

GRASS VALLEY

City Council Regular Meeting, Capital Improvements Authority and Redevelopment "Successor Agency"

Tuesday, August 13, 2024 at 6:00 PM

Council Chambers, Grass Valley City Hall | 125 East Main Street, Grass Valley, California Telephone: (530) 274-4310 - Fax: (530) 274-4399

E-Mail: info@cityofgrassvalley.com

Web Site: www.cityofgrassvalley.com

AGENDA

Any person with a disability who requires accommodations to participate in this meeting should telephone the City Clerk's office at (530)274-4390, at least 48 hours prior to the meeting to make a request for a disability related modification or accommodation.

Mayor Jan Arbuckle, Vice Mayor Hilary Hodge, Councilmember Bob Branstrom, Councilmember Haven Caravelli, Councilmember Tom Ivy

MEETING NOTICE

City Council welcomes you to attend the meetings electronically or in person at the City Hall Council Chambers, located at 125 E. Main St., Grass Valley, CA 95945. Regular Meetings are scheduled at 6:00 p.m. on the 2nd and 4th Tuesday of each month. Your interest is encouraged and appreciated.

This meeting is being broadcast "live" on Comcast Channel 17 by Nevada County Media, on the internet at www.cityofgrassvalley.com, or on the City of Grass Valley YouTube channel at https://www.youtube.com/@cityofgrassvalley.com

Members of the public are encouraged to submit public comments via voicemail at (530) 274-4390 and email to public@cityofgrassvalley.com. Comments will be reviewed and distributed before the meeting if received by 5pm. Comments received after that will be addressed during the item and/or at the end of the meeting. Council will have the option to modify their action on items based on comments received. Action may be taken on any agenda item.

Agenda materials, staff reports, and background information related to regular agenda items are available on the City's website: www.cityofgrassvalley.com. Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet will be made available on the City of Grass Valley website at www.cityofgrassvalley.com, subject to City staff's ability to post the documents before the meeting.

Please note, individuals who disrupt, disturb, impede, or render infeasible the orderly conduct of a meeting will receive one warning that, if they do not cease such behavior, they may be removed from the meeting. The chair has authority to order individuals removed if they do not cease their disruptive behavior following this warning. No warning is required before an individual is removed if that individual engages in a use of force or makes a true threat of force. (Gov. Code, § 54957.95.)

Council Chambers are wheelchair accessible and listening devices are available. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting by calling (530) 274-4390, we are happy to accommodate.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

<u>AGENDA APPROVAL</u> - The City Council reserves the right to hear items in a different order to accomplish business in the most efficient manner.

REPORT OUT OF CLOSED SESSION

INTRODUCTIONS AND PRESENTATIONS

PUBLIC COMMENT - Members of the public are encouraged to submit public comments via voicemail at (530) 274-4390 and email to public@cityofgrassvalley.com. Comments will be reviewed and distributed before the meeting if received by 5pm. Comments received after 5pm will be addressed during the item and/or at the end of the meeting. Council will have the option to modify their action on items based on comments received. Action may be taken on any agenda item. There is a time limitation of three minutes per person for all emailed, voicemail, or in person comments, and only one type of public comment per person. Speaker cards are assigned for public comments that are on any items not on the agenda, and within the jurisdiction or interest of the City. Speaker Cards can be pulled until the opening of public comment at which time sign ups will no longer be allowed. These cards can be found at the City Clerks desk. If you wish to speak regarding a scheduled agenda item, please come to the podium when the item is announced. When recognized, please begin by providing your name and address for the record (optional). Thirty minutes of public comment will be heard under this item in order of the speaker card assigned and the remaining general public comments will be heard at the end of the meeting. We will begin with number one.

<u>CONSENT ITEMS</u> -All matters listed under the Consent Calendar are to be considered routine by the City Council and/or Grass Valley Redevelopment Agency and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council and/or Grass Valley Redevelopment Agency votes on the motion to adopt, members of the Council and/or Agency, staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action but Council action is required to do so (roll call vote).Unless the Council removes an item from the Consent Calendar for separate discussion, public comments are invited as to the consent calendar as a whole and limited to three minutes per person.

1. Approval of the Regular Meeting Minutes of July 23, 2024.

Recommendation: Council approve minutes as submitted.

2. Center For The Arts - Student Matinee Program Funding

CEQA: Exempt - Not a Project

<u>Recommendation</u>: That Council 1) review the attached proposal; 2) approve the \$16,000 in Special Project funding for this program; and 3) Authorize the Finance

Director to make any necessary budget transfers and/or amendments to fund the Student Matinee Program.

<u>3.</u> Continuation of 20% Water Conservation from all City Customers Due to inoperable Drum and South Yuba Canals

<u>CEQA:</u> Not a Project.

<u>**Recommendation:**</u> That Council continue the mandate of all City Water Customers to conserve 20% of their normal water usage.

4. Grass Valley Police Officer's Association - July 1, 2024 - June 30, 2026

CEQA: Not a project

<u>Recommendation</u>: Adopt Resolution No. 2024-60 approving the Labor Memorandum of Understanding for a two year period beginning July 1, 2024, through June 30, 2026, between the City of Grass Valley and City of Grass Valley and the Grass Valley Police Officer's Association (Unit 6).

5. Appointment of Councilmember's for the Measure B Oversight Committee

CEQA: Not a Project

ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION OR SEPARATE ACTION AND / OR ANY ADDED AGENDA ITEMS

REORGANIZATION RELATED ITEMS

PUBLIC HEARING

<u>6.</u> Appeal of the Planning Commission's denial of Use Permit applications for an exception to the multifamily covered parking requirement established in Section 17.36.040, Table 3-3 of the City of Grass Valley Municipal Code.

<u>**Recommendation**</u>: Based upon the evidence in the public record, and the Planning Commission's 3:1 denial, staff recommends that the City Council take one of the following actions:

Option 1) Uphold the Planning Commission's denial of Use Permit applications 24PLN-0008, -0009, and -0010; a) Deny the appeal and uphold the Planning Commission's denial of the Use Permit applications for a reduction in covered parking requirements; b)Determine the proposed projects at 210 Sutton Way (24PLN-0008), 265 Sutton Way (24PLN-0009), and 228 Sutton Way (24PLN-0010) exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the attached June 18, 2024 Planning Commission Staff Report; c) Uphold the Planning Commission's finding for denial of the Use Permits, that "insufficient quantitative evidence was provided to document a need for a reduction of the covered parking standard;" and, d) Deny the Use Permits as presented in this Staff Report.

Option #2) Overturn the Planning Commission's denial of Use Permit applications 24PLN-0008, -0009, and -0010; a) Uphold the appeal and overturn the Planning Commission's denial of the Use Permit applications for a reduction in covered parking requirements; b) Determine the proposed projects at 210 Sutton Way (24PLN-0008), 265 Sutton Way (24PLN-0009), and 228 Sutton Way (24PLN-0010) exempt pursuant to

Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the attached June 18, 2024 Planning Commission Staff Report; c) Adopt Findings of Fact as detailed in the June 18, 2024 Planning Commission Staff Report for approval of the Use Permits as presented in the Staff Report; and, d) Approve the Use Permits as presented in this Staff Report.

Option #3) Continue the appeal of Use Permit applications 24PLN-0008, -0009, and - 0010 for additional information to be provided

ADMINISTRATIVE

7. Main St Sealing And Striping - Authorize Bidding and Approve Design

CEQA: Categorically Exempt - Section 15301 "Existing Facilities"

<u>Recommendation</u>: That Council 1) approve the findings that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA); 2) provide direction to Staff on several design proposals; and 3) authorize the advertisement for bids.

BRIEF REPORTS BY COUNCIL MEMBERS

CONTINUATION OF PUBLIC COMMENT

ADJOURN

POSTING NOTICE

This is to certify that the above notice of a meeting of The City Council, scheduled for Tuesday, August 13, 2024 at 6:00 PM was posted at city hall, easily accessible to the public, as of 5:00 p.m. Friday, August 9, 2024.

Taylor Whittingslow, City Clerk



GRASS VALLEY

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MINUTES

Mayor Jan Arbuckle, Vice Mayor Hilary Hodge, Councilmember Bob Branstrom, Councilmember Haven Caravelli, Councilmember Tom Ivy

CALL TO ORDER

Meeting called to order at 6:03PM.

PLEDGE OF ALLEGIANCE

Pledge of allegiance led by Mayor Arbuckle.

ROLL CALL

PRESENT Councilmember Bob Branstrom Councilmember Haven Caravelli Councilmember Tom Ivy Vice Mayor Hilary Hodge Mayor Jan Arbuckle

AGENDA APPROVAL

Motion made to approve the agenda as submitted by Vice Mayor Hodge, Seconded by Councilmember Branstrom. Voting Yea: Councilmember Branstrom, Councilmember Caravelli, Councilmember Ivy, Vice Mayor Hodge, Mayor Arbuckle

REPORT OUT OF CLOSED SESSION

No reportable action.

INTRODUCTIONS AND PRESENTATIONS

1. Meeting of Dash, Grass Valley Police Departments new K9

Chief of Police, Alex Gammelgard, introduced Officer Duncan and K9 Dash.

PUBLIC COMMENT

In Person Public Comments #1-3.

Virtual Public Comment: Matthew Coulter

CONSENT ITEMS

Public Comment: Matthew Coulter

Motion made to approve the consent as submitted by Vice Mayor Hodge, Seconded by Councilmember Branstrom.

Voting Yea: Councilmember Branstrom, Councilmember Caravelli, Councilmember Ivy, Vice Mayor Hodge, Mayor Arbuckle

2. Approval of the Regular Meeting Minutes of July 9th, 2024.

Recommendation: Council approve minutes as submitted.

3. Local Transportation Fund (LTF) Claim for Transit and Paratransit Operations

CEQA: N/A - Not a Project

<u>Recommendation</u>: That Council adopt a resolution requesting that Nevada County Transportation Commission (NCTC) allocate \$642,298 of the City's FY 2024/25 estimated apportionment of LTF in support of transit and paratransit services.

4. 2024 Annual Measure E Street Rehabilitation Project - Final Acceptance

CEQA: N/A - Project is Complete

<u>Recommendation Motion</u>: That Council: 1) accept the 2024 Annual Measure E Street Rehabilitation Project as complete, and 2) authorize the City Engineer to file a Notice of Completion with the County Recorder.

5. Bennett Street Bridge Maintenance Project - Authorization to Bid

CEQA: Categorically Exempt - Section 15301 "Existing Facilities"

<u>**Recommendation**</u>: That Council 1) approve the findings that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA); and 2) authorize the advertisement for bids.

6. Continuation of 20% Water Conservation from all City Customers Due to inoperable Drum and South Yuba Canals

<u>CEQA:</u> Not a Project.

<u>**Recommendation:**</u> That Council continue the mandate of all City Water Customers to conserve 20% of their normal water usage.

7. Annual Approval of the Consumer Price Index (CPI) Adjustment to the Special Emergency Medical and Fire Response Tax.

CEQA: Not a Project

Recommendation: That Council 1) Approve a rate increase to the Special Emergency Medical and Fire Response Tax of 3.4% based on the December 2023 CPI. 2) Adopt Resolution 2024-59 requesting that the Nevada County Auditor place the adjusted Measure A special tax for 2024/2025 on the tax rolls.

ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION OR SEPARATE ACTION AND / OR ANY ADDED AGENDA ITEMS

REORGANIZATION RELATED ITEMS

PUBLIC HEARING

ADMINISTRATIVE

8. Community Farms Planning for Mautino Park

<u>CEQA:</u> Not a project.

<u>**Recommendation</u>**: That Council 1) receive proposals for Community Farm Planning from Interfaith Food Ministry and Sierra Harvest; 2) approve funding up to \$30,000 for each proposal; and 3) authorize the City Manager to prepare and execute agreements for approved proposals, subject to legal review.</u>

Deputy City Manager, Taylor Whittingslow introduced the proposal to Council.

Interfaith Food Ministry and Sierra Harvest presented their proposals.

Council asked what IFM and Sierra Harvest will be using the funds for, how often the two groups would be meeting, if they are working closely with Waste Management and how the funding will continue.

Public Comment: Matthew Coulter

Motion made to approve funding up to \$30,000 for each proposal and authorize the City Manager to prepare and execute agreements for approved proposals, subject to legal review.by Vice Mayor Hodge, Seconded by Councilmember Caravelli. Voting Yea: Councilmember Caravelli, Councilmember Ivy, Vice Mayor Hodge, Mayor Arbuckle

Voting Abstaining: Councilmember Branstrom

BRIEF REPORTS BY COUNCIL MEMBERS

Councilmember Caravelli attended the ERC Meeting and the Music in the Mountains Happy Birthday America Event at the Northstar House. Councilmember Ivy represented Grass Valley at the NCTC meeting in Truckee, toured some of Truckee's parks and trails, attended the Pioneer Community Energy Meeting and noted that they will be dropping rates 5%, he also participated in the monthly Wolf Creek monitoring event. Councilmember Branstrom saw Union Pacific's largest train, saw a production at Sierra Stages, visited the Gold Country Senior Center, and attended the CalCities Regional Meeting in Elk Grove. Mayor Arbuckle attended the League of California Cities meeting in Pasadena and went to Florida for NLOC Women's Conference.

<u>ADJOURN</u>

Meeting adjourned at 7:37PM.

Jan Arbuckle, Mayor

Taylor Whittingslow, City Clerk

Ado	pted	on:				



CITY OF GRASS VALLEY CITY COUNCIL MEETING

GENERAL PUBLIC COMMENT SIGN IN SHEET

WELCOME to the City of Grass Valley City Council meeting! Public Comments provide an opportunity for the public to address the City Council on any subject which is not on the agenda but in the jurisdiction of the council. If you wish to speak, please indicate in the appropriate box when you sign in and take the number corresponding to your name. Each individual can have up to 3 minutes of public comment. At the beginning of the meeting, there will be an allotted 30 minutes of general public comments and the remainder of comments will be heard at the end of the agenda. Speakers will be called in order of the numbers given.

When you are recognized by the mayor:

1. Please stand before the podium and give your name and address. (optional)

2. Please limit your comments to three minutes per speaker.

3. If previous speakers have made the same point, you may simply indicate your support or disagreement, unless you have new information.

Thank you for your participation.

#'s	Print Name	Address	Self/Business
	or N/A	(optional)	(optional)
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July 16, 2024

Mr. Timothy Kiser, City Manager City of Grass Valley 125 East Main Street Grass Valley, CA 95945

RE: Measure B Questions

Dear Mr. Kiser,

First, I would like to convey my appreciation for your responses to my earlier inquiries regarding Measure B. They were informative and quite helpful.

I would now like to inquire regarding answers to my remaining questions. Some were posed 6 weeks ago and the latest nearly 4 weeks ago. I realize the position you hold at the City demands attention and that your time is valued. However, I assure you that receiving timely answers will not only be appreciated and valued by me but may prove to be even more valuable to the citizens of Grass Valley.

For your easy reference I have included a list of the dates of the letters posing the questions along with a synopsis of each question. Each letter includes background information for the questions. Please rely on the letters for full context and understanding when considering the questions.

Letter Date	Question
June 4, 2024	• Does Resolution 2023-57, while calling for a general tax measure to
	fund specific financial needs, violate Gov Code 53721?
	If "Yes", does this render the Resolution null and void?
June 5, 2024	• Effective (operative) date of July 1 st ? Answered by default.
	• Person responsible for inserting the July 1 st date into the agreement
	with CDTFA?
	 Intent of "Operative Date"? Answered by default.
	 Must agreements be reissued? Answered by default.
	Level of City expenses incurred due to error?
June 13, 2024	• Was the 10-day waiting period specified in Section 18 required prior
	to adopting Ordinance No. 826?
June 13, 2024	• Does Council's motion and vote to adopt Ordinance No. 826 violate
	Gov Code 54954.2 (a) (1) & (3)?
June 17, 2024	Rebuttal leaves question remaining from my June 3 letter:
	Does inaccurate statement render Resolution 2023-57 null and void?
June 21, 2024	Does the BALLOT QUESTION for Measure B violate the Elections
	Code Section 13119? Also, please refer to my May 14, 2024 letter.
	If "Yes"; does this render Measure B null and void?

Please recall that in most cases if the answer is "No", I have requested an explanation and asked that you provide any citations or authorities on which you might have relied.

If you require additional copies of any of the letters, I will be pleased to provide them.

Given the length of time that has passed, it occurs to me that you or others may believe my questions seek information that is not public. I would certainly appreciate knowing if that were the case.

Perhaps my discussion preceding each of the questions is not clear, or the basic premise is incorrect. Please advise and I will attempt to clarify or correct.

Perhaps you or others believe my questions to be inappropriate, or you have been directed not to respond. I hope this is not the case, but if so, I would appreciate you keeping me advised.

Your cooperation thus far has been appreciated. If there is anything lacking on my part, I will be happy to respond to your requests.

Regards,

Tim McCall 424 S Auburn Street Grass Valley, CA 95945



City of Grass Valley City Council Agenda Action Sheet

Title: Center For The Arts - Student Matinee Program Funding

<u>CEQA</u>: Exempt - Not a Project

<u>Recommendation</u>: That Council 1) review the attached proposal; 2) approve the \$16,000 in Special Project funding for this program; and 3) Authorize the Finance Director to make any necessary budget transfers and/or amendments to fund the Student Matinee Program.

Prepared by:Timothy M. Kiser P.E., City ManagerCouncil Meeting Date:08/13/2024Date Prepared:08/06/2024

Agenda: Consent

<u>Background Information</u>: During the budget discussions for Measure E, the City Council decided not to allocate Measure E funds for the Student Matinee Program at the June 25, 2024, Council Meeting. This decision aligned with the Measure E Oversight Committee's recommendation from their June 24, 2024, meeting.

At the June 25, 2024, Council Meeting, the City Council directed City staff to explore alternative funding options for the Student Matinee Program and present these options for consideration. Given the limited new revenues in the general fund, staff suggests using Special Project funds to support the program as a one-time expenditure.

Staff requests Council direction on funding the Student Matinee Program as proposed by The Center for the Arts. Attached is the Center for the Arts proposal for this program for City Council reference and consideration.

<u>Council Goals/Objectives</u>: The Student Matinee Program executes portions of work tasks towards achieving/maintaining Strategic Plan - Recreation and Parks, and Community & Sense of Place and Economic Development and Vitality.

<u>Fiscal Impact</u>: The Student Matinee Program will be fully funded with Special Project funds to support the program as a one-time expenditure.

Funds Available: Yes

Account #: 310 - Special Project Funds

Reviewed by: City Manager

Attachments: Exhibit - Center For The Arts - Student Matinee Program Proposal

THE CENTER FOR THE ARTS



City of Grass Valley Proposal

May 23, 2024

BACKGROUND

The Center for the Arts and the city of Grass Valley have forged a symbiotic relationship that extends beyond the realm of cultural enrichment. This partnership serves as a cornerstone for economic vitality in the community. As a cultural hub, The Center attracts diverse audiences from near and far, fostering tourism and generating foot traffic that benefits local businesses, including restaurants, shops, and accommodations. The infusion of visitors not only enhances the city's vibrancy but also contributes substantially to its economic growth. Beyond being a mere venue for artistic expression, The Center for the Arts functions as a powerful economic driver, creating a ripple effect that bolsters the local economy and positions Grass Valley as a destination for both artistic endeavors and economic opportunities. Grass Valley has historically been a generous supporter of The Center for the Arts, but in the past two years this support has not been present.

HISTORY OF GIVING

2015 - \$15,000 TOTAL

\$5,000 pass through to support Wild and Scenic

2016 - \$15,000 TOTAL

\$10,000 for WorldFest and \$5,000 for Youth Arts Education

2017 - \$20,000 TOTAL

\$10,000 for WorldFest and \$10,000 Youth Arts Education

2019 - \$20,000 TOTAL

\$10,000 for WorldFest and \$10,000 for Youth Arts Youth Arts Education

STUDENT MATINEE PROGRAM

Since Spring 2022, the California Arts Council has supported a Student Matinee Program for the youth of Nevada County. With four schools within walking distance of The Center, this program has presented professional theater productions to more than 800 Grass Valley school children annually. The funding for this program will end in 2024.

With support from the City of Grass Valley, The Center for the Arts will be able to continue the Student Matinee Program consisting of two dramatic productions for local schoolchildren, with an emphasis on K-5th grade. The Program's goal is to expose local schoolchildren to a variety of theater experiences and live performances and to inspire students to participate in additional programs offered at The Center. Each of our chosen productions are

THE CENTER FOR THE ARTS

culturally diverse, and offer a variety of viewpoints from a number of different geographical backgrounds, and for many students this may be their first experience of live theater. Our goal is to reduce financial barriers that prohibit socioeconomically disadvantaged families from participating in our programs. We will offer the Program at no cost to participating schools.

Our Request

Each matinee benefits hundreds of students and includes study guides for teachers and post show discussions for schoolchildren. The cost of one student matinee is \$8,000. Our goal is to continue to this program for the students of the Grass Valley school district and produce two annual productions at a total cost of \$16,000.

Thank you for your consideration to continue this beneficial program for the students of Grass Valley!

Sincerely,

Amber Jo Manuel Executive Director

Sold Out Free Student Matinee

500 4th-8th graders attended the musical of Charlotte's Web







City of Grass Valley City Council Agenda Action Sheet

<u>Title</u>: Continuation of 20% Water Conservation from all City Customers Due to inoperable Drum and South Yuba Canals

<u>CEQA:</u> Not a Project.

<u>**Recommendation:**</u> That Council continue the mandate of all City Water Customers to conserve 20% of their normal water usage.

Prepared by: Timothy M. Kiser, City Manager

Council Meeting Date: August 13, 2024

Date Prepared: August 9, 2024

Agenda: Consent

<u>Background Information</u>: On March 27, 2024, Nevada Irrigation District (NID) adopted a resolution declaring a water shortage emergency related to Pacific Gas and Electric Company's (PG&E's) unplanned outages on the South Yuba Canal and Spaulding Reservoir.

In February and March 2024 respectively, PG&E notified NID that a portion of the South Yuba Canal and Drum Canal were rendered inoperable due to a collapse and powerhouse failure. These two combined failures have rendered it impossible to move water into the Drum and South Yuba Canals. Both canals serve as the delivery conduit to provide water to thousands of customers in the NID service area, including raw water to the City of Grass Valley's Water Treatment plant. Therefore, NID has deemed it necessary to implement water conservation for all District customers. On June 26, 2024, NID implemented mandatory water conservation for all district users of 20% of their 2023 usage.

As the City receives raw water from NID, City Council adopted Resolution 2024-54 on July 9th, 2024, that mandated all City water user customers to conserve 20% of their normal water usage until (a) notification by the NID that water delivery in satisfactory volumes has been re-established by PG&E; or (b) superseded by the NID Board of Directors, whichever is earlier. At this time, the Mandatory Water Conservation is still in place.

<u>Council Goals/Objectives</u>: The execution of this action attempts to achieve Strategic Goal #5 - High Performance Government and Quality Service.

<u>Fiscal Impact</u>: Depending on the length of outage may have reduction in water fund for reduced water usage.

Funds Available: N/A

Account #: N/A

Reviewed by: Tim Kiser, City Manager



City of Grass Valley City Council Agenda Action Sheet

Title: Grass Valley Police Officer's Association - July 1, 2024 - June 30, 2026

<u>CEQA:</u> Not a project

<u>Recommendation</u>: Adopt Resolution No. 2024-60 approving the Labor Memorandum of Understanding for a two year period beginning July 1, 2024, through June 30, 2026, between the City of Grass Valley and City of Grass Valley and the Grass Valley Police Officer's Association (Unit 6).

Prepared by: Catrina Olson, Deputy Administrative Services Director

Council Meeting Date: 08/13/2024

Date Prepared: 08/07/24

Agenda: Consent

Background Information:

Over the course of the several months, the City's labor negotiations team has been meeting with representatives of Grass Valley Police Officer's Association ("GVPOA") ("Unit 6") to come to an agreement on terms and conditions for an updated Memorandum of Understanding ("MOU") effective July 1, 2024. The City's labor team and Unit 6 have concluded the negotiations process; and Unit 6 has duly ratified the updated provisions to the MOU which are now being recommended for City Council approval.

Updated provisions to the MOU and annual estimated fiscal impacts include the following:

MOU Provision	Estimated Annual Incremental Cost
 Term of Agreement - July 1, 2024 - June 30, 2026 \$3,500.00 lump sum off salary schedule payment. (Note: the effective date of the contract is July 1, 2024, lump sum off salary schedule payment to be paid with paycheck date 08/23/2024) 	FY 24/25 General Fund: \$63,000 FY 24/25 Measure E: \$28,000
 \$3,500.00 lump sum off salary schedule payment > (Note: the effective date of the second lump sum off salary schedule payment is effective July 1, 2025, payment to be paid with paycheck date 07/11/2025) 	FY 25/26 General Fund: \$63,000 FY 25/26 Measure E: \$28,000

 4. Additional step - 5% effective January 1, 2025. > Employees currently at top step for more than one (1) year eligible 01/01/2025. 	FY 24/25 General Fund:\$26,980.03FY 24/25 Measure E:\$14,536.95	
All other employees are eligible on applicable anniversary date after 01/01/2025.	FY 25/26 General Fund: \$59,428.47 FY 25/26 Measure E: \$34,482.52	

Council Goals/Objectives:

The approval of an updated labor MOU between the City and Unit 6 executes portions of work tasks towards achieving / maintaining (1) a Productive and Efficient Workforce, and (2) Community Safety.

Fiscal Impact:

The estimated cost total for the term of the agreement, July 1, 2024 - June 30, 2026, is \$317.427.97, of which \$212,408.50 is General Fund and \$105,019.47 is Measure E. For FY24/25 the estimated total cost would be \$132,516.98 and for FY25/26 the estimated total cost would be \$184,910.99. Please note if sufficient funds are not available for the estimated costs allocated to Measure E, the General Fund will have sufficient funds to cover the estimated costs.

Funds Available: Yes

Account #: General Fund Measure E Fund

Reviewed by: Tim Kiser, City Manager _____

Attachments:

- Resolution No. 2024-60 Approval of Unit 6 Memorandum of Understanding
- Memorandum of Understanding Unit 6

ltem # 4.

RESOLUTION NO. 2024-60

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY ADOPTING AN AMENDED MEMORANDUM OF UNDERSTANDING WITH THE GRASS VALLEY POLICE OFFICERS ASSOCIATION (UNIT #6) FOR THE PERIOD JULY 1, 2024 – JUNE 30, 2026 AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, the labor negotiations team appointed to represent the City Council of the City of Grass Valley and representatives of the Grass Valley Police Officer's Association (Unit #6) have engaged in negotiations to update the labor Memorandum of Understanding ("MOU") between the City and Unit 6; and

WHEREAS, the parties came to an agreement which incorporates updates to the attached updated MOU;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRASS VALLEY, as follows:

- 1. The above recitals are true and correct and are a substantive part of this Resolution.
- 2. The City Council of the City of Grass Valley approves the updated Memorandum of Understanding for the Grass Valley Police Officer's Association (Unit #6) for the period of July 1, 2024, through June 30, 2026, and authorizes the City Manager to execute said agreement.

PASSED AND ADOPTED as a Resolution of the City Council of Grass Valley at a meeting thereof held on the 13th day of August 2024, by the following vote:

AYES: Councilmember NOES: Councilmember ABSENT: Councilmember ABSTAINING: Councilmember

Jan Arbuckle, Mayor

ATTEST:

APPROVED AS TO FORM:

Taylor Whittingslow, City Clerk

Michael Colantuono, City Attorney

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF GRASS VALLEY CITY COUNCIL

AND

THE GRASS VALLEY POLICE OFFICERS' ASSOCIATION FOR AND ON BEHALF OF THE EMPLOYMENT CLASSIFICATIONS IN THE CITY'S UNIT #6 POLICE SERGEANT/POLICE OFFICER/POLICE OFFICER TRAINEE

Effective July 1, 2023 <u>2024</u> – June 30, 2024 <u>2026</u>

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INTRODUCTION

This Memorandum of Understanding hereinafter referred to as the "Agreement" or "MOU" is made and entered into by and between the City of Grass Valley, hereinafter referred to as the "City", and the Grass Valley Police Officers, Police Officer Trainees and Police Sergeants, hereinafter referred to as the "Unit" or the "Employees".

ARTICLE 1 – RECOGNITION

The City recognizes the Employees who collectively are referred to as "Grass Valley Police Officers Association" as the sole and exclusive representatives of Police Sergeants and Police Officers/Trainees and other sworn positions as may be allocated by the City with concurrence from the Unit.

ARTICLE 2 – SUPPORT OF AGREEMENT

During the term of this Agreement, the City agrees not to meet and confer with any other organization on matters upon which the Employees is the exclusive representative and which is within its scope of representation. Employees agree to meet and confer only with the representative(s) officially designated by the City to act on its behalf, and to utilize the meet and confer process as the means of gaining consensus as to wages, hours and conditions of employment.

During the term of this MOU and as appropriate thereafter the parties agree to use the dispute resolution machinery as provided herein or by Civil Service rules as a means of adjudicating disputes between them.

ARTICLE 3 – ASSOCIATION RIGHTS AND DUES DEDUCTIONS

A. Association Rights

The Association shall have the following rights:

The Association shall have the right of access to bargaining unit members outside of their assigned duties; before and after work hours, at meal and break periods and at other times, only with the approval of the Police Chief.

The Association may use bulletin boards designated for its use in appropriate places. All items to be posted shall be officially authorized by the Association and shall bear the date of posting and the date of removal. Posted materials shall not be obscene, defamatory, or of a partisan political nature, misleading, violative of any Federal, State, or local ordinance, law, statute or rule. Such material shall not pertain to public issues which do not involve the City and its relations with employees. A copy shall be provided to the Police Chief.

The Police Chief or his/her designee, upon request, may permit the Association to use facilities, depending upon availability of space, for meeting purposes at no charge. No request for use of the

City facilities shall be unreasonably refused.

Employees shall not be given time off for meetings of the Association unless approved by the Police Chief.

The Association shall furnish annually and update as required a list of all officials and representatives authorized to act on the Association's behalf. The City agrees to grant authorized officials and representatives access to City property to transact officially the Association business upon prior notice to the City Manager.

B. <u>Union Access to Employees</u>

The City agrees that for purposes of representation on issues covered by this agreement, official representatives of the Union may meet with unit employees on City facilities during working hours, provided that prior notification has been given to the appropriate supervisor. The Union agrees that such meetings shall not interfere with the normal work duties of the employees.

Solicitation for membership in the Union or other internal association business not directly connected to administration of this agreement shall be conducted during the nonwork hours of all employees involved.

City facilities may be made available for use by City employees or the Union in accordance with such administrative procedures as may be established by the City Manager or Department Heads concerned.

City will provide a written statement to each new bargaining unit employee that the classification is part of a bargaining unit represented by the Union, and the name of a representative of the Union. City will provide the Union President not less than ten (10) days' notice of the onboarding orientation meeting, including the date, time, and location of the orientation meeting. If a bargaining unit employee's first day of work begins less than ten (10) days after the date the employee is hired, the 10-day notice requirement may be reduced, and City will instead provide as much advance notice as reasonably possible of the orientation meeting.

The City will allow a Business Representative of the Union and/or outside labor representative to spend up to fifteen (15) minutes with the new unit member at the end of the onboarding orientation meeting in order to provide information and materials about the MOU and related matters. No representative of City management shall be present during the Union's presentation. A bargaining unit member attending the onboarding orientation meeting as the Union representative shall be given paid release time sufficient to cover the Union's presentation and related travel time. The Union will provide the Human Resources Department with the names of any bargaining unit members who they request to be released for this purpose as soon as reasonably possible, and at least 48 hours before the meeting.

To the extent required by Government Code Section 3558, City shall provide the Union President with a list of names and contact information (listed below) for any newly hired unit member within 30 days of the date of hire or by the first pay period of the month following hire. City shall also provide the Union a list of all unit member names and contact information on the last working day of September, January, and May. The information shall include the following information except for any information subject to exclusion pursuant to Government Code Section 6254.3(c):

- Employee name,
- Job title,
- Department,
- Work location,
- Home address, and

• Work, home and personal telephone numbers and personal email addresses on file with the City.

C. <u>Dues Deductions</u>

Employees may sign up for Payroll Deductions of Association dues with the Association. The Association will certify to the City any new members of the Association.

City agrees to deduct dues as established by the Association, and premiums for approved insurance programs from the salaries of Association members. The sum so withheld shall be remitted by the City, without delay, directly to the Association along with a list of employees who have had such amounts deducted. Association agrees to provide a listing of all additions or deletions of membership or requested changes to establish payroll deductions of its members, to the City.

The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. All other legal and required deductions (including healthcare deductions) have priority over Association dues.

It shall be the sole responsibility of the Association to procure and enforce payroll deduction of dues.

Hold Harmless: The Association shall indemnify, defend, and hold harmless the City, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the City be required to pay from its own funds Association dues which the employee was obligated to pay, but failed to pay regardless of the reasons.

Any Association member who notifies the City of their desire to discontinue dues or otherwise withdraw from Association membership shall be referred back to the Association. The City agrees to continue all dues deductions until notified of a deduction change by the Association

ARTICLE 4 - PROCEDURAL PREROGATIVES

It is understood that the City retains the procedural prerogative to initiate or to refrain from initiating actions that may affect association members' wages, hours and conditions of employment and that such actions, once initiated by the City are subject only to the express procedural limitations that may be set forth in the MOU, Civil Service Rules, Charter or other law. Such matters include, but are not limited to, the procedural rights to contract out work not performed by active association members, to transfer, lay-off, terminate or otherwise discipline employees, to reasonably accommodate qualified disabled persons/employees, to make technological improvements, and to take necessary action to implement the terms and conditions of the MOU.

The Association recognizes and agrees that the City, on its own behalf and on behalf of the electors of the City, retains and reserves unto itself, limited only by Articles of this MOU, all powers, rights, authority, duties and responsibilities conferred upon, and vested in it, express or implied, by the laws of the Constitution of the State of California and of the United States and the provisions of the City Charter.

The Association recognizes and agrees that the exercise of the foregoing powers, rights, authority, duties and responsibilities of the City, the adoption of policies, rules, regulations, and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of this MOU.

The Association recognizes and agrees that the City's powers, rights, authority, duties and responsibilities include, without limitation, the generality of the foregoing, the exclusive right to manage, plan, organize, staff, direct and control; to determine levels of services; to determine solely the extent to which the facilities of any department thereof shall be operated, and the outside purchases of products or services; the right to introduce new or improved methods and facilities and to otherwise take any action desired to run the entire operation efficiently, except as modified by this MOU.

It is understood and agreed that the specific provisions contained in this MOU shall prevail over City practices and procedures and over State laws and the City Charter to the extent permitted by State law, and that in the absence of specific provisions in this MOU, such practices and procedures are discretionary with the City. Nothing contained in this MOU shall be interpreted as to imply or permit the invocation of past practice, or tradition, or accumulation of any employee rights or privileges other than those expressly stated herein.

If a conflict arises between this MOU and a City Charter provision or resolution incorporated herein, the City's Charter provision or resolution shall prevail.

ARTICLE 5 - HOURS OF WORK AND BASIS OF COMPENSATION

A. <u>Pay Periods</u>

The "pay period" shall be fourteen (14) calendar days from Sunday (starting at midnight Saturday) to midnight of the second Saturday thereafter, and refers to the period for computing compensation due for all working hours during that period. Actual payment of payroll shall be made the ensuing Friday at noon following the end of the pay period.

B. <u>Work Periods</u>

The normal work schedule shall be eighty (80) hours within each work period for each full-time employee assigned to a 12 hour shift schedule and eighty (80) hours within each work period for each full-time employee assigned to an eight (8) or ten (10) hour shift schedule, and shall coincide with the established two (2) week period (consisting of 14 days or two weeks) from Saturday midnight to the second Saturday at midnight. Continuous work after midnight at the end of a work period shall be reported on the day in which the work shift began. The City shall have the right to implement schedules containing shifts of greater than (8) hours following proper notice and the opportunity to meet and confer.

The City shall have the right to implement schedules containing shifts of greater than eight (8) hours such as four (4) ten (10) hour shifts or three (3) twelve/(4) twelve (12) hour shifts upon 14 days notice to effected employees. Any hours worked beyond such schedules by non-exempt employees shall be paid at the overtime rate.

The hours of employment and legal holidays to be observed shall be with regard to convenience of the public.

Employees will be paid during their lunch period.

C. <u>Calculation of Compensation</u>

Compensation shall be calculated on the basis of 2,080 hours per year and twenty-six (26) equal pay periods per year. Compensation is based on the hourly rates and pay schedule set forth in Appendix A. Adjustments in hourly rates are rounded up to the nearest cent, but may not exceed the top of any pay range. Pay is based on 2,080 hours with hourly rates rounded to the nearest cent. The payment of compensation shall be calculated to the nearest one-fourth (1/4) hour.

D. <u>Work Shift</u>

The normal work shift means each shift during which an employee performs a normal working shift of continuous work hours as designated by their assigned classification or duty/specialty assignment, including holidays, Saturday and Sunday for those employees who work other than the regular Monday through Friday week. All time authorized in excess of a normal working shift shall be administered pursuant to Article 6.

<u>ARTICLE 6 - OVERTIME, CALLBACK, STANDBY, COURT TIME, SPECIAL</u> <u>ASSIGNMENT PAY</u>

A. <u>Overtime</u>

(1) <u>Policy</u>:

It is the policy that overtime work be discouraged; that the Police Chief arrange the work of his or her department so that full-time employees shall normally work not more than eighty (80) hours in any pay period. Overtime work shall be held to a minimum consistent with the efficient performance of necessary functions.

(2) <u>Defined</u>:

An employee authorized to work over their work shift or their duty assignment or over eighty (80) hours in a pay period will receive overtime. All hours compensated will be included for overtime purposes.

All work authorized as overtime shall be calculated at the overtime rate, which is one and one-half (1-1/2) times the regular hourly rate of pay.

(3) Authorization for Overtime Work:

Overtime work not specifically authorized shall be performed only upon express authorization of the Police Chief or subordinate empowered by him/her to authorize the same.

(4) <u>Reporting Overtime</u>:

Total hours of recorded authorized overtime for each pay period for each employee shall be reported on an attendance report and shall be signed by each Police Chief or his or her designee. The total hours of prior accumulated compensatory time taken off during each pay period shall be likewise reported.

(5) Fringe Benefits Not Affected by Overtime:

Overtime work shall not be a basis for increasing vacation or sick time leave benefits, nor shall it be a basis of advancing completion of required period for probation or salary step advances.

(6) <u>Compensation for Overtime</u>:

Employees shall have the option of either taking authorized overtime as pay or accrued as compensatory time. The balance of any accumulated Compensatory Time shall be paid upon termination of employment.

Compensatory time may be accrued up to one hundred twenty (120) hours.

B. <u>Callback Time</u>

Callback time shall be that time an employee is called back to work by the Police Chief before or after a normal work day; when an employee is required to work on a normal work day off by the Police Chief; in the event of an emergency; or when an employee is required to work on any holiday recognized by the City Council. The time actually worked or a minimum of two (2) hours

at one and one-half (1-1/2) times the regular hourly rate of pay shall be accrued as compensatory time, or taken as pay subject to the same rules for compensation for overtime provided above.

C. <u>On Call Pay</u>

At the discretion of the Police Chief, or designee, an employee may be assigned and scheduled to on-call status during off-duty hours. On-Call shall be paid at the rate of \$1.25 per hour for each hour that an employee is assigned to be On-Call.

D. <u>Standby Time</u>

Standby time shall be that time an employee is designated by the Police Chief to be available on immediate call (for example; court standby, fires, riots and critical incidents) on normal days or hours off, or that time an employee is designated by the Police Chief to be available on immediate call on holidays. If not called, the employee shall be compensated with two (2) hours overtime which may be taken as pay or compensatory time off subject to the same rules for compensation for overtime provided above.

E. <u>Court Time</u>

Court time is defined as that period of time when an employee is required to appear in court as part of the performance of his/her normal duties on a day when the employee would not otherwise be scheduled to work. Court time will be compensated only when the employee is required to appear in court in connection with his or her duties at a time when he/she is not otherwise scheduled to be working. An employee will not be granted court time during the same time period that callback time is compensable. Court time may be paid or accrued as compensatory time in the same manner and shall be computed on the basis of three (3) hours or the actual amount of the time the employee is required to appear in court, whichever is greater.

F. Special Assignment Pay

Specialty pay assignments will be made in accordance with Departmental Policies and Procedures and will receive compensation in addition to base pay as noted below. Police Officer Trainees are not eligible for special assignment pay. If an employee is routinely and consistently assigned to any of the below listed special assignments, the employee shall be compensated in the amount of two and one half or five percent (2.5 or 5%) as noted below , and in accordance with CCR Section 571.

(1)	Bilingual Premium	5%
(2)	Officer-In-Charge Pay	5%
(3)	Field Training Officer (FTO) (while training)	5%
(4)	Corporal	5%
(5)	Traffic Officer	5%
(6)	School Resource Officer (SRO), Juvenile Officer Premium	5%
(7)	Detective Division Premium	5%
(8)	Special Assignment Pay - as determined by	
	Chief of Police in accordance with § 571.	

2.5% or 5%

Bilingual pay will be for languages designated by the Chief of Police and demonstrated proficiency. Number of personnel approved for bilingual pay will be limited to meet needs of the City.

Officer-In-Charge pay shall apply only to situations when a supervisor and/or manager is not on duty and responsible for the shift or work unit. Only one employee will be designated as an OIC should shifts overlap, and there is not an on-duty supervisor for either shift. An employee designated by the City as acting in the capacity of a Police Sergeant shall receive a 5% increase to base pay, providing the assignment and responsibility is for four (4) or more hours of continuous duty. The 5% increase to base pay shall be computed and applied on an hourly basis.

