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City of South San Francisco
400 Grand Avenue
South San Francisco, CA 94080
Attn: City Clerk

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GOVERNMENT CODE §§6103, 27383

APN 012-316-010

Space above this line for Recorder's use.

AFFORDABLE HOUSING REGULATORY AGREEMENT

by and between

THE CITY OF SOUTH SAN FRANCISCO

AND

SYNERGY COMMUNITY DEVELOPMENT CORPORATION

Dated , 2026

EXHIBITS

- A: Property Description
- B: Unit Mix, Rent and Occupancy Restrictions
- C: Insurance Requirements

This Affordable Housing Regulatory Agreement (this “**Agreement**”) is entered into effective as of [REDACTED], 2026 (the “**Effective Date**”) by and between the City of South San Francisco, a California municipal corporation (the “**City**”) and Synergy Community Development Corporation, a California nonprofit public benefit corporation (“**Owner**”). City and Owner are hereinafter collectively referred to as the “**Parties**.”

RECITALS

A. Owner has executed a purchase and sale agreement to acquire and own property located at 220 Linden Avenue known as APN 012-316-010 (the “**Property**”), and intends to construct, own and operate on the Property a sixty-eight unit affordable housing development for low-income households (the “**Project**”).

B. The City currently restricts sixty-two units located on the Property through that certain Amended and Restated Rent Regulatory Agreement dated April 15, 2009 and recorded on May 1, 2009 as Document No. 2009-053041 in the official records of the San Mateo County Clerk-Recorder’s Office (the “**2009 Regulatory Agreement**”)

C. Upon Owner’s purchase of the Property, the City will terminate the 2009 Regulatory Agreement and record this Agreement in its place.

D. The Owner has requested and the City has agreed to provide a loan in the amount of Three Million One Hundred Fifteen Dollars (the “**Loan**”) to the Owner for the acquisition of the Property pursuant to a Loan Agreement dated [REDACTED], 2026 (the “**Loan Agreement**”). The Loan is evidenced by a Secured Promissory Note (the “**Note**”) executed by Owner and dated as of [REDACTED]. The Loan is secured by a Deed of Trust naming City as beneficiary (the “**Deed of Trust**”), dated as of [REDACTED], 2026 and executed by Owner for the benefit of City. The Deed of Trust shall be recorded concurrently herewith.

E. As a condition to its agreement to provide the Loan to Owner, City requires the Property to be subject to the conditions, restrictions, reservations and rights of the City set forth herein.

F. The Parties have agreed to enter into and record this Agreement in order to satisfy the conditions described in the foregoing Recitals. The purpose of this Agreement is to regulate and restrict the occupancy and rents of the Project’s Rent-Restricted units for the benefit of the Project occupants. The covenants in this Agreement are intended to run with the land and be binding on Owner and Owner’s successors and assigns for the full term of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

1.1 “**Area Median Income**” or “**AMI**” means the area median income for San Mateo County, California, adjusted for household size, determined periodically by the California Department of Housing and Community Development (“**HCD**”) as

published in Section 6932 of Title 25 of the California Code of Regulations (“**Regulations**”) or successor provision published pursuant to California Health and Safety Code Section 50093(c). If HCD ceases to make such determination, Area Median Income shall be the median income applicable to San Mateo County, with adjustments for household size, as determined from time to time by the U.S. Department of Housing and Urban Development (“**HUD**”) pursuant to the United States Housing Act of 1937 as amended, or such other method of median income calculation applicable to the City of South San Francisco that HUD may hereafter adopt in connection with such Act.

