(a), the notice required by this Section 6.2(b) shall confirm the Owner's intention to proceed under Section 6.1(a) or update the City as to any changed circumstances, and following such notice, Owner shall provide periodic written updates of such notice to the City if and when the Owner's plans for the Property may change. If the Owner elects to extend the Term of this Agreement pursuant to Section 6.1(b)(i), this Agreement will remain binding on the Owner and Owner's successors until expiration of the Term. Owner's failure to provide such notice shall be deemed to have extended the Term of this Agreement for an additional one (1) year, and shall continue to extend for a term of one (1) year on the anniversary of the preceding extension until the Owner's notice is received by the City.

(c) The Owner shall comply with all requirements set forth in California Government Code Sections 65863.10 and 65863.11 or successor provisions and all other requirements of State and federal law applicable to the pending termination of affordability restrictions, and the Term shall automatically be extended as necessary to ensure proper notice is given in accordance with such requirements.

6.3 Grant of Option to Purchase.

(a) In the event the Owner elects to proceed under Section 6.1(b)(ii), Owner hereby grants and gives to the City a right to purchase all of Owner's right, title and interest in and to the Property, and to enter and take possession of the Property with all improvements thereon, on the terms set forth in this Section (the "Option to Purchase") for the express purpose of continuing to maintain the Property as an affordable housing resource.

(b) If the City decides to exercise its Option to Purchase, the City shall provide the Owner with written notice of its intent to do so (the "Notice of Exercise") within: (1) sixty (60) days of Owner's written notice to City of its decision not to extend the Term; or (2) at least one hundred twenty (120) days prior to the expiration of the Term if Owner fails to provide written notice. The Notice of Exercise will include a date for closing which is the later to occur of the following: (1) one year following the date of Owner's written notice to the City; (2) one year following the date of the Notice of Exercise if Owner has failed to provide written notice to the City; or (3) ten (10) days after Owner has done all acts and executed all documents required for close of escrow. If the City fails to provide timely notice of the exercise of the Option to Purchase, then the Option to Purchase shall terminate and be of no further force or effect without the necessity of any further action by the parties. Upon the termination of the Option to

Purchase, the parties agree to execute such documents and take such actions as reasonably necessary, at no cost or expense to the City, to confirm the termination of the Option to Purchase.

(c) Upon the City's delivery of the Notice of Exercise, Owner and the City shall promptly open an escrow account. Owner shall execute, acknowledge, and deliver a grant deed in a form acceptable to the City transferring the Property to the City, subject only to the title exceptions that (1) existed at the time of Owner's acquisition of the Property, or (2) were created with the written consent of City or approved in writing by City or expressly contemplated or permitted by this Agreement. Closing costs and title insurance shall be paid by City and Owner pursuant to the custom and practice in the County of Santa Clara at the time of the opening of escrow, or as may be provided otherwise by mutual agreement. Owner agrees to do all acts and execute all documents necessary to enable the close of escrow and transfer of the Property to the City.

(d) The purchase price of the Property under the Option to Purchase shall be the City's forgiveness of the entire principal balance and accrued and unpaid interest then due under the 1991 Loan and/or 2009 Loan, if any, plus the City's assumption of all Approved Financing, if any. "Approved Financing" means all financing secured by the Property at the time of the City's exercise of the Option to Purchase, the proceeds of which have been used by Owner for the acquisition, rehabilitation or operation of the Property for low-income housing in accordance with this Agreement, the terms of which have been approved in advance by the City, including but not limited to the rights of the City or its assignee to assume the Option to Purchase and any such financing.

(e) The granting of this Option to Purchase to the City shall not impair or limit the City's ability to exercise any other rights or remedies granted to the City in this Agreement or in the Loan Documents. City may enforce this Section by specific performance.

ARTICLE 7 MISCELLANEOUS

7.1 Nondiscrimination.

(a) Owner herein covenants by and for itself, its subcontractors, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, nor denial of the benefits of this Agreement to, any person or group of persons, on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability or medical condition (including cancer, HIV and AIDS) or political affiliation or belief, nor any unlawful discrimination against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), use of family care leave, or political affiliation or belief. Owner shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, Owner shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1,

Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to Owner services or works required of City by the State of California pursuant to agreement between City and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and Owner and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) The provisions of paragraph (a) shall further apply to the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Property, and Owner and any person claiming under or through the Owner, shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the Property.

(c) Notwithstanding paragraph (a), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(d) The Owner shall include the provisions contained in this Section in all contracts and subcontracts related to the Property.

(e) The requirements in this Section shall survive the repayment of the 1991 Loan, 2009 Loan, and the reconveyance of the Deed of Trust.

7.2 Term. The provisions of this Agreement shall apply to the Property for the entire Term even if the 1991 Loan, 2009 Loan and all accrued interest are paid in full prior to the end of the Term. This Agreement shall bind any successor, heir or assign of the Owner, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by the City.

7.3 Effect of Other Financing Programs. The Property may be subject to the terms of other governmental subsidy programs. This Agreement and the agreements entered into by the Owner pursuant to these subsidy programs independently regulate Units in the Property. If any provision of another regulatory agreement is found in conflict or in contradiction with the terms of this Agreement in relation to the Units, the most restrictive requirement, providing the greatest affordability to the most Tenants for the longest term, shall apply to those Units, except as otherwise specified.