A specialty pay cap of fifteen percent (15%) shall apply; however, bilingual and officer-in-charge pay will not apply toward this cap.

G. Educational Incentive and POST Incentives

Definition of Special Compensation.

1. The City shall offer an academic educational incentive program with a maximum cumulative ceiling of five percent (5%) of base salary for Police Sergeants and seven and one-half percent (7-1/2%) of base salary for Police Officers. Only certificates and degrees granted by accredited institutions which are above their minimum education requirement of the employee's position and enhance the employee's abilities and contributions will be considered. College units obtained to qualify for an incentive cannot be compounded to qualify for an additional incentive. For example, units used to obtain an AA/S and then utilized to obtain a BA/S cannot yield incentives for both degrees.

a.	Eligible Degrees for Police Officers:	
	Degree	<u>% of Base Salary</u>
	Associate of Arts or Science	2.5%
	Bachelor of Arts or Science	5.0%
	Master of Arts or Science	2.5%
b.	Eligible Degrees for Police Sergeants:	
	Degree	<u>% of Base Salary</u>
	Bachelor of Arts or Science	2.5%
	Master of Arts or Science	2.5%

2. The City shall offer a POST incentive program with a maximum cumulative ceiling of 5% of base salary for a combination of the below listed certificates. This incentive shall not be paid to employees in classifications that require such certifications as a minimum requirement for the position occupied.

<u>Certificate</u>	<u>% of Base Salary</u>
Intermediate	2.5%
Advanced	2.5%
Supervisory	2.5%

2.5%

Management

H. Longevity Pay

The City shall pay two and one-half percent (2.5%) of base rate for longevity pay upon completion of ten (10) years of continuous service as a member of Unit 6.

ARTICLE 7 – LEAVE

A. <u>Absence from Duty</u>

The absence of an employee from duty shall be reported to the Police Chief. The reasons for the absence, if known, shall be stated. The return of an employee to duty shall likewise be reported. Unauthorized absence from duty is sufficient cause for discipline up to and including termination of employment. Unauthorized absence from duty for five (5) consecutive scheduled work shifts shall be deemed a resignation from City employment.

B. <u>Sick Leave</u>

Sick leave shall be considered as a privilege by an employee to use at his/her discretion as provided herein.

Police Officer Trainees shall accrue 2.77 hours per pay period while in the Academy. Police Officers shall accrue 2.77 hours per pay period for the first four (4) years of service and 3.69 hours per pay period thereafter. Police Sergeants shall accrue 3.69 hours of sick leave per pay period. If any employee does not take the full amount of sick leave allowed in any calendar year, the amount not taken may be accumulated from year to year without limit.

Sick leave accrual, if available, will be used for the following circumstances:

- a) The absence from duty of an employee because of his/her illness, pregnancy or related complications, quarantine due to contagious diseases.
- b) The absence from duty of an employee due to the preventative care, diagnosis, care or treatment of a health condition of the employee's family member or other purposes authorized by Labor Codes Section 246.5 (leave for victims of domestic violence, sexual assault, or stalking).. For the purposes of this provision, family member shall be restricted to the employee's biological parent, foster parent, adoptive parent, sibling, spouse, domestic partner, child, parent-in-law, brother-inlaw, sister-in-law, grandparent, grandchild, step parents, stepchildren, step sibling, where there is a child rearing relationship, or a person who stood in loco parentis when the employee was a minor child.
- c) Medical appointment of an employee.
- d) The absence from duty of an employee due to medical appointment or illness of his/her spouse, domestic partner, child or parent to the extent provided by California Law (specifically AB 109, known as the "Kin Care" legislation effective in 2002, and SB 1471 as enacted in 2003)..
- e) The City of Grass Valley may allow the use of sick leave due to the illness/medical

appointment of other relatives of the employee, if such relative is living in the same household as the employee.

Sick leave due to a medical appointment must be approved in advance by the employee's immediate supervisor. Other leaves provided for due to illness or medical complications shall be provided consistent with other leave conditions herein and within the Federal and State Family Leave Acts.

If absence from duty by reason of sickness extends beyond the period of three (3) consecutive working shifts, the employee may be required to file, with the Human Resources Office, a certificate of sickness or disability prepared by a regular, licensed and practicing physician prior to entitlement to sick leave pay. A copy of this certificate shall also be filed with the Police Chief. All employees whose absence from duty because of sickness extends beyond (1) calendar week may be required to provide a weekly report or certificate by a regular licensed and practicing physician to be filed with the Human Resources Office. Certificates filed under this Section shall detail the nature of the sickness and certify the employee's inability to return to work. If no certificate is filed, salary or wages may be withheld from said employee.

The Human Resources Office or Police Chief may require any employee to furnish a certificate of illness or disability completed by a regular, licensed and practicing physician at any time that the Human Resources Office or the Police Chief is aware of information that an employee is abusing the sick leave privilege. No employee will be disciplined for insubordination based on the refusal to work when he/she has elected to use accrued sick leave but will remain subject to discipline for any abuse of the sick leave, dishonesty in use of sick leave or other grounds for discipline arising from inappropriate use or abuse of sick leave.

Notwithstanding any other provision of this MOU, the City shall provide every employee at least as much sick leave as required by California Labor Code section 245 et seq. as it now exists or may be amended during the term of this Agreement. The City shall inform the Employees when it establishes or alters a policy governing the allowance of such leave.

C. <u>Extended Medical Leave</u> (See Civil Service Rules, same title)

Those employees who have been granted an approved extended medical leave shall not be required to provide weekly verification of their medical condition. However, this is subject to the right of the City to require such verification if the City reasonably believes that the granting of medical leave is being abused. Failure of an employee to supply the requested verification of medical condition shall be grounds for terminating extended medical leave.

D. <u>Bereavement Leave</u>

Employees shall be granted leave of absence with pay, not to exceed 60 hours per fiscal year, noncumulative, for purposes of attending funeral services, making related arrangements for the family or travel to and from the location of services on account of the death of any member of his/her immediate family. Member of the immediate family means the mother, step-mother, father, stepfather, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee and the spouse, son, son-in-law, step-son, daughter, daughter-in-law, step-daughter, brother or sister of the employee, or any relative living in the immediate household of the employee.

It shall be the responsibility of the department to account for such leaves, and leaves of more than 60 hours, if approved, shall be charged against sick leave or other leave accumulations.

This provision shall be implemented in a manner consistent with California Bereavement Leave program effective January 1, 2023.

E. <u>Vacation Leave</u>

Vacation leave will begin accruing immediately upon active service and may be used following completion of (6) months of continuous service. Police Officer Trainees will not be eligible until completion of the POST academy and appointment to active service with the City of Grass Valley Police Department as a Police Officer. For each completed pay period of service and employee shall receive credit for vacation pay in accordance with the following schedule:

Up to four (4) years,.... eighty (80) hours per year (3.08 hours per pay period)

49 months to 12 years, one hundred twenty (120) hours per year (4.62 hours per pay period)

145 months and over,.....one hundred and sixty (160) hours per year (6.15 hours per pay period)

Employees with more than 20 years of service as of July 1, 2023, shall continue to receive one hundred and eighty (180) hours per year (6.92 hours per pay period).

Each and every credit of vacation earned by an employee shall be vested to such employee at the conclusion of each pay period of service.

Employees shall be permitted to accumulate accrued vacation hours until reaching the maximum limit 380 hours. Once the employee has reached the maximum limit, vacation accruals over the maximum hour limit will automatically be converted to, and deposited in, a sick leave bank for retirement service credit conversion. The banked sick leave shall only be used to convert to PERS service credit at retirement from the City of Grass Valley. Should the employee utilize all sick leave accruals, all CTO accruals and all but up to 56 hours of Holiday leave, he/she will be entitled to utilize the banked sick leave hours for illness and/or extended medical leave.

Vacations will be scheduled in December and June of each year for the six-month period following the sign-up period. If staffing levels require vacations to be denied, additional time or banking of time will be granted based on a request of the Chief to the City Manager.

Employees may request payment in lieu of vacation accrual in December of each year for the following calendar year. The maximum vacation buyback shall be eighty (80) hours.

Elective cash-out provisions:

- 1. Employees utilizing this provision will be required to submit an irrevocable election form by December 31st of the calendar year prior to the calendar year in which the vacation hours to be cashed out are earned.
- 2. Employees that have submitted an irrevocable election form may submit a vacation cash out request form at any time during the calendar year in which the vacation hours are earned.
- 3. The actual payment of the requested hours cannot occur until the hours to be cashed out for that calendar year have accrued. Cash-outs for hours accrued in prior years are not allowed.
- 4. Employees that submitted an irrevocable election form in the prior year but did not submit a cash out request shall receive their vacation cash out by the last paycheck of the calendar year in which the vacation hours are earned.
- 5. Payment will be issued at the employee's current regular rate of pay at the time the payment is made.

As a recruitment incentive for the lateral hire of a police officer, the City may, at its discretion, offer accrual of vacation leave placement at a competitive rate based on experience as a police officer or deputy sheriff and up to 80 hours vacation incentive at date of hire.

F. <u>Holidays</u>

Employees will accrue a maximum of 132 holiday hours each calendar year at an accrual rate of 5.07 hours per pay period. Employees may schedule holiday time off in accordance with Department procedures. Police Officer Trainees will not be eligible until completion of the POST academy and appointment to active service with the City of Grass Valley Police Department.

Hours accrued but not used by the end of the last full pay period in November each year will be cashed out at the employee's regular hourly rate of pay and paid to the employee in the first pay date in December each year.

A payout of hours accrued but not used by the end of the last full pay period in May of each year will be cashed out at the employee's regular hourly rate of pay and paid to the employee in the first pay date in June each year.

G. <u>Jury Duty Leave</u>

An exempt employee shall be paid his/her normal salary for each work day, or portion thereof, he/she is required to be in jury duty. Any money, less travel expenses, received by the employee for jury duty shall be remitted to the City by the employee.

H. <u>Community Service and Professional Organization Participation</u>

The City encourages employees to participate and be involved in community service and professional organizations.

Upon approval by the City Manager, the City may make a reasonable amount of paid release time available for employees to represent the City and to participate and be involved as a member or officer in a community service, professional organization, excluding fraternal organizations. Further, the Council recognizes that certain expenses may be incurred by an employee to be an active member or to participate in such an organization. Therefore, upon approval by the City Manager, the Council shall budget and pay or reimburse, on behalf of the employee, expenses for his/her membership and attendance of such costs as dues, fees, assessments or charges associated with participating in the organization up to \$250 per fiscal year.

I. Family and Medical Care Leave

Regular full time employees, with more than one (1) year of continuous service, or have worked more than 1250 hours during the previous 12-months, may request an unpaid Family and Medical Care Leave of absence of up to 12-weeks in any one continuous 12-month period. This leave may be taken for the birth or adoption of a child, to care for a child, spouse or parent who has a serious health condition or for the employee's own health condition that makes the employee unable to perform the essential functions of their job. If this leave is granted, upon the employee's return, the employee will be reinstated to the same or a comparable position as the position held before the leave. Available accruals must be used for such leaves. For leaves related to an employee's own serious health condition, or that of an eligible family member, sick leave will be utilized first, followed by other accruals (i.e., holiday, CTO, vacation). If all available accrual is depleted, an employee desires to take an FMLA leave not associated with the serious health condition of him/herself, or an eligible family member, sick leave hours accrued may not be used (i.e., adoption of a child, birth of a child).

An employee may elect to keep forty (40) hours of sick leave in their accrual bank prior to taking unpaid time off.

Whenever possible, the employee must provide at least thirty (30) calendar days written notice that the employee wishes to take this leave of absence. When this is not possible, the employee must notify the City, in writing, as soon as possible. Failure to comply with these notification rules may result in the denial or deferral of the requested leave until the employee complies with the notice provisions.

The City will require the certification from the health care provider who is attending to the serious health care condition of the employee, employee's child, spouse or parent before allowing the employee to take a leave to take care of that family member. If there is a question concerning this certification, the City reserves the right to require additional certification(s) at City expense.

Unless otherwise agreed to by the City, any Family and Medical Care Leave must be taken in segments of one (1) full workday.

If the employee is pregnant, the employee has the right to take a maternity leave and some amount of Medical Care Leave. The employee should check with Human Resources to determine eligibility under such circumstances. The cost of the employee's health care coverage while on a Family and Medical Care Leave less any portion of the premium the employee is required to pay will be paid for by the City for up to twelve (12) weeks. If the employee does not return from leave, the employee will be responsible for reimbursing the City for the insurance premiums paid on the employee's behalf.

While the above provisions will apply to most employees in most circumstances, there are certain exceptions under which the City may refuse to grant a Family Care Leave.

ARTICLE 8 – RETIREMENT BENEFITS DEFINITIONS

New Member Employees:

- A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any California Public Retirement System.
- A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who was a member with another California Public Retirement System prior to January 1, 2013 and is not eligible for reciprocity.
- A member who first established CalPERS membership prior to January 1, 2013, and who is rehired (by a different CalPERS employer) after a break in service of greater than six months.

Classic Member Employees:

- A member who was brought into CalPERS membership for the first time before January 1, 2013.
- A member who was brought into CalPERS membership for the first time on or after January 1, 2013, and who was a member with another California Public Retirement System prior to January 1, 2013 and is eligible for reciprocity.
- A member who first established CalPERS membership prior to January 1, 2013, and who is rehired (by a different CalPERS employer) after a break in service of less than six months.

A. <u>New Member Retirement Benefits</u>

New employees hired after to January 1, 2013, upon placement in a full-time employment status shall have the PERS 2.7% @ 57 formula, as provided by the terms of the contract in effect between the City and PERS.

B. <u>New Member Retirement Contributions</u>

The employee contribution rate shall be 50 percent of the "normal cost" rounded to the nearest quarter of 1 percent, as determined by PERS.

C. <u>Classic Member Retirement Benefits</u>

<u>Retirement Benefits – Tier 1</u>

Employees hired before July 1, 2011, and designated as local public safety members by the City are provided retirement benefits under the California Public Employee's Retirement System Local Safety 3% at 50 formula.

Retirement Benefits - Tier 2

Employees hired after June 30, 2011, and designated as local public safety members by the City are provided retirement benefits under the California Public Employee's Retirement System Local Safety 3% at 55 formula.

D. <u>Classic Member Retirement Contributions</u>

Effective the first full pay period following July 1, 2023; The total Classic Employee pension contribution shall be 9% of salary.

E. <u>Social Security</u>

Employees are also provided retirement benefits under Social Security. The employee shall pay the full amount of the employee's contribution rate to Social Security. The City shall pay the employer contribution.

F. <u>Supplemental Retirement Benefits</u>

The City shall pay a supplemental retirement benefit to each eligible employee covered under the terms of this MOU who attains normal retirement age as defined in California Public Employees' Retirement Law. The term "eligible employee" is limited to those employees who leave City employment for the sole reason of retiring under a PERS regular service retirement and at least five (5) years of service with the City. No minimum years of service is required for disability or industrial disability retirement provision.

The benefits provided under the terms of this Section shall be a one-time lump sum payment, calculated on the basis of fifty percent (50%) of the straight time value of the retiring employee's accumulated but unused sick leave, up to 400 hours on the date that the employee retires from City employment. The reference to sick leave days in this Section is for purposes of calculating the benefit provided under this Section only, and shall not operate to "vest" sick leave hours, or otherwise create any entitlement to pay for those sick leave hours for an employee who terminates employment prior to attaining normal retirement age as defined in this sub-part. The straight-time value of the retiring employee's sick leave hours shall be computed solely and exclusively on the basis of the non-overtime normal wage rate paid to the employee, and no overtime premiums, or any other type of premium pay or pay for working out-of-class or employee benefits or other forms of non-straight time wage compensation shall be used for purposes of calculating the benefits due under this Section.

Any employee that shows an effective date of retirement into the PERS system within 120 days of separation from employment with the City shall be credited with PERS service credit for all accumulated but unused or uncompensated sick leave.

Consistent with the sick leave provisions of this MOU, any employee whose employment with the

City terminates for any reason, as opposed to being reinstated, prior to attaining normal retirement age, forfeits all accumulated but unused sick leave hours, and shall not become entitled or eligible to receive any benefits under the terms of this Section even if the employee is subsequently reemployed by the City. Notwithstanding the limitations contained in the previous sentences, the City shall pay a supplemental retirement benefit consisting of all unused sick leave to the estate of any employee covered by this MOU who is killed in the line of duty. Any rehired or reinstated employee shall begin to accrue sick leave hours as if they had never worked for the City previously. The benefit provided in this Section shall not arise or vest until such time as the individual employee applying for the benefit becomes eligible for the benefit as provided in this Section and provides written notice to the City Manager of his/her intention to retire from employment with the City. The benefit provided in this Section shall not increase the City's obligations with respect to other benefits of employment, including, but not limited to, other retirement benefits, health and welfare benefits, sick leave benefits, disability benefits, or any other form of compensation or fringe benefits of whatsoever kind or nature.

G. <u>Retiree Health Insurance Benefit</u>

(1) Employees hired prior to January 1, 2016 and retiring from the City under PERS, after twentyfive (25) or more years of City service, are eligible for the following retiree health insurance benefit:

(a) Three Hundred Dollars (\$300.00) per month, not including the statutory administrative fee for PERS coverage.

(2) For employees ineligible for the retiree health insurance benefit above that elect to participate in the health insurance plan as a retiree the City will pay the statutory administrative fee for PERS coverage.

(3) Eligibility and Term. To receive the benefit provided in F (1) of Article 8, a retiree must provide annual evidence of health insurance coverage to the Human Resources Department. Such benefit will cease upon the retiree receiving group medical insurance coverage from another employer or receiving coverage through Medicare or upon being eligible for Medicare. If a retiree covered under another employer's group medical insurance loses such coverage, this benefit will start or restart until the retiree is otherwise ineligible.

ARTICLE 9 – SALARY

- A. <u>Salary Schedule</u> Salaries shall be as set forth in the Unit's salary schedule, attached hereto as Appendix A to this MOU.
- B. <u>Salary Adjustment</u>

Each classification covered by this MOU shall have an additional step (5%) added effective January 1, 2025.

 \circ Employees currently at top step for more than one (1) year eligible 1/1/25.

• All other employees are eligible on applicable anniversary date after 1/1/25.

C. Off Salary Schedule Payments

- Upon City Council approval of MOU all employees shall receive a \$3,500.00
 <u>lump sum Off Salary Schedule Payment with their next regularly scheduled</u> paycheck.
- <u>Effective the first regularly scheduled paycheck following July 1, 2025, all</u>
 <u>employees shall receive a \$3,500.00 lump sum Off Salary Schedule Payment.</u>

Effective the first full pay period following July 1, 2023 pay rates for all unit classifications shall increase by 3%.

C.D. <u>City Contribution to PEPRA Tier Deferred Compensation Account</u>

Effective the first full pay period following July 1, 2023, <u>t</u>The City shall make a three percent (3%) of base salary contribution to each sworn PEPRA safety member's 457(b) deferred compensation account, up to the lesser of each sworn PEPRA safety member's includible compensation or the IRC 457(b) limits set forth in IRC section 457(e)(15).

D. <u>Shift Differential</u>

- 1. An employee, whose shift that has 50% or more of hours worked between the hours of 5:00 p.m. and 5:00 a.m., shall be paid an additional night shift differential of five percent (5%) of their hourly adjusted base wage, per shift worked.
- 2. An employee, who is assigned a rotational shift that has 50% or more of hours worked between 5:00 p.m. and 5:00 a.m., shall be paid an additional night shift differential of five percent (5%) of their hourly adjusted base wage, for all hours worked outside of the rotational shift (I.E.: Court, shift shortages, training, Departmental needs etc.), up to a maximum of 3 months.
- 3. The above provisions are subject to change by the Chief of Police or his designee, on a case-by-case bases, to ensure appropriate application of these provision and to suit the needs of the department.

E. <u>Rules for Use of Salary Schedule</u>

1. In the general schedule of pay ranges established by the City Council each classification within a department has an applicable range consisting of five steps.

- 2. All appointments from an eligibility list will enter the probationary periods at the base salary of the range applicable to the job. The City Manager and Chief of Police may recommend elevation above the entry level step to compensate for education and experience.
- 3. All employees shall be eligible for a merit step increase to the next step in pay range every twelve (12) months until the end of his or her pay range, if recommended by the Chief of Police and approved by the City Manager that such employee's job performance satisfies the City and department standards relating to such employees.

Employees denied a merit increase will be eligible for reconsideration no later than three (3) months following their initial review date.

- 4. An employee promoted from a promotional eligibility list to a position in a higher pay range will be placed at the minimum of the new range, or at a level in the new range to provide a minimum 5% increase in the regular rate of pay. Any new pay rate upon promotion may not exceed the top of the pay range. The date of the promotion will establish a new anniversary date for the employee's future merit increases. Should a promotion occur concurrently with the employee's evaluation, and the employee is eligible for a merit increase, the merit increase is to be included in the base salary before the promotion.
- 5. Upon reduction in force, permanent employees may be appointed to a classification with a lower pay range. An employee assigned by management to a position in a lower classification shall be placed at the step in the new range to provide an approximate 5% decrease in regular pay. The anniversary date for future merit increases will be the date of the appointment to the lower classification.
- 6. Allocation to a class with Lower Salary Range: If the salary range of the new class to which an employee's position is allocated has a maximum step lower than that of his/her current class, but not lower than his/her actual salary, he/she should continue to receive his/her present salary until his/her next anniversary date, which remains unchanged, at which time he/she would be eligible for a merit increase in the new range. If the top of the new range is lower than the current salary, then the salary will be reduced to an amount not to exceed the top of the new range effective the next full pay period one year from the re-allocation date.
- 7. A reclassification may result if the job, responsibilities, duties, requirements, skills change to a degree that the position needs to be placed in a new classification. If the reclassification impacts only the incumbent employee and the employee is qualified for the position, they will be placed in the position. If more than one employee is impacted and each is qualified, an internal review of the employees will be completed to select the best qualified person for the position. A reclassification will result in the elimination of the old position if it is a single person position and be replaced by the new position, as by the very process the position has fundamentally changed. A reclassification is not a promotion and does not carry with it an automatic pay increase. If the employee's salary is currently below the minimum of the new range. A reclassification will not change the employee's annual evaluation date. The employee will be able to move through the new pay range based on the normal evaluation and merit process.

F. Lateral Hire Incentive

A. As a recruitment incentive for the lateral hire of a police officer, the City may, at its discretion, offer Salary step placement at a competitive rate based on experience as a police officer or deputy sheriff.

ARTICLE 10 – HEALTH AND WELFARE

A. <u>Insurance Benefits:</u>

During the term of this agreement the City will make available medical, dental, and vision insurance benefits to the employee and their dependents.

(1) For the term of this agreement the City will pay a monthly set rate for health insurance (Medical, Vision, and Dental) based on the employee's medical coverage selection as follows:

- a. For Employee only \$814.00;
- b. For Employee plus 1 dependent- \$1,622.00;
- c. For Employee plus 2 or more dependents- \$2,130.00

(2) Employees electing to waive medical insurance coverage will receive a payment of \$305 per month (a rebate) if evidence of similar or better coverage from another source is provided (effective May 1, 2012). Employee may use this rebate to pay for elected dental and vision coverage.

(3) The City shall supply and administer group health and welfare benefits on behalf of each eligible unit member. Said benefits shall include, but not be limited to health, dental, vision, and life.

(4) The City shall provide term life insurance coverage in the amount of \$50,000.00 for each employee, \$5,000.00 for the employee's spouse, and \$1,500.00 for other eligible dependents without cost to the employee.

(5) All benefits shall be subject to the standard provisions set forth in the policy or policies, or PERS regulations.

(6) Disputes concerning the hospital/medical, dental, vision and life insurance as provided, including but not limited to questions as to the scope of benefits or disability coverage, eligibility, and premium rate shall not be subject to the Grievance Procedure.

B. <u>Gym Membership</u>

Gym membership will be provided to Police Officers and Police Sergeants at no cost. Members are required to meet physical standards as a condition of employment.

C. <u>Short Term Disability Insurance</u>

SDI is now in force for bargaining unit employees. The employee is entitled to supplement weekly SDI benefits with accumulated leave time up to the amount of his/her regular monthly salary.

ARTICLE 11 - SCHEDULING OF SHIFTS

The Police Chief or his/her designated subordinate representative or under the direction of the City Council may change or alter the shifts so that the highest level of protection to life and property may be maintained. To the extent possible employees will be provided a two week notice of changes to their daily shift hours.

The Police Chief or his/her designated subordinate representative or under the direction of the City Council may assign one hundred percent (100%) of the total number of employees of the Police Department to work overlapping shifts in cases of criminal investigations, riots, civil disturbances, strikes or emergencies.

The decision of the Police Chief or his/her designated subordinate representative or under the direction of the City Council shall be final and not subject to the grievance procedure. All shifts shall be scheduled at least forty-five (45) days in advance.

<u>ARTICLE 12 – UNIFORMS</u>

(1) Employees shall receive a uniform reimbursement not to exceed Eight Hundred Seventy Five Dollars (\$875.00) per fiscal year.

Employees designated as Detectives and Motor Officers will receive an additional uniform reimbursement of five Hundred Dollars (\$500.00) per fiscal.

(2) Employees may have one (1) uniform per week professionally cleaned at an established vendor. Detectives may substitute a professional cleaning of slacks/shirt/jacket once per week in lieu of a uniform cleaning.

(3) Annual reimbursement totals for uniforms paid by the City will not accrue beyond the fiscal year. Any charges above the allotted totals will be paid by the employee.

(4) Employees hired as Police Officer Trainees attending the academy at the City's expense will be provided the required uniforms for the academy. Police Officer Trainees are not eligible for Uniform Reimbursement until graduation from the academy and placement into active service as a Police Officer with the City of Grass Valley.

(5) To comply with the special compensation requirements of CalPERS, the City shall report to CalPERS periodically as earned the value of the uniform allowance above for classic members (as defined by CalPERS) – the total value to be reported to CalPERS is: _____ per pay period for the uniforms. For classic members, the City and employees will be required to make required employer and employee contributions based on this special compensation in the applicable employer/employee contribution amounts. For example, classic members will be required to make the required employee contribution on this amount. Pursuant to CalPERS regulations, the

value of uniforms and uniform cleaning for new members (as defined by CalPERS) does not count as special compensation.

ARTICLE 13 – RESIDENTIAL MILEAGE RESTRICTION

Employees shall live no further than 30 air miles from the City limits. The Chief of Police shall have the discretion to permit sworn employees to live further than 30 air miles from the City limits when, in the Chief of Police's opinion, the officer will be capable of responding in an emergency in a reasonable period of time.

ARTICLE 14 – VEHICLE USE, PARKING

A. <u>Detective Officer/Sergeant Vehicle</u>

Employees may be assigned a take home vehicle. The assignment of the vehicle is to reduce response times, to allow for direct response to crime scenes, and to respond as may be necessary for call back or if placed on stand-by. The vehicle is the property of the City and it to be treated and used accordingly. The vehicle may be redirected to other needs of the department at the direction of the Chief. If the employee is not available for a period of time, the vehicle will be left at the Police Department for other uses (i.e. on vacation, extended leave, sick leave).

ARTICLE 15 - REDUCTION IN FORCE AND RE-EMPLOYMENT

A. Layoff/Furlough Provisions:

(1) In lieu of layoff, the City may pursue a furlough or reduction of hours on a department basis as follows:

(a) City Council makes a finding that for reason lack of work, lack of funds, or for reorganization that a reduction in services is needed.

(b) City identifies the need for a reduction by part or whole position equivalency within a department.

- (c) Department Head consults with employees to explore alternatives.
- 1. Voluntary furloughs/hours reduction sought first
- 2. Involuntary furloughs or reductions in hours may be imposed on a uniform basis by class within department, not to exceed 80 hours per year. Should the City desire to utilize more than eighty (80) hours involuntary furlough days in a year, The Grass Valley Police Employees will be consulted and shall have the option of agreeing to permit the City to utilize up to an additional 40 hours of involuntary leave for a total of 120 hours or refusing such request. If such request is refused, the City shall have the option of reducing the force through layoffs.
- 3. In lieu of taking actual furlough time employees may elect to pay a higher portion of city provided benefits (i.e. health insurance) in an amount equal to the total savings that that would have been realized by the furlough time. Equivalent paid time may be taken off. Savings must be achieved within the same time period (fiscal year) as the assignment of furloughs.
- 4. Benefit accruals shall not be reduced for employees. Insurance shall still be paid by

the extent agreed to by the City. Leave accruals will continue at the full time rates. Retirement contribution accounts and related benefits shall be maintained as if no reduction in force had occurred.

B. <u>Treatment of the Employees Laid Off</u>

(1) When the Police Chief is instructed by the City Council to reduce the number of employees in the classified service within his/her department, lay-off shall be made in accordance with the following rules:

- (a) Employees to be laid off shall be given a leave of absence for a period of 24 months without pay until the position is re-established whereupon such employee shall be given ten (10) days' notice to accept re-employment.
- (b) The names of each employee laid off shall be entered on the "re-employment list" established by the Personnel Commission and notification as provided in the Commission Rules shall be required. Within ten (10) days of reinstatement, a certificate by a qualified physician or surgeon selected by the Commission, may be required certifying as to his/her physical fitness to perform the service involved.
- (c) Vacation and sick leave accrual rates for reinstated employees will incorporate service time prior to layoff.

(2) The first person laid off from a department within a class, shall be the one with the least length of service within the class and grade since original permanent employment. The person so laid off shall thereupon be restored to a position in a class in the same department in which he/she formerly held a regular position in which:

- (a) The employee displaced shall be considered laid off for the same reason as the person who displaces him/her and shall likewise be restored as provided herein, in a class in which an unfilled position exists, or,
- (b) There is then employed a person with less total length of service since original appointment. The person with the least length of service shall be displaced by the employee laid off from the higher class.

(3) Should an employee have rights for displacement in more than one (1) previous classification, he/she shall displace first in the highest classification to which he/she is eligible.

(4) In accordance with Article 9, Section 8 of the City Charter, whenever a position in any class is to be filled, unless filled by a reduction of rank as provided above, it shall be filled in the following order:

- (a) From the re-employment list for that class;
- (b) From the promotional register of eligible candidates for that class;
- (c) From the appropriate competitive register of eligible.

(5) When employment is from the re-employment list, one name shall be certified for each vacancy to be filled and in the order of greatest length of service in that and higher classes since regular appointment.

C. <u>Seniority</u>

(1) Seniority ratings in any department shall be based on the time of service in the City of Grass Valley Civil Service, including periods of authorized leave of absence or period of illness.

(2) Credit allowable by the Personnel Commission for length of service shall be calculated on the basis of the year of continuous employment including leaves of absence and dating from the first day of such continuous employment in any department or departments of the City of Grass Valley.

(3) Credits allowable by the Personnel Commission for examination based on the length of service shall be deemed to include periods of time granted under authorized leaves of absence.

ARTICLE 16 - DISCIPLINARY ACTION (See Civil Service Rules)

The City shall administer employee discipline in accordance with the Public Safety Officers Procedural Bill of Rights Act (California Government Code sections 3300 et seq.), and as related to employees who are employed as peace officers within the meaning of Government Code section 3301. The disciplinary procedures set forth herein shall only apply to employees who have completed probation. (Government Code section 3304(b).)

Definitions

- A. "Discipline/Punitive Action." Any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer for purposes of punishment within the meaning of Government Code section 3304.
- B. "Minor Discipline." Minor discipline is considered punitive action that does not involve termination or suspension without pay for more than 5 days. Examples include, but are not limited to, written reprimands, suspensions without pay of 5 days or less, and disciplinary transfers.
- C. "Major Discipline." Major discipline is considered punitive action that involves termination, disciplinary demotions, and suspensions without pay of more than 5 days.

Disciplinary Actions and Procedures

- A. Procedure for Minor Discipline
 - 1. Notice of Discipline. Minor discipline shall be implemented in the form of a Notice of Discipline, such as a written reprimand or notice of suspension, and shall set forth the acts or omissions that provide the basis for the discipline. It shall also specify the City/Department rules, regulations, policies, and procedures that the employee violated.
 - 2. Written Response. An employee may prepare a written response to the Notice of Discipline, which will accompany the Notice of Discipline in the employee's personnel file. An employee shall have thirty (30) calendar days within which to submit the written response to the Office of the Police Chief.

- 3. Informal Administrative Appeal. In addition to the right to submit a written response to a Notice of Discipline, an employee is entitled to an informal administrative appeal.
- 4. Minor Discipline Appeal Procedures. An employee who receives a Notice of Discipline under this section may appeal to the Police Chief. In the event the Police Chief prepared the Notice of Discipline, the employee may appeal to the City Manager. Any such request to appeal must be in writing and received in the Office of the Police Chief within ten (10) calendar days from the date the Notice of Discipline is served on the employee. Thereafter, an informal hearing shall be scheduled before the Police Chief or City Manager. In the informal hearing, the Police Chief or City Manager shall regulate the course of the proceeding, and shall permit the parties and may permit others to offer written or oral comments on the issues. The Police Chief or City Manager may limit the formality of the proceeding or formal use of witnesses, testimony, and evidence.
- 5. The decision of the Police Chief or City Manager shall be in writing and shall be final.
- B. Procedure for Major Discipline
 - 1. Notice of Intent to Discipline. Major discipline shall be initiated in the form of a Notice of Intent to Discipline (such as a Notice of Intent to Terminate). The Notice of Intent to Discipline shall include the following:
 - a. The proposed disciplinary action to be taken.
 - b. The proposed effective date of such action.
 - c. A statement of charges against the employee, which sets forth the acts or omissions that provide the basis for the intended discipline. It shall also specify the City/Department rules, regulations, policies, and procedures that the employee is alleged to have violated.
 - d. The materials upon which the intended action is based in accordance with the requirements set forth in Skelly v. State Personnel Board.
 - e. Notice that he or she has the right to respond to the proposed action in writing or verbally at a specified place and time in an informal meeting (i.e., a "Skelly" meeting), which shall be within 10 calendar days of the date that the Notice of Intent to Discipline is served on the employee.
 - 2. Right to Respond. Upon receipt of a Notice of Intent to Discipline, the employee shall have the right to respond to the Police Chief or designee in writing or verbally in an informal meeting (i.e., a "Skelly" meeting) prior to the imposition of discipline.

- 3. Notice of Disciplinary Action. After the receipt of an employee's written or verbal response to the Notice of Intent to Discipline, or after the time to respond has passed, the Police Chief or designee shall notify the employee in writing of the final decision regarding the intended discipline. If the Police Chief or designee determines to proceed with a form of major discipline, a Notice of Disciplinary Action (such as a Notice of Termination) shall be provided to the employee as follows:
 - a. The Notice of Disciplinary Action shall be issued within 30 days of the final decision.
 - b. The Notice of Disciplinary Action shall contain:
 - i. The effective date of such action.
 - ii. A statement of charges against the employee, which set forth the acts or omissions that provide the basis for the discipline. It shall also specify the City/Department rules, regulations, policies, and procedures that the employee violated.
 - iii. The materials upon which the action is based.
 - iv. Notice that he or she has the right to request an appeal by filing a notice with the Office of the Police Chief within 10 calendar days of the date that the Notice of Disciplinary Action is served on the employee.
- 4. Major Discipline Appeal Procedures. The appeal of major discipline shall be before the City's Personnel Commission (See Civil Service Rules), which shall render a final decision.

ARTICLE 17 - GRIEVANCE PROCEDURE

A. <u>Definition</u>

A grievance is any dispute concerning the interpretation or application of this MOU, or of rules or regulations governing personnel practices or working conditions, or of the practical consequences of a City rights' decision on wages, hours and other terms and conditions of employment.

B. <u>Procedures</u>

All grievances shall be processed only in accordance with the procedures and general conditions set forth below:

It is the intent of these procedures to encourage resolution of complaints and grievances informally, at the nearest practical organizational level from which it emanates, and as promptly and fairly as possible to all concerned.

Informal Grievance:

Within five (5) working days/shifts following an occurrence giving rise to a grievance, the employee shall orally present the grievance situation to his/her immediate supervisor. (Exception: where the grievance directly involves the working relationship with the supervisor, the grievance shall be presented to the next higher level of supervision). The employee and supervisor have a mutual responsibility to have the grievance resolved at their level whenever possible.

Presentation of an informal grievance shall be necessary prior to processing it further as a formal grievance.

Formal Grievance:

A formal grievance shall only be initiated in writing to each appropriate step of the grievance procedure with a copy to the Human Resources Office.

Step 1:

If a mutually satisfactory solution of the grievance was not resolved informally, the employee may file a written grievance with his/her department head (or designated representative) within five (5) working days/shifts after the last meeting between the employee and supervisor. Within ten (10) working days/shifts after the formal grievance is received, the Department Head shall investigate the facts and issues at the earliest date consistent with the nature of the grievance and the normal conduct of the department's business. Within five (5) working days/shifts after concluding the investigation, the Department Head shall render a decision in writing to the employee and Human Resources Office.

Unless a decision of the Department Head is appealed by the employee to Step 2 in the time limits provided, the grievance shall be deemed resolved, final and binding.

Step 2:

If the employee finds that the grievance has not been resolved in Step 1, he/she may, within five (5) working days/shifts after the Department Head's decision is rendered, request in writing that the City Manager consider the grievance and decision as rendered by the Department Head. Within ten (10) working days/shifts after the grievance is received, the City Manager (or designated representative) shall review the facts, issues and make such further investigation as is necessary at the earliest date consistent with the nature of the grievance and normal conduct of City business. Within five (5) working days/shifts after concluding the review, the City Manager shall render a decision in writing to the employee, Department Head, and Human Resources Office.

Unless the decision of the City Manager is appealed by the employee to Step 3 in the time provided, the grievance shall be deemed resolved, final and binding.

Step 3:

If the employee finds that the grievance has not been resolved in Step 2, he/she may, within five (5) working days/shifts after the City Manager's decision is rendered, request in writing to the Personnel Commission that they consider the grievance and decision rendered by the City Manager. Within fifteen (15) working days/shifts after the grievance is received, the Personnel Commission shall commence conducting the review. The Personnel Commission shall determine

the best means to conduct the review of the facts, issues and such further investigation as is necessary at the earliest date consistent with the nature of the grievance and normal conduct of City business. Within five (5) working days/shifts after concluding the review, the Personnel Commission shall render a decision in writing to the employee, City Manager, Department Head and Human Resources Office.

Step 4:

If the employee finds that the grievance has not been resolved in Step 3, he/she may, within five (5) working days/shifts after the Personnel Commission decision is rendered, submit a request in writing to the City Council. Within fifteen (15) working days/shifts after the grievance is received, the City Council (or their designated representative(s) shall commence conducting the review. The City Council shall determine the best means to conduct the review of the facts, issues and such further investigation as is necessary at the earliest date consistent with the nature of the grievance and normal conduct of City business. Within five (5) working days/shifts after concluding the review, the City Council shall render a decision in writing to the employee, City Manager, Personnel Commission, Department Head and Human Resources Office.

The decision rendered by the City Council shall be final and binding on all parties.

C. <u>General Conditions</u>

Review and determination of a grievance is applicable to certain interpretations and applications as set forth under Definitions and, as such, cannot change any City adopted salary schedules/ranges or such other benefits subject to the meet and confer process.

Performance Appraisals and merit step determinations are not grievable matters, except as provided herein. Performance appraisals and merit increase concerns should be brought forward to the Human Resources Office, with a final determination to be made by the City Manager. If an employee does not receive a due evaluation within a month after the due date, the employee may file a grievance.

An employee may choose to represent himself/herself or select a representative of his/her choice. The employee shall be personally present at any meeting which may be held, unless he/she specifically waives that right in writing.

In the event that more than one (1) employee is directly involved in a grievance, they shall select one (1) person from among them to carry the grievance forward on their behalf. This person may also select a representative of his/her choice. The employee shall be present at any meetings which may be held, unless he/she specifically waives that right in writing.

Any time limit of these procedures may be extended by mutual consent of the parties in writing or by action of the Mayor in writing to all parties.

During the grievance process, there shall be no interruption of scheduled work of a department or the City.

ARTICLE 18 – SAFETY

A. <u>Safety Equipment</u>

The City may make such protective clothing or other protective devices available to employees as the Police Chief deems appropriate under the circumstances. Any employee issued such protective clothing or other protective device is responsible for the proper care of these items.

B. <u>Employee Alertness</u>

(1) The most effective safety equipment an employee possesses is an alert mind. Conversely, an employee whose judgment, reactions and analytical processes are impaired or influenced by

alcohol or drugs poses a risk to himself/herself, his/her fellow officers and employees, and to the public. The City, therefore, expressly retains the right as explained in this Article to verify that employees covered by this MOU are alert and are not under the influence of alcohol, controlled substances, drugs, or other conditions which would tend to affect or impair judgment, reactions or thought processes.

(2) The parties recognize the problems associated with alcohol and drug abuse in the work place and recognize the safety hazard which would be presented if an employee worked while under the influence of alcohol, intoxicating drugs or controlled substances. The parties further agree that a testing procedure with both privacy and accuracy safeguards is one appropriate means to protect the safety of employees.

C. Drug, Alcohol and Substance Abuse Policy

(1) The City reserves the right, for reasonable suspicion, to require an employee to submit to drug, alcohol or substance abuse testing.