- 1.2 “**Claims**” is defined in Section 10.
 - 1.3 “**Eligible Household**” means a household for which does not exceed the maximum income level for a Restricted Unit as specified in Sections 2.1 and 2.2.
 - 1.4 “**Low-Income Eligible Household**” means an annual gross income that is not greater than sixty percent (60%) of Area Median Income.
 - 1.5 “**Indemnites**” is defined in Section 10.
 - 1.6 “**Regulations**” means Title 25 of the California Code of Regulations.
 - 1.7 “**Rent Restricted**” means a dwelling unit for which the gross rent charged for such unit does not exceed the Qualifying Rent, as adjusted for assumed household size in accordance with the Department of Housing and Community Development (“**HCD**”) guidelines..
 - 1.8 “**Restricted Unit**” means a dwelling unit which is reserved for occupancy at a Qualifying Rent by a Low-Income Eligible Household in accordance with and as set forth in Sections 2.1 and 2.2.
 - 1.9 “**Qualifying Rent**” means a monthly rent which does not exceed one-twelfth of 30% of the applicable income level.
2. Use and Affordability Restrictions. Owner hereby covenants and agrees, for itself and its successors and assigns, that the Property shall be used solely for the operation and renovation of an SRO hotel in compliance with the Loan Agreement and the requirements set forth herein. Owner represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Owner covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City.
- 2.1 Affordability Requirements.
 - 2.1.1 For a term of fifty-five (55) years commencing upon the date of issuance of a final certificate of occupancy for the Project,, 100% of the units are to be rent- and income-restricted, with the final unit count subject to review and approval by the City and Owner in connection with the rehabilitation financing and occupied, or if vacant, available for occupancy, by Low Income Eligible Households, with up to one unit set aside as an onsite manager unit.

- 2.1.2** The final number of dwelling units shall be subject to review and approval by the City and Owner in connection with the anticipated rehabilitation of the Project from proceeds of federal low-income housing tax credits (LIHTC), among other funding sources to be identified by the Owner (the “Rehabilitation Financing”).
- 2.2** Rents for Restricted Units. Rents for Restricted Units shall be limited to Qualifying Rents for Low-Income Eligible Households. Notwithstanding the foregoing, no tenant qualifying for a Restricted Unit shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's adjusted income increases to exceed the Qualifying Rent for such Restricted Unit. A household which at initial occupancy qualifies as a Low-Income Eligible Household, shall be treated as continuing to be of such income category so long as the household's gross income does not exceed 140% of Low-Income. In the event the gross household income of a household that qualified as Low-Income at initial occupancy exceeds Low-Income, the unit will continue to be considered as satisfying the income limit if the unit remains Rent-Restricted.
- 2.3** Unit Sizes, Preferences.
- 2.3.1** In renting Restricted Units, Owner shall give first preference to Eligible Households in accordance with the local preference requirements of Chapter 8.100, Local Preferences and Requirements, or its successor provision, of the South San Francisco Municipal Code.
- 2.4** No Condominium Conversion. Owner shall not convert the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Project during the term of this Agreement.
- 2.5** Non-Discrimination; Compliance with Fair Housing Laws.
- 2.5.1** Fair Housing. Owner shall comply with state and federal fair housing laws in the marketing and rental of the units in the Project. Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.
- 2.5.2** Non-Discrimination. The Owner covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Property and the Project, nor shall the Owner itself or any person claiming under or through it 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, subtenants, sublessees or vendees of the Property. The foregoing covenants shall run with the land. Owner shall include such non-discrimination provisions in all deeds, leases,

contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

3. Reporting Requirements.

3.1 Tenant Certification. Owner or Owner's authorized agent shall obtain from each household prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

- (a) The identity and age of each member of the household; and
- (b) Total household income.

Owner shall retain such certificates for not less than three (3) years, and upon City's request, shall make the originals available for inspection by City and shall provide copies of such certificates to City.

3.2 Annual Report; Inspections. Owner shall submit an annual report ("**Annual Report**") to the City in form satisfactory to City, together with a certification that the Project is in compliance with the requirements of this Agreement.

3.2.1 Owner shall submit to the City such Annual Report:

- (a) Not later than the ninetieth (90) day after the close of each fiscal year of the City; or such other date as maybe requested by City; and
- (b) Within fifteen (15) days after receipt of a written request, any other information or completed forms requested by City in order to comply with reporting requirements of the State of California.

3.2.2 The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Project:

- (a) Unit number;
- (b) Current rent and other charges;
- (c) Dates of any vacancies during the previous year;
- (d) Number of people residing in the unit;
- (e) Total household income of residents;
- (f) Documentation of source of household income; and
- (g) The information required by Section 3.1.

3.2.3 Owner shall include with the Annual Report, an income recertification for each household, documentation verifying tenant eligibility, and such additional

information as City may reasonably request from time to time in order to show compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of federal low-income housing tax credits or tax-exempt financing, Owner may satisfy the requirements of this Section by providing City with a copy of compliance reports required in connection with such financing.