7.4 Loan Documents. In the event of any conflict among the Loan Documents, the most restrictive requirements shall apply.

7.5 Covenants to Run With the Land. The City and the Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the

expiration of the Term of this Agreement, said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly releases such conveyed portion of the Property from the requirements of this Agreement.

7.6 Indemnification

(a) To the full extent permitted by law, the Owner shall indemnify, defend at its own expense, and hold the City and its elected officials, officers, employees and agents in their official capacity (collectively "Indemnitees") harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with this Agreement, including but not limited to the purchase of the Property, and the marketing, maintenance, and operation of the Property, except to the extent such claim arises from the grossly negligent or willful misconduct of the City or Indemnitees. Each Party shall notify the other Party immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, provided that nothing shall require either party to disclose any documents, records or communications that are protected under the attorney-client privilege or attorney work product privilege.

(b) The provisions of this Section shall survive the expiration of the Term, the reconveyance of the Deed of Trust, and any release of part or all of the Property from the burdens of this Agreement.

7.7 Default.

(a) The occurrence of any of the following is a "Default" and shall constitute a material breach of this Agreement if not corrected, cured or remedied in the time period set forth in subsection (b) of this Section:

(1) Failure of Owner or any person under its direction or control to comply with or perform when due any obligation under this Agreement;

(2) Any warranty, representation, or statement made to City by Owner under this Agreement that is false or misleading in any material respect either now or at the time made or furnished; or

(3) A Default pursuant to the Loan Agreement or any Loan Document.

(b) Notice and Cure. The City shall give written notice to the Owner specifying the nature of the violation giving rise to the Default. Unless a different period is specified in the Loan Agreement, if the Owner fails to cure the Default within thirty (30) days after the City has notified the Owner in writing of the Default or, if the Default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within sixty (60) days, or such longer period as approved by the City, in writing, the City may declare a Default under this Agreement by written notice to the Owner.

(c) Remedies. The City shall have the right to enforce this Agreement by any or all of the following actions, or by any other remedy provided by law.

(1) Calling the 1991 Loan and/or the 2009 Loan. The City may declare a Default under the 1991 Note, accelerate the indebtedness evidenced by the 1991 Note, and with respect to the 1991 Loan, proceed with foreclosure under the Deed of Trust and/or declare a Default under the 2009 Note and accelerate the indebtedness evidenced by the 2009 Note.

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

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

7.8 Recording and Filing. The City and the Owner shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records.

7.9 Governing Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue shall be Santa Clara County.

7.10 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

7.11 Waiver of Requirements. No waiver of the requirements of this Agreement shall occur unless expressly waived by the City in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or Default of Owner or to pursue any remedy permitted under this Agreement or applicable law. Any extension of time granted to Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Owner shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

7.12 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the Official Records.

7.13 City Approvals. Whenever the approval of the City is required hereunder, such approval shall mean the approval of the City Manager or his/her designee or successor, without the necessity of any action by the City Council of the City of Palo Alto.

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

Owner: PAHC Properties Corporation
725 Alma Street
Palo Alto, CA 94301
Attn: Executive Director

City: City of Palo Alto
Office of the City Clerk
PO Box 10250
Palo Alto, CA 94303

With a copy to:

City of Palo Alto
Director, Department of Planning & Community Environment
PO Box 10250
Palo Alto, CA 94303

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

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

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

[Signatures on following page.]

[Remainder of page intentionally blank.]

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

CITY:

CITY OF PALO ALTO, a chartered city and
municipal corporation

By:

JAMES KEENE, CITY MANAGER

APPROVED AS TO FORM BY CITY
ATTORNEY

OWNER:

PAHC PROPERTIES CORPORATION,
a California nonprofit public benefit corporation

By:

Its:

President & CEO

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.

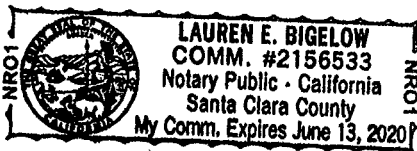
STATE OF CALIFORNIA)

COUNTY OF Santa Clara)

On February 15, 2017, before me, Lauren Bigelow, Notary Public, personally appeared Candice Gonzalez, 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.



Lauren Bigelow
Name: _____
Notary Public

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 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.

Name: _____
Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION

The land is situated in the County of Santa Clara, City of Palo Alto, State of California, and is described as follows:

REAL PROPERTY in the City of Palo Alto, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

All of Lots 18, 19, 20 and 21 in Block 6, as shown on that certain Map entitled, "Map No. 1, Map of Stanford City, Santa Clara County, California" which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on May 3, 1910 in Book "M" of Maps, at page 97.

PARCEL TWO:

An easement for ingress and egress over a strip of land 20.00 feet in width, the Southwesterly line of which is more particularly described as follows:

Beginning at the most Westerly corner of Lot 18, in Block 6, as shown on the Map above referred to; thence from said point of beginning, Northwesterly along the prolongation of the Southwesterly line of said Lot 18, in Block 6, 65.00 feet to a point on the Southeasterly line of El Carmelo Avenue, 60.00 feet in width, and the terminus of the line described herein.