(2) "Reasonable suspicion" for purposes of this Article includes, but is not limited to the following:

- (a) A critical incident has occurred while on duty for the City or at the employee's work location.
 - (i) An accident involving a City vehicle or equipment causing damage to property or persons, in combination with any factors in (b) below.
 - (ii) Employee manifests mental or physical impairment sufficient to raise doubt that normal tasks can be safely or effectively performed.
 - (iii) Employee is observed with illegal drug or drug paraphernalia in possession for possible sale or use; employee is observed with open container of alcohol in work area or vehicle.
- (b) Documented objected facts and a reasonable inference drawn from those facts that an employee is under the influence of drugs, alcohol or substance. Such objective facts may include characteristics of the employee's appearance, behavior, mannerisms, and speech or body odors. Components of such documentation should include:

- 1. equilibrium,
- 2. manner of speech,
- 3. mental reactions,
- 4. odor of intoxicants on breath or clothing,
- 5. eyes,
- 6. general appearance,
- 7. physical actions, and
- 8. work behaviors.

D. <u>Employee Assistance Program</u>

The City shall maintain an Employee Assistance Program (EAP) for employees and family members. Such program shall endeavor to provide counseling services for personal and family member problems related to marital/family, relationship problems, alcohol or drug abuse, stress related problems, depression, and other types of psychological problems, for employees in need of such referral and intervention.

E. <u>Coverage</u>

The City recognizes the hazards associated with the police profession and will provide adequate staffing to protect the public and attempt to make certain that employees covered by this MOU are not exposed to undue or unnecessary hazards. The Police Chief shall determine the appropriate staffing using these basic principles. Additional staffing over and above authorized current staff levels is subject to City Council approval.

ARTICLE 19 - NO STRIKE / NO LOCKOUT

It is agreed by the Association and the City that there shall be not strikes and no lockouts during the term of this MOU.

ARTICLE 20 - DISTRIBUTION

Upon request, the City shall provide copies of this MOU for distribution to the Association. Additionally, the MOU shall be available on the City's website.

ARTICLE 21 - EFFECT OF THIS MOU

It is understood and agreed that the specific and express provisions contained in this MOU shall prevail over employer practice and procedures and over all applicable laws to the extent permitted by law.

This written MOU sets forth the full and complete agreement between the parties concerning the subject matter hereof and supersedes all prior informal or formal agreements thereon. There is no valid or binding representation, inducements, promises, or agreements, oral or otherwise, between the parties that are not embodied herein.

A. <u>Completion of Negotiations</u>

The Unit and the City, for the life of this MOU, voluntarily and unqualifiedly waive and relinquish the right to meet and confer, except for express, conditional re-openers. Neither party shall be obligated to meet and confer with respect to any subject or matter not specifically referenced in this MOU, even though such subjects may not have been within the knowledge or contemplation of either or both parties at the time they signed this MOU, unless required by state or federal law. Nothing herein shall preclude the parties from meeting and conferring by mutual consent.

ARTICLE 22 – NOTICE

Whenever provision is made in this MOU for the giving, service, or delivery of any notice, statement, or other instrument, the same shall have been deemed as delivered, duly served or given upon personal delivery or upon mailing the same by United States registered or certified mail, proof of service, to the party entitled thereto at the address set forth below:

Employer

City of Grass Valley, Human Resources 125 E. Main Street Grass Valley, CA 95945

Association:

Unit No. 6 Representative 129 S. Auburn Street Grass Valley, CA 95945 **Labor Representative** Mastagni, Holstedt, A.P.C. 1912 I Street Sacramento, CA 95811

ARTICLE 23 – SEVERABILITY SAVINGS CLAUSE

If, during the life of this MOU, any law or any order issued by a court or other tribunal of competent jurisdiction shall render invalid or restrain compliance with or enforcement of any provision of this MOU, such provision shall be inoperative so long as such law or order shall remain in effect, but all other provisions of this MOU shall not be affected thereby and shall continue in full force and effect.

In the event of suspension or invalidation of any Article or Section of this MOU, the parties mutually agree to meet and negotiate within ninety (90) days after such determination for the purpose of arriving at a mutually satisfactory replacement for such Article or Section.

ARTICLE 24 – MAINTENANCE OF NEGOTIABLE BENEFITS

It is understood and agreed by the parties that there exist within the City certain negotiable past practices, policies, or procedures which pertain to wages, hours, and conditions of employment. Such matters shall not be modified or rescinded during the term of this Memorandum of Understanding except by the giving of notice to the Association and providing the opportunity to meet and confer on the matter.

<u>ARTICLE 25 – TERM OF MOU</u>

Upon the approval of the City Council and ratification of the Association the terms of this MOU shall be effective July 1, <u>2023–2024</u> and shall continue in full force and effect through June 30, <u>20242026</u>.

This MOU may be extended, modified, or amended by mutual agreement in writing by both parties and City Council approves the extension, modification or amendment. It is understood and agreed between the parties that all prior MOU's, Agreements, and/or Resolutions between them are hereby terminated and canceled, and that this MOU supersedes and replaces all such prior MOU's, Agreements or Resolutions. Negotiations for successor MOU shall commence no later than April 1st of the last year of the agreement.

RECOMMENDATION OF REPRESENTATIVES

The City and representatives of the Association held meetings and discussed the above, and representatives of the Association have caused this MOU to be signed and the representative of the City has caused this MOU to be signed to signify their mutual agreement.

CITY OF GRASS VALLEY

GRASS VALLEY POLICE OFFICERS ASSOCIATION

TIM KISER, CITY MANAGER

JOHN HERRERA, POA PRESIDENT

BRIAN COVELLA, TREASURER

APPROVAL OF AGREEMENT

Approval and adoption of this Memorandum of Understanding is made this <u>eighth-thirteenth</u> day of August <u>20232024</u>, effective July 1, <u>2023-2024</u> – June 30, <u>20242026</u>, by the Grass Valley City Council.

JAN ARBUCKLE, MAYOR

ATTEST:

TAYLOR DAY, CITY CLERK

APPROVED AS TO FORM:

MICHAEL G. COLANTUONO, CITY ATTORNEY

APPENDIX A – SALARY SCHEDULE

City of Grass Valle	y Salary	Schedu	ıle																									
FY 2024-2025																											,	tem # 4.
																											′	lenn # 4.
	Hourly					Bi Weekly					Monthly					Annually												
Position	Α	В	С	D	E	F	G	Α	В	С	D	E	F	G	Α	В	C	D	E		F	Α	В	С	D	E		F
Police Unit 6 July 1, 2024 - June 30, 2026:																												
Police Officer Trainee	30.26	0.00	0.00	0.00	0.00	0.00	0.00	2,420.91	-	-	-	-	-	-	5,245.31	-	-	-	-	-	-	62,943.71	-	-	-	-	-	-
Police Officer I	35.68	37.45	39.35	41.29	43.37	45.54	47.81	2,854.34	2,996.06	3,147.68	3,303.42	3,469.86	3,642.9	0 3,824.80	6,184.39	6,491.47	6,819.97	7,157.40	7,518.04	7,892.96	8,287.07	74,212.74	77,897.66	81,839.68	85,888.82	90,216.46	94,715.50	99,444.80
Police Officer II	37.52	39.41	41.38	43.46	45.63	47.91	50.30	3,001.83	3,152.62	3,310.01	3,476.46	3,650.32	3,832.4	2 4,024.00	6,503.97	6,830.69	7,171.68	7,532.32	7,909.03	8,303.59	8,718.67	78,047.63	81,968.22	86,060.21	90,387.86	94,908.32	99,643.02	104,624.00
Police Sergeant	47.00	49.34	51.82	54.39	57.12	59.96	62.95	3,759.91	3,946.96	4,145.54	4,351.54	4,569.90	4,796.5	0 5,036.00	8,146.48	8,551.75	8,982.01	9,428.35	9,901.46	10,392.43	10,911.33	97,757.71	102,620.96	107,784.14	113,140.14	118,817.50	124,709.10	130,936.00



City of Grass Valley City Council Agenda Action Sheet

<u>Title</u>: Appointment of Councilmember's for the Measure B Oversight Committee

<u>CEQA:</u> Not a Project

<u>**Recommendation**</u>: That the City Council appoint Measure B Oversight Committee members Aguilar, Rogers, and Bibby to terms ending December 2024, and Committee Member Poston to term ending in December 2026.

Prepared by: Taylor Whittingslow, City Clerk

Council Meeting Date: 8/13/2024

Date Prepared: 8/9/2024

Agenda: Consent

Background Information: In March of 2024 Grass Valley citizens voted to approve Measure B, a tax measure that implemented a 3/8ths percent City transaction and use (sales) tax. Measure B expands funding for such general fund purposes for Fire Resiliency and Vegetation Management. All Measure B funds stay local and all expenditures subject to an annual audit by an independent citizen oversight committee. See the City website at <u>www.cityofgrassvalley.com</u> for more information on Measure B.

The Citizen's Oversight Committee reviews an independent audit of tax receipts and how they are spent each year and advises the City Council on how tax money should be spent. The Council must discuss the audit results at a public meeting each year and post them on the City's website.

The all city councilmembers are tasked with nominating one new Measure B Oversight Committee member and they are as follows:

- Councilmember Arbuckle has nominated Grass Valley community member Ben Aguilar term ending December 2024.
- Councilmember Branstrom has nominated Grass Valley community member Susan Rodgers term ending of December 2024.
- Councilmember Ivy has nominated Grass Valley community member Kiya Bibby term ending of December 2024.
- Councilmember Caravelli has nominated Grass Valley community member Elizabeth Poston term ending of December 2026.

<u>Council Goals/Objectives</u>: The Measure B Oversight Committee executes portions of work tasks towards achieving/maintaining Strategic Plan - Open and Collaborative City Government.

Fiscal Impact: N/A Funds Available: N/A Account #: N/A

Reviewed by: ___ City Manager



City of Grass Valley City Council Agenda Action Sheet

<u>Title</u>: Appeal of the Planning Commission's denial of Use Permit applications for an exception to the multifamily covered parking requirement established in Section 17.36.040, Table 3-3 of the City of Grass Valley Municipal Code.

<u>Recommendation</u>: Based upon the evidence in the public record, and the Planning Commission's 3:1 denial, staff recommends that the City Council take one of the following actions:

- 1) Uphold the Planning Commission's denial of Use Permit applications 24PLN-0008, -0009, and -0010
 - a. Deny the appeal and uphold the Planning Commission's denial of the Use Permit applications for a reduction in covered parking requirements;
 - b. Determine the proposed projects at 210 Sutton Way (24PLN-0008), 265 Sutton Way (24PLN-0009), and 228 Sutton Way (24PLN-0010) exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the attached June 18, 2024 Planning Commission Staff Report
 - c. Uphold the Planning Commission's finding for denial of the Use Permits, that "insufficient quantitative evidence was provided to document a need for a reduction of the covered parking standard;" and,
 - d. Deny the Use Permits as presented in this Staff Report.
- 2) Overturn the Planning Commission's denial of Use Permit applications 24PLN-0008, 0009, and -0010
 - a. Uphold the appeal and overturn the Planning Commission's denial of the Use Permit applications for a reduction in covered parking requirements;
 - b. Determine the proposed projects at 210 Sutton Way (24PLN-0008), 265 Sutton Way (24PLN-0009), and 228 Sutton Way (24PLN-0010) exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the attached June 18, 2024 Planning Commission Staff Report
 - c. Adopt Findings of Fact as detailed in the June 18, 2024 Planning Commission Staff Report for approval of the Use Permits as presented in the Staff Report; and,
 - d. Approve the Use Permits as presented in this Staff Report.
- 3) Continue the appeal of Use Permit applications 24PLN-0008, -0009, and -0010 for additional information to be provided

Prepared by: Lucy Rollins, Senior Planner

Council Meeting Date: August 13, 2024

Date Prepared: August 5, 2024

Agenda: XXX

Background Information: At the June 18, 2024 meeting, the Planning Commission held a public hearing to consider three Use Permit applications for a reduction in the multifamily covered parking

standard at 210 Sutton Way (Cedar Park Apartments, 24PLN-0008), 265 Sutton Way (Glenbrook Apartments, 24PLN-0009), and 228 Sutton Way (Oak Ridge Apartments, 24PLN-0010). The request was to reduce the covered parking requirement to zero. This hearing had been continued from the Planning Commission's May 21, 2024 meeting. The three applications were heard as one item as they were submitted by the same applicant for the same request based on the same justification for three neighboring apartment complexes.

The applicant, Cascade Housing Association, operates 100 percent affordable housing at these complexes, originally approved in the late 1990's and early 2000's. At the time of original construction, carports were installed to meet the requirements of the approved projects. In the winter of 2023, several carports were damaged or destroyed by snow, and subsequently all carports were removed by the owner. Retroactive demolition permits were issued for the removals in March 2024, after the owner applied for a building permit for new exterior lighting, that alerted City staff to the removal of the carports.

There were two members of the public who provided public comment on this item at the June 18, 2024 hearing. The primary issues raised included tenant concerns about vehicle exposure to sun and snow with no where to shovel snow that builds up on vehicles, a request to apply standards consistently, and a note that the structures were demolished without a permit and the possibility of overlooked emergency funding support at the time of collapse.

There were four Planning Commissioners present for the item: Vice Chair Brouillette, Commissioner Coots, Commissioner Gross, and Commissioner McDonald. Chair Robins was absent. The Planning Commission deliberated extensively on the applications, discussing the cost of covered parking installation, alternatives to traditional carports to provide covered parking, covered parking as an amenity for residents, financial constraints on affordable housing, and more. At their June meeting, the Planning Commission denied the Use Permit applications with a 3:1 vote, based on the finding that insufficient quantitative evidence was provided to document a need for a reduction of the covered parking standard. The June 18th, 2024 Planning Commission staff report is attached and the full discussion can be viewed at the following link, beginning at the 15:50 time marker: https://www.youtube.com/watch?v=FhtD_r2MxRU.

On July 1, 2024, Staff received an appeal from Denni Ragsdale on behalf of Cascade Housing Association challenging the Planning Commission's denial of the Use Permit applications. The appeal was timely filed within the 15-day appeal period following the Planning Commission decision.

Appeal Description:

The applicant is appealing the Planning Commission decision to deny the Use Permits based on insufficient evidence. The appeal makes the following points:

- Reiterates that the cost of installing carports exceeds the insurance claim payout received for the removal of the damaged structures, and sites the potential future cost should the carports fail again as an additional barrier to financial feasibility to construct and maintain carports.
- 2) Asserts that all requirements of the Use Permit were met and the Planning Commission did not have sufficient evidence to deny the permit.
- Expresses the need to apply Density Bonus Law incentives that apply to housing developments seeking a density bonus for affordable housing in order to preserve existing affordable housing, siting requirements of California Government Code Section 8899.50(b)(1).

Staff Response:

To support the applications for the Use Permits, the applicant provided the following documentation of the need for a reduction in covered parking standards:

- Images of carport damage and failures at each of the three properties
- A proposal by Element 26 Construction to replace the carports like-for-like for a total of \$261,600 at Glenbrook Apartments, \$348,800 at Oak Ridge Apartments, and \$436,000 at Cedar Park Apartments
- Evidence of the insurance claims and payouts for each property. After a \$25,000 deductible for each property, the applicant received \$128,103.03 for Glenbrook Apartments, \$177,449.76 for Oak Ridge Apartments, and \$178,149.91 for Cedar Park Apartments
- Invoices for the demolition of all carports at each of the three properties totaling \$39,000 for Glenbrook Apartments, \$48,000 for Oak Ridge Apartments, and \$60,000 for Cedar Park Apartments,
- Site plans of the original approval of each property showing 56 carports at Glenbrook Apartments, 67 at Oak Ridge Apartments, and 81 at Cedar Park Apartments.
- CalHFA and CTCAC regulatory agreements demonstrating affordability restrictions on each property
- Operating cost details

Following the May 21, 2024 Planning Commission meeting, the applicant researched potential cost savings for installation of solar carports, at the request of the Planning Commissioner. In response to this, the following information was provided for the June 18, 2024 meeting:

- Updated operating cost details
- A narrative of preliminary results based on research into solar carport financial feasibility

Section 17.36.080 of the Grass Valley Municipal Code states that the burden of proof to demonstrate a need for a reduction in parking requirements is on the applicant to provide sufficient quantitative evidence for the review authority to make a determination. The Planning Commission acknowledged the hardship of installing and maintaining carports, while also noting the loss of an amenity advertised to residents.

<u>Council Goals/Objectives</u>: A City Council decision on an appeal of a Planning Commission decision supports the 2022 Strategic Plan Update, Goal #5: The City of Grass Valley strives to exemplify an innovative, efficient, effective, open and collaborative city government.

Fiscal Impact: none

Funds Available: not applicable

Account #: TBD

Reviewed by: Amy Wolfson, City Planner

Attachments:

- 1) Appeal Form
- 2) May 21, 2024 Planning Commission Staff Report
- 3) June 18, 2024 Planning Commission Staff Report

ATTACHMENT LIST

24PLN-08 / 210 Sutton Way, 24PLN-09 / 265 Sutton Way, 24PLN-10 / 228 Sutton Way

- 1. Appeal Form
- 2. May 21, 2024 Staff Report and Attachments
 - a. Staff Report
 - b. Universal Applications
 - c. Use Permit Applications
 - d. Carport Damage Images
 - e. Carport Replacement Estimates
 - f. Insurance Claims
 - g. Demolition Invoices
 - h. Operating Costs
 - i. Site Plans
 - j. CalHFA and CTCAC Deed Restrictions
- 3. June 18, 2024 Staff Report and New Attachments
 - a. Staff Report
 - b. Solar Carport Research Results
 - c. Updated Operating Costs



CITY OF GRASS VALLEY APPEAL FORM City Clerk's Office

125 East Main Street Grass Valley, CA 95945

You may use this form, or provide a letter that includes the following information, to appeal a decision made by the Community Development Director, Development Review Committee or Planning Commission. All appeals shall be filed with the Community Development Department, or to the City Clerk's Office to appeal a Planning Commission action, within fifteen (15) calendar days following the date of the decision. The appeal shall include the specific action or decision, and describe the reasons for the appeal. Provide this form or a letter, along with the current appeal fee to initiate the appeal.

I, <u>Denni Ragsdale</u> , Cascade Housing Association below noted action(s):	(Printed Name of Appellant) Hereby appeal the								
Date of City Action: <u>6/18/2024</u> Project Name/Application No. (s): <u>24PLN-08, 1</u>	24PLN-09, 24PLN-10								
Permit Type (Use Permit, Subdivision map, etc.): Use Permits								
Mailing Address: P.O. Box 182, Springfield, G	OR 97477								
Phone: (541) 726-6181 E	mail: denni.ragsdale@cascadehousing.org								
Purpose of the Appeal (List Specific Isssue): See Attachment "A"									
Signature of Appellant Denni Ragsdale	Date: 7/1/2024								
**************************************	**************************************								
Date: Receipt No.:	Received by: Fee Paid:								

Attachment "A"

Cascade Housing Association ("CHA") owns three affordable housing developments in the City of Grass Valley: 210 Sutton Way, 265 Sutton Way, and 228 Sutton Way (the "Properties"). Pursuant to Chapter 17.91 of the City's Development Code, CHA appeals the Planning Commission's June 18, 2024, denial of use permits that would have provided CHA with an exception to the City's covered parking standards contained in Section 17.36.040, Table 3-3 of the Municipal Code.

As staff explained on June 18, 2024, numerous covered carports on the Properties experienced catastrophic failures during a severe winter storm in February 2023, and many more showed signs of failure. Although CHA received some insurance proceeds from its carriers, CHA was required to expend a significant amount of those funds to simply demolish and remove the damaged carports from the Properties in early 2023.

Until the February 2023 storm, these three Properties and two other federal/state assisted multi-family developments were the only affordable housing projects in the City that featured covered parking. Although 17.36.040(N), Table 3-3 of the City's Municipal Code generally requires covered parking spaces for market rate units, under California Density Bonus Law, Government Code, § 65915, *et seq.*, affordable housing projects have the ability to request waivers from parking standards, including covered parking. This waiver opportunity was not available to CHA at the time the project was first developed, as those provisions of the Density Bonus Law were not in effect, as explained by staff.

A. Forcing CHA to Reconstruct the Carports Is Financially Infeasible, and Would Undermine the Viability of the Capability of the Properties to Provide Affordable Housing for the City's Residents

CHA is very concerned about the requirement that it reinstall the carports. CHA has long known that the carports are financially infeasible, and that any such requirement would divert much-needed funds from upgrades required to modernize the Properties. At the request of the Planning Commission, CHA performed extensive research and outreach to potential funding sources. Unfortunately, those efforts did not bear fruit, and simply confirmed the construction of carports would be financially infeasible.

Since the Planning Commission meeting, CHA is in the process of renewing property insurance policies for all three Properties. Collectively insurance premiums have increased by 67% over last year, one property in particular has increased 107% with a \$500,000 deductible for weight of snow and ice. In the event CHA reconstructs the carports and the carports fail again (due to, *inter alia*, a major snow event), the property will be required to pay the deductible of \$500,000 in order to replace the carports for a third time to conform with the City's Municipal Code. Premiums and deductibles of this magnitude would not merely result in deferring capital expenditures for modernization; they would threaten the viability of the Properties as affordable housing developments. In other words, the carports are not just financially infeasible—their reinstallation would pose a significant liability for CHA and undermine its effort to provide affordable housing to the City's residents.

Attachment "A"

As a result of the foregoing, coupled with the fact that nearly all of the other affordable housing developments in the City lack carports, it would be counterproductive to require CHA to divert its funding to reinstall the carports.

B. The City Has a Duty to Affirmatively Further Fair Housing

The purpose of the Use Permits is to accommodate the continuing viability of affordable housing in the City. Reversing the Planning Commission will demonstrate the City is meeting its obligation to Affirmatively Further Fair Housing consistent with State and Federal law.

Specifically, the City has the duty to "administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing." (Govt. Code, § 8899.50, subd. (b)(1) [emphasis added].) As recognized by City Staff, if the Properties were new development, there is no dispute that they would be entitled to request a waiver from the covered parking requirement. And the Use Permits merely seek an approval that would maintain the continuing viability of the Properties as affordable housing, and the Density Bonus Law specifically allows the City to afford "additional allowance or incentives" to "developers" of affordable housing projects. (Govt. Code, § 65915.7.) Further, the Planning Commission specifically recognized that there were far better uses for CHA's limited funds, and that, if the City "stick[s] to the letter of the law" (i.e., the Municipal Code's covered carport requirement), the City would be undermining access to affordable housing.

Thus, by mandating a financially infeasible requirement that under similar circumstances would not be required, the denial of the Use Permits would result in the City failing to meet its obligation to Affirmatively Further Fair Housing.

C. The Use Permits Meet Each Element Required Under the Municipal Code

The Planning Commission's decision should also be overturned because the Projects meet all of the requirements for the issuance of a Use Permit under Section 17.72.060 of the Municipal Code.

First, the proposed use "is consistent with the general plan and any applicable specific plan."

Second, the "proposed use is allowed within the applicable zone and complies with all other applicable provisions of this development code and the Municipal Code." The affordable housing developments, each comply with the zoning and the other provisions of the development code and the municipal code. CHA is solely seeking a waiver of one minor code requirement that would admittedly be allowed if this were new development.

Third, the "design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity." The affordable housing

developments are well-maintain developments in a residential zoning district. And what CHA is seeking is identical to the benefits other affordable housing projects in the vicinity enjoy.

Fourth, the "site is physically suitable" for the site and "would not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zone in which the property is located." In fact, the site has been without covered carports since February 2023 without any such concerns.

Although CHA was not required to seek a variance or a minor variance, CHA also notes that this Project would have also met the standards under Section 17.72.070 of the Municipal Code. That provision allows for a variance (i) due to "special circumstances applicable to the property," and (ii) where "strict application of the development standards" would deny "the property owner privileges enjoyed by other property owners in the vicinity...." Here, there are numerous special circumstances, including the destruction caused by the unusually strong snowstorms in February 2023, and the fact that the relevant portions of the Density Bonus Law were not in place at the time the Project was constructed. And the strict application of the zoning code would deny CHA the benefits available to every other affordable housing development in Grass Valley with one sole exception.

D. The Planning Commission Relied Upon Impermissible Factors to Deny the Use Permit

Throughout the Planning Commission meeting, there were numerous comments raised about needing a "level playing field," "everybody is in the same boat," and "following the rules on the books" that were there to begin with. These comments suggest the Properties were being evaluated against market rate housing as opposed to other affordable housing developments. This is an unfair comparison, given that all but two of the federal/state assisted affordable housing developments in the City lack covered carports.

A reversal of the Planning Commission would also allow the City to comply with the Planning and Zoning Law and the Fair Employment and Housing Act (FEHA), under which it is unlawful to discriminate against development intended for lower income persons. (Martinez v. City of Clovis (2023) 90 Cal.App.5th 193.) Comparing an affordable housing development run by a non-profit that is required to keep lease rates far below market rates with a market rate housing development is exactly the type of comparison that perpetuates or could predictably result in a disparate impact on lower income persons. This is particularly true given that such a requirement would be financially infeasible for CHA.

E. The City Should Apply the Density Bonus Law to the Use Permits

Throughout the public hearing, the City referred to the concessions in the Density Bonus Law as only applying to new development. However, the definitions of "housing development" and "housing development project" are not specifically limited to undeveloped properties, and the Use Permits at issue here support, and are necessary for the ongoing viability of, a "housing development project." And, in any event, the Density Bonus Law specifically allows the City to afford "additional allowance or incentives" to "developers" of affordable housing projects. (Govt. Code, § 65915.7.)

F. The Planning Commission's Denial Findings Were Not Supported By Substantial Evidence

The Planning Commission found there was insufficient evidence to prove a variance to zero covered parking. This finding is not supported by substantial evidence. As demonstrated in the Staff Report for the June 18, 2024, meeting, CHA went above and beyond to explore feasible alternatives to provide covered parking with its remaining funds. Conversely, no evidence was presented to suggest the provision of additional covered carports would be feasible. As a result, the Planning Commission's finding was not supported by substantial evidence.



PLANNING COMMISSION May 21, 2024

Prepared by:	Lucy Rollins, Senior Planner
DATA SUMMARY	
Application Number: Subject:	24PLN-08, 24PLN-09, 24PLN-10 Use Permit applications for reductions in the covered parking requirement for multifamily residential
Location/APNs:	210 Sutton Way / APN 035-412-004 228 Sutton Way / APN 035-412-003 265 Sutton Way / APN 035-412-025
Applicant: Representatives: Zoning/General Plan: Entitlement: Environmental Status:	Cascade Housing Association Denni Ragsdale and Kristi Isham Multiple Family Residential (R-3) / Urban High Density (UHD) Use Permit Common Sense Exemption (Section 15061(b)(3))

RECOMMENDATION:

- 1. That the Planning Commission approve the Use Permit applications for the exception to the covered parking standard for multifamily residential at 210, 228, and 265 Sutton Way as presented, or as modified by the review authority, which includes the following:
 - a. Determine the proposed project at 210 Sutton Way (24PLN-08) Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the staff report;
 - b. Determine the proposed project at 265 Sutton Way (24PLN-09) Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the staff report;
 - c. Determine the proposed project at 228 Sutton Way (24PLN-10) Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the staff report;
 - d. Adopt Findings of Fact for approval of the Use Permits as presented in the Staff Report; and
 - e. Approve the Use Permits for the reduction to the covered parking requirements subject to the Conditions of Approval, attached to the Staff Report.

BACKGROUND:

210 Sutton Way (Cedar Park Apartments): The existing 81-unit multifamily apartment complex was built in 2004, according to Nevada County Assessor's Office Records. The units include 80 deed-restricted low-income units, comprised of 36 two-bedroom units, 32 three-bedroom units, and 12 four-bedroom units. The facility also includes one two-bedroom manager's unit. The complex encompasses 13 residential structures, one community building, and a play area in the center of the complex. The project was approved with 193 parking spaces, 81 of which were covered by freestanding carports to comply with parking standards.

228 Sutton Way (Oak Ridge Apartments): The existing 80-unit multifamily apartment complex was built in 1998, according to City records. The units include 79 deed-restricted very low-income units, comprised of 24 two-bedroom units, 31 three-bedroom units, and 24 four-bedroom units. The facility also includes one three-bedroom manager's unit. The complex encompasses 14 residential structures and one community building. The project was approved with 144 parking spaces, 67 of which were covered by freestanding carports to comply with parking standards.

265 Sutton Way (Glenbrook Apartments): The existing 52-unit multifamily apartment complex was built in 2005, according to City records. The units include 51 deed-restricted low-income units, comprised of 23 two-bedroom units and 28 three-bedroom units. The facility also includes one two-bedroom manager's unit. The complex encompasses 7 residential structures and one community building. The project was approved with 110 parking spaces, 56 of which were covered by freestanding carports to comply with parking standards.

In February 2023, a winter storm caused several of the carports to collapse under the snow load at each of the three complexes, and many more began to show signs of failure (Attachment 3). Following this damage, the applicant filed an insurance claim with Farmers Insurance and received \$178,149.91 for the damage to the carports at Cedar Park Apartments, \$177,499.76 for Oak Ridge Apartments, and \$128,103.06 for Glenbrook Apartments (Attachment 5). The removal of all carports by Element 26 Contracting cost \$60,000 for Cedar Park Apartments, \$48,000 for Oak Ridge Apartments, and \$39,000 for Glenbrook Apartments according to invoices from the contractor (Attachment 6). These demolition costs left approximately \$118,000, \$129,500, and \$\$89,000 remaining of the claim payouts for each complex, respectively.

At the time of demolition, the applicant did not pull a Demolition Permit from the City for the removal of the carports. However, in March 2023, a Building Permit application was submitted to the City to add to and update the lighting in each complex. City staff became aware of the need for a Demolition Permit and replacement of the removed carports and informed the applicant. The applicant immediately applied for and received a retroactive Demolition Permit after providing the required documentation.

PROJECT PROPOSAL:

The Use Permit applications are for an exception to the covered parking requirement for multifamily housing established in Section 17.36.040, Table 3-3 of the Grass Valley Municipal Code, seeking to allow all parking at 210, 228, and 265 Sutton Way apartment complexes to be uncovered. The parking requirements for multifamily housing with two or more units are as follows:

• Studio and 1-bedroom units: 1 covered space per unit plus 1 space for each 5 units for guest parking

• 2-bedroom and larger units: 2 covered space per unit plus 1 space for each 5 units for guest parking

Section 17.36.080.B of the Municipal Code allows for a reduction in the required parking spaces through a use permit or minor use permit (depending on the amount of reduction requested) based on quantitative information provided by the applicant that documents the need for fewer spaces. In this case, the applicant is not seeking a reduction in the total number of spaces, but a reduction in the number of covered spaces to a degree that requires a Use Permit.

While a separate application was filed for each property, these Use Permits are presented as one item for consideration as they are the same request by the same owner for neighboring properties.

According to a December 2023 quote from Element 26 Contracting, the cost to replace the carports at each of the three apartment complexes would be \$436,000 for Cedar Park Apartments (210 Sutton Way), \$348,800 for Oak Ridge Apartments (228 Sutton Way), and \$261,600 for Glenbrook Apartments (265 Sutton Way). In comparison, as stated previously, the remaining balance from the claim payouts for each complex is approximately \$118,000 for Cedar Park Apartments, \$129,500 for Oak Ridge Apartments, and \$89,000 for Glenbrook Apartments.

Cascade Housing Association is an affordable housing provider that has been operating the deed-restricted units at Cedar Park Apartments, Oak Ridge Apartments, and Glenbrook Apartments since their respective completion dates. As deed-restricted complexes, the operator cannot increase rents to cover the costs in the same manner a for-profit operator might. Further, the State of California passed Senate Bill 721 in 2018, which requires additional inspections, and possible improvements, for exterior elevated elements (i.e., decks, balconies, stairways) on all buildings with three or more multifamily dwellings by January 1, 2025. The applicant expressed to staff that the financial burden of replacing the carports exceeds the available funding for operation while also meeting State requirements and providing adequate lighting throughout the complex, and therefore requests an exception to covered parking requirements.

GENERAL PLAN AND ZONING:

General Plan: The Urban High Density (UHD) General Plan designation is intended to accommodate town house or row house styles, higher density apartments, and condominiums without distinction as to owner- or renter-occupancy.

Zoning: The Multiple Family Residential (R-3) zone is applied to areas of the city that are appropriate for a variety of higher density housing types, located in proximity to parks, schools, and public services. The R-3 zone is consistent with and implements the Urban High Density (UHD) designation of the General Plan. Chapter 17.36 outlines the parking requirements for multifamily housing units, as described previously in this staff report. Additionally, Section 17.36.080 of the Development Code requires the review authority to make a finding that the applicant has provided sufficient documentation for the need for a reduction in parking standards. This finding is contained in the Findings section below.

SITE DESCRIPTION AND ENVIRONMENTAL SETTING:

210 Sutton Way (Cedar Park Apartments): The subject site is located on the west side of Sutton Way north of the Dorsey Drive intersection. The site was developed in 2004 with the Cedar Park Apartments, which includes 13 residential structures, one community structure, and a park. There are no waterbodies or streams located on the property.

228 Sutton Way (Oak Ridge Apartments): The subject site is located on the east side of Sutton Way north of the Dorsey Drive intersection. The site was developed in 1998 with the Oak Ridge Apartments, which includes 14 residential structures and one community structure. There are no waterbodies or streams located on the property.

265 Sutton Way (Glenbrook Apartments): The subject site is located on Sutton Way south of the Plaza Drive intersection. The site was developed in 2005 with the Glenbrook Apartments, which includes 7 residential structures and one community structure. There are no waterbodies or streams located on the property.

ENVIRONMENTAL DETERMINATION:

The proposed projects are exempt from CEQA under State CEQA Guidelines Section 15601(b)(3) (Common Sense Exemption). This section states that an "activity is covered by the common sense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There is no possibility that the proposed exception from the covered parking requirement will result in a physical change to the environment. Each property is fully developed with residential structures, community structures, and paved parking areas. Currently, there are no carports on the sites. The proposal would not result in any development and, therefore, would not disturb the physical environment. Any future development would be subject to review under Chapter 17.72 of the Grass Valley Municipal Code and CEQA. Therefore, no further environmental review is required.

FINDINGS:

The approval of Use Permits for an exception to the multifamily covered parking requirement at 210, 228, and 265 Sutton Way shall first require the review authority to make the following findings:

- 1. The City received a complete application for Use Permit Applications 24PLN-08, 24PLN-09, and 24PLN-10.
- 2. The Planning Commission reviewed the projects in compliance with the California Environmental Quality Act and concluded that the projects qualify for Common Sense Exemptions in accordance with the California Environmental Quality Act and CEQA Guidelines Section 15601(b)(3).
- 3. A reduction in parking standards, as allowed by Section 17.36.070 of the Grass Valley Municipal Code, may include a reduction in the number of covered parking spaces.
- 4. The applicant has provided sufficient quantitative information, pursuant to Section 17.36.070, to document a need for a reduction/elimination of the covered parking standard.

- 5. The proposed project is consistent with the general plan and any applicable specific plan.
- 6. The proposed project is allowed within the applicable zone and complies with all other applicable provisions of this development code and the Municipal Code; and
- 7. The site is physically suitable for the project and will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood.

RECOMMENDED CONDITIONS:

- 1. The approval date for Planning Commission review is <u><TBD></u> with an effective date of Thursday, <u><TBD></u> pursuant to Section 17.74.020 GVMC.
- 2. The applicant agrees to defend, indemnify, and hold harmless the City of Grass Valley in any action or proceeding brought against the City of Grass Valley to void or annul this discretionary land use approval.

ATTACHMENTS:

- 1. Universal Applications
- 2. Use Permit Applications
- 3. Carport Failures
- 4. Construction Proposals
- 5. Insurance Claims
- 6. Demolition Invoices
- 7. Site Plans
- 8. CalHFA Regulatory Agreements
- 9. CTCAC Regulatory Agreements

CITY OF GRASS VALLEY Community Development Department 125 E. Main Street Grass Valley, California 95945 (530) 274-4330 (530) 274-4399 fax

UNIVERSAL PLANNING APPLICATION

* DUE WITH EVERY PLANNING APPLICATION *



Application Types

Admini	istrative Limited Term Permit \$698.00 Zoning Interpretation \$224.00	Sign R	Reviews Minor – DRC, Historic Distr or other districts having spe \$313.00 Major – Master Sign Progra	ecific design criteria
Develo	pment Review		\$1,279.00 Exception to Sign Ordinand	e
	Minor Development Review – 10,000 or less sq. ft. \$1,813.00		\$964.00	
	Major Development Review – over 10,000 sq. ft. \$3,293.00 Conceptual Review - Minor \$459.00 Conceptual Review – Major \$782.00 Plan Revisions – Staff Review \$316.00 Plan Revisions – DRC / PC Review \$831.00		visions Tentative Map (4 or fewer I \$3,493.00 Tentative Map (5 to 10 lots \$4,857.00 Tentative Map (11 to 25 lot \$6,503.00 Tentative Map (26 to 50 lot \$8,915.00 Tentative Map (51 lots or m) s) s)
	Extensions of Time – Staff Review		\$13,049.00	
	\$282.00 Extensions of Time – DRC / PC Review \$607.00		Minor Amendment to Appro (staff) \$1,114.00 Major Amendment to Appro	oved Map
Entitlen			(Public Hearing) \$2,436.00 Reversion to Acreage	
	Annexation \$7,843.00 (deposit) Condominium Conversion \$4,923.00 (deposit) Development Agreement – New		\$765.00 Tentative Map Extensions \$1,047.00 Tentative Map - Lot Line Ac \$1,200.00	ljustments
	\$18,463.00 (deposit) Development Agreement – Revision \$6,903.00 General Plan Amendment	Use Pe		eview
	\$7,377.00 Planned Unit Development \$8,150.00 (minimum charge) + 100.00 / dwelling		Major Use Permit - Plannin \$3,035.00	g Commission Review
	unit and / or \$100 / every 1,000 sq. ft. commercial floor area Specific Plan Review - New Actual costs - \$16,966.00 (deposit) Specific Plan Review - Amendments / Revisions	Varian	ces Minor Variance - Staff Revi \$518.00 Major Variance - Planning \$2,029.00	
	Actual costs - \$6,986.00 (deposit) Zoning Text Amendment		Application	Fee
	\$3,102.00 Zoning Map Amendment			
	\$5,073.00			
	imental Environmental Review – Initial Study \$1,713.00			
	Environmental Review – EIR Preparation \$31,604.00 (deposit)			
	Environmental Review - Notice of Determination \$149.00 (+ Dept. of Fish and Game Fees) Environmental Review - Notice of Exemption			
	\$149.00(+ County Filing Fee)		Total:	\$

Below is the Universal Planning Application form and instructions for submitting a complete planning application. In addition to the Universal Planning Application form, a project specific checklist shall be submitted. All forms and submittal requirements must be completely filled out and submitted with any necessary supporting information.

Upon receipt of the <u>completed forms, site plan/maps, and filing fees</u>, the Community Development Department will determine the completeness of the application. This review will be completed as soon as possible, but within thirty (30) days of the submittal of the application. If the application is determined to be complete, the City will begin environmental review, circulate the project for review by agencies and staff, and then schedule the application for a hearing before the Planning Commission.

If sufficient information <u>has not</u> been submitted to adequately process your application, you will receive a notice that your application is incomplete along with instructions on how to complete the application. Once the City receives the additional information or revised application, the thirty (30) day review period will begin again.

Since the information contained in your application is used to evaluate the project and in the preparation of the staff report, it is important that you provide complete and accurate information. Please review and respond to each question. If a response is not applicable, N/A should be used in the space provided. Failure to provide adequate information could delay the processing of your application.

Additional information may be obtained at <u>www.cityofgrassvalley.com</u> regarding the 2020 General Plan and Zoning. You may also contact the Community Development Department for assistance.

ADVISORY RE: FISH AND GAME FEE REQUIREMENT

Permit applicants are advised that pursuant to Section 711.4 of the Fish and Game Code a fee of **\$3,539.25** for an Environmental Impact Report and **\$2,548.00** for a Negative Declaration* shall be paid to the County Recorder at the time of recording the Notice of Determination for this project. This fee is required for Notices of Determination recorded after January 1, 1991. A Notice of Determination cannot be filed and any approval of the project shall not be operative, vested, or final until the required fee is paid. This shall mean that building, public works and other development permits cannot be approved until this fee is paid. These fees are accurate at the time of printing, but **increase the subsequent January 1**st of each year.

This fee is <u>not</u> a Grass Valley fee; it is required to be collected by the County pursuant to State law for transmission to the Department of Fish and Game. This fee was enacted by the State Legislature in September 1990, to be effective January 1, 1991.

*If the City finds that the project will not have an impact on wildlife resources, through a De Minimus Impact Finding, the City will issue certificate of fee exemption. Therefore, this fee will not be required to be paid at the time an applicant files the Notice of Determination with the County Recorder. The County's posting and filing fees will still be required.

Applicant/Representative	Property Owner
Name: Kristi Isham / Denni Ragsdale	Name: Cascade Housing Association
Address: P.O. Box 182	Address: P.O. Box 182
Springfield, OR 97477	Springfield, OR 97477
Phone: 931-224-3886 / 916-813-0783	Phone: 541-726-6181
E-mail: kristi.isham@cascadehousing.org / denni.ragsdale@cascadehousing.org	E-mail: kristi.isham@cascadehousing.or

Architect	Engineer	
Name:	Name:	
Address:	Address:	
Phone: ()	Phone: ()	
E-mail:	E-mail:	

1. Project Information

- a. Project Name Cedar Park Apartments
- b. Project Address 210 Sutton Way, Grass Valley, CA 95945
- c. Assessor's Parcel No(s) 35-412-04-000 (include APN page(s))
- d. Lot Size Approximately 8.70 acres
- 2. Project Description Cedar Park Apartments is an 81 unit multifamily affordable housing apartment complex that is rent restricted to 50%-60% average median income. There are a total of 14 buildings (13 residential and 1 community building) with a total of 80 residential units (consisting of 36 two-bedroom, 32 three-bedroom, 12 four-bedroom) and 1 two-bedroom manager's unit. All 80 residential units are income and rent restricted in accordance with the regulatory agreements recorded on title with both California Tax Credit Allocation Committee (CTCAC) and California Housing Finance Agency (CalHFA).