- 3.3 Increased Income of Residents in Restricted Units. If upon recertification of the income of a household occupying an Restricted Unit, the Owner determines that the household has an Income exceeding the maximum qualifying income for the Restricted Unit, then such household shall be permitted to continue occupying the Restricted Unit upon expiration of the household's lease, and upon sixty (60) days written notice, the rent shall be increased to the lesser of thirty percent (30%) of the household's Income or fair market rate value.
- 3.4 On-site Inspection. Owner shall permit representatives of City to enter and inspect the common areas of the Property and the Project during reasonable business hours in order to monitor compliance with this Agreement upon 72-hours advance notice of such visit to Owner or to Owner's management agent.
- 3.5 Additional Information. Owner shall provide any additional information reasonably requested by 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 Project.
- 3.6 Records. Owner shall maintain complete, accurate and current records pertaining to the Project, and shall permit any duly authorized representative of the City to inspect records, including records pertaining to income and household size of tenants. All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the 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 three (3) years, and for any period during which there is an audit undertaken by the City pursuant to this Agreement.
- 3.7 TCAC Regulatory Agreement. During the term of any regulatory agreement associated with the provision of low income housing tax credits by the California Tax Credit Allocation Committee and recorded against the Property (the "TCAC Regulatory Agreement"), Owner may use the occupancy standards, occupancy assumptions, income limits and rent levels that are permitted by TCAC pursuant to the TCAC Regulatory Agreement, in place of such requirements imposed by this Agreement.

4. Term of Agreement.

- 4.1** Term of Restrictions. This Agreement shall remain in effect through the 55th anniversary of the Effective Date, unless the term is extended by mutual agreement of the Parties.
- 4.2** Effectiveness Succeeds Conveyance of Property and Repayment of Loans. This Agreement shall remain effective and fully binding for the full term hereof regardless of:
- 4.2.1** Any sale, assignment, transfer, or conveyance of the Property or the Project or any part thereof or interest therein,
- 4.2.2** Any payment, prepayment or extinguishment of the Loan or the Loan Agreement, or
- 4.2.3** Any reconveyance of the Deed of Trust, unless this Agreement is terminated earlier by City in a recorded writing.
- 4.3** Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge the terms of this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement in accordance with its terms.
- 5.** Binding Upon Successors; Covenants to Run with the Land.
- 5.1** Owner hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Owner hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Owner and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Owner, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants of the individual dwelling units within the Project) shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, ground lease or other instrument affecting or conveying the Property or the Project or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument. If any such contract, deed, ground lease or other instrument has been executed prior to the date hereof, Owner hereby covenants to obtain and deliver to City an instrument in recordable form signed by the parties to such contract, deed, ground lease or other instrument pursuant to which such parties acknowledge and accept this Agreement and agree to be bound hereby.
- 5.2** Owner agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such

covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

5.3 Assignment to an Affiliate for the Rehabilitation Financing. Notwithstanding any provision in the Note, Loan Agreement and Deed of Trust to the contrary, Owner may transfer and convey the Property and the Project to a limited partnership in which Owner or a limited liability company owned by Owner acts as a general partner (the "Assignee") in connection with the Rehabilitation Financing. Owner shall provide written notice of such assignment, together with an assignment and assumption by the Assignee of the obligations of the Note, Loan Agreement, Deed of Trust and this Agreement in form reasonably acceptable to the City.

6. Property Management; Repair and Maintenance; Marketing.

6.1 Management Responsibilities. Owner shall be responsible for all management functions with respect to the Property and the Project, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. Except as City may otherwise agree in writing, City shall have no responsibility for management or maintenance of the Property or the Project.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the management entity proposed by Owner for the Project. The City hereby approves Owner as the initial management entity for the Project. The contracting of management services to a management entity shall not relieve Owner of its primary responsibility for proper performance of management duties.

6.3 Services. Owner shall provide the services to the tenants living in the Project in order to enhance quality of life and build community. Services will be offered based on tenant needs and interests and may include the following: gardening, cooking, crafts, cultural celebrations, health screenings, support groups, assistance in obtaining benefits, youth programs.

6.4 Repair, Maintenance and Security. Throughout the term of this Agreement, Owner shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Owner agrees to maintain the Project and the Property (including without limitation, the residential units, common areas, meeting rooms, landscaping, driveways, parking areas and walkways in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Owner shall prevent and/or rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair. Owner shall provide adequate security services for occupants of the Project.

- 6.4.1** City’s Right to Perform Maintenance. In the event that Owner breaches any of the covenants contained in this Section 6.4, and such default continues for a period of ten (10) business days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) business days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property.
- 6.4.2** Costs. All costs expended by City in connection with the foregoing, shall constitute an indebtedness secured by the Deed of Trust and the Note, and shall be paid by Owner to City upon demand. All such sums remaining unpaid thirty (30) days following delivery of City’s invoice therefor shall bear interest at the rate of 10% per annum er annum or the highest rate permitted by applicable law. Notwithstanding anything to the contrary set forth in this Section, Agency agrees that it will provide Owner with not less than thirty (30) days' written notice prior to undertaking any work for which Owner will incur a financial obligation.

6.5 Marketing and Management Plan; Listing; Lottery/ Waitlist.

- 6.5.1** Not less than 30 calendar days prior to beginning marketing activities for the Project, Owner shall submit for City review and approval, a plan for marketing and managing the Property (“Marketing and Management Plan”). The Marketing and Management Plan shall address in detail how Owner plans to market the Restricted Units to prospective Eligible Households in accordance with fair housing laws and this Agreement, Owner’s tenant selection criteria, and how Owner plans to certify the eligibility of Eligible Households. The Plan shall also describe the management team and shall address how the Owner and the management entity plan to manage and maintain the Property and the Project. The Plan shall include the proposed management agreement and the form of rental agreement that Owner proposes to enter into with Project tenants. Owner shall abide by the terms of the Marketing and Management Plan in marketing, managing, and maintaining the Property and the Project, and throughout the term of this Agreement, shall submit proposed modifications to City for its review and approval.
- 6.5.2** Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, or a proposed amendment or change to any of the foregoing within 60 days following City’s receipt of such plan, proposal or amendment, the plan, proposal or amendment shall be deemed approved by City.
- 6.5.3** Listing. Owner or Owner’s designees, shall list all of Affordable Housing Units on the Doorway Housing Portal (<https://housingbayarea.mtc.ca.gov/>), the regional affordable housing application platform administered by the Bay Area

Housing Finance Authority (BAHFA). All public marketing, applications, and tenant selection for the Restricted Units shall be processed through the Doorway system, unless otherwise approved in writing by the City of South San Francisco.

6.5.4 Lottery/ Waitlist Selection. The Owner or Owner's Designee shall use the Doorway platform to conduct a lottery for lease-up of the Restricted Units. The lottery shall be randomized and in accordance with an applicable City-approved Marketing Plan. Following the lottery, Doorway will generate a ranked list of applicants to determine the order of consideration for unit offers.

Applicants who are not selected for immediate lease-up shall be placed on a waitlist generated through Doorway and maintained by the Owner or Owner's Designee. Owner shall fill future vacancies in Restricted Units by offering them to applicants in the order established by the Doorway-generated waitlist, subject to eligibility verification and applicable City preferences. Owner shall keep the waitlist open and active for a minimum of one (1) year, or as otherwise directed by the City.

6.6 Fees, Taxes, and Other Levies. Owner shall be responsible for payment of all fees, assessments, taxes, charges, liens and levies, including without limitation possessory interest taxes, if applicable, imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, Owner shall not be required to pay any such charge so long as:

6.6.1 Owner is contesting such charge in good faith and by appropriate proceedings,

6.6.2 Owner maintains reserves adequate to pay any contested liabilities, and

6.6.3 On final determination of the proceeding or contest, Owner immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges and interest.