3. General Plan Land Use: Currently Exists

4. Zoning District:

4. Cortese List: Is the proposed property located on a site which is included on the Hazardous Waste and Substances List (Cortese List)? Y _____ N x___

The Cortese List is available for review at the Community Development Department counter. If the property is on the List, please contact the Planning Division to determine appropriate notification procedures prior to submitting your application for processing (Government Code Section 65962.5).

- 5. Indemnification: The City has determined that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney's fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of this permit, or the activities conducted pursuant to this permit. Accordingly, to the fullest extent permitted by law, the applicant shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney's fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of this permit, or the activities conducted pursuant to this permit. Applicant shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.
- **6. Appeal:** Permits shall not be issued until such time as the appeal period has lapsed. A determination or final action shall become effective on the 16th day following the date by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 17.91 of the City's Development Code.

The 15-day period (also known as the "appeal" period in compliance with Chapter 17.91) begins the first full day after the date of decision that the City Hall is open for business, and extends to the close of business (5:00 p.m.) on the 15th day, or the very next day that the City Hall is open for business.

I hereby certify, to the best of my knowledge, that the above statements are correct.

Property Owner/*Representative Signature:	Signature:	KRISTI ISHAM (Mar 22, 2024 13:09 PDT)	
	Email:	kristi.isham@cascadehousing.org	

*Property owner must provide a consent letter allowing representative to sign on their behalf.

Applicant Signature: _	Signature: KRISTI ISHAM (Mar 22, 20)	24 13:09 PDT)	
	Email: kristi.isham@c	ascadehousing.org	
The second s	OFFICE	USE ONLY	Ster L
Application No.:		Date Filed:	
Fees Paid by:		Amount Paid:	
Other Related Applica	ation(s):		-

CITY OF GRASS VALLEY Community Development Department 125 E. Main Street Grass Valley, California 95945 (530) 274-4330 (530) 274-4399 fax

UNIVERSAL PLANNING
APPLICATION

DUE WITH	EVERY I	PLANNING	APPLICATION *
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Application Types

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	\$6,903.00		Minor Use Permit - Staff Re	eview/
	General Plan Amendment		\$480.00	
	\$7,377.00	\checkmark	Major Use Permit - Plannin	g Commission Review
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	unit and / or \$100 / every 1,000 sq. ft.		Minor Variance - Staff Revi	ew
	commercial floor area Specific Plan Review - New		\$518.00	
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Applicant/Representative	Property Owner
Name: Kristi Isham / Denni Ragsdale	Name: Cascade Housing Association
Address: P.O. Box 182	Address: P.O. Box 182
Springfield, OR 97477	Springfield, OR 97477
Phone: 931-224-3886 / 916-813-0783	Phone: 541-726-6181
E-mail: kristi.isham@cascadehousing.org / denni.ragsdale@cascadehousing.org	E-mail: kristi.isham@cascadehousing.or

Architect	Engineer		
Name:	Name:		
Address:	Address:		
Phone: ()	Phone: ()		
E-mail:	E-mail:		

1. Project Information

- a. Project Name Glenbrook Apartments
- b. Project Address 265 Sutton Way, Grass Valley, CA 95945
- c. Assessor's Parcel No(s) 035-412-025-000 (include APN page(s))
- d. Lot Size Approximately 4.57 acres
- 2. Project Description Glenbrook Apartments is an 52 unit multifamily affordable housing apartment complex that is rent restricted at or below 60% average median income. There are a total 8 buildings (7 residential and 1 community building) with a total of 51 residential units (23 two-bedroom, and 28 three-bedroom units) and 1 two-bedroom manager unit. All 51 residential units are income and rent restricted in accordance with the regulatory agreements recorded on title with both California Tax Credit Allocation Committee (CTCAC) and California Housing Finance Agency (CalHFA).

3. General Plan Land Use: Currently Exists 4. Zoning District:

4. Cortese List: Is the proposed property located on a site which is included on the Hazardous Waste and Substances List (Cortese List)? Y ____ N X___

The Cortese List is available for review at the Community Development Department counter. If the property is on the List, please contact the Planning Division to determine appropriate notification procedures prior to submitting your application for processing (Government Code Section 65962.5).

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I hereby certify, to the best of my knowledge, that the above statements are correct.

Property Owner/*Repr	esentative Signature:	Signature: KRISTI ISHAM (Mar 22, 2024 13:05 PDT)
*Property owner mu	ist provide a consent le	Email: kristi.isham@cascadehousing.org etter allowing representative to sign on their behalf.
Applicant Signature:	Signature: KRISTLISHAM (Mar 2	22, 2024 13:05 PDT)
		n@cascadehousing.org
Ellice with other states to	OFFI	ICE USE ONLY
Application No.:		Date Filed:

Amount Paid:

Fees Paid by: Other Related Application(s):

Page 4 of 4

CITY OF GRASS VALLEY Community Development Department 125 E. Main Street Grass Valley, California 95945 (530) 274-4330 (530) 274-4399 fax

Application Types

UNIVERSAL PLANNING APPLICATION

*	DUE	WITH	EVERY	PLANNING	APPLICATION	*
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Administrative **Sign Reviews** Limited Term Permit Minor - DRC, Historic District, Monument Signs \$698.00 or other districts having specific design criteria **Zoning Interpretation** \$313.00 \$224.00 Major - Master Sign Programs \$1,279.00 **Development Review** Exception to Sign Ordinance Minor Development Review - 10,000 or less sq. ft. \$964.00 \$1,813.00 Major Development Review - over 10,000 sq. ft. Subdivisions \$3,293.00 Tentative Map (4 or fewer lots) Conceptual Review - Minor \$3,493.00 \$459.00 Tentative Map (5 to 10 lots) Conceptual Review - Major \$4,857.00 \$782.00 Tentative Map (11 to 25 lots) Plan Revisions - Staff Review \$6,503.00 \$316.00 Tentative Map (26 to 50 lots) Plan Revisions - DRC / PC Review \$8,915.00 \$831.00 Tentative Map (51 lots or more) Extensions of Time - Staff Review \$13,049.00 \$282.00 Minor Amendment to Approved Map Extensions of Time - DRC / PC Review (staff) \$1,114.00 \$607.00 Major Amendment to Approved Map (Public Hearing) \$2,436.00 Entitlements Reversion to Acreage Annexation \$765.00 \$7,843.00 (deposit) **Tentative Map Extensions Condominium Conversion** \$1.047.00 \$4,923.00 (deposit) Tentative Map - Lot Line Adjustments Development Agreement - New \$1,200.00 \$18,463.00 (deposit) **Development Agreement – Revision Use Permits** \$6,903.00 Minor Use Permit - Staff Review General Plan Amendment \$480.00 \$7,377.00 Major Use Permit - Planning Commission Review Planned Unit Development \$3,035.00 \$8,150.00 (minimum charge) + 100.00 / dwelling Variances unit and / or \$100 / every 1,000 sq. ft. Minor Variance - Staff Review commercial floor area \$518.00 Specific Plan Review - New Major Variance - Planning Commission Review Actual costs - \$16,966.00 (deposit) \$2,029.00 Specific Plan Review - Amendments / Revisions Actual costs - \$6,986.00 (deposit) Application Fee **Zoning Text Amendment** \$3,102.00 Zoning Map Amendment \$5,073.00 Environmental Environmental Review - Initial Study \$1,713.00 Environmental Review - EIR Preparation \$31,604.00 (deposit) Environmental Review - Notice of Determination \$149.00 (+ Dept. of Fish and Game Fees) Environmental Review - Notice of Exemption \$149.00(+ County Filing Fee) \$ Total:

Below is the Universal Planning Application form and instructions for submitting a complete planning application. In addition to the Universal Planning Application form, a project specific checklist shall be submitted. All forms and submittal requirements must be completely filled out and submitted with any necessary supporting information.

Upon receipt of the <u>completed forms, site plan/maps, and filing fees</u>, the Community Development Department will determine the completeness of the application. This review will be completed as soon as possible, but within thirty (30) days of the submittal of the application. If the application is determined to be complete, the City will begin environmental review, circulate the project for review by agencies and staff, and then schedule the application for a hearing before the Planning Commission.

If sufficient information <u>has not</u> been submitted to adequately process your application, you will receive a notice that your application is incomplete along with instructions on how to complete the application. Once the City receives the additional information or revised application, the thirty (30) day review period will begin again.

Since the information contained in your application is used to evaluate the project and in the preparation of the staff report, it is important that you provide complete and accurate information. Please review and respond to each question. If a response is not applicable, N/A should be used in the space provided. Failure to provide adequate information could delay the processing of your application.

Additional information may be obtained at <u>www.cityofgrassvalley.com</u> regarding the 2020 General Plan and Zoning. You may also contact the Community Development Department for assistance.

ADVISORY RE: FISH AND GAME FEE REQUIREMENT

Permit applicants are advised that pursuant to Section 711.4 of the Fish and Game Code a fee of **\$3,539.25** for an Environmental Impact Report and **\$2,548.00** for a Negative Declaration* shall be paid to the County Recorder at the time of recording the Notice of Determination for this project. This fee is required for Notices of Determination recorded after January 1, 1991. A Notice of Determination cannot be filed and any approval of the project shall not be operative, vested, or final until the required fee is paid. This shall mean that building, public works and other development permits cannot be approved until this fee is paid. These fees are accurate at the time of printing, but **increase the subsequent January 1**st of each year.

This fee is <u>not</u> a Grass Valley fee; it is required to be collected by the County pursuant to State law for transmission to the Department of Fish and Game. This fee was enacted by the State Legislature in September 1990, to be effective January 1, 1991.

*If the City finds that the project will not have an impact on wildlife resources, through a De Minimus Impact Finding, the City will issue certificate of fee exemption. Therefore, this fee will not be required to be paid at the time an applicant files the Notice of Determination with the County Recorder. The County's posting and filing fees will still be required.

Applicant/Representative	Property Owner
Name: Kristi Isham / Denni Ragsdale	Name: Cascade Housing Association
Address: P.O. Box 182	Address: P.O. Box 182
Springfield, OR 97477	Springfield, OR 97477
Phone: 931-224-3886 / 916-813-0783	Phone: 541-726-6181
E-mail: kristi.isham@cascadehousing.org / denni.ragsdale@cascadehousing.org	E-mail: kristi.isham@cascadehousing.or

Architect	Engineer
Name:	Name:
Address:	Address:
Phone: ()	Phone: ()
E-mail:	E-mail:

1. Project Information

- a. Project Name Oak Ridge Apartments
- b. Project Address 228 Sutton Way, Grass Valley, CA 95945
- c. Assessor's Parcel No(s) 035-412-003-000 (include APN page(s))
- d. Lot Size Approximately 4.8 acres
- 2. Project Description Oak Ridge Apartments is an 80 unit multifamily affordable housing apartment complex that is rent restricted at or below 45% average median income. There are a total 15 buildings (14 residential and 1 community building) with a total of 79 residential units (24 two-bedroom, 31 three-bedroom and 24 four-bedroom) and 1 three-bedroom manager's unit. All 79 residential units are income and rent restricted in accordance with the regulatory agreement recorded on title with California Tax Credit Allocation Committee (CTCAC).

3. General Plan Land Use: Currently Exists

4. Zoning District:

4. Cortese List: Is the proposed property located on a site which is included on the Hazardous Waste and Substances List (Cortese List)? Y ____ N X___

The Cortese List is available for review at the Community Development Department counter. If the property is on the List, please contact the Planning Division to determine appropriate notification procedures prior to submitting your application for processing (Government Code Section 65962.5).

- 5. Indemnification: The City has determined that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney's fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of this permit, or the activities conducted pursuant to this permit. Accordingly, to the fullest extent permitted by law, the applicant shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney's fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of this permit, or the activities conducted pursuant to this permit. Applicant shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.
- **6. Appeal:** Permits shall not be issued until such time as the appeal period has lapsed. A determination or final action shall become effective on the 16th day following the date by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 17.91 of the City's Development Code.

The 15-day period (also known as the "appeal" period in compliance with Chapter 17.91) begins the first full day after the date of decision that the City Hall is open for business, and extends to the close of business (5:00 p.m.) on the 15th day, or the very next day that the City Hall is open for business.

I hereby certify, to the best of my knowledge, that the above statements are correct.

Property Owner/*Representative Signature:	Signature:	KRISTI ISHAM (Mar 22, 2024 13:06 PDT)
		kristi.isham@cascadehousing.org
*Property owner must provide a consent le	etter allowing	representative to sign on their behalf.

Applicant Signature:	Signature: KRISTLISHAM (Mar 22, 2024	13:06 PDT)	
	Email: kristi.isham@ca	scadehousing.org	
	OFFICE U	SE ONLY	
Application No.:		Date Filed:	
Fees Paid by:		Amount Paid:	
Other Related Applica	ation(s):		



SUPPLEMENTAL APPLICATION INFORMATION

This document will provide necessary information about the proposed project. It will also be used to evaluate potential environmental impacts created by the project. Please be as accurate and complete as possible in answering the questions. Further environmental information could be required from the applicant to evaluate the project.

PLEASE PRINT CLEARLY OR TYPE USE A SEPARATE SHEET, IF NECESSARY, TO EXPLAIN THE FOLLOWING:

- I. <u>Project Characteristics:</u>
 - A. Describe all existing buildings and uses of the property: Cedar Park Apartments is located at 210 Sutton Way, and consist of 13 two-story residential buildings and 1 community building. There are a total of 80 low-income residential units and 1 manager's unit, with affordability levels ranging from 50%-60% average median income (AMI). The unit mix of the apartments are as follows: 36 two-bedroom units, 32 three-bedroom units, 12 four-bedroom units, and a two-bedroom manager's unit. This is 100% multifamily, income restricted, tax credit funded housing development that holds regulatory agreements with both California Tax Credit Allocation Committee as well as California Housing Finance Agency.

B. Describe surrounding land uses:

North: Residential multifamily apartments

South: Care center for eldery

East: Office building, Sutton Way and Vacant Commercial Land

West: Mobile home housing park

- C. Describe existing public or private utilities on the property: Public utilities currently exists on site.
- D. Proposed building size (list by square feet, if multiple stories, list square feet for each floor): Currently conforming use.
- E. Proposed building height (measured from average finished grade to highest point): <u>Currently</u> conforming use.
- F. Proposed building site plan: building coverage Sq. Ft. % of site (1)(2) surfaced area Sq. Ft. % of site landscaped area % of site Sa. Ft. (3) % of site (4) left in open space Sq. Ft. Total 100 % Sq. Ft.
- G. Construction phasing: If the project is a portion of an overall larger project, describe future phases or extension. Show all phases on site plan. <u>Currently existing conforming use.</u>

- H. Exterior Lighting:
 - Identify the type and location of exterior lighting that is proposed for the project.
 - Describe how new light sources will be prevented from spilling on adjacent properties or roadways.

- I. Total number of parking spaces required (per Zoning Code): Requesting reduction of covered parking spaces required by zoning code from 80 to zero (0) covered parking spaces. parking spaces per each two-bedroom unit or larger.
- J. Total number of parking spaces provided: <u>164 parking spaces</u>
- K. Will the project generate new sources of noise or expose the project to adjacent noise sources? Legal conforming property
- L. Will the project use or dispose of any potentially hazardous materials, such as toxic substances, flammables, or explosives? If yes, please explain: No
- M. Will the project generate new sources of dust, smoke, odors, or fumes? If so, please explain: No

II. Project Characteristics:

- A. Days of operation (e.g., Monday Friday): Currently existing
- B. Total hours of operation per day: Currently existing Times of operation (e.g., 8 - 5, M - F): Currently existing
- C. If fixed seats involved, how many: <u>N/A</u> If pews or benches, please describe how many and the total length: <u>N/A</u>

D. Total number of employees: Currently exists (Property Management staff and Maintenance staff)

E.	Anticipated	number of	emplovees	on largest shift:	2
				5	_

III. If an outdoor use is proposed as part of this project, please complete this section.

A. Type of use:

Sales <u>N/A</u> Manufacturing <u>N/A</u>	Processing <u>N/A</u> Other <u>N/A</u>	Storage <u>N/A</u>
B. Area devoted to outdoor use (show	wn on site plan).	
Square feet/acres Currently exists	Percentage of site	Currently exists
C. Describe the proposed outdoor us	Basketball half court, children play	ground area, multiple BBQ & picnic areas

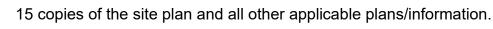
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	One com	pleted	copy c	f Universa	al Application	form.
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The appropriate non-refundable filing fee.

B. Site Plan:

Site Plan size – one 8-1/2" x 11", 15 larger folded copies (folded to 9" x 12") with one 8.5 by 11 reduced copy and e-mail electronic .pdf file.



Graphic scale and north arrow.

Show location and dimensions of existing and proposed structures and walls (identify existing as a solid line and proposed as a dashed line).

Item # 6.

Label the use of all existing and proposed structures or area.	ltem # 6.
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				5	_

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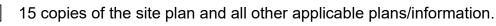
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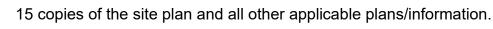
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Item # 6.

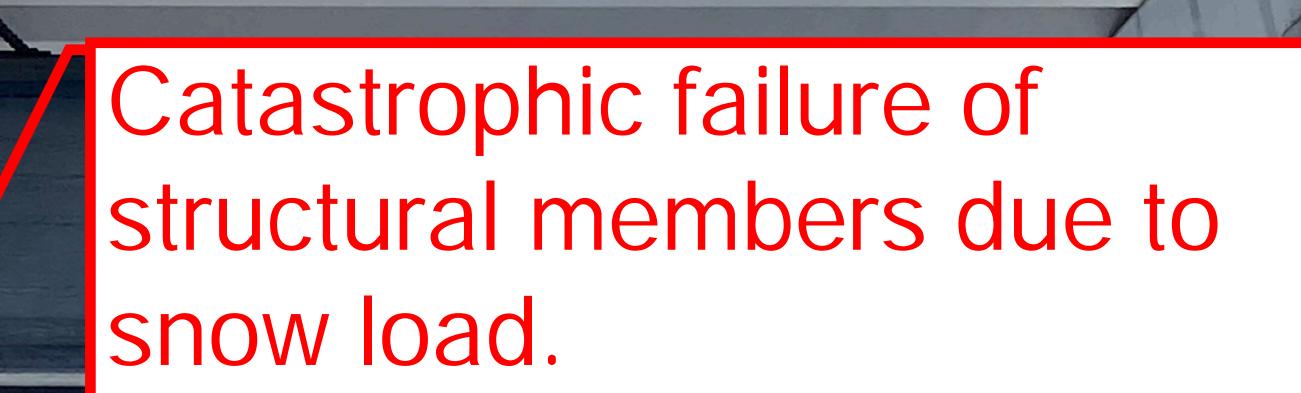
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Show location and size of all proposed and existing signs, fences and walls.		
Show location and general dimensions of water courses and drainage ways on the including any proposed modifications.	site,	



Structural members twisting due to snow load. This type of failure was typical throughout.











Structural members twisting due to snow load. This type of failure was typical throughout.





Catastrophic failure of vertical structural members. Carport was partially collapsed and was demolished immediately due to tenant safety. ltem # 6.





columns. Additionally, this shows twisting of steel due to failure.

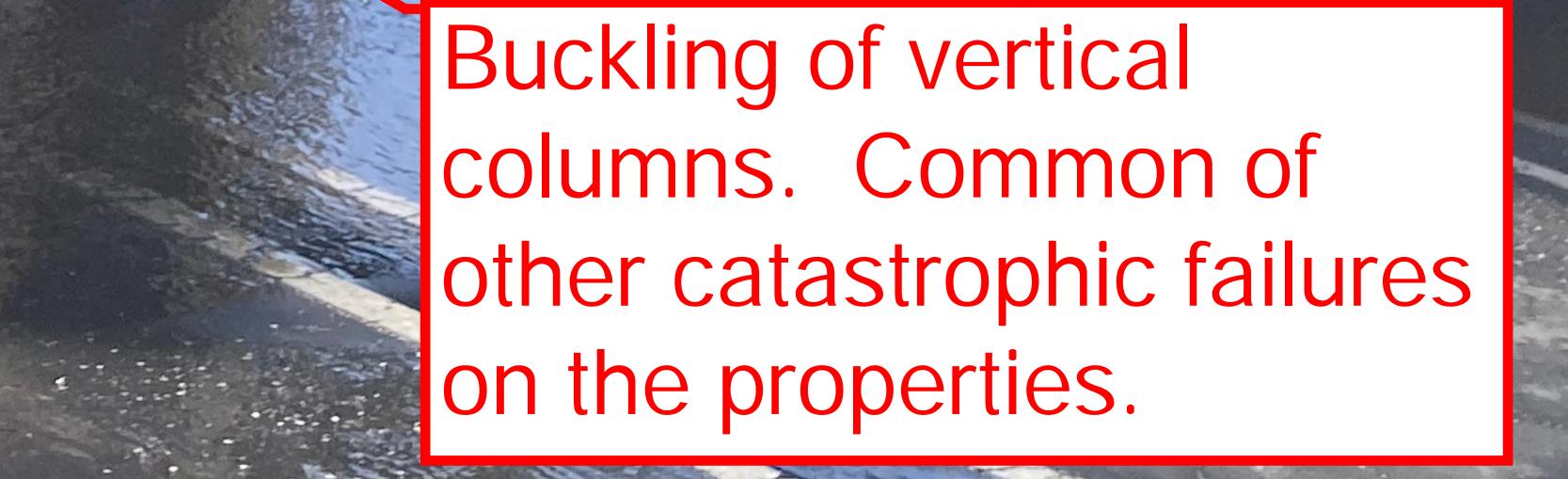




Buckling of vertical columns. Common of

NS-

10



Item # 6.



Beginning of failure at structural steel. Cantilevered support steel buckling due to snow load.

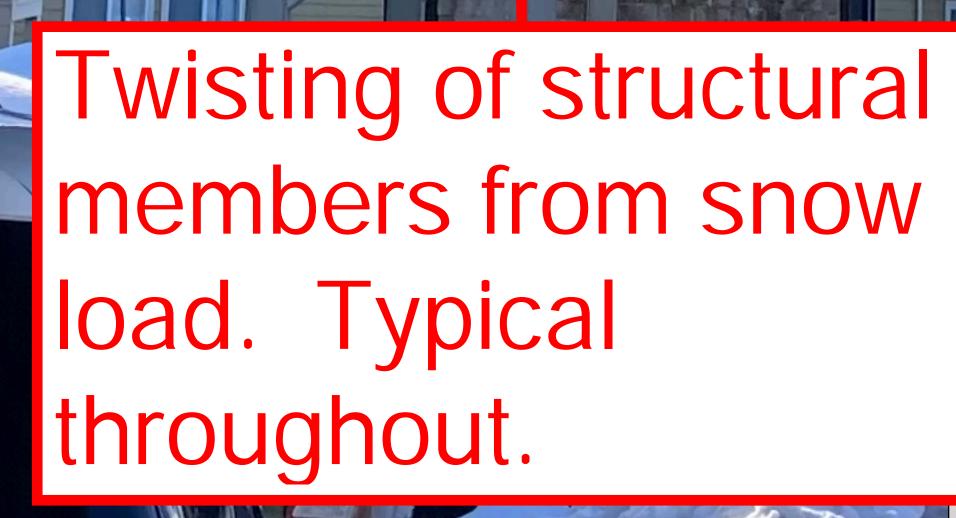






Twisting of structural members from snow load. Typical throughout.







Cantilevered structural member buckling due to snow load. Typical throughout.



X

And the second second second





Twisting of structural members from snow load. Typical throughout.







Common evidence of failures on a majority of car ports. Structural steel twisting due to snow load.

Page 107

Catasrophic failure from snow load. This type of failure was evident in almost all carports, but most commonly higher up the column near the mechanical connections ltem # 6.





Beginning stage of failure at structural steel. This shows buckling at the mechanical connections of the cantilevered portion of the structural members.

EULARE







Twisting of structural member. Additionally, this carport is beginning to collapse from snow load. It is heavily tilted forward due to the weight of the snow and vertical columns weakening.

-Sta



ATTACHMENT B

Construction Proposal

Proposal #: 23-031



							-0
Date:	1 December 2	023 Office:	(916) 919-1167	,	Fax:	(916) 295-1135	
By:	Joshua Bryant	Email:	Joshua@eleme	<u>nt26.us</u>	Cell Phone:	(916) 919-1167	
To:	Cascade Ho	using Association	Attn:	Kristi Isha	m		
Addres	ss: POB 182						
	Springfield,	OR 97477					
Phone:	: (541) 726-6	181	Cell:				
Fax:			Email:	<u>kristi.isha</u>	am@cascadel	nousing.org	
Site / P	Project:	Glenbrook, Oal	< Ridge and Ceda	ir Park Car	Ports		
		Grass Valley					
Adden	da Noted:	NONE					
Prevail	ing Wages:	NO					
Plans D	Date:	NONE					
Abater	ment Report:	NONE					

Thank you for considering Element 26 Contracting for the above-mentioned project. If you have any questions regarding this proposal, please feel free to contact me at the above noted numbers. We look forward to working with you!

Proposed Scope of Work

Carport Structures:

Provide and install new steel covered parking structures.

- Structures will be semi-cantilever design and engineered to exceed current city snow load specifications
- Structures will come pre-painted to owner's color choice

Provide plans for submittal to city for new structures

Provide structural engineering and associated calculations for new structures

Provide electrical engineering for installation of new lighting at structures

Sawcut, break and remove parking lot asphalt for new structural pole bases

- Includes excavation of holes for new pole bases
- Includes hammering of old footings where required to accommodate new footings
- Includes on site utility locates to prevent damage to unmarked utilities. If utilities are found to conflict with new footings, re-routing of those utilities is not included in this proposal.

Sawcut, break and remove parking lot asphalt and sidewalks for new electrical conduits for new lighting.

- Includes trenching, not to exceed 18" wide and depth not to exceed 24"

Provide new LED lighting for new parking structures.

- Includes new wiring and updating panel schedules

Dowel and re-pour concrete sidewalks from removal for conduits

- Does not include re-sloping of concrete or correction of other onsite concrete conditions. We are only repouring to match existing conditions.

Pour concrete for new structure bases

Concrete footing size and PSI will be based on engineer's calculations

Patch asphalt from removal for bases and conduits

Includes providing base rock and compaction as needed.

Re-stripe parking lot as needed from asphalt removal

Provide protection measures as needed for open trenches and tenant safety

TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, GLENBROOK, 12 UNITS: \$261,600.00	.00
--	-----

TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, OAK RIDGE, 16 UNITS: \$348,800.00

TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, CEDAR PARK, 20 UNITS: \$436,000.00

Does not include:

- Permit Fees
- Landscaping repair (owners landscaping contractor)

Exclusions (UNLESS NOTED ABOVE)

- 1. All work not specifically included above is excluded. Work scope is limited to the quantities noted above.
- 2. Excludes demo of ceramic tile flooring and mortar bed, grout, thinset. Excludes removal of epoxy coatings.
- 3. Jobsite temporary power is to be provided by others.
- 4. Temporary water to be provided by others (on site use).
- 5. Weekends, Holidays, and Overtime work is excluded.
- 6. Excludes Liquidated Damages and Retention.
- 7. Testing, handling, and removal of Hazardous, Regulated, or Toxic materials, including refrigerant recovery other than those specifically itemized above.
- 8. Concealed materials not visible, unless indicated on plans.

Terms and Conditions of This Proposal

- 1. All work to be done in a single mobilization; additional moves charged as extras.
- 2. If any discrepancy exists or is discovered between the terms of this Proposal and any other written agreement, contract, subcontract, specification, drawing, etc. on the project, then the terms of this Proposal shall prevail. The terms of this Proposal have the highest precedence, and cancel all conflicting terms.
- 3. Pricing is good for 30 days from date of this Proposal, and is based on award of all bid items.

Assumptions and Limitations

- 1. Temporary power to be provided by others (onsite use).
- 2. Contractor to be able to use on site facilities during work hours.

ATTACHMENT B

Construction Proposal

Proposal #: 23-031

Datas

1 December 2022



Date:	1 December 2	023 Office:	(916) 919-116/		Fax:	(916) 295-1135	
By:	Joshua Bryant	Email:	Joshua@eleme	<u>nt26.us</u>	Cell Phone:	(916) 919-1167	
To:	Cascade Ho	using Association	Attn:	Kristi Ish	am		
Addres	s: POB 182						
	Springfield,	OR 97477					
Phone	: (541) 726-6 2	181	Cell:				
Fax:			Email:	<u>kristi.is</u> ł	am@cascadeh	nousing.org	
Site / F	Project:	Glenbrook, Oak	Ridge and Ceda	nr Park <mark>Ca</mark>	<mark>r Ports</mark>		
		Grass Valley					
Adden	da Noted:	NONE					
Prevail	ing Wages:	NO					
Plans [Date:	NONE					

Fax.

Thank you for considering Element 26 Contracting for the above-mentioned project. If you have any questions regarding this proposal, please feel free to contact me at the above noted numbers. We look forward to working with you!

Proposed Scope of Work

Carport Structures:

Provide and install new steel covered parking structures.

- Structures will be semi-cantilever design and engineered to exceed current city snow load specifications

Officer (016) 010 1167

- Structures will come pre-painted to owner's color choice

Provide plans for submittal to city for new structures

Provide structural engineering and associated calculations for new structures

Provide electrical engineering for installation of new lighting at structures

Sawcut, break and remove parking lot asphalt for new structural pole bases

- Includes excavation of holes for new pole bases
- Includes hammering of old footings where required to accommodate new footings
- Includes on site utility locates to prevent damage to unmarked utilities. If utilities are found to conflict with new footings, re-routing of those utilities is not included in this proposal.

Sawcut, break and remove parking lot asphalt and sidewalks for new electrical conduits for new lighting.

- Includes trenching, not to exceed 18" wide and depth not to exceed 24"

Provide new LED lighting for new parking structures.

- Includes new wiring and updating panel schedules

Dowel and re-pour concrete sidewalks from removal for conduits

- Does not include re-sloping of concrete or correction of other onsite concrete conditions. We are only repouring to match existing conditions.

Pour concrete for new structure bases

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Patch asphalt from removal for bases and conduits

Includes providing base rock and compaction as needed.

Re-stripe parking lot as needed from asphalt removal

Provide protection measures as needed for open trenches and tenant safety

TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, GLENBROOK, 12 UNITS	:) (\$261,600.00
--	------------------

TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, OAK RIDGE, 16 UNITS:	\$348,800.00
---	--------------

TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, CEDAR PARK, 20 UNITS: \$436,000.00

Does not include:

- Permit Fees
- Landscaping repair (owners landscaping contractor)

Exclusions (UNLESS NOTED ABOVE)

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- 4. Temporary water to be provided by others (on site use).
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- 6. Excludes Liquidated Damages and Retention.
- 7. Testing, handling, and removal of Hazardous, Regulated, or Toxic materials, including refrigerant recovery other than those specifically itemized above.
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- 2. Contractor to be able to use on site facilities during work hours.

ATTACHMENT B

Construction Proposal

~ ~ ~ ·

Proposal #: 23-031



Date:	1 December 2	.023 Office:	(916) 919-1167	,	Fax:	(916) 295-1135	
By:	Joshua Bryant	: Email:	Joshua@eleme	nt26.us	Cell Phone:	(916) 919-1167	
To:	Cascade Ho	using Association	Attn:	Kristi Ish	am		
Addres	ss: POB 182						
	Springfield,	OR 97477					
Phone	: (541) 726-6	181	Cell:				
Fax:			Email:	<u>kristi.ish</u>	am@cascadeh	nousing.org	
Site / F	Project:	Glenbrook, <mark>Oal</mark>	Ridge and Ceda	ar Park <mark>Ca</mark>	r Ports		
		Grass Valley					
Adden	da Noted:	NONE					
Prevail	ing Wages:	NO					
Plans D	Date:	NONE					
Abater	ment Report:	NONE					

(040) 040 440-

Thank you for considering Element 26 Contracting for the above-mentioned project. If you have any questions regarding this proposal, please feel free to contact me at the above noted numbers. We look forward to working with you!

Proposed Scope of Work

Carport Structures:

Provide and install new steel covered parking structures.

- Structures will be semi-cantilever design and engineered to exceed current city snow load specifications
- Structures will come pre-painted to owner's color choice

Provide plans for submittal to city for new structures

Provide structural engineering and associated calculations for new structures

Provide electrical engineering for installation of new lighting at structures

Sawcut, break and remove parking lot asphalt for new structural pole bases

- Includes excavation of holes for new pole bases
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- Includes on site utility locates to prevent damage to unmarked utilities. If utilities are found to conflict with new footings, re-routing of those utilities is not included in this proposal.

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--	-----

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TOTAL PRICE FOR ABOVE MENTIONED SCOPE OF WORK, CEDAR PARK, 20 UNITS: \$436,000.00

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- Landscaping repair (owners landscaping contractor)

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Assumptions and Limitations

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- 2. Contractor to be able to use on site facilities during work hours.

Attachment C

ltem # 6.

	Claim #:	5021781016-1		
	Insured:	OREGON INVESTORS	V	
FARMERS	GA:	Jeff Camacho	 Monday, M	arch 25, 2024
INSURANCE	DOL:	2/28/2023		
Truck Insurance Exchange			-	
BUILDING COVERAGE			BUILDING STAT	EMENT OF LOSS
Building Coverage		Policy limit:	\$ 16,790,000.00	
Xactimate Estimate				\$230,884.96
Element 26 Removal Invoice				\$60,000.00
Less Non-covered portion of Element 26	Invoice for 3			
carports				-\$9,000.00
Building Coverage Sub-Total:				\$281,884.96
	Replacer	ment Cost Gran	d Total:	\$281,884.96
	•			
Payable When Incurred	<less a<="" o&p="" th=""><th>ACV, Depreciation on O</th><th>&P, Tax></th><th></th></less>	ACV, Depreciation on O	&P, Tax>	
		verable Depreciation>		\$78,735.05
	<less non-r<="" th=""><td>Recoverable Depreciation</td><td>n></td><td></td></less>	Recoverable Depreciation	n>	
	Actual C	ash Value		\$203,149.91
				¢200,140101
	<less deduc<="" th=""><td>tible of \$25,000></td><td></td><td>\$25,000.00</td></less>	tible of \$25,000>		\$25,000.00
	Total Amour	. ,		\$178,149.91
				¢110,110.01
Description of Payment			Date of Payment	Amount of Payment
	<less p<="" prior="" th=""><th>ayments:></th><th>6/13/2023</th><th>\$178,149.91</th></less>	ayments:>	6/13/2023	\$178,149.91
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	<less p<="" prior="" th=""><td></td><td></td><td></td></less>			
	<less p<="" prior="" th=""><th></th><th></th><th></th></less>			
	<less p<="" prior="" th=""><th></th><th></th><th></th></less>			
TOTAL PRIOR PAYMENTS	- ' '	•	L	\$178,149.91
	This Payme	nt:		\$0.00

Attachment C

ltem # 6.

FARMERS INSURANCE Truck Insurance Exchange	Claim #: Insured: GA: DOL:	7006217336-1 OREGON INVESTORS V Jeff Camacho 3/7/2023	-	arch 25, 2024
BUILDING COVERAGE			BUILDING STAT	FEMENT OF LOSS
Building Coverage		Policy limit:	\$ 9,588,100.00	
Xactimate Estimate				\$167,202.03
Element 26 Removal Invoice				\$39,000.00
		_		
Building Coverage Sub-Total:				\$206,202.03
	Replace	ment Cost Grand	d Total:	\$206,202.03
Payable When Incurred	<less o&p<="" td=""><td>ACV, Depreciation on O8</td><td>₽. Tax></td><td></td></less>	ACV, Depreciation on O8	₽. Tax>	
· · · · · · · · · · · · · · · · · · ·		verable Depreciation>	,	\$53,098.97
		Recoverable Depreciatior	۱>	
		ash Value		\$153,103.06
				\$100,100.00
	<less dedu<="" td=""><td>ctible of \$25,000></td><td></td><td>\$25,000.00</td></less>	ctible of \$25,000>		\$25,000.00
	Total Amou			\$128,103.06
				• • • • • • • • • • • • • • • • • • •
Description of Payment			Date of Payment	Amount of Payment
	<less p<="" prior="" th=""><th>payments:></th><th></th><th>\$39,000.00</th></less>	payments:>		\$39,000.00
	<less p<="" prior="" th=""><th></th><th></th><th>\$89,103.06</th></less>			\$89,103.06
	<less p<="" prior="" th=""><th></th><th></th><th></th></less>			
	<less p<="" prior="" th=""><th>payments:></th><th></th><th></th></less>	payments:>		
	<less p<="" prior="" th=""><th>payments:></th><th></th><th></th></less>	payments:>		
TOTAL PRIOR PAYMENTS				\$128,103.06
	This Payme	nt:		\$0.00

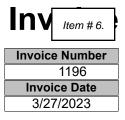
Attachment C

ltem # 6.