6.7 Insurance Coverage. Prior to issuance of building permits for the Project, and continuing throughout the term of this Agreement Owner shall comply with the requirements set forth in Exhibit B, and shall, at Owner's expense, maintain in full force and effect insurance coverage as specified in Exhibit B; provided however, during such time that lenders providing financing for the Project impose insurance requirements that are inconsistent with the requirements set forth in Exhibit B, Owner may satisfy the requirements of this Section by meeting the requirements of such lenders. Notwithstanding the foregoing, throughout the term hereof, Owner shall comply with the provisions of Exhibit B pertaining to:

6.7.1 Provision to City of proof of insurance for the Project,

6.7.2 Naming of the City of South San Francisco as an additional insured, and

6.7.3 Provision to City of notice of cancellation or reduction in coverage.

- 6.8** Property Damage or Destruction. If any part of the Project is damaged or destroyed, Owner shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced within one hundred and twenty (120) days after the damage or loss occurs and shall be completed within one (1) years thereafter, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. During such time that lenders or low-income housing tax credit investors providing financing for the Project impose requirements that differ from the requirements of this Section the requirements of such lenders and investors shall prevail.
- 7.** Recordation; Subordination. This Agreement shall be recorded in the Official Records of San Mateo County. Owner hereby represents, warrants and covenants that with the exception of easements of record, if any, absent the written consent of City, this Agreement shall not be subordinated in priority to any lien (other than those pertaining to taxes or assessments), encumbrance, or other interest in the Property or the Project. If at the time this Agreement is recorded, any interest, lien, or encumbrance has been recorded against the Project in position superior to this Agreement, upon the request of City, Owner hereby covenants and agrees to promptly undertake all action necessary to clear such matter from title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 7, and to provide such evidence thereof as City may reasonably request.
- 8.** Transfer and Encumbrance.
- 8.1** Restrictions on Transfer and Encumbrance. During the term of this Agreement, Owner shall not make or permit the occurrence of any Transfer (as defined in the DDA) of the Project or the Property without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement or the Loan Agreement, Owner shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and /or control of Owner, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.
- 8.2** Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions on Transfer set forth herein shall not be deemed to prevent: (i) the granting of temporary easements or permits to facilitate development of the Property; (ii) the lease of individual dwelling units to tenants for occupancy as their principal residence in accordance with this Agreement; or (iii) Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest.
- 8.2.1** In addition, City shall not unreasonably withhold its consent to the sale, transfer or other disposition of the Project, in whole or in part, provided that:
- (a)** The Project is and shall continue to be operated in compliance with this Agreement;

- (b) The transferee expressly assumes all obligations of Owner imposed by this Agreement;
- (c) The transferee executes all documents reasonably requested by the City with respect to the assumption of the Owner's obligations under this Agreement, and upon City's request, delivers to the City an opinion of its counsel to the effect that such document and this Agreement are valid, binding and enforceable obligations of such transferee; and either:
 - (i) The transferee has at least three years' experience in the ownership, operation and management of low-income rental housing projects of similar size to that of the Project, without any record of material violations of nondiscrimination provisions or other state or federal laws or regulations applicable to such projects, or
 - (ii) The transferee agrees to retain a property management firm with the experience and record described in this Agreement.
- (d) Consent to any proposed Transfer may be given by the City Manager unless the City Manager, in his or her discretion, refers the matter of approval to the City Council. If a proposed Transfer has not been approved by City in writing within thirty (30) days following City's receipt of written request by Owner, it shall be deemed rejected.
- (e) Owner shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City 's delivery of an invoice detailing such costs.

8.3 Encumbrances. Owner agrees to use best efforts to ensure that any deed of trust secured by the Project for the benefit of a lender other than City ("Third-Party Lender") or any subordination agreement entered into by the City in connection with its Deed of Trust shall contain each of the following provisions:

- 8.3.1** Third-Party Lender shall use its best efforts to provide to City a copy of any notice of default issued to Owner concurrently with provision of such notice to Owner;
- 8.3.2** City shall have the reasonable right, but not the obligation, to cure any default by Owner within the same period of time provided to Owner for such cure extended by an additional ninety (90) days;
- 8.3.3** Provided that City has cured any default under Third-Party Lender's deed of trust and other loan documents, City shall have the right to foreclose City's

Deed of Trust and take title to the Project without acceleration of Third-Party Lender's debt; and

8.3.4 City shall have the right to transfer the Project without acceleration of Third-Party Lender's debt to a nonprofit corporation or other entity which shall own and operate the Project as an affordable rental housing project, subject to the prior written consent of the Third-Party Lender.

Owner agrees to provide to City a copy of any notice of default Owner receives from any Third-Party Lender within three (3) business days following Owner's receipt thereof.

8.4 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Such purchaser shall be bound by and subject to this Agreement from and after such trustee's sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

9. Default and Remedies.

9.1 Events of Default.

9.1.1 The occurrence of any one or more of the following events shall constitute an event of default hereunder (each, an "**Event of Default**"):

- (a) Any increase in rent for a Restricted Unit above that permitted by the Agreement; or
- (b) The occurrence of a Transfer in violation of Section 8 hereof;
- (c) Owner's failure to maintain insurance on the Property and the Project as required hereunder, and the failure of Owner to cure such default within 10 days.
- (d) Subject to Owner's right to contest the following charges, Owner's failure to pay taxes or assessments due on the Property or the Project or failure to pay any other charge that may result in a lien on the Property or the Project, and Owner's failure to cure such default within 10 days.
- (e) A default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan.

- (f) An event of default has been declared under the Loan Agreement, the Note or the Deed of Trust.

9.1.2 Owner's default in the performance of any term, provision or covenant under this Agreement or under any other City Document (other than an obligation enumerated in this Subsection 9.1.2), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days in the event of a monetary default or thirty (30) days in the event of a non-monetary default following the date upon which City shall have given written notice of the default to Owner, or if the nature of any such non-monetary default is such that it cannot be cured within 30 days, Owner's failure to commence to cure the default within thirty (30) days and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than ninety (90) days from receipt of the notice of default.

9.2 Remedies.

9.2.1 If within the applicable cure period, Owner fails to cure a default or fails to commence to cure and diligently pursue completion of a cure, as applicable, or if a cure is not possible, City may proceed with any of the following remedies:

- (a) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
- (b) Accelerate and declare the balance of the Note and interest accrued thereon immediately due and payable and proceed with foreclosure under the Deed of Trust;
- (c) For violations of obligations with respect to rents for Restricted Units, impose as liquidated damages a charge in an amount equal to the actual amount collected in excess of the Qualifying Rent;
- (d) Pursue any other remedy allowed at law or in equity.

9.2.2 Payment of Excess Rental Proceeds to City. If the Owner has breached its obligation to rent the Restricted Units (or any of them) to Low Income Households at an Affordable Rent pursuant to this Agreement, then the Excess Rental Proceeds resulting from Owner's renting or leasing any Restricted Unit in whole or in part in violation of this Agreement shall become immediately due and payable by the Owner to the City.

If, after thirty (30) days, Owner fails to remit the Excess Rental Proceeds to the City pursuant to its demand therefor, City may impose the Excess Rental Proceeds as a special assessment on either the Property or Project which shall be collected at the same time and in the same manner as property taxes. This amount shall also be a debt of Owner payable to City, evidenced by the Note and secured by the Deed of Trust.

9.2.3 Resident Remedy for Violation of Rental Requirements. In the event that Owner charges or receives higher rental amounts on the Restricted Units than allowed pursuant to this Agreement, Owner shall be required to reimburse the resident that occupied the Restricted Unit at the time the excess rent was received for the entire amount of such excess rent received, provided that such resident can be found following reasonable inquiry, and to pay to such resident interest on said excess amount, at the rate of six percent (6%) per annum, for the period commencing on the date the first excess rent was received from said resident and ending on the date reimbursement is made to the resident. For purposes of this Section, "reasonable inquiry" shall include Owner's review of information provided by the resident as part of the resident's application, and forwarding information provided by the resident, and Owner's reasonable attempts to contact the resident and any other persons listed in either of such documents. If, after such reasonable inquiry, Owner is unable to locate the resident, Owner shall pay all of such amounts otherwise to be paid to the resident to City.

In the event Owner knowingly rents a Restricted Unit in violation of the preference requirements, in addition to any other equitable remedy City shall have for such default, Owner, for each separate violation, shall be required to pay City a penalty in an amount equal to two (2) months of rental charges for the noncompliant unit.

If, after thirty (30) days, Owner fails to remit such fine to the City pursuant to its demand therefor, City may impose the Fee as a special assessment on either the Property or Project which shall be collected at the same time and in the same manner as property taxes.

9.2.4 Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. Indemnification.

10.1 Owner shall indemnify, defend (with counsel approved by City) and hold the City, and their respective elected and appointed officers, officials, employees, agents, and representatives (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with Owner's acquisition, renovation, improvement, marketing, management, or operation of the Property and the Project or any failure to perform any obligation as and when required by this Agreement.