	Claim #:	5021822222-1		
	Insured:	OREGON INVESTORS	V	
FARMERS	GA:	Jeff Camacho	 Monday, M	arch 25, 2024
INSURANCE	DOL:	3/7/2023		
Farmers Insurance Exchange			_	
BUILDING COVERAGE				EMENT OF LOSS
Building Coverage		Policy limit:	\$ 18,277,100.00	
Xactimate Estimate				\$261,132.03
Element 26 Removal Invoice				\$48,000.00
Less Non-covered portion of Element 26	Invoice for 1			
carport				-\$3,000.00
Building Coverage Sub-Total:				\$306,132.03
	Replace	ment Cost Gran	d Total:	\$306,132.03
	•			. ,
Payable When Incurred	<less a<="" o&p="" td=""><td>ACV, Depreciation on O</td><td>&P. Tax></td><td></td></less>	ACV, Depreciation on O	&P. Tax>	
		verable Depreciation>	,	\$103,682.27
		Recoverable Depreciation	n>	· · · · · · · · · · · · · · · · · · ·
		ash Value		\$202,449.76
	Actual O			\$202,445.70
	d ago Dodug	tible of \$25,000>		\$25,000.00
	Total Amou			\$177,449.76
	Total Amou	iit Due.		φ177,449.70
Description of Payment			Date of Payment	Amount of Payment
Becomption of Faymond	<less p<="" prior="" td=""><td>avmente:></td><td></td><td></td></less>	avmente:>		
	<less p<="" prior="" td=""><td></td><td></td><td></td></less>			
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	<pre><less <="" p="" pre="" prior=""></less></pre>			
	<less p<="" prior="" td=""><td>2</td><td></td><td></td></less>	2		
TOTAL PRIOR PAYMENTS		aymonto. [,]		\$0.00
	 This Payme	nt·		\$177,449,76

Element 26 Contracting

3277 Monier Cir Rancho Cordova, CA 95742 Phone: (916) 295-1130 Fax: (916) 295-1135



Bill To: Cambridge Real Estate Services P.O. Box 2968 Re: Cedar Park Apartments Parking

Portland, OR 97208

Grass Valley, CA

Our Job No	Customer Job No	Customer PO	Payment Terms	Due Date
23-004			Due Upon Receipt	3/27/2023
		Price		
Demolition of sin columns were. 2	nere the structural	60,000.00		

Subtotal	\$ 60,000.00
Total Due	\$ 60,000.00
Thank you for your business!	
	Page 122
	-

		AIA Type Do Application and Certific				<i>Item # 6.</i> Page 1 of 2
PO Box 182 Springfield, OR 97477		201 Sutton Way	ROJECT: Cedar Park Exterior Lighting 201 Sutton Way Grass Valley, CA 95945 APPLICATION NO: 1 PERIOD TO: 8/31/2023 /IA (ARCHITECT): ARCHITECT'S PROJECT NO:			DISTRIBUTION TO: _OWNER _ARCHITECT
		VIA (ARCHITECT):				_ CONTRACTOR
CONTRACT FOR:				CONTRACT DATE:		
CONTRACTOR'S APPI Application is made for Payment, as show Continuation Sheet, AIA Type Document	wn below, in connection with		belief the work co Contract Docume Certificates for P	d Contractor certifies that to the be overed by this application for Payr ents, that all amounts have been p ayment were issued and payment shown herein is now due.	ment has been complete baid by the Contractor fo	ed in accordance with the or Work for which previous
1. ORIGINAL CONTRACT SUM	\$	2,000.00				
2. Net Change by Change Orders	\$	0.00	CONTRACTOR:	Element 26 Contracting 3277 Monier Cir Rancho Cordova	a CA 95742	
3. CONTRACT SUM TO DATE (Line 1	+ 2) \$	2,000.00				
4. TOTAL COMPLETED AND STORED TO DATE\$ 2,000.00			By:		Date:	
 5. RETAINAGE: a. <u>0.00</u>% of Completed Work b. <u>0.00</u>% of Stored Material 		<u>0.00</u> 0.00	State of: County of: Subscribed and s	/ Sworn to before me this	Day of	20
Total retainage (Line 5a + 5b)	\$	0.00	Notary Public: My Commission		, _	
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$	2,000.00	ARCHITE	CT'S CERTIFICAT	E FOR PAYM	ENT
7. LESS PREVIOUS CERTIFICATES FC (Line 6 from prior Certificate)	\$		In Accordance with the Contract Documents, based on on-site observations and the data com- prising the above application, the Architect certifies to owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated,the quality of the work			
8. CURRENT PAYMENT DUE		2,000.00	is in accordance AMOUNT CERT	with the Contract Documents, and IFIED.	d the Contractor is entit	tled to payment of the
9. BALANCE TO FINISH, INCLUDING F (Line 3 less Line 6)		0.00	AMOUNT CERT	IFIED	<u>\$</u>	
CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS		ion if amount certified differs from to on the Continuation Sheet that are		
Total changes approved in previous months by Owner	0.00	0.00	ARCHITECT: By:		Date:	
Total approved this Month	0.00	0.00	This Certificate is	s not negotiable. The AMOUNT C suance, Payment and acceptance	ERTIFIED is payable or	nly to the Contractor
TOTALS	0.00	0.00		her or Contractor under this Contra		
NET CHANGES by Change Order	0.00					Page 123

	AIA Type Document Application and Certification for Payment		Pag	<i>Item # 6.</i> e 2 of 2
TO (OWNER): Cascade Housing Association PO Box 182 Springfield, OR 97477	PROJECT: Cedar Park Exterior Lighting 201 Sutton Way Grass Valley, CA 95945	APPLICATION NO: 1 PERIOD TO: 8/31/2023	DISTRIBU TO: _ OWNER _ ARCHIT _ CONTRJ	ECT
FROM (CONTRACTOR): Element 26 Contracting 3277 Monier Cir Rancho Cordova, CA 95742	VIA (ARCHITECT):	ARCHITECT'S PROJECT NO:	_	

CONTRACT FOR:					CONTRACT DATE:				
ITEM	DESCRIPTION	SCHEDULE VALUE	PREVIOUS APPLICATIONS	COMPLETED THIS PERIOD	STORED MATERIAL	COMPLETED STORED	%	BALANCE	RETAINAGE
1	Electrical disconnects & safe-offs of demolished carport lighting	2,000.00	0.00	2,000.00	0.00	2,000.00	100.00	0.00	0.00
	REPORT TOTALS	\$2,000.00	\$0.00	\$2,000.00	\$0.00	\$2,000.00	100.00	\$0.00	\$0.00

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Element 26 Contracting

3277 Monier Cir Rancho Cordova, CA 95742 Phone: (916) 295-1130 Fax: (916) 295-1135

Inv	_ Item # 6.				
Invoice	e Number				
	1193				
Invoice Date					
3/27	7/2023				

Bill To: Cambridge Real Estate Services P.O. Box 2968 Re: Glenbrook Apartments Parking

Portland, OR 97208

Grass Valley, CA

Our Job No	Customer Job No			Due Date
23-006			Due Upon Receipt	3/27/2023
		Price		
Demolition of sin columns were. 1	ere the structural	30,000.00		
Hand demolition due to high voltage lines. 2 units @ \$4,500 each				9,000.00

Subtotal	\$ 39,000.00
Total Due Thank you for your business!	\$ 39,000.00
	Page 125

AIA Type Document Application and Certification for Payment						<i>Item # 6.</i> Page 1 of 2	
TO (OWNER): Cascade Housing Association P.O. Box 182 Springfield, OR 97477 FROM (CONTRACTOR): Element 26 Contracting 3277 Monier Cir Rancho Cordova, CA 95742		PROJECT: Glenbrook Ext 265 Sutton Wa Grass Valley, (ay	APPLICATION NO: 1 PERIOD TO:8/31/2023		DISTRIBUTION TO: _ OWNER _ ARCHITECT	
		VIA (ARCHITECT):		ARCHITECT'S PROJECT NO:		_ CONTRACTOR	
CONTRACT FOR:				CONTRACT DATE:			
CONTRACTOR'S APPI Application is made for Payment, as show Continuation Sheet, AIA Type Document	vn below, in connection with is attached.	the Contract.	belief the work co Contract Docume Certificates for P	I Contractor certifies that to the be overed by this application for Pay ents, that all amounts have been p ayment were issued and payment shown herein is now due.	ment has been complete baid by the Contractor fo	ed in accordance with the or Work for which previous	
1. ORIGINAL CONTRACT SUM				Flowent 00 Contraction			
2. Net Change by Change Orders			CONTRACTOR:	Element 26 Contracting 3277 Monier Cir Rancho Cordova	a, CA 95742		
3. CONTRACT SUM TO DATE (Line 1		\$2,000.00					
4. TOTAL COMPLETED AND STORED TO DATE 2,000.00			Ву:		Date:		
5. RETAINAGE: a. <u>0.00</u> % of Completed Work	*	0.00	State of: County of:	1			
b. <u>0.00</u> % of Stored Material	\$	0.00	Subscribed and S	Sworn to before me this	Day of	20	
Total retainage (Line 5a + 5b)	\$	0.00	Notary Public: My Commission	Expires :			
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$	2,000.00	ARCHITE	CT'S CERTIFICAT	E FOR PAYM	ENT	
7. LESS PREVIOUS CERTIFICATES FO (Line 6 from prior Certificate)		0.00	prising the above	In Accordance with the Contract Documents, based on on-site observations and the data com- prising the above application, the Architect certifies to owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated,the quality of the work			
8. CURRENT PAYMENT DUE	\$	2,000.00		with the Contract Documents, an			
9. BALANCE TO FINISH, INCLUDING F (Line 3 less Line 6)		0.00		IFIED	\$		
CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS		ion if amount certified differs from on the Continuation Sheet that are			
Total changes approved in previous months by Owner	0.00	0.00	ARCHITECT: By:		Date:	and amount certifica.y	
Total approved this Month	0.00	0.00	This Certificate is	s not negotiable. The AMOUNT C	ERTIFIED is payable or		
TOTALS	0.00	0.00	named herein. Issuance, Payment and acceptance of payment are without prejudice to any				
NET CHANGES by Change Order	0.00						

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	AIA Type Document Application and Certification for Payment		Pag	<i>Item # 6.</i> e 2 of 2
TO (OWNER): Cascade Housing Association P.O. Box 182 Springfield, OR 97477	PROJECT: Glenbrook Exterior Lighting 265 Sutton Way Grass Valley, CA 95945	APPLICATION NO: 1 PERIOD TO: 8/31/2023	DISTRIBU TO: _ OWNER _ ARCHIT CONTR/	ECT
FROM (CONTRACTOR): Element 26 Contracting 3277 Monier Cir Rancho Cordova, CA 95742	VIA (ARCHITECT):	ARCHITECT'S PROJECT NO:	_	

CONTRACT FOR:						CONTRACT DATE:			
ITEM	DESCRIPTION	SCHEDULE VALUE	PREVIOUS APPLICATIONS	COMPLETED THIS PERIOD	STORED MATERIAL	COMPLETED STORED	%	BALANCE	RETAINAGE
1	Electrical disconnects & safe-offs of demolished carport lighting	2,000.00	0.00	2,000.00	0.00	2,000.00	100.00	0.00	0.00
	REPORT TOTALS	\$2,000.00	\$0.00	\$2,000.00	\$0.00	\$2,000.00	100.00	\$0.00	\$0.00

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Element 26 Contracting

3277 Monier Cir Rancho Cordova, CA 95742 Phone: (916) 295-1130 Fax: (916) 295-1135



Bill To: Cambridge Real Estate Services P.O. Box 2968 Re: Oak Ridge Apartments Parking

Portland, OR 97208

Grass Valley, CA

Our Job No	Customer Job No	Customer PO	Payment Terms	Due Date	
23-005			Due Upon Receipt	3/27/2023	
		Price			
Description Price Demolition of single and double unit carports. Includes patching of asphalt where the structural columns were. 16 units @ \$3,000 each 48					

Subtotal	\$ 48,000.00
Total Due	\$ 48,000.00
Thank you for your business!	,
	Page 128
	1 age 120

AIA Type Document Application and Certification for Payment						<i>Item # 6.</i> Page 1 of 2	
TO (OWNER): Cascade Housing Association P.O. Box 182 Springfield, OR 97477		PROJECT: Oak Ridge Exte 228 Sutton Way Grass Valley, C	y	APPLICATION NO: 1 PERIOD TO:8/31/2023		DISTRIBUTION TO: _OWNER _ARCHITECT	
FROM (CONTRACTOR): Element 26 Co 3277 Monier Ci Rancho Cordov	r	VIA (ARCHITECT):		ARCHITECT'S PROJECT NO:		_ CONTRACTOR	
CONTRACT FOR:				CONTRACT DATE:			
CONTRACTOR'S APPI Application is made for Payment, as show Continuation Sheet, AIA Type Document	vn below, in connection with		belief the work co Contract Docume Certificates for P	d Contractor certifies that to the be overed by this application for Pay ents, that all amounts have been p ayment were issued and payment shown herein is now due.	ment has been complet baid by the Contractor f	ted in accordance with the or Work for which previous	
1. ORIGINAL CONTRACT SUM	\$	2,000.00					
2. Net Change by Change Orders	\$	0.00	CONTRACTOR:	Element 26 Contracting 3277 Monier Cir Rancho Cordova	a CA 95742		
3. CONTRACT SUM TO DATE (Line 1	+ 2)\$	2,000.00					
4. TOTAL COMPLETED AND STORED	TO DATE\$	2,000.00	Ву:		Date:		
5. RETAINAGE: a. <u>0.00</u> % of Completed Work	\$	0.00	State of: County of:	1			
b. <u>0.00</u> % of Stored Material	\$	0.00	Subscribed and S	Sworn to before me this	Day of	20	
Total retainage (Line 5a + 5b)	\$	0.00	Notary Public: My Commission	Evnires ·			
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total)	\$	2,000.00			E FOR PAYM	ENT	
7. LESS PREVIOUS CERTIFICATES FC (Line 6 from prior Certificate)		0.00	In Accordance with the Contract Documents, based on on-site observations and the data com- prising the above application, the Architect certifies to owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the work				
8. CURRENT PAYMENT DUE	\$	2,000.00	is in accordance AMOUNT CERT	with the Contract Documents, an	d the Contractor is ent	itled to payment of the	
9. BALANCE TO FINISH, INCLUDING F (Line 3 less Line 6)		0.00		IFIED	\$		
	ADDITIONS	DEDUCTIONS		ion if amount certified differs from			
CHANGE ORDER SUMMARY Total changes approved in	ADDITIONS	DEDUCTIONS	Application and c ARCHITECT:	on the Continuation Sheet that are	changed to conform to	the amount certified.)	
previous months by Owner	0.00	0.00	By:		Date:		
Total approved this Month	0.00	0.00		s not negotiable. The AMOUNT C			
TOTALS	0.00	0.00	named herein. Issuance, Payment and acceptance of payment are wrights of the Owner or Contractor under this Contract.			Page 129	
NET CHANGES by Change Order	0.00						

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	AIA Type Document Application and Certification for Payment		Pag	<i>Item # 6.</i> e 2 of 2
TO (OWNER): Cascade Housing Association P.O. Box 182 Springfield, OR 97477	PROJECT: Oak Ridge Exterior Lighting 228 Sutton Way Grass Valley, CA 95945	APPLICATION NO: 1 PERIOD TO: 8/31/2023	DISTRIBU TO: _ OWNER _ ARCHIT _ CONTR/	ECT
FROM (CONTRACTOR): Element 26 Contracting 3277 Monier Cir Rancho Cordova, CA 95742	VIA (ARCHITECT):	ARCHITECT'S PROJECT NO:	_	

CONTRACT FOR:				CONTRACT DATE:					
ITEM	DESCRIPTION	SCHEDULE VALUE	PREVIOUS APPLICATIONS	COMPLETED THIS PERIOD	STORED MATERIAL	COMPLETED STORED	%	BALANCE	RETAINAGE
1	Electrical disconnects & safe-offs of demolished carport lighting	2,000.00	0.00	2,000.00	0.00	2,000.00	100.00	0.00	0.00
	REPORT TOTALS	\$2,000.00	\$0.00	\$2,000.00	\$0.00	\$2,000.00	100.00	\$0.00	\$0.00

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Cedar Park Apartments

210 Sutton Way

Total Income	Dec-23 \$97,644	Jan-24 \$98,656	Feb-24 \$104,093
Total Expenses	\$105,430	\$60,252	\$46,835
Financial Obligations	\$21,900	\$21,857	\$21,814
Net Profit/ <mark>(Loss)</mark>	(\$29,686)	\$16,547	\$35,444

Cost to install lighting without carport replacement

Insurance Claim Received	\$178,149.91
Demo Expense	(\$60,000.00) pd
Electrical Disconnects	(\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,011.00) pd
Future Light Permit	- (\$1,000.00) est.
Remaining Ins.	\$116,149.91
Parking Light Improvements	\$121,750.00 due
*Will be due from Owner	(\$5,600.09)

Cost to Replace Carports to City code requirement

Insurance Claim Received	\$178,149.91
Demo Expense	- (\$60,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,012.00) pd
Future Building Permit	- (\$1,000.00) est.
Remaining Ins.	\$113,878.91
Replace Carports & lighting	- \$436,000.00 due
*Will be due from owner	(\$322,121.09)

Estimated Costs to comply with State Bill 721

*Property will need to repair aproximately \$75,0

\$75,000-\$250,000

*In addition to approved path above

Glenbrook Apartments

265 Sutton Way

Total Income	Dec-23 \$62,810	Jan-24 \$62,886	Feb-24 \$62,087
Total Expenses	\$67,354	\$49,813	\$48,561
Financial Obligations	\$13,735	\$13,709	\$13,682
Net Profit/ <mark>(Loss)</mark>	(\$18,279)	(\$636)	(\$156)

Cost to install lighting without carport replacement

Insurance Claim Received	\$128,103.06
Demo Expense	- (\$39,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,011.00) pd
Future Light Permit	- (\$1,000.00) est.
Remaining Ins.	\$84,833.06
Parking Light Improvements	- \$89,000.00 due
*Will be due from Owner	(\$4,166.94)

Cost to Replace Carports to City code requirement

Insurance Claim Received	\$128,103.06
Demo Expense	- (\$39,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,011.00) pd
Future Building Permit	- (\$1,000.00) est.
Remaining Ins.	\$84,833.06
Replace Carports & lighting	- \$261,600.00 due
*Will be due from owner	(\$176,766.94)

Estimated Costs to comply with State Bill 721

*Property will need to repair aproximately

\$75,000-\$250,000

*In addition to approved path above

Oak Ridge Apartments

228 Sutton Way

Total Income	Dec-23 \$94,158	Jan-24 \$89,236	Feb-24 \$99,131
Total Expenses	\$123,230	\$107,833	\$86,337
Financial Obligations	\$12,429	\$12,812	\$12,783
Net Profit/(<mark>Loss)</mark>	(\$41,501)	(\$31,409)	\$11

Cost to install lighting without carport replacement

	8	
Insurance Claim Received		\$177,449.76
Demo Expense	-	(\$48,000.00) pd
Electrical Disconnects	-	(\$2,000.00) pd
Demo Permit	-	(\$260.00) pd
Universal Application	-	(\$1,012.00) pd
Future Lighting Permit	-	(\$1,000.00) est.
Remaining Ins.		\$125,177.76
Parking Light Improvements	-	\$129,450.00 due
*Will be due from owner		(\$4,272.24)

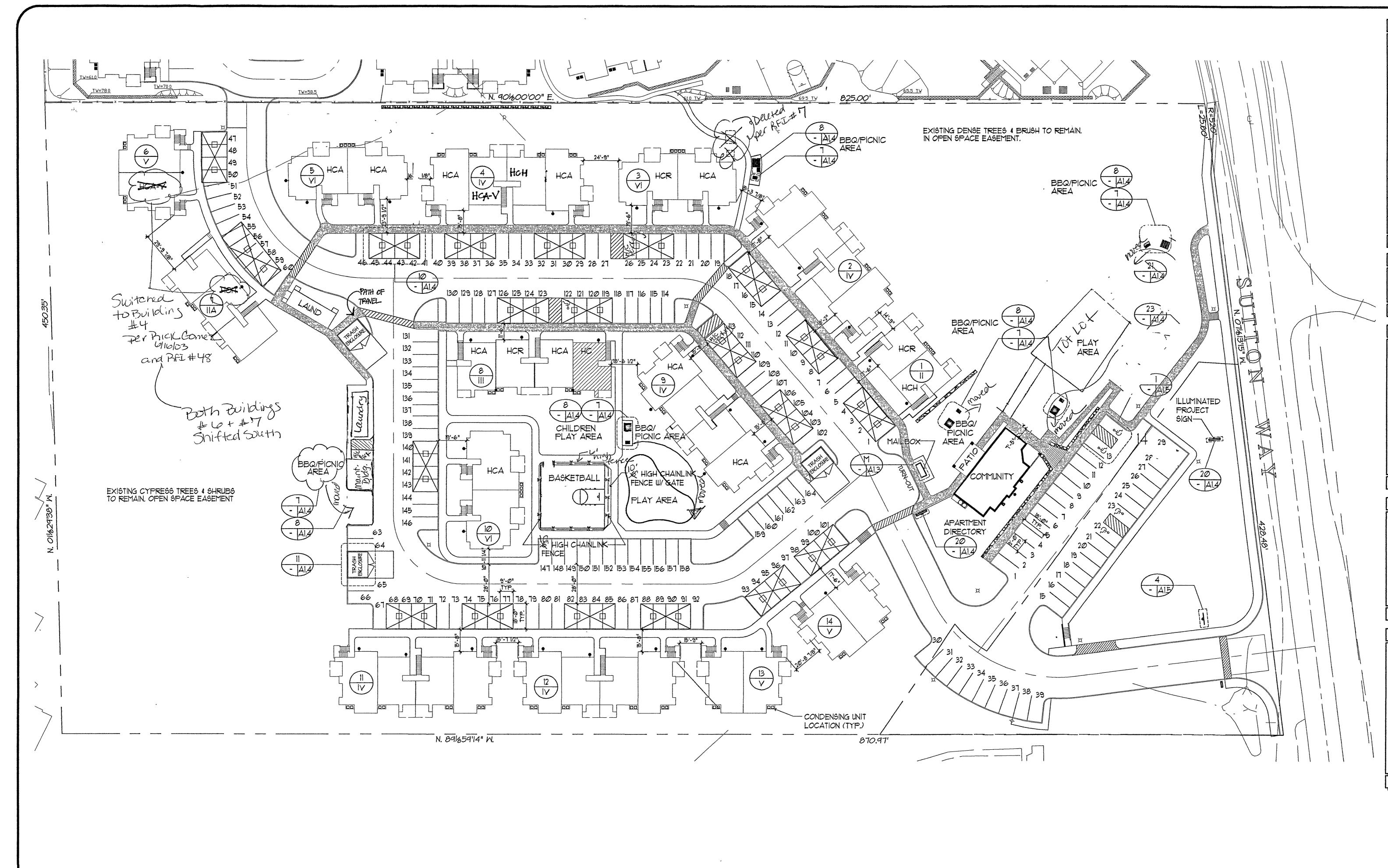
Cost to Replace Carports to City code requirement

Insurance Claim Received	\$177,449.76
Demo Expense	- (\$48,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$260.00) pd
Universal Application	- (\$1,012.00) pd
Future Building Permit	- (\$1,000.00) est.
Remaining Ins.	\$125,177.76
Replace Carports & lighting	- \$348,800.00 due
*Will be due from owner	(\$223,622.24)

Estimated Costs to comply with State Bill 721

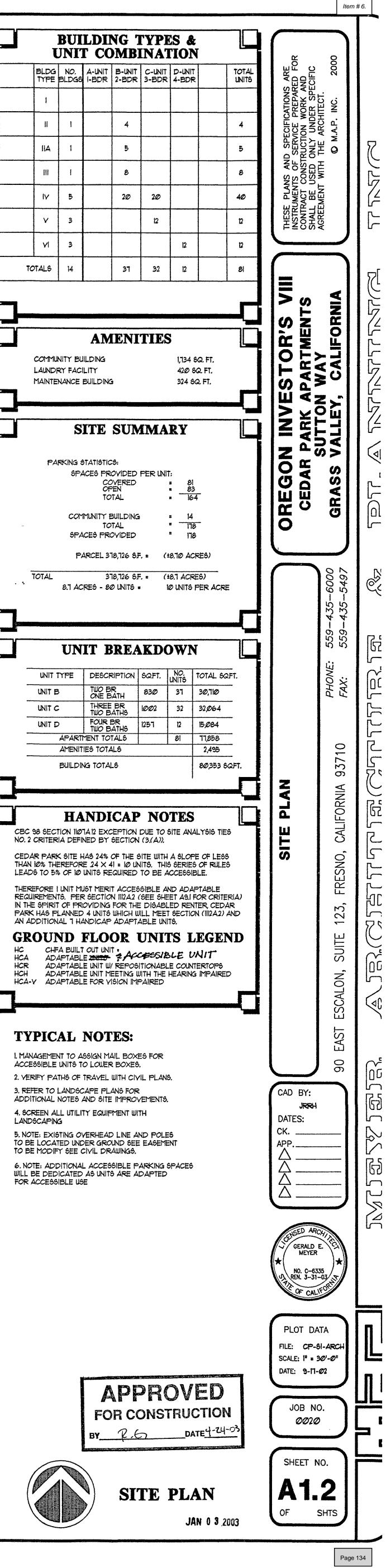
*Property will need to repair aproximately \$75,000-\$250,000

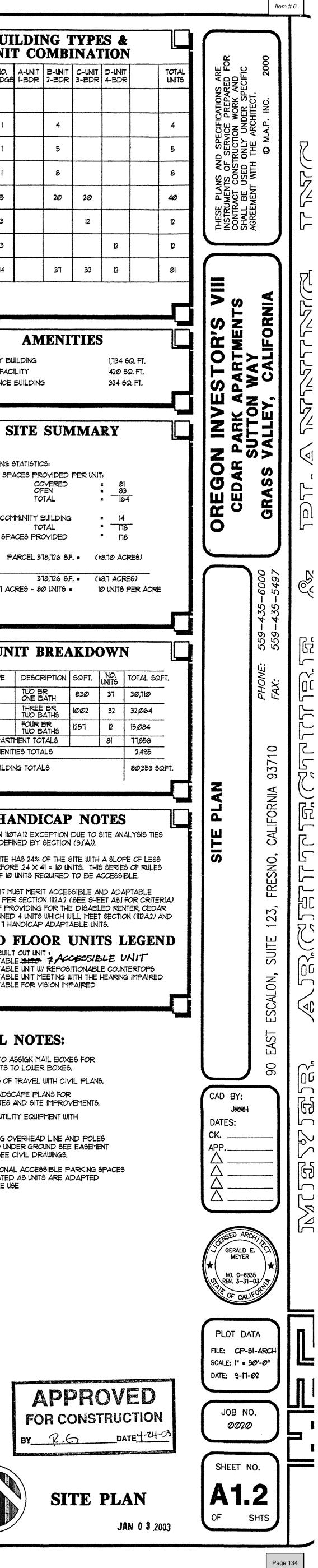
*In addition to approved path above



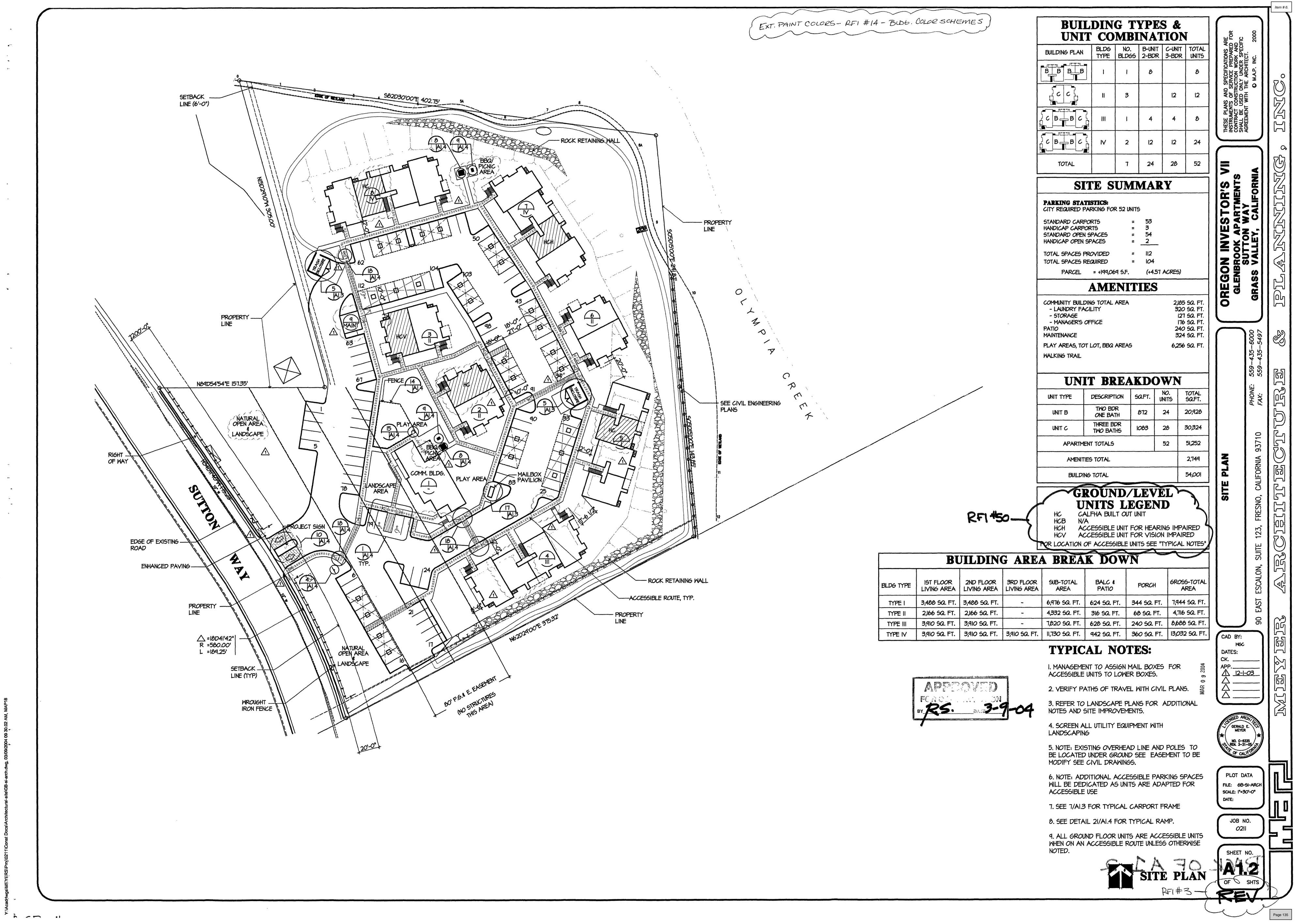
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SITE PLAN









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BUILDING AKEA BKEAK DOWN						
BLDG TYPE	IST FLOOR LIVING AREA	2ND FLOOR LIVING AREA	3RD FLOOR LIVING AREA	SUB-TOTAL AREA	BALC & PATIO	PORCH
TYPE I	3,488 SQ. FT.	3,488 SQ. FT.	-	6,976 SQ. FT.	624 SQ. FT.	344 SQ. FT.
TYPE II	2,166 SQ. FT.	2,166 SQ. FT.		4,332 SQ. FT.	316 SQ. FT.	68 5Q. FT.
TYPE III	3,910 SQ. FT.	3,910 SQ. FT.	***	7,820 SQ. FT.	628 SQ. FT.	240 SQ. FT.
TYPE IV	3,910 SQ. FT.	3,910 SQ. FT.	3,910 SQ. FT.	11,730 SQ. FT.	942 SQ. FT.	360 SQ. FT.

TELEPHONE SYSTEM NOTES:

IT IS THE INTENT OF TELEPHONE SYSTEM INFORMATION SHOWN HEREWITH TO ASSIST THE CONTRACTOR TO PROPERLY ESTIMATE THE JOB. THE CONTRACTOR SHALL COORDINATE WITH SERVICE PHONE COMPANY FOR SERVICE REQUIREMENTS.

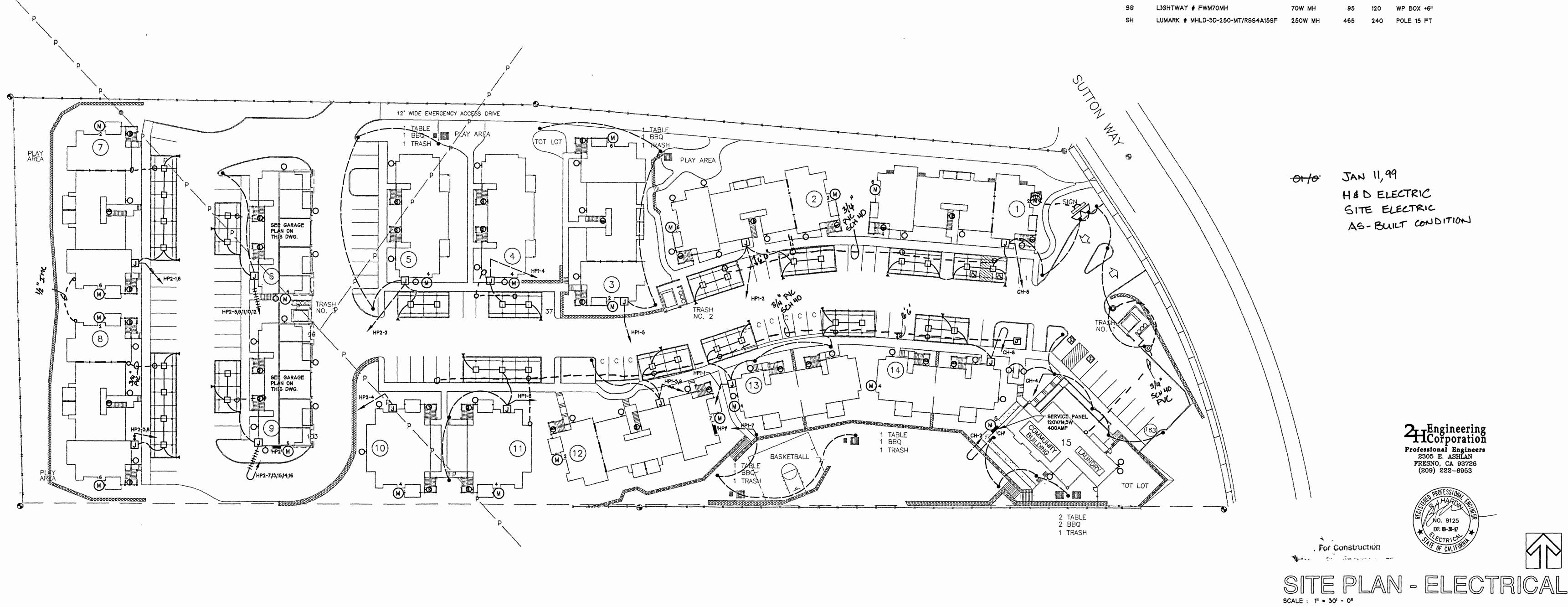
TELEPHONE SYSTEM RECOMMENDED PARTS LIST

- TELEPHONE TERMINAL CABINET, BENNER-NAWMAN # 24266 OR EQUAL 1. COMPLETE WITH 25 PAIR CONNECTING BLOCK, ONE PER EACH BUILDING LOCATE CABINET ADJACENT TO ELECTRIC METER. COORDINATE WITH
- POWER COMPANY TO UTILIZE COMMON TRENCH WHERE POSSIBLE.
- 2. TELEPHONE CABLE HOMERUN TO LAUNDRY/OFFICE BUILDING TELEPHONE ROOM 2" PVC SCH.40 CONDUIT WITH 25 PAIR AIRCORE CABLE, ONE PER EACH BUILDING
- 3. TELEPHONE JACKS, QUANTITY AS SHOWN ON ELECTRICAL PLAN ALT # 216-4

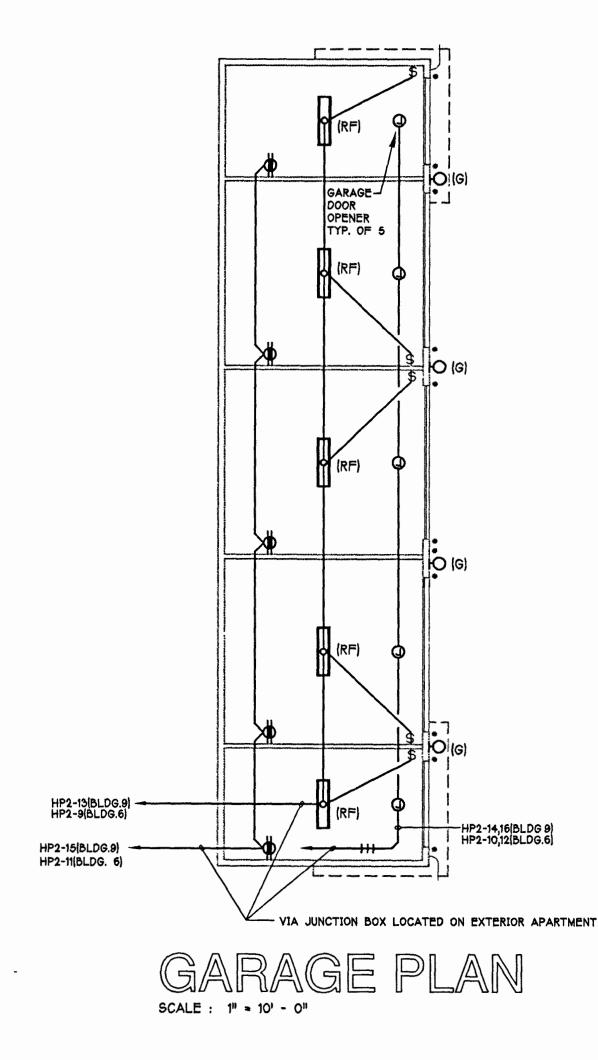
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4. INDOOR TELEPHONE CABLE, ATT 3 PAIR CABLE, ONE PER APARTMENT UNIT



TELE	•••••••••••••••••••••••••••••••••••••••	•••••••••••••••••••••••••••••••••••••••		
DISTR	IBUI	ION I	ABUL	ATION
BLDG	NO.	MIN.	NO.	TOTAL
NO.	OF	PAIR	OF	PAIR
	UNITS	REQ'D	BLDG	REQ'D
1,2,3,7,8,12	8	16	6	96
,5,6,9,10,11,13,14	4	8	8	64
OFFICE		6		6
TOTAL TER	MINAL CAF	ACITY		166



SITE SYMBOL LEGEND:

	TYPE	LAMP
	(SA)	50W HPS
Ю	(SB)	70W HPS +12' - O"
-	(SC)	150W HPS
•	(SD)	150W HPS
Ю	(SF)	35W HPS
\triangleleft	(SG)	2-26 DULUX D/E
•□	(SH)	400W MH
IJ	SWITCHES	BOX LOCATED AT EXTERIOR OF APARTMENT BUILDING TO HAV AS PER N.E.C. 240-24(c) PHOTOCELL CONTROLLED CIRCUIT TO EXTERIOR LIGHTS

METER BANK LOCATION, NUMBER OF METER AS PER SINGLE LINE DIAGRAM SHOWN ON SHEET E-6. LOCATED TELEPHONE AND CABLE TV SERVICE TERMINAL CABINET ADJACENT OR BELOW, COORDINATE WITH CABLE TV COMPANY FOR THIS WORK. LOCATION SHOWN ARE PRELIMINARY. FINAL LOCATIONS SUBJECTED TO UTILITY COMPANIES APPROVAL. ${\mathbb M}_5$

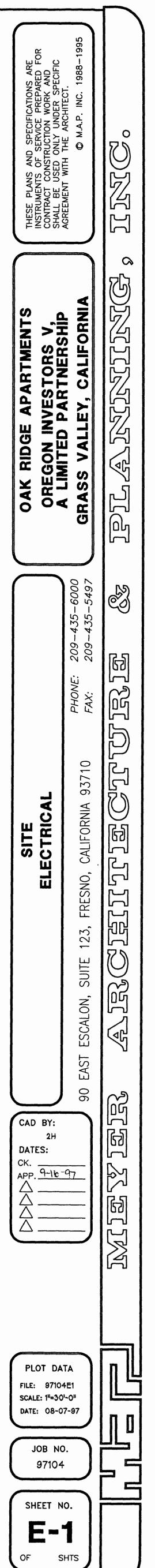
LIGHTING FIXTURE LEGEND

TYPE	DESCRIPTION	LAMP	WATTS	VOLT	MOUNTING	RE
A	ANCHOR # A43	150W A21	150	130	PENDANT	DI
B	METALUX # WS232-EB	2F032 30K	62	120	CEILING	KI
С	ANCHOR # 414-2	60W A19	60	120	CEILING	EN
D	SEAGULL # 4449-15	60W A19	60	120	WALL +6'-6"	HA
F	ANCHOR # 34-3-3	4-60W A19	240	120	WALL +6'-6"	BA
G	ANCHOR # 36~2	2-60W A19	120	120	WALL +6'-6"	FR
н	ANCHOR # 46-2	60W A19	60	120	CEILING	W .:
L	KEYLESS INCANDESENT SOCKET	60W A19	60	120	CEILING	
RA	LIGHTWAY # GBRQ26	2QTT13	34	120	WALL +7'-0"	
RB	LIGHTWAY # GBRQ26	2QTT13	34	120	CEILING	
RC	METALUX # WS232-EB	2F032 30K	62	120	CEILING	
RD	METALUX # WS332-EB2	3F032 30K	89	120	CEILING	
RE	METALUX # WS232-EB-EL4 U.L. LISTED EMERGENCY BATTERY PACK TO OPERATE ONE LAMP AT 1100 LUMEN	2F032 30K	62	120	CEILING	BA
RF	METALUX # SS232-EB	2F032 30K	62	120	CEILING	
RG	ANCHOR # 36-2	2-40W A19	80	120	WALL +6'-6"	
X	SURE-LITE # CCX-7-1-70-G-SD U.L. LISTED EMERGENCY EXIT LIGHT WITH BATTERY BACK UP	L.E.D.	6	120	CEILING	
SA	LIGHTWAY # CHS50	50W HPS	64	120	CEILING	
SB	LIGHTWAY # WPM70	70W HPS	94	120	WALL +121-011	
SC	LUMARK # HPWR65S150MT	150W HPS	188	120	SLIPFITTER 12" ABOVE CARPORT ROOT	OF
SD	LIGHTWAY # PHS100/65-03901	100W HPS	128	120	POLE 10FT	
SF	LIGHTWAY # VHS35	35W HPS	43	120	WALL 7FT ABOVE STAIR STEP	
SG	LIGHTWAY # FWM70MH	70W MH	95	120	WP BOX +6"	
SH	LUMARK # MHLD-3D-250-MT/RSS4A15SF	250W MH	465	240	POLE 15 FT	

AVE DISCONNECT

REMARK DINING ITCHEN NTRY ALLWAY BATH FRONT & BACK PORCH W.I. CLOSET

BATH



FREE RECORDING REQUESTED)		ltem # 6.
SECTION 27383)		
Recording requested by and when recorded return to:)))	Certified to be a IRUL CODY OF document recorded 12-17-04 Instrument No. 204-52614	
CALIFORNIA HOUSING FINANCE AGENCY Office of General Counsel P.O. Box 4034 Sacramento, CA 95812-4034))))	Book PAGE NEVAD A COUNTY RECORDS FIDDITY NATIONAL TITLE BY	

(Space above this line for Recorder's use)

CALIFORNIA HOUSING FINANCE AGENCY

REGULATORY AGREEMENT

CalHFA Development No. 02-027-N

This Regulatory Agreement (the "Agreement"), dated as of December 10, 2004 for informational purposes, is made and entered into by and between Oregon Investors VIII Limited Partnership, an Oregon limited partnership (the "Borrower"), and the California Housing Finance Agency (the "Agency"), a public instrumentality and a political subdivision of the State of California created by the Zenovich-Moscone-Chacon Housing and Home Finance Act (the "Act"), Division 31 of the California Health and Safety Code.

$\underline{\mathbf{R}} \underline{\mathbf{E}} \underline{\mathbf{C}} \underline{\mathbf{I}} \underline{\mathbf{T}} \underline{\mathbf{A}} \underline{\mathbf{L}} \underline{\mathbf{S}}$

A. The Borrower is the owner of the real property described in **Exhibit** A attached hereto and incorporated herein by this reference (the "Property"), and has applied to the Agency for a loan (the "Loan") to finance a multifamily rental housing development (the "Development") pursuant to the provisions of the Act, particularly those provisions contained in Chapter 6.7 of the Act (the "Law"). The Development includes the Property, all improvements constructed on the Property and all funds or property, of whatsoever kind or nature, committed to the Development.

B. The Agency has issued tax-exempt bonds ("Bonds") pursuant to the Code and the Law to provide the financing for the Development.

C. In order to assure the Agency and its bondholders that interest on the bonds sold to finance the Loan (the "Bonds") will be excluded from gross income for federal income tax purposes under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and that the Bonds are "qualified bonds" within the meaning of Section 141 of the Code, and to be in compliance with the Code, and to satisfy the public purposes for

which the Bonds are authorized to be issued under the Code, certain limits on the use and occupancy *ltem # 6.* Development and certain other requirements need to be established.

D. As an inducement to the Agency to make the Loan, the Borrower has agreed to enter into this Agreement and has consented thereby to be and to have the Development regulated and restricted by the Agency as provided herein and in the Act and in the rules, regulations, policies and procedures of the Agency promulgated thereunder, and as amended from time to time.

NOW, THEREFORE, the parties hereto agree as follows:

1. <u>Term of Agreement</u>. This Agreement shall be effective as of the date of its execution and shall remain in full force and effect and shall apply to the Development until the latest of (i) the end of the Qualified Project Period, as defined below, (ii) payment in full of the Loan, or (iii) forty (40) years.

2. <u>Definitions</u>. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

(a) "Closing Date" means the date on which the Note is delivered to or for the account of the Agency, and the Deed of Trust and this Agreement recorded in the official records of the County in which the Development is located.

(b) "Deed of Trust" means those certain deeds of trust entitled "California Housing Finance Agency Permanent Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 02-027-N (Permanent Financing)" and "California Housing Finance Agency Permanent Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 02-027-N (Bridge Financing)" which were executed by the Borrower, secure the Notes and this Agreement, and encumbers the Development. The term "Deed of Trust" may also include any other deed(s) of trust recorded against the Development which provide a security interest in such Development for the benefit of the Agency. It is intended that this Agreement shall be recorded ahead of and have priority over the Deed of Trust.