Owner's indemnification obligations under this Section 10 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 10 shall survive the expiration or earlier termination of this

Agreement. It is further agreed that City does not and shall not waive any rights against Owner that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Owner, of any of the insurance policies described in this Agreement or the Loan Agreement.

10.2 Owner shall pay immediately upon an Indemnitee's demand any amounts owing under the indemnity provided under this Section. The duty of Owner to indemnify includes the duty to defend the Indemnitee in any court action, administrative action, or other proceeding brought by any third party arising in connection with the Project or the Property with counsel reasonably approved by City. Owner's duty to indemnify the Indemnitees shall survive the expiration or earlier termination of this Agreement.

11. Miscellaneous.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Owner of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section.

11.3.1 All such notices shall be sent by:

- (a) Personal delivery, in which case notice is effective upon delivery;
- (b) Certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt;
- (c) Nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;
- (d) Facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that
 - (i) A duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or

- (ii) A transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

11.3.2 All such notices shall be sent to:

City: City of City of South San Francisco
400 Grand Avenue
South San Francisco, CA 94080
Attention: City Manager

Owner: Synergy Community Development Corporation
600 Corporate Pointe, Suite 215
Culver City, CA 90230
Attention: William E. Rice, President

- 11.4** Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.
- 11.5** Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.
- 11.6** Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Executive Director or by any person who shall have been designated by the City Executive Director, without further approval by the governing board of the City.
- 11.7** Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Owner or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Owner or its successor or for any obligation of City under this Agreement.
- 11.8** Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.
- 11.9** Time is of the Essence. Time is of the essence in the performance of this Agreement.
- 11.10** Governing Law. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

- 11.11** Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.
- 11.12** Severability. If any provision of this 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 thereby.
- 11.13** Entire Agreement; Exhibits. This Agreement, together with the City Documents contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. The exhibits attached hereto are incorporated herein by this reference.
- 11.14** Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY OF SOUTH SAN FRANCISCO,
a California Municipal Corporation

By: _____

Name: _____
City Manager

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney

[SYNERGY TO INSERT]
a California non-profit benefit corporation

By: _____
[NAME]

Its: **[TITLE]**

SIGNATURES MUST BE NOTARIZED.

Exhibit A
LEGAL DESCRIPTION

Exhibit B

INSURANCE REQUIREMENTS

Prior to execution and throughout the term of this Agreement, Owner shall obtain and maintain, at Owner's expense, the following policies of insurance.

- A. Property Insurance.** Insurance for the risks of direct physical loss, with minimum coverage being the perils insured under the standard Causes of Loss - Special form (ISO Form CP 10 30) or its equivalent, covering all improvements, all fixtures, equipment and personal property, located on or in, or constituting a part of, the Property ("Improvements"), in an amount equal to one hundred percent (100%) of the full replacement cost of all such property.
1. The insurance shall:
 - (a) Cover explosion of steam and pressure boilers and similar apparatus, if any, located on the Property,
 - (b) Cover floods if the Property is in a Special Hazard Area, as determined by the Federal Emergency Management City or as shown on a National Flood Insurance Program flood map;
 2. The insurance required hereunder shall be in amounts sufficient to prevent Owner from becoming a co-insurer under the terms of the applicable policies, with not more than a Ten Thousand Dollars (\$10,000) deductible (or such higher deductible approved by the City, which approval shall not be unreasonably withheld) from the loss payable for any casualty.
 3. The policies of insurance carried in accordance with this Paragraph A shall contain a "replacement cost endorsement" and an "increased cost of construction endorsement."
- B. Liability Insurance.** Commercial general liability insurance on an "occurrence basis" covering all claims with respect to injury or damage to persons or property occurring on, in or about the Property and the Improvements. The limits of liability under this Paragraph B shall be not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence, with a deductible no greater than Ten Thousand Dollars (\$10,000) or such higher deductible as may be approved by City, which approval shall not be unreasonably withheld.
1. The insurance shall also include coverage for:
 - (a) Liability for bodily injury or property damage arising out of the use, by or on behalf of Owner, of any owned, non-owned, leased or hired automotive equipment in the conduct of any and all operations conducted in connection with the Project or the Property;
 - (b) Premises and operations including, without limitation, bodily injury, personal injury, death or property damage occurring upon, in or about

the Property or the Improvements on any elevators or any escalators therein and on, in or about the adjoining sidewalks, streets and passageways;

- (c) Environmental liability and indemnification of City therefore;
- (d) Broad form property damage liability;
- (e) Additional insured and primary insured endorsements protecting the City and its respective elected and appointed officials, officers, employees and agents;
- (f) Personal injury endorsement.