(c) "Distribution" means any withdrawal, taking or payment of any assets, earnings or income of the Development excluding payments for current Operating Expenses of the Development and repayment of Operating Expense Loans.

(d) "Gross Income" means all rents, charges, rental subsidies, fees and any other income of the Development, and without limitation, such income derived from commercial facilities of the Development, if any.

(e) "Loan" means the Agency's loan or loans to the Borrower as evidenced by the Note.

(f) "Loan Documents" means this Agreement, the Note and Deed of Trust, as defined herein, and any other document evidencing or securing the Loan.

(g) "Note" means collectively:

(i) that certain promissory note entitled "California Housing Finance Agency Promissory Note, CalHFA Development No. 02-027-N (Permanent Financing)" of the Borrower in the face amount of Five Million Six Hundred Thousand and No/100 Dollars (\$5,600,000.00); and

(ii) that certain promissory note entitled "California Housing Finance Agency Promissory Note, CalHFA Development No. 02-027-N (Bridge Loan – Annual Fixed Payment)" of the Borrower in the face amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00).

(h) "Operating Expense" means all reasonable and proper expenses of the operation of the Development, including, but not limited to, debt service on subordinate debt approved by the Agency (as evidenced by the Agency's final form CHFA 3), insurance, real estate taxes, ordinary maintenance and repair, costs of marketing, Development management fees, fuel, utilities, garbage disposal, sewer charges, audit expenses, all sums due or currently required to be paid under the terms of the Note or Deed of Trust, Agency required impound, reserve and escrow deposits, reasonable attorneys fees incurred in actions to terminate tenancies, and such other payments as the Agency may require or specifically approve in writing as Operating Expenses. In no event shall attorney fees or litigation costs other than as stated, nor expenditures normally required to be paid out of the Replacement Reserve, be treated as Operating Expenses unless specifically approved in writing by the Agency. Nonrecurring expenses in excess of Five Thousand and No/100 Dollars (\$5,000.00) shall not be considered an approved Operating Expense unless specifically approved in writing by the Agency, which such approval shall not be unreasonably withheld.

(i) "Operating Expense Loan" means any loan by the Borrower or partner of the Borrower for the purpose of paying Operating Expenses of the Development. Operating Expense Loans may be repaid only with the approval of the Agency, which such approval shall not be unreasonably withheld and only after payment of, or the reservation of funds for payment of, all Operating Expenses of the Development, including payments due under the Agency's Residual Receipts Loan, if applicable.

(j) "Qualified Project Period" means a period beginning on the later of the date of this Agreement or the first day on which ten percent (10%) of the units in the Development are occupied, and ending on the latest of (i) the date which is fifteen (15) years after the later of the date of this Agreement or the first date thereafter on which fifty percent (50%) of the units in the Development are first occupied, (ii) the date on which no tax-exempt "private activity bond," within the meaning of Section 141 of the Code, issued with respect to the Development is outstanding, or (iii) the date on which any assistance provided with respect to the Development under Section 8 of the United States Housing Act of 1937, as amended, terminates.

(k) "Qualified Tenants" means those tenants with special rights to occupy dwelling units in the Development as defined in Section 4(a) of this Agreement.

(1) "Residual Receipts" means that portion of Surplus Cash remaining at the end of the fiscal year after payment to the Borrower of Agency-approved Distribution.

(m) "Surplus Cash" means the balance of Gross Income of the Development remaining at the end of each fiscal year after payment of Operating Expenses, Agency-approved Operating Expense Loans, and reservation of cash required to meet current thirty (30) day obligations. For the purpose of computing Surplus Cash, Gross Income of the Development shall include any rent insurance proceeds, but shall exclude fire or other insurance proceeds, condemnation proceeds, and any security deposit which shall not have become the property of the Borrower free of the claim of any person claiming as or through the tenant having made such deposit.

-3-

ltem # 6.

(n) "Sustaining Occupancy" is deemed to have been achieved when, for at least thr consecutive months, (i) at least ninety-five percent (95%) of the total number of units are occupied, and (ii) Gross Income equals or exceeds that projected on the mortgage application approved at final commitment.

3. <u>Maintenance as Residential Rental Property</u>. The Borrower shall not take any action, or permit any action to be taken, which would result in the Development not being, or (except as expressly approved in writing by the Agency) in any proceeds of the Loan being used to provide other than, "residential rental property" within the meaning of 26 U.S.C. Section 142(d) of the Code. To that end, the Borrower represents, warrants and agrees that:

(a) The Development is comprised of at least two dwelling units and facilities functionally related and subordinate to the dwelling units. The portion of the Development that constitutes residential rental property shall be determined in accordance with Treasury Regulation Section 1.103-8(b)(4) and shall consist of the residential units in the Development, all other property of the Development benefiting only such units and the allocable portion of the Property of the Development benefiting both such units and other portions of the Development, as provided by the Treasury Regulations.

(b) Each of the dwelling units in the Development shall be similarly constructed, and shall contain complete, separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family.

(c) Each of the dwelling units in the Development shall be available for rental to members of the general public. None of the dwelling units in the Development shall at any time be utilized on a transient basis, shall ever be leased or rented for a period of less than thirty (30) days, or shall ever be used other than for housing purposes. The Development shall not be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home, or trailer park or court for use on a transient basis.

(d) The Development consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the Development's facilities comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the common ownership, management, accounting and operation of the Development.

(e) The Borrower shall not convert the Development to condominium or other individual unit ownership during the term of this Agreement. No part of the Development shall at any time be owned or used by a cooperative housing corporation except in compliance with the provisions of Section 143(k)(9) of the Code.

(f) If the Development comprises fewer than five (5) dwelling units, the Borrower shall not occupy any dwelling unit in the Development.

(g) All of the amounts advanced for the Development from the proceeds of the Loan shall be used to provide amounts paid or incurred on or after May 12, 2002 (sixty (60) days prior to the Agency's declaration of official intent to issue bonds) which are chargeable to the residential rental portion of the Development's capital account or would be so chargeable either with a proper election by the Borrower (for example under Section 266 of the Code) or but for a proper election by the Borrower to deduct such amounts. If any portion of a Development was acquired from or constructed by a Related Person of the respective Borrower (whether as a general contractor or a subcontractor), such costs include only the actual out-of-pocket costs incurred by such Related Person and not, for example, intercompany profits resulting from members of an affiliated group

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Item # 6.

(within the meaning of Section 1504 of the Code) participating in the construction of such Developm payments received by such Related Person due to early completion of the Development (or any portion thereof). No proceeds of the Bonds will be spent on (1) leasing commissions, costs of advertising for any Development, or other costs related to the rental of units in any Development, (2) management fees for the management and operation of any Development after the completion date, or (3) interest allocable to any unit for any period after such unit is held available for rental. For purposes of this paragraph, "Related Person" shall mean a person with a relationship to a person such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein.

(h) On the basis of the cost and economic life of each asset of the Development (under midpoint lives under the ADR System or guideline lives under Treasury Revenue Procedure 62-21, as the case may be), the weighted average estimated economic life of the Development exceeds the maturity of the Loan.

(i) No more than twenty-four and nine-tenths percent (24.9%) of the proceeds of any Loan may be used (directly or indirectly) for the acquisition of land (or an interest therein). The Borrower shall expend Loan proceeds for eligible costs in such amount as may be necessary to comply with the preceding sentence.

(j) The Borrower shall submit to the Secretary of the Treasury (at such time and in such manner as the Secretary shall prescribe) an annual certification as to whether the Development continues to meet the requirements of Section 142(d) of the Code.

(k) If loan proceeds are to be used for acquisition of an existing Development, an amount equal to at least fifteen percent (15%) of the acquisition cost of each building in the Development financed with proceeds of the Bonds shall be attributable to rehabilitation expenditures (as that term is defined in Section 147(d)(3) of the Code) with respect to such building which occupied within twenty-four (24) months after the later of the issuance of the Bonds or the date such building was acquired.

(1) If loan proceeds originally used to finance the Development are from qualified 501(c)(3) bonds, subsections (i) and (k) above are inapplicable, and the Borrower certifies the following:

(i) it has received an IRS determination that it qualifies as a 501(c)(3) corporation;

(ii) it will own and operate the Development in furtherance of its charitable purposes (as described in its application to the IRS for its 501(c)(3) determination) and not for pecuniary benefit;

(iii) the ownership and operation of the Development does not and will not in any respect or to any extent constitute an unrelated trade or business under Section 513(a) of the Code; and

(iv) it will maintain its existence as, and conduct its operations so as, to maintain qualification as an organization described in Section 501(c)(3) of the Code for the term of the Loan.

4. <u>Tenant Income Limitations</u>.

(a) For the term of this Agreement, at least twenty percent (20%) of the completed dwelling units in the Development shall be occupied or reserved for occupancy, on a continuous basis by individuals or

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Except as provided in Subsection 4(b) below, a dwelling unit occupied by an individual or family who at the commencement of the occupancy qualifies as a Qualified Tenant shall be treated as occupied by a Qualified Tenant, even if such individual or family during their tenancy in such unit ceases to so qualify. Moreover, if vacated, such unit shall be treated as occupied by a Qualified Tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed thirty-one (31) days.

(b) No resident of a dwelling unit in the Development shall be denied continued occupancy because, after admission, the resident's family income increases (or family size decreases) so as to cause the family income to exceed the maximum income level for a Qualified Tenant. However, if a resident's family income increases (or family size decreases) so as to cause the family income to exceed one hundred forty percent (140%) of the applicable income limit, the Borrower shall ensure that the percentage requirements of this Section shall continue to be met by providing the next available unit or units to Qualified Tenants or by taking other actions to satisfy the percentage requirements of this Section. In determining whether such percentage requirements have been achieved, such requirements shall be complied with on June 30 of each year after any dwelling units in the Development are occupied.

(c) On a form approved by the Agency, the Borrower shall obtain a third party certification of income from each prospective tenant of a dwelling unit designated for rental by a Qualified Tenant prior to admission to the Development. An annual certification shall also be obtained from each tenant of a dwelling unit designated for rental by a Qualified Tenant on or about June 30 of each year. Copies of such certifications shall be sent to the Agency, shall be retained in the Borrower's files for a period of three (3) years and shall be available for inspection by the Agency or its agents upon request.

(d) On or before August 15th of each year the Borrower shall file with the Agency a report on a form approved by the Agency specifying the total number of dwelling units in the Development and the number of units occupied by Qualified Tenants as of June 30th of such year.

5. <u>Agency Financing and Rental Requirements</u>. In addition to the requirements of Sections 3 and 4, the Borrower covenants that:

(a) Unless otherwise approved by the Agency, rental charges to Qualified Tenants shall include all utilities except telephone and cable television; provided however, that where the Agency approves direct payment of utilities (in addition to telephone) by such tenants, such rental charges shall be calculated as if the estimated expense of such utilities were to be paid by the Borrower, but the amounts actually collected from such tenants shall be decreased by the estimated expense of such utilities approved by the Agency. (b) The Borrower shall require every tenant in the Development to execute a lease in a form which may be subject to approval by the Agency and shall not lease any dwelling unit in the Development for less than thirty (30) days nor more than two (2) years. The form of lease shall provide for eviction procedures conforming to California law.

(c) The Borrower shall not discriminate against tenants or applicants who are recipients of federal rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, or any successor subsidy program.

(d) Utilization of the commercial facilities of the Development, if any, shall be compatible with the residential uses of the Development. Any commercial tenants, improvements and lease provisions must be approved by the Agency. The Agency shall have the right to require existing and future commercial tenants to enter into nondisturbance and attornment agreements on commercially reasonable terms. The Borrower and each commercial tenant agree to do any acts and execute any documents necessary to effectuate the Agency's rights in this regard.

(e) The Borrower agrees to make available any and all units of the Development for the purposes of physical inspection by Agency personnel upon prior notice and in accordance with Agency policies and procedures. In addition, Borrower shall require that its managing agent inspect each unit at least on an annual basis.

(f) The Borrower shall not permit any interest to be charged nor to accrue on any advances to the Development from the Borrower or any affiliate of the Borrower except upon the following conditions: (1) prior written notice of such advance and the terms thereof shall be given to the Agency; (2) interest shall be limited to the rate on the Note; (3) the amount of such advance shall be no greater than necessary to pay current expenses; and (4) such advances shall be repaid after payment of, or the reservation of funds for payment of, all Operating Expenses of the Development and prior to any Distributions from the Development. Failure of any of these conditions shall render the party making the advance liable to refund and/or forfeit all interest paid or due and shall be an event of default pursuant to this Agreement.

(g) The dwelling units to be occupied by, or reserved for occupancy by, Qualified Tenants shall be of comparable quality to all other dwelling units, shall be dispersed throughout the Development, and shall be in size and type available in the same percentages as the sizes and types of all other dwelling units.

(h) The Borrower represents and warrants that at all times its acts in connection with the Development have complied with and shall continue to comply with all applicable provisions of federal, state and local laws, all applicable provisions of the Act, the rules, regulations, policies and procedures of the Agency and all agreements with the Agency and any other public entities concerning the Development as amended from time to time. The Borrower represents to the Agency that professional advice is available to the Borrower for the purpose of enabling the Borrower to be aware of and to comply with said laws, policies, procedures and agreements. The Borrower agrees to indemnify the Agency against any loss incurred by the Agency as a result of the Borrower's failure to comply therewith.

Specifically, the Borrower acknowledges the existence of federal, state and local laws regarding handicapped accessibility and the relocation of persons displaced by the Development. The Borrower agrees that the Borrower, and not the Agency, is responsible for complying with such laws.

(i) Throughout the term of this Agreement, the Borrower shall seek, and if offered, accept or renew, all Section 8 Housing Assistance Payment Contracts, vouchers or equivalent, based on subsidies at rent levels equal to, or higher than those existing at the Closing Date. All payments to Borrower pursuant to any such contract or contracts are hereby assigned to the Agency for the duration of this Agreement. Borrower hereby grants to the Agency a security interest in all such payments.

Establishment and Use of Reserve Funds. The Borrower shall establish and maintain the 6. following reserve and escrow accounts. Unless otherwise specified herein or approved by the Agency, in its sole discretion, such accounts (i) shall be established on or before the Closing Date, (ii) shall be funded with cash, (iii) shall be under the control of the Agency at all times, (iv) may be invested by the Agency provided that income earned on such funds (minus 1% per annum of the principal balance of the account, but only to the extent there are earnings, which may be retained by the Agency as an administrative fee) shall accrue to the account, (v) shall be used for the prescribed purposes, and (vi) shall have any remaining balance, upon the Agency's termination of the requirement for the particular reserve account, returned to the Borrower. Borrower agrees that any conveyance or transfer, voluntary or involuntary, of its interest in the Development shall have the effect of transferring to the successor-in-interest all of Borrower's interest in and all of its rights to, if any, the reserve and escrow funds without further act of the Borrower, and in refunding all or any part of the reserve and escrow funds, the Agency may deal with whoever is the record owner of the property at the time of termination. Borrower agrees that the Agency is granted a security interest in all required reserve and escrow funds which are intended to benefit the Development. Borrower hereby appoints the Agency, during the term of this Agreement, as its attorney-in-fact, to substitute any new owner of the Property or Development, or the Agency itself, as signatory of the reserve and escrow accounts, in the place of Borrower.

(a) <u>Operating Expense Reserve</u>. An Operating Expense Reserve (the "OER") shall be established and maintained from sources other than Gross Income in the amount of Seventy-Nine Thousand Five Hundred Ninety-Four and No/100 Dollars (\$79,594.00), until such time as two (2) full consecutive Development fiscal years have passed in which the audited annual financial statement accepted by the Agency shows that Gross Income is sufficient to meet all Operating Expenses. The OER shall be funded on a one-time-only basis and, if drawn down, need not be replenished. The OER shall be used to fund any Operating Expenses not covered by Gross Income, the MA, or the RUA.

(b) <u>Replacement Reserve</u>. A Replacement Reserve (the "RR") shall be established and maintained until the termination of this Agreement. The RR shall be funded by deposits in the amount of Two Thousand One Hundred Ninety-Three Dollars and seventy-five cents (\$2,193.75) per month, due on the first day of each and every month commencing with the first payment due on the Note. The Agency may adjust, at any time, the amount of the monthly payments to be made into the RR as necessary to, in its sole discretion, keep pace with increases in the costs of replacing structural elements and equipment of the Development. The RR shall be used upon the Agency's written approval to replace major structural elements or equipment of the Development or for any other purpose consistent with maintaining the financial and physical integrity of the Development. Borrower agrees to make arrangements for a physical needs assessment and an evaluation, by an independent party acceptable to the Agency of current and future maintenance requirements of the Development. This physical needs assessment and maintenance evaluation shall occur upon the Agency's request and shall be forwarded to the Agency for review. The costs of such assessment and evaluation shall be an obligation of the Borrower.

(c) <u>Construction Defect Security</u>. On or before the Closing Date, the Agency shall be provided with a cash deposit or letter of credit, as approved by the Agency (the "Construction Defect Security" or "CDS"), in the amount of One Hundred Fifty Thousand Thirty-Four and No/100 Dollars (\$150,034.00) (2.5% of the construction contract amount as of the date of completion) or such greater amount as may, in the sole discretion of the Agency, be necessary to adequately secure the Agency and Development against construction defects. The term "construction defect" as used herein shall mean all construction related physical problems including but not limited to deviations from the approved final plans and specifications for the Development. Such CDS shall be kept in effect and one (1) year from the date of Permanent Loan Closing and may be used or set aside for the correction of construction defects or related damages which appear during such period and which are not corrected by the contractor or the Borrower within a reasonable time following the demand by the Agency for such correction. The date specified herein may be extended if payment of construction defect repairs will be paid after that date, of if there is an ongoing dispute regarding construction defects not yet repaired to the satisfaction of the Agency.

(f) <u>Additional Escrows and Accounts</u>. In addition to the OER, RR, and CDS, the Agency may, prior to the Closing Date, require the establishment and maintenance of other reserve and/or escrow accounts as necessary to create reserves which, in the sole discretion of the Agency, are necessary or proper to ensure the feasibility of the Development.

7. <u>Application of Funds if Default</u>. In the event of a default under this Agreement, or any of the other Loan Documents, the Agency in its sole discretion may apply or authorize the application of the funds in any of the accounts provided for in Section 6, to any amounts then due under this Agreement or the other Loan Documents, or use such funds for the continued operation of the Development provided, however, that if the default is cured, all funds shall be returned to the appropriate account.

8. <u>Non-Discrimination and Equal Opportunity</u>. Occupancy of the Development shall be open to all regardless of race, sex, sexual orientation, marital status, familial status, age (except for senior citizen housing pursuant to California and Federal law), color, religion, disability, source of income, national origin or ancestry. The Borrower shall require that its officers, agents, employees, management agent, contractors, subcontractors, and employees associated with the Development provide equal opportunity for employment and that they shall not engage in any unlawful discriminatory conduct. In addition, the Borrower agrees to conduct its own affirmative marketing programs as approved by the Agency.

9. <u>Qualified Tenant's Rental Limits Increase Procedure</u>.

(a) The Agency will, from time to time, revise the maximum rental limits applicable to dwelling units reserved for Qualified Tenants by a percentage equal to any percentage change in county median income. Until such time as the Agency mails a notice of such change of rent limits to the Borrower (or such change is posted on the Agency's website), the previously existing charges shall apply.

(b) Upon receipt of new rental limit schedules, the Borrower may increase, and shall, if necessary, decrease the rental charges. Any increase in rental charges must comply with the terms of the lease as to the time and manner of such changes, <u>provided that</u>, no Qualified Tenant shall have a rent increase sooner than one (1) year after initial occupancy, and <u>provided further</u>, no Qualified Tenant shall have an annual rent increase in excess of the percentage increase in the county median income for the applicable year in which the rent increase is being considered, nor shall there be an accumulation of rental increases from year-to-year for those years in which the Borrower chooses not to increase rents by the percentage allowed herein.

10. <u>Financial Covenants</u>. In addition to, but not by way of limitation of, all other duties of the Borrower set forth herein, the Borrower shall comply with the following:

(a) <u>Audit</u>. The Development and all equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and shall be subject to examination, inspection and copying at any reasonable time by the Agency or by its authorized representative upon reasonable notice to Borrower.

(b) <u>Books and Records</u>. The books and records of the Development shall be kept by the Borrower in accordance with the requirements of the Agency.

(c) Financial Reporting.

(i) Within sixty (60) days following the end of each fiscal year of the Development, the Agency shall be furnished by the Borrower with a complete annual financial report on the Development based upon an examination of the books and records of the Development, prepared in accordance with the requirements of the Agency, and certified by the Borrower, and at the Borrower's expense, by an independent certified public accountant licensed in California and acceptable to the Agency. Each such financial report shall be subject to the approval of the Agency and when approved by the Agency shall be a "Development Financial Report" as referred to herein;

(ii) Within twenty (20) days following the end of each month, the Agency shall be furnished by the Borrower with a complete monthly financial report. The monthly financial report must include a detailed accounting of, without limitation, all income and expenses, accounts receivable, accounts payable and disbursements received or made in the month reported.

(d) <u>Furnishing Information</u>. At the request of the Agency, the Borrower shall furnish such reports, financial statements, projections and analyses as may be required from time to time by the Agency and shall give specific answers to questions upon which information is desired relative to the income, expenses, assets, liabilities, contracts, operations and conditions of the Borrower and the Development. Borrower understands and agrees that the content of such reports, statements, projections, analyses and other information may be disclosed in any documentation prepared in connection with the issuance by the Agency of its Bonds and may otherwise be publicly disclosed in accordance with state and federal law.

(e) <u>Development Account</u>.

(1) The Borrower shall establish an account (the "Development Account") with a depository, which is insured by the Federal Deposit Insurance Corporation ("FDIC") or by a successor in interest to FDIC into which all Gross Income of the Development shall be deposited when received. The Borrower or any person receiving funds and tenant security deposits of the Development other than as permitted by this Agreement shall immediately deposit such funds in the Development Account and failing to do so shall hold such funds in trust for the Development. The Borrower or any person receiving any property of the Development in violation of this Agreement shall immediately deliver such property to the Agency, and failing to do so shall hold such property in trust for the Development. Reserves, deposits, rents, charges, fees and any other deposits and/or income of the Development as used herein shall also include, without limitation, such income derived from commercial facilities of the Development, if any.

(2) Agency shall have a first priority security interest in the Development Account, and Borrower hereby grants Agency a security interest in the Development Account. Immediately upon establishing the Development Account, Borrower shall notify the Agency of the identity of the depository, the branch where the account is established and the account number. The depository shall be required to execute a deposit account control agreement within the meaning of Article 9 of the California Uniform Commercial Code ("Control Agreement"), in a form acceptable to the Agency, to perfect the Agency's security interest in such account. Agency shall be entitled to exercise its rights under the Control Agreement upon Borrower's default, as determined by the Agency in its sole discretion, under the Loan Documents. However, the Agency shall not be obligated to give the Borrower the advance notice of default required by Section 16 of this Agreement prior to giving the depository the written "Notice of Exclusive Control" provided for in the Control Agreement.

(3) Borrower may not transfer the Development Account to another depository without the prior written consent of the Agency, which consent, if granted in the agency's sole discretion, shall be conditioned upon the new depository executing a Control Agreement.

(4) Disbursements from the Development Account shall be permitted only to administer security deposits and to pay Operating Expenses and permitted Distributions.

(5) The Borrower shall maintain security deposits in accordance with applicable law.

(f) <u>Annual Operating Budget</u>. The Borrower shall submit to the Agency a proposed operating budget for the Development not later than sixty (60) days prior to the beginning of each fiscal year of the Development. The proposed operating budget shall set forth the anticipated Gross Income of the Development and a detailed estimate of all Operating Expenses thereof, which shall include an itemization of administration expenses, maintenance expenses, cost of utilities, hazard insurance, earthquake insurance, taxes and assessments, Loan principal and interest, deposits to all funds, reserves or accounts required by the Agency and/or established by the Borrower. The budget shall be in a form satisfactory to the Agency and shall otherwise be consistent with the requirements of this Agreement. Upon approval by the Agency, such proposed operating budget shall be the operating budget for the ensuing fiscal year.

11. Development Management.

(a) The Borrower shall provide for the management of the Development in a manner satisfactory to the Agency, shall employ a bonded and licensed management agent, develop a management plan, and use a management agreement acceptable to the Agency. A fidelity bond shall be maintained in an amount equal to one month's gross rent and shall insure the Borrower and the Agency against misapplication of Development Funds. All management agreements shall include a copy of this Agreement, which shall be incorporated therein, and made a part of the contract. The management agreement shall be structured so that it is subject to termination with or without cause by the Borrower or the Agency, and without penalty, upon not less than thirty (30) days prior written to the management agent. Any liability associated with the termination of the management contract shall be the sole obligation of the Borrower. Upon notice of termination, the Borrower agrees to make immediate alternative arrangements, satisfactory to the Agency, for the continued management of the Development. In the event that the Borrower shall fail to make such alternative arrangements for a substitute managing agent within a reasonable time (which in no event shall exceed sixty (60) days from the date of the sending of the termination notice), the Agency shall have the unilateral right to make such alternative

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arrangements. The amount of the management agent's compensation shall be subject to approval by the Agency, which shall not be unreasonably withheld.

(b) The Borrower shall require that a Resident Selection/Affirmative Fair Housing Marketing Plan ("Plan") be prepared and maintained in cooperation with the managing agent. This Plan shall be subject to the approval of the Agency. In carrying out this Plan, the Borrower/management agent shall:

Qualified Tenants; (1) Lease no less than twenty percent (20%) of the total units of all sizes and types to

- (2) Give preference to the applicants in the following order:
 - (i) persons displaced by:
 - a. natural disaster,
 - b. construction of this Development,
 - c. other public action,
 - d. other causes, provided that such displacement shall be certified in writing by a government agency, and
 - (ii) all other applicants;

. (3) Begin marketing of the Development at least ninety (90) days prior to the availability of the units for occupancy;

(4) Assure that all advertising, (including letterheads, brochures and media advertising, shall include "Equal Housing Opportunity" and the "handicapped" logo. Further, if advertisements contain human models, a mix of minority and non-minority models are to be used to reflect the open housing philosophy. No preference for any economic status or lifestyle shall be depicted;

(5) Where a significant number of persons in the community have limited fluency in the English language, provide publications, information, brochures and leases in the native language of such persons; "Significant number of persons" is deemed to be at least twenty-five percent (25%);

(6) Develop and maintain a policy and procedure for the selection and rejection of applicants, and a grievance and eviction policy and procedure for tenants of the Development;

(7) Assure that tenant selection is carried out without favoritism or partiality and that no preference is given to any applicant other than as provided herein;

(8) Give each tenant selected, at the time of acceptance, a written copy of the tenant eviction and grievance procedures for the Development and all amendments thereto; and

(9) Where necessary, conduct such additional marketing as reasonably required to fulfill affirmative marketing goals and meet other goals of the Plan.

12. <u>Certain Acts Prohibited</u>. The Borrower shall not, without the prior written approval of the Agency, do any of the following. The granting of the Agency's approval shall be in its sole, unfettered discretion and may be conditioned upon the satisfaction of such terms and conditions as the Agency may prescribe.

- (a) Make any sale, assignment, conveyance or transfer in any other form of the Development or any part thereof or of any of its interest therein, whether voluntarily or involuntarily, or by operation of law.

(i) A transfer by the Borrower in whole or in part, or a transfer by a party having a substantial interest in said Borrower, or transfers by more than one party of interests aggregating a substantial interest in said Borrower, or any other similarly significant change in the ownership of interests in the Borrower, or in the relative distribution thereof, or with respect to the parties in control of the Borrower or the degree thereof, by any other method or means (e.g., increased capitalization, merger with another corporation or other entity, corporate or other amendments, issuance of new or additional ownership interests or classification of ownership interests or otherwise) shall be deemed an assignment, conveyance, or transfer for purposes of this subsection. An assignment by the Borrower to a limited partnership, in which no limited partner has a 25 percent or more interest and of which the Borrower is the sole general partner, shall not be considered an assignment, conveyance, or transfer.

(ii) The term "substantial interest" means the interest of any general partner, any limited partner having a 25 percent or more interest in the organization, any corporate officer or director, and any stockholder having a 10 percent or more interest in the organization.

- (b) Make any Distribution not permitted by the terms of this Agreement,
- (c) Assign or transfer any right to manage the Development.
- (d) Materially remodel, add to, reconstruct, demolish or damage any part of the Development.
- (e) Require, as a condition of the occupancy or leasing of any dwelling unit in the Development to Qualified Tenant, any consideration or deposit other than the prepayment of the first month's rent plus a security deposit in an amount not in excess of one (1) month's rent to guarantee the performance of the covenants of the lease.
- (f) Incur any liability or obligation in connection with the Development, contingent or otherwise, other than for current Operating Expenses and for the indebtedness evidenced by the Note, or incur any liability or obligation whatsoever that is secured in whole or in part by any interest in or lien or encumbrance on the Development.
- (g) Invest any funds from the Development in any property, real, personal, or mixed, except as authorized by this Agreement, or deposited any such funds in a depository not authorized by this Agreement; or
- (h) Make a loan of any funds from the Development to any person or entity; or

- (i) Fail to establish or maintain the accounts required by Section 6 of this Agreement.
- (j) Cause or permit the Development to be maintained in a condition which the Agency deems, in its sole discretion, as an impairment of its security interest, or a violation of the Borrower's obligation to maintain the Development in a safe, sanitary and decent condition.
- (k) If the Development receives Section 8 assistance, cause or permits the loss of Section 8 units under the Housing Assistance Payment Contract ("HAPC"), or failure to apply for or accept and extension of the HAPC.
- 13. <u>Distributions</u>.

(a) The Borrower shall be entitled to an annual Distribution of Surplus Cash. The Agency shall make an annual review of the Development Financial Report which shall be prepared in accordance with the Agency's Property Management Manual as amended from time to time, and determine whether a Distribution should be approved.

(b) If the debt service schedule of the Note is not payable from Surplus Cash or Residual Receipts, from time to time during the fiscal year, upon Agency approval, the Borrower may take advances on its reasonably expected annual distribution for the fiscal year. Such advances shall only be taken if there are no undisputed accounts payable older than thirty (30) days and there are sufficient funds to pay anticipated Operating Expenses coming due within the next thirty (30) days. The amount distributed shall not, in the aggregate, exceed the amount of the reasonably expected annual Distribution for the fiscal year. Such advances shall be reconciled to the monthly financials and the Development Financial Report for the fiscal year and, to the extent they exceed the approved annual Distribution, shall be refunded to the Development Account upon immediate demand by the Agency.

(c) If any debt service payable to the Agency derives from Surplus Cash or Residual Receipts, the Borrower shall not be entitled to advances of Distributions as discussed in subsection (b). All Distributions shall be taken annually and only after the Agency's prior written approval.

(d) Except as provided in subsection (b), no Distribution shall be taken, made, received or retained by the Borrower or any other persons or entity without the prior written approval of the Agency. The Agency shall not unreasonably withhold its approval of a Distribution request. Notwithstanding the foregoing, the Agency shall not be required to approve Distributions to be made from borrowed funds, or to be made while there is any violation or default under the terms of this Agreement or any of the other Loan Documents.

(e) The proceeds of any unapproved Distribution, while retained, shall be held by the recipient as trustee for the Development and shall be immediately refunded to the Development upon demand. The recipient of an unapproved Distribution shall be obligated to pay interest thereon to the Development at the rate of the Note for the period that the Distribution is retained by the recipient.

14. <u>Actions</u>. The Borrower agrees to notify the Agency promptly in writing of any action or proceeding by or against the Development or by or against the Borrower with respect to the Development. No action or proceeding seeking the recovery of a sum in excess of Ten Thousand and No/100 Dollars (\$10,000.00) or for specific performance or other equitable relief shall be instituted by the Borrower with respect to the Development, nor shall any action or proceeding seeking the recovery from the Development, or from the

Borrower with respect of the Development, of a sum in excess of Ten Thousand and No/100 Dollars (\$10,000,00) or for specific performance or other equitable relief against the Development, or against the Borrower in respect of the Development, be settled or compromised by the Borrower, without the prior approval of the Agency. Any such approval may be subject to such terms and conditions as the Agency, may prescribe.

15. <u>Assignment of Rents for Security</u>. As security for the performance of the Borrower of all its obligations under this Agreement, the Borrower hereby assigns and pledges to the Agency all of the Borrower's right, title and interest in and to the rents, profits, income and charges of whatsoever kind or nature which it may receive or be entitled to receive from the operation of the Development, subject, however, to any assignment of rents or like provision contained in the Deed of Trust or in any of the other Loan Documents; provided, however, that unless and until a default under this Agreement is declared by the Agency or a default or event of default shall have occurred under any of the other Loan Documents, the Borrower shall be permitted to collect and retain such rents, profits, income and charges, subject to the provisions of this Agreement.

16. <u>Violation of Agreement by the Borrower</u>. In the event of the violation of any of the provisions of this Agreement by the Borrower, the Agency shall give written notice thereof to the Borrower by registered or certified mail addressed to the Borrower at the address stated in this Agreement, or to such other address as may have been designated by the Borrower in writing, and if such violation is not corrected to the satisfaction of the Agency within thirty (30) days after the date such notice is mailed (or within such further time as the Agency in its sole discretion may permit), the Agency may without further prior notice declare in writing a default under this Agreement effective on the date of such declaration of default, and upon any such declaration of default, or, irrespective of any such declaration of default, upon the occurrence of a default or event of default under any of the other Loan Documents, the Agency may:

(a) Declare the whole of the principal amount of the indebtedness evidenced by the Note immediately due and payable and proceed with the rights and remedies provided for in the Loan Documents.

(b) Collect all rents, rental subsidies, profits, income and charges in connection with the operation of the Development and use same or the proceeds thereof, in such order as the Agency may determine, toward satisfaction of the Borrower's obligations under this Agreement or any of the Loan Documents; and toward payment of the necessary expenses of preserving and operating the Development.

(c) Take possession of the Development, bring any action necessary to enforce any rights of the Borrower growing out of the operation of the Development, and operate the Development in accordance with the terms of this Agreement until such time as the Agency, in its sole discretion, shall determine that the Borrower is again in a position to operate the Development in accordance with the terms of this Agreement and in compliance with the requirements of any of the other Loan Documents.

(d) Apply to any court, state or federal, for specific performance of this Agreement; for an injunction against any violation by the Borrower of this Agreement; for the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement; or for such other relief as may be appropriate, it being agreed by the Borrower that the injury to the Agency arising from the default under any of the terms of this Agreement would be irreparable and that it would be extremely difficult to ascertain the amount of compensation to the Agency which would afford adequate relief.

(e) In addition, if and to the extent necessary to correct any such default, the Borrower hereby grants to the Agency the option to lease, from time to time, units in the Development for a rental of one dollar

(\$1.00) per unit per year for the purpose of subleasing such units to comply with Sections 3 and 4 of this Agreement. Any rents received by the Agency under any such sublease shall be paid to the Borrower after the Agency has been reimbursed for any expenses incurred in connection with such sublease, provided, that if the Borrower is in default under the Loan, such rental shall be used to make payments of Loan principal and interest or otherwise to cure such defaults.

17. <u>Interest Charges</u>. In the event that the Borrower fails to make timely payment of any money provided for in this Agreement, then such payment obligation shall be increased to include interest at the rate of the lesser of ten percent (10%) simple interest per annum or the maximum rate permitted by law.

18. <u>Action by the Agency</u>. Except as may be otherwise specifically provided herein, whenever any approval, notice direction, consent, request or other action by the Agency is required or permitted under this Agreement such approval, notice direction, consent, request or other action shall be in writing.

19. <u>Integration and Amendments</u>. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents shall not be modified except by written instrument executed by all parties. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Agency in writing.

20. <u>Severability</u>. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

21. <u>Binding on Successors</u>. This Agreement shall bind, and the benefits thereof shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors and assigns; provided, however, that the Borrower may not assign this Agreement or any of its obligations hereunder, voluntarily or by operation of law, without the prior approval of the Agency. Except as expressly provided herein, this Agreement shall be for the exclusive benefit of the parties hereto and shall not confer any rights upon any third party. In the event the Borrower transfers title, possession or control of the Development to a third party, the Borrower covenants to require as a condition of transfer that such third party agrees to be bound by and to operate the Development in accordance with this Agreement. The Agency is deemed to be the beneficiary of such conditions and agreements with the right to enforce them against any such third party.

22. <u>Recordation</u>. This Agreement shall be acknowledged by each of the parties and recorded in the official records of the county in which the Development is located.

23. <u>Election of Remedies; Events of Default</u>. The remedies of the Agency hereunder and under the other Loan Documents are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

24. <u>Waiver by Agency</u>. No waiver by the Agency of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.

25. <u>Governing Law</u>. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

26. <u>Legal Notices</u>. Written notices pursuant to Section 16 of this Agreement by and between the parties hereto shall be addressed as follows unless and until a party hereto has, in writing, communicated a different address to the other party hereto, provided, for notices other than to Borrower, CalHFA shall use its best efforts, and provided further that no legal consequences shall arise by reason of CalHFA's failure to give notice to:

Borrower:	Oregon Investors VIII Limited Partnership c/o Cascade Housing Association 87460 Cedar Flat Road Spingfield, OR 97478 Attn: Kelly Williams
Limited Partner:	Peoples Benefit Life Insurance Company c/o AEGON USA Realty Advisors, Inc. 4333 Edgewood Road, N.E. Cedar Rapids, IA 52499 Attn: Michael Sheehy, Counsel
Special Limited Partner:	Transamerica Affordable Housing, Inc. c/o AEGON USA Realty Advisors, Inc. 600 Montgomery Street, 16 th Floor San Francisco, CA 94111 Attn: David W. Kunhardt
Agency:	Office of the General Counsel California Housing Finance Agency P.O. Box 4034 Sacramento, California 95812-4034

27. Attorney Fees, Costs. In any nonjudicial foreclosure process, or action to enforce or relating to any provision of the Loan Documents, the prevailing party shall be entitled to recover from the other party, its costs and expenses. The term "costs and expenses" as used herein shall include <u>all</u> costs and expenses actually and reasonably incurred including but not limited to attorney's fees; filing, motion, and jury fees; juror food and lodging; taping, videotaping, and transcribing depositions and travel expenses to attend depositions; service of process by a public officer, registered process server, or other means; expenses of attachment including keeper's fees; premiums on surety bonds; ordinary witness fees pursuant to Section 68093 of the California Government Code; fees of expert witnesses whether or not ordered by the court; transcripts of court proceedings whether or not ordered by the court; court reporters fees as established by statute; investigation expenses in preparing the case for trial; postage telephone, and photocopying charges; costs in investigation of jurors or in preparation for voir dire; models, blowups and photocopies of exhibits, and any other item that is required to be awarded to the prevailing party pursuant to statute as an incident to prevailing in the action at trial or on appeal. Such costs and expenses shall be recoverable whether the services were rendered by a salaried employee of the party or by an independent contractor.

28. <u>No Conflict With Other Documents</u>. The Borrower warrants that it has not, and shall not, execute any other agreement with provisions contradictory to the provisions hereof, and that, in any event, the

Item # 6.

requirements of this Agreement shall be paramount and controlling as to the rights and obligations herein set rormand supersede any other requirements in conflict herewith.

29. <u>Agency Insurance Requirements</u>. The Borrower shall maintain insurance on the Development in substantial conformance with the requirements of the Agency as amended from time to time. As of the date of this Agreement, the Agency's requirements are set forth in that certain "Insurance Requirements For California Housing Finance Agency Developments" attached hereto as **Exhibit B** and incorporated herein by this reference.

30. <u>Maintenance</u>. The Borrower shall maintain the Development in a decent, safe and sanitary condition and in a good state of repair as determined by the Agency in its sole discretion.

31. <u>Indemnification</u>. The Borrower shall indemnify, defend (with counsel reasonably chosen by the Agency, at the Agency's option), and hold the Agency, and its employees, officers, agents, and board members harmless against all claims which arise out of or in connection with the ownership or occupancy of or construction on or in connection with the Development (including, without limitation, rehabilitation) by the Borrower or the Borrower's contractors, agents, agents, employees, or tenants. This section shall survive the termination of this Agreement.

32. <u>Environmental Covenants</u>. The Borrower represents and warrants that after reasonable investigation and inquiry, and except as indicated in the Phase I environmental report submitted to the Agency, as of the closing date it has no knowledge of any hazardous substance or environmental condition on or within two thousand (2,000) feet of the Development which may adversely impact the security of the Loan, or which may render the Development financially infeasible, or which may affect the health and safety of the occupants, the Development, or which may present an undue risk of liability to the Agency. The Borrower agrees to comply with all laws and orders of any federal, state or local governmental agency relating to clean-up or remediation, or other response action required by applicable law or order concerning a release or threatened release of hazardous substances in or on the Development. The term "hazardous substance" as used in this paragraph shall mean as defined at Code of Civil Procedure Section 736(f)(3).

The Borrower shall give any and all environmental notices to tenants and/or workers (both employee and independent contractor) which may be required by state or federal law. The Borrower hereby agrees to indemnify and hold the Agency harmless for any and all liability arising out of the presence of hazardous substances on the Development during the longer of the term of the Loan or the term of the Regulatory Agreement. Liability may be established by, among other forms of demands, a demand in the form of a judgment, a settlement, or an administrative order; and may include costs, fees, penalties, interest, attorney's fees, and other costs related thereto. Whereas the purpose of this indemnity is to protect the Agency from harm, the rights to recover shall accrue as soon as the liability for: (a) the clean-up of hazardous substances; (b) claims for contribution or apportionment of remedies, and; (c) claims for physical or other damages to persons, property, or natural resources. The duty of the Borrower to indemnify and hold the Agency harmless shall include the duty to defend as set forth in California Civil Code Section 2778.

33. <u>CDLAC Requirements</u>. The Borrower shall comply with the conditions set forth in Exhibit A to CDLAC Resolution No. 02-127 relating to the Project and adopted on September 23, 2002 (the "CDLAC Conditions"), as they may be modified or amended from time-to-time, which conditions are incorporated herein by reference and made a part hereof. The Borrower will prepare and submit to CDLAC, not later than each anniversary of the Closing Date, until the end of the Qualified Project Period, a Certificate of Continuing Program

Compliance, executed by an authorized representative of the Borrower. The Agency shall have no obligation to monitor the Borrower's compliance with the CDLAC Conditions. In no event shall this Section extend the term of this Agreement as provided in Section I above.

34. <u>Third-Party Beneficiary</u>. The CDLAC is intended to be and shall be a third-party beneficiary of this Regulatory Agreement. CDLAC shall have the right (but not the obligation) to enforce the CDLAC Conditions and to pursue an action for specific performance or other available remedy at law or in equity, provided that any such action or remedy shall not materially adversely affect the interest and rights of the Bondholders or the Agency.

35. <u>Counterparts</u>. This Agreement may be executed in several counterparts, each of which will be an original and all of which constitute one and the same instrument.

36. <u>3 Year Tax Credit Period</u>. If this Development was assisted by federal tax credits, and in the event that it is determined that IRS Code Section 42(h)(6)(E) (ii) is applicable to the Agency, and in the event that the Agency were to take over ownership of the Development as a result of a foreclosure, the Agency will comply with the 3 year extended use requirement as specified therein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OREGON INVESTORS VIII LIMITED PARTNERSHIP,

an Oregon limited partnership

By: Cascade Housing Association, an Oregon nonprofit public benefit corporation, its General Partner

Kelly R. Williams Secretary-Treasurer

CALIFORNIA HOUSING FINANCE AGENCY,

a public instrumentality and political subdivision of the State of California

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Exhibit A - Legal Description of the Development Exhibit B - Agency Insurance Requirements

ACKNOWLEDGMENTS

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California	
county of Sacramenta-	\$ ss.
On December 10, 200-1 before me,	Marte and Title of Officer (e.g., "Jane Doe, Notary Public)
personally appeared _ Dennis Meidin	
personally appeared	Name(s) of Signer(s)
	f personally known to me
	proved to me on the basis of satisfactor evidence
J. MURRAY BEARDWOOD Commission # 1520223 Notary Public - California Sacramento County My Comm. Expires Oct 18, 2008	to be the person(\mathfrak{s}) whose name(\mathfrak{s}) ($\mathfrak{s}/\mathfrak{srr}$ subscribed to the within instrument and acknowledged to me that \mathfrak{h} /she/they executed the same in (\mathfrak{h})/her/their authorized capacity($\mathfrak{i}\mathfrak{s}$), and that by ($\mathfrak{h}\mathfrak{s}/\mathfrak{h}$ /her/their signature(\mathfrak{s}) on the instrument the person(\mathfrak{s}), o the entity upon behalf of which the person(\mathfrak{s} acted, executed the instrument.
:	WITNESS my hand and official seal.
	Statute of Notary Public
Though the information below is not required by law, it may pl	TIONAL rove valuable to persons relying on the document and could prever ment of this form to another document.
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STATE OF	
COUNTY OF LANE	
On <u>December 14, 2004</u> before me,	Cindy L. Halford (Name of Notary Public)
personally appeared Kelly R. Williams	

personally known to me (or 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.

WITNESS my hand and official seal.

(Signature of Notary Public)

OFFICIAL SEAL CINDY L HALFORD NOTARY PUBLIC - OREGON COMMISSION NO. 370677 MY COMMISSION EXPIRES SEPT. 12, 2007

(This area for notarial seal)

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GRASS VALLEY, COUNTY OF NEVADA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Parcel 1, as shown on Parcel Map 01-01, Cedar Park, filed May 17, 2001, in Book 19 of Parcel Maps, at Page 60.

EXCEPTING THEREFROM minerals, gas, oil and mineral deposits below a depth of 200 feet below the surface together with all necessary and convenient rights to explore for, develop, produce, extract and take the same, subject to the express limitation that the foregoing exception and reservation shall not include any right of entry upon the surface of said land without the consent of the owner of such of said land as set forth in the Deed dated August 28, 1961, recorded August 29, 1961, in Book 302, Page 339, Official Records, executed by Sum-Gold Corporation, Inc., to John P. O'Brien et ux.

Parcel Two:

A non-exclusive right of way for purposes of ingress and egress over a portion of Parcel 2, Book 19 of Parcel Maps, at Page 60, Nevada County, located in Southwest quarter of the Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.M., said right of way being more particularly described as follows:

Commencing at the Southwest corner of the subject Parcel 2, a point from which the Southwest corner of said Section 24 bears the following two consecutive courses, to-wit: South 90° West 582.88 feet and South 01° 28' 00" East 258.40 feet and running thence from said point of beginning North 33° 55' 35" West 94.56 feet to the beginning of a non tangent curve concaved to the Northeasterly having a radial bearing of North 33° 55' 35" East and a radius of 79.12 feet; thence along said curve Southeasterly 23.94 feet, thence North 36° 10' 12" East 28.29 feet, thence South 49° 35' 32" East 42.81 feet; thence North 82° 23' 01" East 155.32 feet to a point on the Westerly line of Sutton Way, thence running along said Westerly line South 07° 13' 30" East 75.54 feet; thence leaving said Sutton Way South 89° 59' 14" East 288.25 feet to the point of beginning as disclosed by a Grant of Easement dated January 24, 2003, by Cascade Housing Association, an Oregon non-profit Corporation to Martin Harmon, recorded January 31, 2003, Document No. 2003-0005020, Official Records of Nevada County.

Parcel Three:

An exclusive right of way for purposes of constructing roadways, curb, gutter and utilities on Parcel C as recorded in Book 7 of Parcel Maps at Page 41, Nevada County, California. This right of way shall

be terminated at the end of construction. Located in the Southwest quarter of the Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.M, a strip of land 60 feet wide, the center line which is described as follows:

Commencing at a point from which the Southwest corner of said Section 24 bears the following three courses, to-wit: North 90° 00' 00" West 145.00 feet, South 01° 28' 00" East 450.07, South 01° 28' 00" East 258.40 feet running thence from said point of beginning along the centerline of said right of way North 00° 00' 00" East a distance of 20.00 feet to the end thereof by an Easement and Maintenance Agreement dated January 24, 2003, by Oregon Investors V Limited Partnership, an Oregon limited partnership to Oregon Investors VIII Limited Partnership, an Oregon limited partnership, recorded January 31, 2003, Document No. 2003-0005021, Official Records of Nevada County.

Parcel Four:

A non-exclusive right of way for purposes of ingress and egress over a portion of Parcel 2, Book 19 of Parcel Maps at Page 60, Nevada County, located in Southwest quarter of Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.M., said right of way being more particularly described as follows:

Commencing at the Southwest corner of the subject Parcel 2, a point from which the Southwest corner of said Section 24 bears the following two consecutive courses, to-wit: South 90° West 582.88 feet and South 01° 28' 00" East 258.40 feet and running thence from said point of beginning: North 33° 55' 35" West 94.56 feet to the beginning of a non tangent curve concaved to the Northeasterly having a radial bearing of North 33° 55' 35" East and a radius of 79.12 feet; thence along said curve Southeasterly 23.94 feet, thence North 36° 10' 12" East 28.29 feet; thence South 49° 35' 32" East 42.81 feet; thence North 82° 23' 01" East 155.32 feet to a point on the Westerly line of Sutton Way; thence running along said Westerly line South 07° 13' 30" East 75.54 feet; thence leaving said Sutton Way South 89° 59' 14" East 288.25 feet to the point of beginning as disclosed by a Reciprocal Easement dated January 28, 2003, by Cascade Housing Association, an Oregon non-profit Corporation and Oregon Investors VIII Limited Partnership, an Oregon limited partnership, recorded February 5, 2003, Document No. 2003-0005781, Official Records of Nevada County.

APN: 35-412-04

EXHIBIT B

CALIFORNIA HOUSING FINANCE AGENCY

INSURANCE REQUIREMENTS FOR CALIFORNIA HOUSING FINANCE AGENCY DEVELOPMENTS

Owner shall procure and maintain for the duration of the loan, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the owners operation of the premises to which this contract applies.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

- 1. Property insurance against the perils of fire, "extended coverage", vandalism, and malicious mischief to real property and business income (rents).
- 2. If not granted a waiver, Property insurance against the perils of earthquake and flood for both real property and business income (rents). (May be purchased through CalHFA).
- 3. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
- 4. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
- 5. Workers; Compensation insurance as required by the State of California and Employer's Liability Insurance.
- 6. Boiler and Machinery coverage against standard "broad form" perils.

Minimum Limits of Insurance

Owner shall maintain limits no less than:

- 1. Property Insurance: Full replacement cost with no coinsurance penalty provision for real property, and at least the annual gross potential rental income for the development for business interruption coverage.
- 2. General Liability: (Including operations, products and completed operations.) **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 3. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- 4. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

5. Earthquake and Flood:

A. Limit as provided through participation in the earthquake and flood DIC policy coverage offered through the Agency, or.

B. For new proposed projects, application to Multifamily Programs underwriting for a waiver.

C. For projects not covered by the Agency policy or granted a waiver, total replacement value (building replacement cost plus business interruption value) with no coinsurance penalty provision.

Blanket earthquake insurance policies will be considered on a case by case basis.

6. Boiler & Machinery: **\$1,000,000**.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by CalHFA. At the option of the CalHFA, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CalHFA, its officients, officials, employees and volunteers; or the owner shall provide a financial guarantee satisfactory to CalHFA guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Notwithstanding the foregoing, the owner may select deductibles no greater than \$10,000 per occurrence on Property and Boiler & Machinery coverages, and no greater than 5% of the values per building per location at the time and place of the loss per occurrence on Earthquake and Flood coverages.

Other Insurance Provisions

With respect to Property and Earthquake and Flood coverage, the Agency's interest shall be protected by a Lenders Loss Payable Endorsement naming the Agency as "Loss Payee."

Crime Coverage: The Agency recommends, but does not require owner to carry insurance covering money or other property against burglary, robbery or theft.

Directors and Officers: The Agency recommends but does not require liability insurance for directors and officers of non-profit boards.

The general liability policy is to contain, or be endorsed to contain, the following provisions:

- 1. The owner's insurance coverage shall be primary insurance. Any insurance or self-insurance maintained by the Agency shall be excess of the owner's insurance and shall not contribute with it.
- 2. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, reduced or modified except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII or an S&P rating of AA.

Verification of Coverage

Policies must be acquired at initial occupancy and a certificate of insurance must be submitted to the Agency for approval 45 days prior to permanent loan recordation. Renewal insurance certificates must be submitted 30 days prior to the expiration date of any current certificate.

Impounds

At the time of permanent loan closing, the Agency will establish insurance impounds

Item	#	6.
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FREE RECORDING REQUESTED PURSUANT TO GOVERNMENT CODE SECTION 27383)))
Recording requested by and when recorded return to:) Certified to be a true copy of Document recorded January 19,2006 INSTRUMENT No. 2000-0001836 Book Page
CALIFORNIA HOUSING FINANCE AGENCY Office of General Counsel P.O. Box 4034 Sacramento, CA 95812-4034	Book Page Page County Records Eidelity National Title By Horow

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CALIFORNIA HOUSING FINANCE AGENCY

REGULATORY AGREEMENT

CalHFA Development No. 02-049-N

This Regulatory Agreement (the "Agreement"), dated as of January 1, 2006 for informational purposes, is made and entered into by and between Oregon Investors VII Limited Partnership, an Oregon limited partnership (the "Borrower"), and the California Housing Finance Agency (the "Agency"), a public instrumentality and political subdivision of the State of California created by the Zenovich-Moscone-Chacon Housing and Home Finance Act (the "Act"), Division 31 of the California Health and Safety Code.

RECITALS

A. The Borrower is the owner of the real property described in **Exhibit** A attached hereto and incorporated herein by this reference (the "*Property*"), and has applied to the Agency for a loan (the "*Loan*") to finance a multifamily rental housing development (the "*Development*") pursuant to the provisions of the Act, particularly those provisions contained in Chapter 6.7 of the Act (the "*Law*"). The Development includes the Property, all improvements constructed on the Property and all funds or property, of whatsoever kind or nature, committed to the Development.

B. The Agency has issued tax-exempt bonds ("*Bonds*") pursuant to the Code (as defined below) and the Law to provide the financing for the Development.

C. In order to assure the Agency and its bondholders that interest on the Bonds will be excluded from gross income for federal income tax purposes under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "*Code*"), and that the Bonds are "qualified bonds" within the meaning of Section 141 of the Code, and to be in compliance with the Code, and to satisfy the public purposes for which the Bonds are authorized to be issued under the Code, certain limits on the use and occupancy of the Development and certain other requirements need to be established.

D. As an inducement to the Agency to make the Loan, the Borrower has agreed to enter into this Agreement and has consented thereby to be and to have the Development regulated and restricted by the Agency as provided herein and in the Act and in the rules, regulations, policies and procedures of the Agency promulgated thereunder, and as amended from time to time.

NOW, THEREFORE, the parties hereto agree as follows:

1. <u>Term of Agreement</u>. This Agreement shall be effective as of the date of its execution and shall remain in full force and effect and shall apply to the Development until the latest of (i) the end of the Qualified Project Period, as defined below, (ii) payment in full of the Loan, or (iii) forty (40) years.

2. <u>Definitions</u>. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

(a) "*Closing Date*" means the date on which the Note is delivered to or for the account of the Agency, and the Deed of Trust and this Agreement recorded in the official records of the County in which the Development is located.

(b) "*Deed of Trust*" means collectively:

(i) that certain deed of trust entitled "California Housing Finance Agency Permanent Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 02-049-N (Permanent Financing)" which was executed by the Borrower, secures the Note and this Agreement, and encumbers the Development; and

(ii) that certain deed of trust entitled "California Housing Finance Agency Permanent Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 02-049-N (Permanent Bridge Financing)" which was executed by the Borrower, secures the Note and this Agreement, and encumbers the Development.

The term "Deed of Trust" may also include any other deed(s) of trust recorded against the Development which provide a security interest in such Development for the benefit of the Agency. It is intended that this Agreement shall be recorded ahead of and have priority over the Deed of Trust.

(c) "Distribution" means any withdrawal, taking or payment of any assets, earnings or income of the Development excluding payments for current Operating Expenses of the Development and repayment of Operating Expense Loans.

(d) "Gross Income" means all rents, charges, rental subsidies, fees and any other income of the Development, and without limitation, such income derived from commercial facilities of the Development, if any.

(e) "Loan" means the Agency's loan or loans to the Borrower as evidenced by

CalHFA.RA.TEX.NRSGlenbrook Apts. 1/9/2006.NDS/jaf-#124034v2 (f) "Loan Documents" means this Agreement, the Note and Deed of Trust, as defined herein, and any other document evidencing or securing the Loan.

(g) "Note" means collectively:

(i) that certain promissory note entitled "California Housing Finance Agency Promissory Note, CalHFA Development No. 02-049-N (Permanent Financing)" of the Borrower in the face amount of Three Million Eight Hundred Twenty Thousand and No/100 Dollars (\$3,820,000); and

(ii) that certain promissory note entitled "California Housing Finance Agency Promissory Note, CalHFA Development No. 02-049-N (Permanent Bridge Financing)" of the Borrower in the face amount of One Million Eight Hundred Seventy Thousand and No/100 Dollars (\$1,870,000).

(h) "Operating Expense" means all reasonable and proper expenses of the operation of the Development, including, but not limited to, debt service on subordinate debt approved by the Agency (as evidenced by the Agency's final form CHFA 3), insurance, real estate taxes, ordinary maintenance and repair, costs of marketing, Development management fees, fuel, utilities, garbage disposal, sewer charges, audit expenses, all sums due or currently required to be paid under the terms of the Note or Deed of Trust, Agency required impound, reserve and escrow deposits, reasonable attorneys fees incurred in actions to terminate tenancies, and such other payments as the Agency may require or specifically approve in writing as Operating Expenses. In no event shall attorney fees or litigation costs other than as stated, nor expenditures normally required to be paid out of the Replacement Reserve, be treated as Operating Expenses unless specifically approved in writing by the Agency. Nonrecurring expenses in excess of Ten Thousand and No/100 Dollars (\$10,000.00) shall not be considered an approved Operating Expense unless specifically approved in writing by the Agency, which such approval shall not be unreasonably withheld.

(i) "Operating Expense Loan" means any loan by the Borrower or partner of the Borrower for the purpose of paying Operating Expenses of the Development. Operating Expense Loans may be repaid only with the approval of the Agency, which such approval shall not be unreasonably withheld and only after payment of, or the reservation of funds for payment of, all Operating Expenses of the Development, including payments due under the Agency's Residual Receipts Loan, if applicable.

(j) "Qualified Project Period" means a period beginning on the later of the date of this Agreement or the first day on which ten percent (10%) of the units in the Development are occupied, and ending on the latest of (i) the date which is fifteen (15) years after the later of the date of this Agreement or the first date thereafter on which fifty percent (50%) of the units in the Development are first occupied, (ii) the date on which no tax-exempt "private activity bond," within the meaning of Section 141 of the Code, issued with respect to the Development is outstanding, or (iii) the date on which any assistance provided with respect to the Development under Section 8 of the United States Housing Act of 1937, as amended, terminates.

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"Qualified Tenants" means those tenants with special rights to occupy

dwelling units in the Development as defined in Section 4(a) of this Agreement. "Residual Receipts" means that portion of Surplus Cash remaining at the

end of the fiscal year after payment to the Borrower of Agency-approved Distribution. "Surplus Cash" means the balance of Gross Income of the Development remaining at the end of each fiscal year after payment of Operating Expenses, Agency-approved

Operating Expense Loans, and reservation of cash required to meet current thirty- (30-) day obligations. For the purpose of computing Surplus Cash, Gross Income of the Development shall include any rent insurance proceeds, but shall exclude fire or other insurance proceeds, condemnation proceeds, and any security deposit which shall not have become the property of the Borrower free of the claim of any person claiming as or through the tenant having made such

"Sustaining Occupancy" is deemed to have been achieved when, for at least three (3) consecutive months, (i) at least ninety-five percent (95%) of the total number of units are occupied, and (ii) Gross Income equals or exceeds that projected on the mortgage application

approved at final commitment.

deposit.

Maintenance as Residential Rental Property. The Borrower shall not take any action, or permit any action to be taken, which would result in the Development not being, or (except as expressly approved in writing by the Agency) in any proceeds of the Loan being used to provide other than, "residential rental property" within the meaning of 26 U.S.C. Section 142(d) of

the Code. To that end, the Borrower represents, warrants and agrees that: The Development is comprised of at least two dwelling units and facilities The portion of the Development that

constitutes residential rental property shall be determined in accordance with Treasury Regulation functionally related and subordinate to the dwelling units. Section 1.103-8(b)(4) and shall consist of the residential units in the Development, all other property of the Development benefiting only such units and the allocable portion of the Property of the Development benefiting both such units and other portions of the Development, as provided by

Each of the dwelling units in the Development shall be similarly the Treasury Regulations. constructed, and shall contain complete, separate and distinct facilities for living, sleeping, eating,

cooking and sanitation for a single person or a family. Each of the dwelling units in the Development shall be available for rental to

members of the general public. None of the dwelling units in the Development shall at any time be utilized on a transient basis, shall ever be leased or rented for a period of less than thirty (30) days, The Development shall not be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home,

sanitarium, rest home, or trailer park or court for use on a transient basis. The Development consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the Development's facilities comprise a

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single geographically and functionally integrated project for residential rental property, as evidenced by the common ownership, management, accounting and operation of the Development.

(e) The Borrower shall not convert the Development to condominium or other individual unit ownership during the term of this Agreement. No part of the Development shall at any time be owned or used by a cooperative housing corporation except in compliance with the provisions of Section 143(k)(9) of the Code.

(f) If the Development comprises fewer than five (5) dwelling units, the Borrower shall not occupy any dwelling unit in the Development.

(g) All of the amounts advanced for the Development from the proceeds of the Loan shall be used to provide amounts paid or incurred on or after January 4, 2003 (sixty (60) days prior to the Agency's declaration of official intent to issue bonds) which are chargeable to the residential rental portion of the Development's capital account or would be so chargeable either with a proper election by the Borrower (for example under Section 266 of the Code) or but for a proper election by the Borrower to deduct such amounts. If any portion of a Development was acquired from or constructed by a Related Person of the respective Borrower (whether as a general contractor or a subcontractor), such costs include only the actual out-of-pocket costs incurred by such Related Person and not, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of such Development or payments received by such Related Person due to early completion of the Development (or any portion thereof). No proceeds of the Bonds will be spent on (1) leasing commissions, costs of advertising for any Development, or other costs related to the rental of units in any Development, (2) management fees for the management and operation of any Development after the completion date, or (3) interest allocable to any unit for any period after such unit is held available for rental. For purposes of this paragraph, "Related Person" shall mean a person with a relationship to a person such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein.

(h) On the basis of the cost and economic life of each asset of the Development (under midpoint lives under the ADR System or guideline lives under Treasury Revenue Procedure 62-21, as the case may be), the weighted average estimated economic life of the Development exceeds the maturity of the Loan.

(i) No more than twenty-four and nine-tenths percent (24.9%) of the proceeds of any Loan may be used (directly or indirectly) for the acquisition of land (or an interest therein). The Borrower shall expend Loan proceeds for eligible costs in such amount as may be necessary to comply with the preceding sentence.

(j) The Borrower shall submit to the Secretary of the Treasury (at such time and in such manner as the Secretary shall prescribe) an annual certification as to whether the Development continues to meet the requirements of Section 142(d) of the Code.

If loan proceeds are to be used for acquisition of an existing Development, (k) an amount equal to at least fifteen percent (15%) of the acquisition cost of each building in the Development financed with proceeds of the Bonds shall be attributable to rehabilitation expenditures (as that term is defined in Section 147(d)(3) of the Code) with respect to such building which occupied within twenty-four (24) months after the later of the issuance of the Bonds or the date such building was acquired.

If loan proceeds originally used to finance the Development are from (1)qualified 501(c)(3) bonds, subsections (i) and (k) above are inapplicable, and the Borrower certifies the following:

corporation;

(i) it has received an IRS determination that it qualifies as a 501(c)(3)

(ii) it will own and operate the Development in furtherance of its charitable purposes (as described in its application to the IRS for its 501(c)(3) determination) and not for pecuniary benefit;

(iii) the ownership and operation of the Development does not and will not in any respect or to any extent constitute an unrelated trade or business under Section 513(a) of the Code; and

(iv) it will maintain its existence as, and conduct its operations so as, to maintain qualification as an organization described in Section 501(c)(3) of the Code for the term of the Loan.

4. Tenant Income Limitations.

(a) For the term of this Agreement, at least twenty percent (20%) of the completed dwelling units in the Development shall be occupied or reserved for occupancy, on a continuous basis by individuals or families whose income does not exceed fifty percent (50%) of area median income, as adjusted for family size pursuant to Section 142(d) of the Code, and who constitute very low income households within the meaning of Section 51335 of the Law (collectively, "Qualified Tenants"). In no event, shall the occupants of a unit be considered to be Qualified Tenants if all such occupants are students (as defined under Section 151(c)(4) of the Code), no one of whom is entitled to file a federal joint return under Section 6013 of the Code. Units so occupied shall be rented at rents (including an allowance for utilities) which shall not exceed one-twelfth (1/12th) of thirty percent (30%) of fifty percent (50%) of area median income, as published by the Department of Housing and Community Development or U.S. Department of Housing and Urban Development, with adjustments for household size. The Agency shall from time to time make available to the Borrower schedules of and any changes in the dollar amounts of the rent and income limitations contained in this Section 4.

Except as provided in Subsection 4(b) below, a dwelling unit occupied by an individual or family who at the commencement of the occupancy qualifies as a Qualified Tenant shall be treated as occupied by a Qualified Tenant, even if such individual or family during their tenancy in such unit ceases to so qualify. Moreover, if vacated, such unit shall be treated as CalHFA.RA.TEX.NRSGlenbrook Apts. 1/9/2006.NDS/jaf-#124034v2

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occupied by a Qualified Tenant until reoccupied, other than for a temporary period, at which time the character of the unit shall be redetermined. In no event shall such temporary period exceed thirty-one (31) days.

No resident of a dwelling unit in the Development shall be denied continued occupancy because, after admission, the resident's family income increases (or family size decreases) so as to cause the family income to exceed the maximum income level for a Qualified Tenant. However, if a resident's family income increases (or family size decreases) so as to cause the family income to exceed one hundred forty percent (140%) of the applicable income limit, the Borrower shall ensure that the percentage requirements of this Section shall continue to be met by providing the next available unit or units to Qualified Tenants or by taking other actions to satisfy the percentage requirements of this Section. In determining whether such percentage requirements have been achieved, such requirements shall be complied with on June 30 of each year after any

dwelling units in the Development are occupied. On a form approved by the Agency, the Borrower shall obtain a third party

certification of income from each prospective tenant of a dwelling unit designated for rental by a Qualified Tenant prior to admission to the Development. An annual certification shall also be obtained from each tenant of a dwelling unit designated for rental by a Qualified Tenant on or about June 30 of each year. Copies of such certifications shall be sent to the Agency, shall be retained in the Borrower's files for a period of three (3) years and shall be available for inspection by the

Agency or its agents upon request.

On or before August 15th of each year the Borrower shall file with the Agency a report on a form approved by the Agency specifying the total number of dwelling units in the Development and the number of units occupied by Qualified Tenants as of June 30th of such

Agency Financing and Rental Requirements. In addition to the requirements of year.

Sections 3 and 4, the Borrower covenants that: Unless otherwise approved by the Agency, rental charges to Qualified

Tenants shall include all utilities except telephone and cable television; provided however, that where the Agency approves direct payment of utilities (in addition to telephone) by such tenants, such rental charges shall be calculated as if the estimated expense of such utilities were to be paid by the Borrower, but the amounts actually collected from such tenants shall be decreased by the

estimated expense of such utilities approved by the Agency.

The Borrower shall require every tenant in the Development to execute a lease in a form which may be subject to approval by the Agency and shall not lease any dwelling unit in the Development for less than thirty (30) days nor more than two (2) years. The form of

lease shall provide for eviction procedures conforming to California law. The Borrower shall not discriminate against tenants or applicants who are recipients of federal rent subsidies pursuant to Section 8 of the United States Housing Act of 1937,

as amended, or any successor subsidy program.

(d) Utilization of the commercial facilities of the Development, if any, shall be compatible with the residential uses of the Development. Any commercial tenants, improvements and lease provisions must be approved by the Agency. The Agency shall have the right to require existing and future commercial tenants to enter into nondisturbance and attornment agreements on commercially reasonable terms. The Borrower and each commercial tenant agree to do any acts and execute any documents necessary to effectuate the Agency's rights in this regard.

(e) The Borrower agrees to make available any and all units of the Development for the purposes of physical inspection by Agency personnel upon prior notice and in accordance with Agency policies and procedures. In addition, Borrower shall require that its managing agent inspect each unit at least on an annual basis.

(f) The Borrower shall not permit any interest to be charged nor to accrue on any advances to the Development from the Borrower or any affiliate of the Borrower except upon the following conditions: (1) prior written notice of such advance and the terms thereof shall be given to the Agency; (2) interest shall be limited to the rate on the Note; (3) the amount of such advance shall be no greater than necessary to pay current expenses; and (4) such advances shall be repaid after payment of, or the reservation of funds for payment of, all Operating Expenses of the Development and prior to any Distributions from the Development. Failure of any of these conditions shall render the party making the advance liable to refund and/or forfeit all interest paid or due and shall be an event of default pursuant to this Agreement.

(g) The dwelling units to be occupied by, or reserved for occupancy by, Qualified Tenants shall be of comparable quality to all other dwelling units, shall be dispersed throughout the Development, and shall be in size and type available in the same percentages as the sizes and types of all other dwelling units.

(h) The Borrower represents and warrants that at all times its acts in connection with the Development have complied with and shall continue to comply with all applicable provisions of federal, state and local laws, all applicable provisions of the Act, the rules, regulations, policies and procedures of the Agency and all agreements with the Agency and any other public entities concerning the Development as amended from time to time. The Borrower represents to the Agency that professional advice is available to the Borrower for the purpose of enabling the Borrower to be aware of and to comply with said laws, policies, procedures and agreements. The Borrower agrees to indemnify the Agency against any loss incurred by the Agency as a result of the Borrower's failure to comply therewith.

Specifically, the Borrower acknowledges the existence of federal, state and local laws regarding handicapped accessibility and the relocation of persons displaced by the Development. The Borrower agrees that the Borrower, and not the Agency, is responsible for complying with such laws.

6. <u>Establishment and Use of Reserve Funds</u>. The Borrower shall establish and maintain the following reserve and escrow accounts. Unless otherwise specified herein or approved by the Agency, in its sole discretion, such accounts (i) shall be established on or before the Closing Date, (ii) shall be funded with cash, (iii) shall be under the control of the Agency at all times, (iv) may be invested by the Agency provided that income earned on such funds (minus 1%)

per annum of the principal balance of the account, but only to the extent there are earnings, which may be retained by the Agency as an administrative fee) shall accrue to the account, (v) shall be used for the prescribed purposes, and (vi) shall have any remaining balance, upon the Agency's termination of the requirement for the particular reserve account, returned to the Borrower. Borrower agrees that any conveyance or transfer, voluntary or involuntary, of its interest in the Development shall have the effect of transferring to the successor-in-interest all of Borrower's interest in and all of its rights to, if any, the reserve and escrow funds without further act of the Borrower, and in refunding all or any part of the reserve and escrow funds, the Agency may deal with whoever is the record owner of the property at the time of termination. Borrower agrees that the Agency is granted a security interest in all required reserve and escrow funds which are intended to benefit the Development. Borrower hereby appoints the Agency, during the term of this Agreement, as its attorney-in-fact, to substitute any new owner of the Property or Development, or the Agency itself, as signatory of the reserve and escrow accounts, in the place of Borrower.

(a) <u>Operating Expense Reserve</u>. An Operating Expense Reserve (the "*OER*") shall be established and maintained from sources other than Gross Income in the amount of Fifty-One Thousand Three Hundred Forty-Four and No/100 Dollars (\$51,344), until such time as two (2) full consecutive Development fiscal years have passed in which the audited annual financial statement accepted by the Agency shows that Gross Income is sufficient to meet all Operating Expenses. The OER shall be funded on a one-time-only basis and, if drawn down, need not be replenished. The OER shall be used to fund any Operating Expenses not covered by Gross Income.

(b) Replacement Reserve. A Replacement Reserve (the "RR") shall be established and maintained until the termination of this Agreement. The RR shall be funded by deposits in the amount of One Thousand Four Hundred Eight and 33/100 Dollars (\$1,408.33) per month, due on the first day of each and every month commencing with the first payment due on the Note. The Agency may adjust, at any time, the amount of the monthly payments to be made into the RR as necessary to, in its sole discretion, keep pace with increases in the costs of replacing structural elements and equipment of the Development. The RR shall be used upon the Agency's written approval to replace major structural elements or equipment of the Development or for any other purpose consistent with maintaining the financial and physical integrity of the Development. Borrower agrees to make arrangements for a physical needs assessment and an evaluation, by an independent party acceptable to the Agency of current and future maintenance requirements of the Development. This physical needs assessment and maintenance evaluation shall occur upon the Agency's request and shall be forwarded to the Agency for review. The costs of such assessment and evaluation shall be an obligation of the Borrower.

(c) <u>Construction Defect Security</u>. On or before the Closing Date, the Agency shall be provided with a cash deposit or letter of credit, as approved by the Agency (the "*Construction Defect Security*" or "*CDS*"), in the amount of One Hundred Fifty-Four Thousand Four Hundred Eight and No/100 Dollars (\$154,408.00) (2.5% of the construction contract amount as of the date of completion) or such greater amount as may, in the sole discretion of the Agency, be necessary to adequately secure the Agency and Development against construction defects. The term "construction defect" as used herein shall mean all construction related physical problems including but not limited to deviations from the approved final plans and specifications for the Development. Such CDS shall be kept in effect for one (1) year from the date of Permanent Loan Closing and may be used or set aside for the correction of construction defects or related damages

which appear during such period and which are not corrected by the contractor or the Borrower within a reasonable time following the demand by the Agency for such correction. The date specified herein may be extended if payment of construction defect repairs will be paid after that date, of if there is an ongoing dispute regarding construction defects not yet repaired to the satisfaction of the Agency.

(d) <u>Additional Escrows and Accounts</u>. In addition to the MA, RUA, OER, RR, and CDS, the Agency may, prior to the Closing Date, require the establishment and maintenance of other reserve and/or escrow accounts as necessary to create reserves which, in the sole discretion of the Agency, are necessary or proper to ensure the feasibility of the Development.

7. <u>Application of Funds if Default</u>. In the event of a default under this Agreement, or any of the other Loan Documents, the Agency in its sole discretion may apply or authorize the application of the funds in any of the accounts provided for in Section 6, to any amounts then due under this Agreement or the other Loan Documents, or use such funds for the continued operation of the Development provided, however, that if the default is cured, all funds shall be returned to the appropriate account.

8. <u>Non-Discrimination and Equal Opportunity</u>. Occupancy of the Development shall be open to all regardless of race, sex, sexual orientation, marital status, familial status, age (except for senior citizen housing pursuant to California and Federal law), color, religion, disability, source of income, national origin or ancestry. The Borrower shall require that its officers, agents, employees, management agent, contractors, subcontractors, and employees associated with the Development provide equal opportunity for employment and that they shall not engage in any unlawful discriminatory conduct. In addition, the Borrower agrees to conduct its own affirmative marketing programs as approved by the Agency.

9. <u>Qualified Tenant's Rental Limits Increase Procedure</u>.

(a) The Agency will, from time to time, revise the maximum rental limits applicable to dwelling units reserved for Qualified Tenants by a percentage equal to any percentage change in county median income. Until such time as the Agency mails a notice of such change of rent limits to the Borrower (or such change is posted on the Agency's website), the previously existing charges shall apply.

(b) Upon receipt of new rental limit schedules, the Borrower may increase, and shall, if necessary, decrease the rental charges. Any increase in rental charges must comply with the terms of the lease as to the time and manner of such changes, provided that, no Qualified Tenant shall have a rent increase sooner than one (1) year after initial occupancy, and provided further, no Qualified Tenant shall have an annual rent increase in excess of the percentage increase in the county median income for the applicable year in which the rent increase is being considered, nor shall there be an accumulation of rental increases from year-to-year for those years in which the Borrower chooses not to increase rents by the percentage allowed herein.

10. <u>Financial Covenants</u>. In addition to, but not by way of limitation of, all other duties of the Borrower set forth herein, the Borrower shall comply with the following:

(a) <u>Audit</u>. The Development and all equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and shall be subject to examination, inspection and copying at any reasonable time by the Agency or by its authorized representative upon reasonable notice to Borrower.

(b) <u>Books and Records</u>. The books and records of the Development shall be kept by the Borrower in accordance with the requirements of the Agency.

(c) <u>Financial Reporting</u>.

(i) Within sixty (60) days following the end of each fiscal year of the Development, the Agency shall be furnished by the Borrower with a complete annual financial report on the Development based upon an examination of the books and records of the Development, prepared in accordance with the requirements of the Agency, and certified by the Borrower, and at the Borrower's expense, by an independent certified public accountant licensed in California and acceptable to the Agency. Each such financial report shall be subject to the approval of the Agency and when approved by the Agency shall be a "Development Financial Report" as referred to herein;

(ii) Within twenty (20) days following the end of each month, the Agency shall be furnished by the Borrower with a complete monthly financial report. The monthly financial report must include a detailed accounting of, without limitation, all income and expenses, accounts receivable, accounts payable and disbursements received or made in the month reported.

(d) <u>Furnishing Information</u>. At the request of the Agency, the Borrower shall furnish such reports, financial statements, projections and analyses as may be required from time to time by the Agency and shall give specific answers to questions upon which information is desired relative to the income, expenses, assets, liabilities, contracts, operations and conditions of the Borrower and the Development. Borrower understands and agrees that the content of such reports, statements, projections, analyses and other information may be disclosed in any documentation prepared in connection with the issuance by the Agency of its Bonds and may otherwise be publicly disclosed in accordance with state and federal law.

(e) <u>Development Account</u>.

(1) The Borrower shall establish an account (the "Development Account") with a depository, which is insured by the Federal Deposit Insurance Corporation ("FDIC") or by a successor in interest to FDIC into which all Gross Income of the Development shall be deposited when received. The Borrower or any person receiving funds and tenant security deposits of the Development other than as permitted by this Agreement shall immediately deposit such funds in the Development Account and failing to do so shall hold such funds in trust for the Development. The Borrower or any person receiving any property of the Development in violation of this Agreement shall immediately deliver such property to the Agency, and failing to do so shall hold such property in trust for the Development. Reserves, deposits, rents, charges, fees and any other deposits and/or income of the Development as used herein shall also include, without limitation, such income derived from commercial facilities of the Development, if any.

(2) Agency shall have a first priority security interest in the Development Account, and Borrower hereby grants Agency a security interest in the Development Account. Immediately upon establishing the Development Account, Borrower shall notify the Agency of the identity of the depository, the branch where the account is established and the account number. The depository shall be required to execute a deposit account control agreement within the meaning of Article 9 of the California Uniform Commercial Code ("Control Agreement"), in a form acceptable to the Agency, to perfect the Agency's security interest in such account. Agency shall be entitled to exercise its rights under the Control Agreement upon Borrower's default, as determined by the Agency in its sole discretion, under the Loan Documents. However, the Agency shall not be obligated to give the Borrower the advance notice of default required by Section 16 of this Agreement prior to giving the depository the written "Notice of Exclusive Control" provided for in the Control Agreement.

(3) Borrower may not transfer the Development Account to another depository without the prior written consent of the Agency, which consent, if granted in the agency's sole discretion, shall be conditioned upon the new depository executing a Control Agreement.

(4) Disbursements from the Development Account shall be permitted only to administer security deposits and to pay Operating Expenses and permitted Distributions.

(5) The Borrower shall maintain security deposits in accordance with

applicable law.

(f) <u>Annual Operating Budget</u>. The Borrower shall submit to the Agency a proposed operating budget for the Development not later than sixty (60) days prior to the beginning of each fiscal year of the Development. The proposed operating budget shall set forth the anticipated Gross Income of the Development and a detailed estimate of all Operating Expenses thereof, which shall include an itemization of administration expenses, maintenance expenses, cost of utilities, hazard insurance, earthquake insurance, taxes and assessments, Loan principal and interest, deposits to all funds, reserves or accounts required by the Agency and/or established by the Borrower. The budget shall be in a form satisfactory to the Agency and shall otherwise be consistent with the requirements of this Agreement. Upon approval by the Agency, such proposed operating budget shall be the operating budget for the ensuing fiscal year.

11. Development Management.

(a) The Borrower shall provide for the management of the Development in a manner satisfactory to the Agency, shall employ a bonded and licensed management agent, develop a management plan, and use a management agreement acceptable to the Agency. A fidelity bond shall be maintained in an amount equal to one month's gross rent and shall insure the Borrower and the Agency against misapplication of Development Funds. All management agreements shall include a copy of this Agreement, which shall be incorporated therein, and made a part of the contract. The management agreement shall be structured so that it is subject to termination with or without cause by the Borrower or the Agency, and without penalty, upon not less than thirty (30) days prior written notice to the management agent. Any liability associated with the termination of the management contract shall be the sole obligation of the Borrower. Upon notice of termination,

the Borrower agrees to make immediate alternative arrangements, satisfactory to the Agency, for the continued management of the Development. In the event that the Borrower shall fail to make such alternative arrangements for a substitute managing agent within a reasonable time (which in no event shall exceed sixty (60) days from the date of the sending of the termination notice), the Agency shall have the unilateral right to make such alternative arrangements. The amount of the management agent's compensation shall be subject to approval by the Agency, which shall not be unreasonably withheld.

(b) The Borrower shall require that a Resident Selection/Affirmative Fair Housing Marketing Plan ("*Plan*") be prepared and maintained in cooperation with the managing agent. This Plan shall be subject to the approval of the Agency. In carrying out this Plan, the Borrower/management agent shall:

(1) Lease no less than twenty percent (20%) of the total units of all sizes and types to Qualified Tenants;

(2) Give preference to the applicants in the following order:

- (i) persons displaced by:
 - a. natural disaster,
 - b. construction of this Development,
 - c. other public action,
 - d. other causes, provided that such displacement shall be certified in writing by a government agency, and
- (ii) all other applicants;

(3) Begin marketing of the Development at least ninety (90) days prior to the availability of the units for occupancy;

(4) Assure that all advertising, (including letterheads, brochures and media advertising, shall include "Equal Housing Opportunity" and the "handicapped" logo. Further, if advertisements contain human models, a mix of minority and non-minority models are to be used to reflect the open housing philosophy. No preference for any economic status or lifestyle shall be depicted;

(5) Where a significant number of persons in the community have limited fluency in the English language, provide publications, information, brochures and leases in the native language of such persons; "Significant number of persons" is deemed to be at least twenty-five percent (25%);

(6) Develop and maintain a policy and procedure for the selection and rejection of applicants, and a grievance and eviction policy and procedure for tenants of the Development;

(7) Assure that tenant selection is carried out without favoritism or partiality and that no preference is given to any applicant other than as provided herein;

(8) Give each tenant selected, at the time of acceptance, a written copy of the tenant eviction and grievance procedures for the Development and all amendments thereto; and

(9) Where necessary, conduct such additional marketing as reasonably required to fulfill affirmative marketing goals and meet other goals of the Plan.