C. Worker's Compensation Insurance. Worker's compensation insurance, in the amount required under then applicable state law, covering Owner's employees, if any, at work in or upon the Property or engaged in services or operations in connection with the Project or the Property. Owner shall require that any contract entered into by Owner with regard to work to be undertaken on the Property include a contractual undertaking by the contractor to provide worker's compensation insurance for its employees in compliance with applicable state law.

D. Course of Construction Insurance. Course of construction insurance in the same amount as required in Paragraph A above for property insurance, covering all construction activities on the Property.

E. General Insurance Provisions.

1. All policies of insurance provided for in this Exhibit shall be provided under valid and enforceable policies, in such forms and amounts as hereinbefore specified, issued by insurers licensed to do business in the State of California (or approved to do business in California and listed on the California Department of Insurance list of Eligible Surplus Lines Insurers or successor listing) and having a rating of A-VII or better in Best Insurance Guide or, if Best Insurance Guide is no longer in existence, a comparable rating from a comparable rating service. Prior to the issuance of building permits for the Project, and thereafter, not less than thirty (30) days prior to the expiration date of each policy furnished pursuant to this Exhibit B, Owner shall deliver to City certificates evidencing the insurance required to be carried by Owner under this Exhibit B. If requested by City, Owner shall deliver within ten (10) days following such request, certified, complete copies of the insurance policies required hereunder. Insurance policies to be provided hereunder shall meet the following requirements:
2. Each policy of insurance obtained pursuant to this Agreement, other than worker's compensation insurance, shall contain endorsements which provide:
 - (a) A waiver by the insurer of the right of subrogation against City, Owner or any tenant of the Project for negligence of any such person,

- (b) A statement that the insurance shall not be invalidated should any insured waive in writing prior to the loss any or all right of recovery against any party for loss accruing to the property described in the insurance policy, and
 - (c) A provision that no act or omission of Owner which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.
 - (d) By endorsements, City, and its elected and appointed officials, officers, employees and agents shall be named as additional insured under the liability insurance required to be maintained by Owner hereunder. City shall be named as loss payee on the property insurance policies required to be maintained hereunder.
3. Each policy required hereunder shall include a Notice of Cancellation or Change in Coverage Endorsement which shall provide that such policy shall not be cancelled or materially changed without at least thirty (30) days' prior written notice by registered or certified mail to City.
 4. All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the listed insureds.
 5. Any certificate of insurance applicable to course of construction insurance to be maintained shall be deposited with City prior to commencement of construction of any Improvements.
 6. Each policy shall contain an endorsement that provides that the insurance applies separately to each insured that is seeking coverage or against whom a claim is made, except with respect to the limits of liability
 7. Each policy shall be written as a primary policy not contributing with and not in excess of coverage that City may carry.
 8. Each policy shall expressly provide that City shall not be required to give notice of accidents or claims and that City shall have no liability for premiums.
- F.** Blanket Policies. Any insurance provided for in this Exhibit B may be placed by a policy or policies of blanket insurance; provided, however, that such policy or policies provide that the amount of the total insurance allocated to the Property and the Project shall be such as to furnish protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects any such policy or policies shall comply with the other provisions of this Agreement
- G.** Waiver of Subrogation. To the extent permitted by law and the policies of insurance required to be maintained hereunder, and without affecting such insurance coverage, City and Owner each waive any right to recover against the other:

1. Damages for injury or death of persons,
2. Damage to property,
3. Damage to the Property or the Improvements or any part thereof, or
4. Claims arising by reason of any of the foregoing, to the extent that such damages and/or claims are covered (and only to the extent of such coverage) by insurance actually carried by either City or Owner.

This provision is intended to restrict each party (as permitted by law) to recover against insurance carriers to the extent of such coverage, and waive fully, and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier.

- H.** Compliance with Policy Requirements. Owner shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Property, and Owner shall so perform and satisfy the requirements of the companies writing such policies that at all times companies of good standing shall be willing to write or to continue such insurance.