12. <u>Certain Acts Prohibited</u>. The Borrower shall not, without the prior written approval of the Agency, do any of the following. The granting of the Agency's approval shall be in its sole, unfettered discretion and may be conditioned upon the satisfaction of such terms and conditions as the Agency may prescribe.

(a) Make any sale, assignment, conveyance or transfer in any other form of the Development or any part thereof or of any of its interest therein, whether voluntarily or involuntarily, or by operation of law.

(i) A transfer by the Borrower in whole or in part, or a transfer by a party having a substantial interest in said Borrower, or transfers by more than one party of interests aggregating a substantial interest in said Borrower, or any other similarly significant change in the ownership of interests in the Borrower, or in the relative distribution thereof, or with respect to the parties in control of the Borrower or the degree thereof, by any other method or means (e.g., increased capitalization, merger with another corporation or other entity, corporate or other amendments, issuance of new or additional ownership interests or classification of ownership interests or otherwise) shall be deemed an assignment, conveyance, or transfer for purposes of this subsection. An assignment by the Borrower to a limited partnership, in which no limited partner has a 25 percent or more interest and of which the Borrower is the sole general partner, shall not be considered an assignment, conveyance, or transfer.

(ii) The term "substantial interest" means the interest of any general partner, any limited partner having a 25 percent or more interest in the organization, any corporate officer or director, and any stockholder having a 10 percent or more interest in the organization.

- (b) Make any Distribution not permitted by the terms of this Agreement,
- (c) Assign or transfer any right to manage the Development.
- (d) Materially remodel, add to, reconstruct, demolish or damage any part of the Development.
- (e) Require, as a condition of the occupancy or leasing of any dwelling unit in the Development to Qualified Tenant, any consideration or deposit other

than the prepayment of the first month's rent plus a security deposit in an amount not in excess of one (1) month's rent to guarantee the performance of the covenants of the lease.

- (f) Incur any liability or obligation in connection with the Development, contingent or otherwise, other than for current Operating Expenses and for the indebtedness evidenced by the Note, or incur any liability or obligation whatsoever that is secured in whole or in part by any interest in or lien or encumbrance on the Development.
- (g) Invest any funds from the Development in any property, real, personal, or mixed, except as authorized by this Agreement, or deposited any such funds in a depository not authorized by this Agreement; or
- (h) Make a loan of any funds from the Development to any person or entity; or
- (i) Fail to establish or maintain the accounts required by Section 6 of this Agreement.
- (j) Cause or permit the Development to be maintained in a condition which the Agency deems, in its sole discretion, as an impairment of its security interest, or a violation of the Borrower's obligation to maintain the Development in a safe, sanitary and decent condition.
- (k) If the Development receives Section 8 assistance, cause or permit the loss of Section 8 units under the Housing Assistance Payment Contract ("*HAPC*"), or fail to apply for or accept any extension of the HAPC.

13. <u>Distributions</u>.

(a) The Borrower shall be entitled to an annual Distribution of Surplus Cash. The Agency shall make an annual review of the Development Financial Report which shall be prepared in accordance with the Agency's Property Management Manual as amended from time to time, and determine whether a Distribution should be approved.

(b) If the debt service schedule of the Note is not payable from Surplus Cash or Residual Receipts, from time to time during the fiscal year, upon Agency approval, the Borrower may take advances on its reasonably expected annual distribution for the fiscal year. Such advances shall only be taken if there are no undisputed accounts payable older than thirty (30) days and there are sufficient funds to pay anticipated Operating Expenses coming due within the next thirty (30) days. The amount distributed shall not, in the aggregate, exceed the amount of the reasonably expected annual Distribution for the fiscal year. Such advances shall be reconciled to the monthly financials and the Development Financial Report for the fiscal year and, to the extent they exceed the approved annual Distribution, shall be refunded to the Development Account upon immediate demand by the Agency. (c) If any debt service payable to the Agency derives from Surplus Cash or Residual Receipts, the Borrower shall not be entitled to advances of Distributions as discussed in subsection (b). All Distributions shall be taken annually and only after the Agency's prior written approval.

(d) Except as provided in subsection (b), no Distribution shall be taken, made, received or retained by the Borrower or any other persons or entity without the prior written approval of the Agency. The Agency shall not unreasonably withhold its approval of a Distribution request. Notwithstanding the foregoing, the Agency shall not be required to approve Distributions to be made from borrowed funds, or to be made while there is any violation or default under the terms of this Agreement or any of the other Loan Documents.

(e) The proceeds of any unapproved Distribution, while retained, shall be held by the recipient as trustee for the Development and shall be immediately refunded to the Development upon demand. The recipient of an unapproved Distribution shall be obligated to pay interest thereon to the Development at the rate of the Note for the period that the Distribution is retained by the recipient.

14. <u>Actions</u>. The Borrower agrees to notify the Agency promptly in writing of any action or proceeding by or against the Development or by or against the Borrower with respect to the Development. No action or proceeding seeking the recovery of a sum in excess of Ten Thousand and No/100 (\$10,000.00) or for specific performance or other equitable relief shall be instituted by the Borrower with respect to the Development, nor shall any action or proceeding seeking the recovery from the Development, or from the Borrower with respect of the Development, of a sum in excess of Ten Thousand and No/100 (\$10,000.00) or for specific performance or other equitable relief against the Development, or against the Borrower with respect of the Development, of a sum in excess of Ten Thousand and No/100 (\$10,000.00) or for specific performance or other equitable relief against the Development, or against the Borrower in respect of the Development, be settled or compromised by the Borrower, without the prior approval of the Agency. Any such approval may be subject to such terms and conditions as the Agency, may prescribe.

15. <u>Assignment of Rents for Security</u>. As security for the performance of the Borrower of all its obligations under this Agreement, the Borrower hereby assigns and pledges to the Agency all of the Borrower's right, title and interest in and to the rents, profits, income and charges of whatsoever kind or nature which it may receive or be entitled to receive from the operation of the Development, subject, however, to any assignment of rents or like provision contained in the Deed of Trust or in any of the other Loan Documents; provided, however, that unless and until a default under this Agreement is declared by the Agency or a default or event of default shall have occurred under any of the other Loan Documents, the Borrower shall be permitted to collect and retain such rents, profits, income and charges, subject to the provisions of this Agreement.

16. <u>Violation of Agreement by the Borrower</u>. In the event of the violation of any of the provisions of this Agreement by the Borrower, the Agency shall give written notice thereof to the Borrower by registered or certified mail addressed to the Borrower at the address stated in this Agreement, or to such other address as may have been designated by the Borrower in writing, and if such violation is not corrected to the satisfaction of the Agency within thirty (30) days after the date such notice is mailed (or within such further time as the Agency in its sole discretion may

CalHFA.RA.TEX.NRSGlenbrook Apts. 1/9/2006.NDS/jaf-#124034v2 permit), the Agency may without further prior notice declare in writing a default under this Agreement effective on the date of such declaration of default, and upon any such declaration of default, or, irrespective of any such declaration of default, upon the occurrence of a default or event of default under any of the other Loan Documents, the Agency may:

(a) Declare the whole of the principal amount of the indebtedness evidenced by the Note immediately due and payable and proceed with the rights and remedies provided for in the Loan Documents.

(b) Collect all rents, rental subsidies, profits, income and charges in connection with the operation of the Development and use same or the proceeds thereof, in such order as the Agency may determine, toward satisfaction of the Borrower's obligations under this Agreement or any of the Loan Documents; and toward payment of the necessary expenses of preserving and operating the Development.

(c) Take possession of the Development, bring any action necessary to enforce any rights of the Borrower growing out of the operation of the Development, and operate the Development in accordance with the terms of this Agreement until such time as the Agency, in its sole discretion, shall determine that the Borrower is again in a position to operate the Development in accordance with the terms of this Agreement and in compliance with the requirements of any of the other Loan Documents.

(d) Apply to any court, state or federal, for specific performance of this Agreement; for an injunction against any violation by the Borrower of this Agreement; for the appointment of a receiver to take over and operate the Development in accordance with the terms of this Agreement; or for such other relief as may be appropriate, it being agreed by the Borrower that the injury to the Agency arising from the default under any of the terms of this Agreement would be irreparable and that it would be extremely difficult to ascertain the amount of compensation to the Agency which would afford adequate relief.

(e) In addition, if and to the extent necessary to correct any such default, the Borrower hereby grants to the Agency the option to lease, from time to time, units in the Development for a rental of one dollar (\$1.00) per unit per year for the purpose of subleasing such units to comply with Sections 3 and 4 of this Agreement. Any rents received by the Agency under any such sublease shall be paid to the Borrower after the Agency has been reimbursed for any expenses incurred in connection with such sublease, provided, that if the Borrower is in default under the Loan, such rental shall be used to make payments of Loan principal and interest or otherwise to cure such defaults.

17. <u>Interest Charges</u>. In the event that the Borrower fails to make timely payment of any money provided for in this Agreement, then such payment obligation shall be increased to include interest at the rate of the lesser of ten percent (10%) simple interest per annum or the maximum rate permitted by law.

18. <u>Action by the Agency</u>. Except as may be otherwise specifically provided herein, whenever any approval, notice direction, consent, request or other action by the Agency is required

or permitted under this Agreement such approval, notice direction, consent, request or other action shall be in writing.

19. <u>Integration and Amendments</u>. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents shall not be modified except by written instrument executed by all parties. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Agency in writing.

20. <u>Severability</u>. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

21. <u>Binding on Successors</u>. This Agreement shall bind, and the benefits thereof shall inure to, the respective parties hereto, their legal representatives, executors, administrators, successors and assigns; provided, however, that the Borrower may not assign this Agreement or any of its obligations hereunder, voluntarily or by operation of law, without the prior approval of the Agency. Except as expressly provided herein, this Agreement shall be for the exclusive benefit of the parties hereto and shall not confer any rights upon any third party. In the event the Borrower transfers title, possession or control of the Development to a third party, the Borrower covenants to require as a condition of transfer that such third party agrees to be bound by and to operate the Development in accordance with this Agreement. The Agency is deemed to be the beneficiary of such conditions and agreements with the right to enforce them against any such third party.

22. <u>Recordation</u>. This Agreement shall be acknowledged by each of the parties and recorded in the official records of the county in which the Development is located.

23. <u>Election of Remedies; Events of Default</u>. The remedies of the Agency hereunder and under the other Loan Documents are cumulative, and the exercise of one or more of such remedies shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

24. <u>Waiver by Agency</u>. No waiver by the Agency of any breach of or default under this Agreement shall be deemed to be a waiver of any other or subsequent breach thereof or default hereunder.

25. <u>Governing Law</u>. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

26. <u>Legal Notices</u>. Written notices pursuant to Section 16 of this Agreement by and between the parties hereto shall be addressed as follows unless and until a party hereto has, in writing, communicated a different address to the other party hereto, provided, for notices other than to Borrower, CalHFA shall use its best efforts, and provided further that no legal consequences shall arise by reason of CalHFA's failure to give notice to:

Borrower:	Oregon Investors VII Limited Partnership c/o Cascade Housing Association 87460 Cedar Flat Road Springfield, Oregon 97478 Attn: Kelly R. Williams
Limited Partner:	MMA Financial Warehousing, LLC c/o MMA Financial TC Corp. 101 Arch Street, 14 th Floor Boston, Massachusetts 02110 Attn: Geoffrey Giancola
Agency:	Office of the General Counsel California Housing Finance Agency 1415 L Street, Suite 500 Sacramento, California 95814

27. Attorney Fees, Costs. In any nonjudicial foreclosure process, or action to enforce or relating to any provision of the Loan Documents, the prevailing party shall be entitled to recover from the other party, its costs and expenses. The term "costs and expenses" as used herein shall include all costs and expenses actually and reasonably incurred including but not limited to attorney fees; filing, motion, and jury fees; juror food and lodging; taping, videotaping, and transcribing depositions and travel expenses to attend depositions; service of process by a public officer, registered process server, or other means; expenses of attachment including keeper's fees; premiums on surety bonds; ordinary witness fees pursuant to Section 68093 of the California Government Code; fees of expert witnesses whether or not ordered by the court; transcripts of court proceedings whether or not ordered by the court; court reporters fees as established by statute; investigation expenses in preparing the case for trial; postage telephone, and photocopying charges; costs in investigation of jurors or in preparation for voir dire; models, blowups and photocopies of exhibits, and any other item that is required to be awarded to the prevailing party pursuant to statute as an incident to prevailing in the action at trial or on appeal. Such costs and expenses shall be recoverable whether the services were rendered by a salaried employee of the party or by an independent contractor.

28. <u>No Conflict With Other Documents</u>. The Borrower warrants that it has not, and shall not, execute any other agreement with provisions contradictory to the provisions hereof, and that, in any event, the requirements of this Agreement shall be paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

29. <u>Agency Insurance Requirements</u>. The Borrower shall maintain insurance on the Development in substantial conformance with the requirements of the Agency as amended from time to time. As of the date of this Agreement, the Agency's requirements are set forth in that certain "Insurance Requirements For California Housing Finance Agency Developments" attached hereto as **Exhibit B** and incorporated herein by this reference.

30. <u>Maintenance</u>. The Borrower shall maintain the Development in a decent, safe and sanitary condition and in a good state of repair as determined by the Agency in its sole discretion.

31. <u>Indemnification</u>. The Borrower shall indemnify, defend (with counsel reasonably chosen by the Agency, at the Agency's option), and hold the Agency, and its employees, officers, agents, and board members harmless against all claims which arise out of or in connection with the ownership or occupancy of or construction on or in connection with the Development (including, without limitation, rehabilitation) by the Borrower or the Borrower's contractors, subcontractors, agents, employees, or tenants. This section shall survive the termination of this Agreement.

32. <u>Environmental Covenants</u>. The Borrower represents and warrants that after reasonable investigation and inquiry, and except as indicated in the Phase I environmental report submitted to the Agency, as of the closing date it has no knowledge of any hazardous substance or environmental condition on or within two thousand (2,000) feet of the Development which may adversely impact the security of the Loan, or which may render the Development financially infeasible, or which may affect the health and safety of the occupants, the Development, or which may present an undue risk of liability to the Agency. The Borrower agrees to comply with all laws and orders of any federal, state or local governmental agency relating to clean-up or remediation, or other response action required by applicable law or order concerning a release or threatened release of hazardous substances in or on the Development. The term "hazardous substance" as used in this paragraph shall mean as defined at Code of Civil Procedure Section 736(f)(3).

The Borrower shall give any and all environmental notices to tenants and/or workers (both employee and independent contractor) which may be required by state or federal law. The Borrower hereby agrees to indemnify and hold the Agency harmless for any and all liability arising out of the presence of hazardous substances on the Development during the longer of the term of the Loan or the term of the Regulatory Agreement. Liability may be established by, among other forms of demands, a demand in the form of a judgment, a settlement, or an administrative order; and may include costs, fees, penalties, interest, attorney fees, and other costs related thereto. Whereas the purpose of this indemnity is to protect the Agency from harm, the rights to recover shall accrue as soon as the liability is incurred or costs are advanced. The term "any and all liability" shall include, but shall not be limited to, liability for: (a) the clean-up of hazardous substances; (b) claims for contribution or apportionment of remedies, and (c) claims for physical or other damages to persons, property, or natural resources. The duty of the Borrower to indemnify and hold the Agency harmless shall include the duty to defend as set forth in California Civil Code Section 2778.

33. Intentionally Deleted.

34. Intentionally Deleted.

35. <u>Counterparts</u>. This Agreement may be executed in several counterparts, each of which will be an original and all of which constitute one and the same instrument.

36. <u>3 Year Tax Credit Period</u>. If this Development was assisted by federal tax credits, and in the event that it is determined that IRS Code Section 42(h)(6)(E) (ii) is applicable to the Agency, and in the event that the Agency were to take over ownership of the Development as a result of a foreclosure, the Agency will comply with the 3 year extended use requirement as specified therein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BORROWER:

AGENCY:

OREGON INVESTORS VII LIMITED PARTNERSHIP, an Oregon limited partnership

By: Cascade Housing Association, an Oregon non-profit corporation Its General Partner

By: Name: Kelly R. Williams Title: Secretary-Treasurer

CALIFORNIA HOUSING FINANCE AGENCY, a public instrumentality and political subdivision of the State of California

By:

Name: 2:10:00 Title:

Exhibit A - Legal Description of the Development Exhibit B - Agency Insurance Requirements

ACKNOWLEDGMENTS

ALL PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA SS COUNTY OF SACRAMENTO

On January 11, 2006, before me, J. Murray Beardwood, Notary Public, personally appeared Bruce D. Gilbertson, personally known to me to be the person whose name is subscribed in the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Munum Boardword Notary Public in and for said State

(Optional)

<u>Regulatory Agreement</u> Title or Type of Document Item # 6.

ACKNOWLEDGMENT

STATE OF OREGON	
COUNTY OF LANE)

in the year 2006 On this 13th day of Jauary Cindy L. Halford , personally appeared before me, Kelly R. Williams

, personally known to me (or 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.

CINDY L HALFORD NOTARY PUBLIC - OREGON Flat COMMISSION NO. 370677 MY COMMISSION EXPIRES SEPT. 12, 2007 Notary Public

My Commission Expires:

September 12, 2007 *

EXHIBIT A

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GRASS VALLEY, COUNTY OF NEVADA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

All that portion of the lands of Amaral as described in the Deeds as filed in Document No. 95-33674 and Document No. 2001-43532, Nevada County Records, situate within the Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.B.& M., and more particularly described as follows:

COMMENCING at the Southeast corner of the herein described area from which the Southeast corner of said Section 24 bears the following two courses, North 62° 29' 00" East 310.97 feet and South 75° 54' 58" East 4004.35 feet; thence from said point of commencement along the Southerly line South 62° 29' 00" West 375.32 feet to the Southwest corner and being situate on the Easterly line of Sutton Way; said Southwest corner being situate on a curve to the left, concave to the Southwest, having a radius of 580.00 feet and an initial radial bearing of South 74° 30' 03" West; thence along said curve through an arc of 18° 41' 42" for a distance of 189.25 feet to the end thereof, thence North 34° 11' 40" West 175.23 feet to the most Westerly corner of the herein described area and being the Southwest corner of the lands of PG&E as described in the Deed filed in Book 470, Official Records, at Page 458, thence along the lines common to said PG&E the following two successive courses, North 89° 54' 54" East 157.35 feet; thence North 15° 29' 10" West 305.00 feet to the Northwest corner of the herein described area; thence along the Northerly Line South 82° 30' 00" East 402.75 feet to the Northeast corner of the herein described area; thence along the Easterly line South 82° 30' 00"

The above described area being further delineated on the Record of Survey, filed in Book 12 of Surveys, at Page 475, Nevada County Records.

EXCEPTING THEREFROM as to an undivided 1/2 interest in and to the minerals below the depth of 75 feet beneath the surface as provided in the Deed recorded October 23, 1948, in Book 136 of Official Records, at Page 17, Nevada County Records, executed by Idaho Maryland Mines Corporation, a Corporation, to Errol MacBoyle.

ALSO EXCEPTING THEREFROM as to an undivided 1/2 interest in and to all oil, gas, other hydrocarbon and minerals, lying below a plane 200 feet beneath the surface as described in the Quitclaim Deed recorded May 21, 1974, executed to Marlan Ghidotti.

APN: 35-412-25

EXHIBIT B

CALIFORNIA HOUSING FINANCE AGENCY

INSURANCE REQUIREMENTS FOR CALIFORNIA HOUSING FINANCE AGENCY DEVELOPMENTS

Owner shall procure and maintain for the duration of the loan, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the owners operation of the premises to which this contract applies.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

- 1. Property insurance against the perils of fire, "extended coverage", vandalism, and malicious mischief to real property and business income (rents).
- 2. If not granted a waiver, Property insurance against the perils of earthquake and flood for both real property and business income (rents) (may be purchased through CalHFA).
- 3. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
- 4. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
- 5. Workers Compensation insurance as required by the State of California and Employer's Liability Insurance.
- 6. Boiler and Machinery coverage against standard "broad form" perils.

Minimum Limits of Insurance

Owner shall maintain limits no less than:

- 1. Property Insurance: Full replacement cost with no coinsurance penalty provision for real property, and at least the annual gross potential rental income for the development for business interruption coverage.
- 2. General Liability: (Including operations, products and completed operations.) **\$1,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- 3. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
- 4. Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.
- 5. Earthquake and Flood:
 - (a) Limit as provided through participation in the earthquake and flood DIC policy coverage offered through the Agency, or.
 - (b) For new proposed projects, application to Multifamily Programs underwriting for a waiver.
 - (c) For projects not covered by the Agency policy or granted a waiver, total replacement value (building replacement cost plus business interruption value) with no coinsurance penalty provision.

Blanket earthquake insurance policies will be considered on a case by case basis.

6. Boiler & Machinery: **\$1,000,000**.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by CalHFA. At the option of the CalHFA, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CalHFA, its officers, officials, employees and volunteers; or the owner shall provide a financial guarantee satisfactory to CalHFA guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Notwithstanding the foregoing, the owner may select deductibles no greater than \$10,000 per occurrence on Property and Boiler & Machinery coverages, and no greater than 5% of the values per building per location at the time and place of the loss per occurrence on Earthquake and Flood coverages.

Other Insurance Provisions

With respect to Property and Earthquake and Flood coverage, the Agency's interest shall be protected by a Lenders Loss Payable Endorsement naming the Agency as "Loss Payee."

Crime Coverage: The Agency recommends, but does not require owner to carry insurance covering money or other property against burglary, robbery or theft.

Directors and Officers: The Agency recommends but does not require liability insurance for directors and officers of non-profit boards.

The general liability policy is to contain, or be endorsed to contain, the following provisions:

- 1. The owner's insurance coverage shall be primary insurance. Any insurance or selfinsurance maintained by the Agency shall be excess of the owner's insurance and shall not contribute with it.
- 2. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, reduced or modified except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency.
- 3. The Agency, its officers, officials, and employees are to be covered as additional insureds with respect to liability arising out of ownership, maintenance or use of the premises.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII or an S&P rating of AA.

Verification of Coverage

Policies must be acquired at initial occupancy and a certificate of insurance must be submitted to the Agency for approval 45 days prior to permanent loan recordation. Renewal insurance certificates must be submitted 30 days prior to the expiration date of any current certificate.

Impounds

At the time of permanent loan closing, the Agency will establish insurance impounds.

Recording requested by and when recorded mail to:

Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

Free Recording Requested In Accordance With Government Code 6103

Nevada, County Recorder Kathleen Smith DOC- 2004-0052984-00

Monday, DEC 20, 2004 10:43:00 Noc \$0.00:: Ttl Pd \$0.00 Nbr-0000

Nbr-0000348905 KLB/KB/1-15

Space above this line for Recorder's use

RECEIVED FEB 0 8 2005 FEB 10 AC

Item # 6.

REGULATORY AGREEMENT

Federal Credits

Tax-Exempt Bond Financed Project

This Regulatory Agreement (this "Agreement") is made between the California Tax Credit Allocation Committee ("TCAC"), established under Section 50199.8 of the Health and Safety Code of the State of California, and Oregon Investors VIII Limited Partnership, an Oregon Limited Partnership ("Owner") and is dated as of May 26, 2004 (the "Effective Date"). The Owner has requested TCAC's determination and TCAC has determined that the Project (as herein defined) satisfies the requirements of the State of California's Qualified Allocation Plan relating to the low-income housing tax credit (the "Federal Tax Credit") under Section 42 of the Internal Revenue Code of 1986. The Tax Credit relates to a multifamily rental housing project known as Cedar Park Apartments, identified in the records of TCAC by TCAC# CA-2002-854 and IRS Building Identification Number CA-2002-85401 through CA-2002-85414, and located on the real property described in Exhibit A of this Agreement, attached hereto and incorporated herein (the "Project"). This Agreement is intended to constitute the extended low income housing commitment required by Section 42(h)(6) of the Internal Revenue Code. Accordingly, in consideration of the allocation relating to the Tax Credit by TCAC and the requirements of the Internal Revenue Code, the Owner and TCAC hereby agree as follows:

Section 1. Definitions.

a. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the following meanings:

"Agreement" means this Regulatory Agreement between TCAC and the Owner.

"Applicable Fraction" means the smaller of the Unit Fraction or the Floor Space Fraction, all calculated in accordance with Section 42(c)(1) of the Code.

"Area Median Gross Income" means the median gross income of the area in which the Project is located as determined by the Secretary for purposes of Section 42 of the Code, including adjustments for family size.

"Assumption Agreement" shall have the meaning assigned in Section 14 hereof.

Item # 6.

Recording requested by and when recorded mail to:

Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

Free Recording Requested In Accordance With Government Code 6103 Space above this line for Recorder's use

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"Assumption Agreement" shall have the meaning assigned in Section 14 hereof.

Page 2 TCAC # CA-2002-854

"Code" means those provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

"Compliance Period" means the period of 30 consecutive taxable years beginning with the first taxable year of the Credit Period, or such longer period as is prescribed at Appendix A.

"Credit Period" means, with respect to the State Tax Credit, the period of four taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year, and with respect to the Federal Tax Credit, the period of ten taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year, as further provided pursuant to Section 2b hereof.

"Effective Date" means the date first set forth herein above.

"Federal Tax Credit" means the low-income housing tax credit under Section 42 of the Code.

"Floor Space Fraction" means the fraction, the numerator of which is the total floor space of the Low-Income Units in a building and the denominator of which is the total floor space of the Units in such building.

"Gross Rent" means all amounts paid by a Tenant for rent, determined in a manner consistent with Section 42(g)(2) of the Code. If the Tenant pays utilities directly, Gross Rent shall include any utility allowance prescribed by the Secretary.

"Income" means the income of a Tenant determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code.

"Low-Income" means, with respect to any Tenant, an income level not exceeding 50% or 60% of Area Median Gross Income, as provided in Section 4b hereof, or such alternative income level as may be set forth in Appendix A.

"Low-Income Tenant" means a Tenant who, when the Tenant originally occupied the Unit, had an Income qualifying as Low- Income. For so long as the Tenant occupies the particular Unit [or another unit in the same building], the Tenant will remain a Low-Income Tenant if the Tenant's Income, upon the most recent income certification, does not exceed 140% of Low-Income.

"Low-Income Unit" means a Unit in the Project that is occupied by a Low-Income Tenant, is Rent-Restricted and meets the other requirements of Section 42 of the Code, in particular, Section 42(i)(3).

"Minimum Amount" means the number of Units in the Project required to be Low-Income Units, which Minimum Amount for this Project is 20% or 40% of the Units, as provided in Section 4b hereof. Notwithstanding the Minimum Amount, the Applicable Fraction for this project shall be no less than that set forth at Section 4c hereof.

"Owner" means Oregon Investors VIII Limited Partnership, an Oregon Limited Partnership, or successors.

Page 3 TCAC # CA-2002-854

"Project" means the residential rental housing project known as Cedar Park Apartments, TCAC# CA-2002-854, and located on the real property described in Exhibit A.

"Qualified Low-Income Housing Project" means a residential rental project meeting the requirements of Section 4 hereof.

"Rent-Restricted" means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than 30% of the imputed income limitation applicable to such Unit pursuant to Section 42(g)(2)(C) of the Code, as modified by Appendix A, if applicable.

"Secretary" means the Secretary of the Treasury of the United States.

"Service" means the United States Internal Revenue Service and any successor thereto.

"State Tax Credit" means the low-income housing tax credit under the provisions of Sections 12206 17058 and 23610.5 of the Revenue and Taxation Code.

"Tax Credit" means the low-income housing tax credit under Section 42 of the Code.

"TCAC" means the Tax Credit Allocation Committee and its successor.

"TCAC Compliance Monitoring Procedures" means those procedures and requirements adopted or imposed by TCAC for the purpose of discharging its responsibilities pursuant to Section 42(m)(1)(B)(iii) of the Code to monitor compliance by the Owner and the Project with the provisions of Section 42 of the Code and notify the Service of instances of noncompliance.

"Tenant" means the individual or individuals entitled to occupy a Unit in the Project by lease or other legal relationship with the Owner.

"Unit" means any residential rental unit in the Project consisting of an accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation; provided, however, that single room occupancy units used on a nontransient basis may be treated as Units.

"Unit Fraction" means the fraction, the numerator of which is the number of Low-Income Units in a building and the denominator of which is the number of Units in such building.

b. Any term or phrase which is used in this Agreement and not defined herein shall have the meaning, if any, assigned thereto in Section 42 of the Code. Any term or phrase which is defined herein shall, unless the context shall clearly indicate otherwise, be interpreted in a manner consistent with the provisions and requirements of Section 42 of the Code.

Section 2. Term.

a. This Agreement shall commence as of the Effective Date and shall terminate on the last day of the Compliance Period (the "Term"), unless earlier terminated pursuant to Section 2c hereof.

b. The Credit Period commences with respect to each building in the Project (i) the taxable year in which the building is placed in service or (ii) the succeeding taxable year, at the irrevocable election of the Owner pursuant to Section 42(f) (1)(B) of the Code. In the case of the Project, the Credit Period begins in the calendar year $20 \underline{04}$ or set forth at Appendix A with respect to individual buildings.

c. Notwithstanding subsection a. of this Section 2, this Agreement shall terminate with respect to any building in the Project on the date such building is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary determines that such acquisition is part of an arrangement a purpose of which is to terminate such period; provided, however, that, except for eviction for good cause, the Tenant of any Low-Income Unit shall be entitled to occupy such Unit in accordance with the provisions of this Agreement for a period of three years following such termination.

Section 3. <u>Filing</u>. This Agreement, and all amendments hereto, shall be recorded as a restrictive covenant in the official records of the County of Nevada in which the Project is located. The Owner shall pay all fees and charges incurred in connection with such recording.

The Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Project during the Term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Project (i) shall be and are covenants running with the Project land, encumbering the Project land for the Term of this Agreement and binding upon the Owner's successors in title and all subsequent owners and operators of the Project land, and (ii) shall bind the Owner (and the benefits shall inure to TCAC and any past, present or prospective Tenant of the Project) and its respective successors and assigns during the Term of this Agreement. The Owner hereby agrees that any and all requirements of the laws of the State of California to be satisfied in order for the provisions of this Agreement to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the Project land. For the Term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Agreement; provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.

Section 4. Qualified Low-Income Housing Project.

a. The Owner shall maintain the Project as a Qualified Low-Income Housing Project within the meaning of Section 42 of the Code at all times, commencing with the last day of the first year of the Credit Period and continuing throughout the Term of this Agreement. To this end, and without limitation, the Owner shall --

(i) operate the Project such that at least the Minimum Amount of the Units in the Project are Low-Income Units, and

(ii) assure that Units in the Project are (A) available for use by the general public, (B) suitable for occupancy and (C) used on other than a transient basis.

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b. For purposes of this Agreement and Section 42 of the Code, the Owner has elected to comply with [] the "20-50 test" pursuant to which "Low-Income" is defined as 50% of Area Median Gross Income and the Minimum Amount is 20% of the Units in the Project or [X] the "40-60 test" pursuant to which "Low-Income" is defined as 60% of Area Median Gross Income and the Minimum Amount is 40% of the Units in the Project.

c. The amount of Tax Credit allocated to the Project is based on the requirement that the Applicable Fraction for buildings in the Project will be at least 100% or as specified, buildingby-building, at Appendix A. The Owner's failure to ensure that each building in the Project complies with such requirement will cause TCAC to report such fact to the Service which may result in the reduction and recapture by the Service of Tax Credit, and (ii) to take other appropriate enforcement action, including, but not limited to, the remedies provided herein.

d. The Owner may not refuse to lease a Unit in the Project to a prospective Tenant who holds a voucher or certificate of eligibility for assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended, because of the status of such prospective Tenant as the holder of such voucher or certificate.

e. The Project and the Owner are subject to the additional and/or modified requirements, if any, set forth at Appendix A, which requirements are incorporated herein and made a part hereof.

Section 5. <u>Annual Determinations; Low-Income Units</u>. Upon initial occupancy and, unless otherwise allowed under Section 42 of the Code and specifically authorized by TCAC, at least annually thereafter, the Owner shall determine and certify the Income of each Low-Income Tenant. If, upon any such annual certification, the Tenant of a Low-Income Unit who was, at the last income certification, a Low-Income Tenant, is found no longer to be a Low-Income Tenant, such Unit will continue to be treated as a Low-Income Unit until the next available Unit of comparable or smaller size in the building (i) is rented to a person who is not a Low-Income Tenant or (ii) is rented without being Rent-Restricted. A Low-Income Unit that has been vacated will continue to be treated as a Low-Income Unit provided that (I) reasonable attempts are made to rent the Unit and (II) no other Units of comparable or smaller size in the building are rented to persons who are not Low-Income Tenants or are rented without being Rent-Restricted. In no case will a Unit be treated as a Low-Income Unit if all the Tenants of the Unit are students (as determined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint income tax return; provided, however, that such rule shall not apply to the types of students identified at Section 42(i)(3)(D) of the Code, or any successor to such provision, as applicable to the Project.

Section 6. <u>Compliance Monitoring</u>. The Owner acknowledges that TCAC is required, pursuant to Section 42(m)(1)(B)(iii) of the Code, (i) to monitor the Owner's and the Project's compliance with the requirements of Section 42 of the Code and (ii) to notify the Service of any noncompliance which is found. The Owner agrees (I) to maintain records that substantiate and document such compliance, preserving such records for the period required by the Service and TCAC, (II) to take all actions required by TCAC pursuant to the TCAC Compliance Monitoring Procedures to assist or cooperate with TCAC in monitoring such compliance and (III) to pay the fee prescribed by TCAC with respect to such monitoring. The TCAC Compliance Monitoring Procedures require, among other things, that the Owner annually certify to TCAC (on such forms as are prescribed by TCAC) the number of Units in the Project which are Low-Income Units, the percentage of floor space in the Project which is allocable to Low-Income Units, that the Project continues to be a Qualified Low-Income Housing Project; provided, however, that in the first Page 6 TCAC # CA-2002-854

year of the Credit Period, the Owner shall certify individually with respect to each month of such year the number of Low-Income Units in the Project and the percentage of floor space devoted to such Units on the last day of the month. The Owner is responsible for full adherence to the TCAC Compliance Monitoring Procedures without regard to whether particular requirements of those procedures are enumerated in this Agreement. The Owner agrees TCAC may, at any time during the construction, rehabilitation, or operation of the Project, enter and inspect the Project to evaluate its physical and financial condition, construction, rehabilitation, operation, management and maintenance.

Section 7. <u>Notification of Noncompliance</u>. The Owner agrees to notify TCAC or its designee if there is a determination by the Service that the Project is not a "qualified low-income housing project" within the meaning of Section 42(g) of the Code. Notification to TCAC will be made within ten business days of receipt of any such determination.

Section 8. <u>Security for Performance</u>. The Owner hereby assigns its interest in the rents from the Project to TCAC as security for the performance of the Owner's obligations under this Agreement. However, until and unless the Owner defaults in its obligations under this Agreement, the Owner is entitled to collect, retain and apply such rents.

Section 9. <u>Remedies</u>. In the event the Owner defaults in its obligations under this Agreement and such default is not cured within a reasonable time period, the remedies of TCAC, the Tenants and any former or prospective Low-Income Tenants shall include, but are not limited to, the following:

a. collecting all rents with respect to the Project and applying them (i) to meet the ongoing costs of operating the Project, (ii) to pay debt service, (iii) to reimburse any Low-Income Tenants who may have been charged a Gross Rent above the applicable Rent-Restricted level or (iv) to assure the long-term, Low-Income use of the Project consistent with the requirements of Section 42 of the Code and this Agreement;

b. taking possession of the Project and operating the Project in accordance with the requirements of this Agreement, including the collection and application of rents in accordance with subsection a of this Section 9, until the Owner demonstrates that it will operate the Project in accordance with this Agreement;

c. applying to any court for specific performance of any of the obligations herein set forth;

d. securing the appointment of a receiver to operate the Project in a manner consistent with this Agreement, including subsections a and b of this Section 9;

e. suit against the Owner for damages or for the disgorgement of rents collected in excess of those which would have been received had the Owner complied with the requirements of this Agreement; and

f. requiring the replacement of the manager of the Project with a property manager approved by TCAC, in the event the Owner fails to maintain the Project in sound and habitable condition, such that each Low-Income Unit is suitable for occupancy in accordance with the requirements of Section 42 (I) (3) (B) (I) of the Code and Section 4a of this Agreement;

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g. requiring the payment of an increased compliance monitoring fee by the owner for such period as TCAC determines appropriate; and

h. such other relief as may be appropriate.

Section 10. <u>Enforceability</u>. This Agreement may be enforced by TCAC or its designee, including any agency of State or local government identified at Appendix A hereto or otherwise in a written notice provided by TCAC to Owner. In addition, the Agreement shall be deemed a contract enforceable by, and shall inure to the benefit of, one or more Tenants or persons meeting the Low-Income restriction, whether past, present, or prospective Tenants, as third-party beneficiaries hereof. TCAC, its designee and/or any Tenant or other third-party beneficiary shall be entitled to reasonable attorneys' fees and other legal costs in any judicial or administrative action in which such party shall prevail.

Section 11. <u>No Conflicting Agreements.</u> The Owner warrants that it is not bound by and will not execute any other agreement with provisions that bind it to violate the provisions of this Agreement; provided, however, that with the approval of TCAC, this Agreement may be subordinated, if required, to any lien or encumbrance of any banks or other institutional lenders to the Project; provided, further, that the terms of any such subordination shall provide that (i) prior to any such lender's acquisition of the Project by foreclosure or instrument in lieu of foreclosure, the exercise of any remedy or authority by any such lender shall be subject to all of the requirements of the Agreement, and (ii) subsequent to any such lender's acquisition of the Project by foreclosure or instrument in lieu of foreclosure, the requirement of Section 2c hereof, with respect to the continuation of occupancy and rent restrictions for three years following certain terminations of this Agreement, shall remain in effect.

Section 12. <u>Successors Bound</u>. This Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns and all subsequent owners of the Project or any interest therein, and TCAC and its successors and assigns, for the Term of this Agreement, without regard to whether any such parties shall have executed an Assumption Agreement with respect hereto. Upon termination of this Agreement, the covenants and conditions contained herein shall expire, except that the requirement of Section 2c hereof, with respect to the continuation of occupancy and rent restrictions for three years following certain terminations of this Agreement, shall remain in effect.

Section 13. <u>Amendments; Waivers.</u> Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and acknowledged by each of the parties hereto or their successors and duly recorded in the official records of the county in which this Agreement is recorded. Any waiver of any provision of this Agreement shall not be deemed to be an amendment hereof. Upon request by TCAC, the Owner agrees that it will take all actions necessary to effect any amendment of this Agreement which may be necessary in TCAC's sole discretion to comply with the Code, and any and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Tax Credits.

Section 14. <u>Assignment by Owner</u>. The Owner may not sell or otherwise dispose of any portion of any building in the Project unless it disposes of the entire building to the same person. Upon sale or transfer of the Project, the Owner shall be relieved of all obligations under the Agreement and the transferee shall succeed to and be bound by all of the Owner's rights and obligations hereunder, without regard to whether the transferee has executed an Assumption Agreement as hereinafter provided. Prior to any transfer of the Project, the Owner shall notify TCAC in writing and provide the name(s) and address(es) and financial reports of the prospective successor owner and operator. The Owner shall require, as a condition precedent to any sale, transfer or exchange or any other disposition of the Project prior to termination of this Agreement, that the purchaser or successor assume, in writing, in an Assumption Agreement acceptable to TCAC, the Owner's obligations hereunder and under Section 42 of the Code and applicable regulations, which Assumption Agreement shall be delivered to TCAC in executed, recordable form prior to any such sale, transfer or exchange. This provision shall not act to waive any other restriction on sale, transfer or exchange of the Project or any building in the Project. The Owner agrees that any sale, transfer or exchange of the Project without execution of an Assumption Agreement or otherwise in contravention of the provisions of this Section 14 shall be voidable at the discretion of TCAC. Changes in the constituents of the Owner shall not constitute a default under this Agreement. Owner acknowledges that the sale, transfer or exchange of the Project, or any interest in the Project or the Owner, consistent with the requirements of this Agreement, does not relieve the Owner or any of its constituents from any obligations which it may have under Section 42 of the Code, including those with respect to recapture of Tax Credit or any alternative thereto.

Section 15. <u>Notices.</u> All notices, certificates or other communications shall be sufficiently given and shall be deemed received on the second day following the date on which the same have been mailed by certified mail, postage prepaid, or sent by other method which produces evidence of delivery thereof, addressed as follows:

To the TCAC:

California Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

To the Owner:

Oregon Investors VIII Limited Partnership, an Oregon Limited Partnership 87460 Cedar Flat Road Springfield, OR 97478

TCAC and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 16. <u>Indemnification</u>. The Owner agrees to indemnify and hold harmless the Chairperson, TCAC committee members, TCAC officers, directors and employees from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by TCAC as a result of any material inaccuracy in any of the representations and warranties contained in this Agreement, or as a result of any action by the Owner, including claims by third parties.

The Owner agrees that should any claims, demands, suits or other legal proceedings be made or instituted by any person against TCAC which arise out of any of the matters relating to this Agreement, the Owner will cooperate fully with TCAC in the defense or other disposition thereof. Page 9 TCAC # CA-2002-854

Section 17. <u>Severability</u>. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

Section 18. <u>Governing Law.</u> This Agreement shall be governed by the laws of the State of California, excluding conflicts provisions, and, where applicable, the laws of the United States of America.

Section 19. <u>Survival of Obligations.</u> The obligations of the Owner as set forth herein and in the application shall survive the allocation of the Tax Credit and shall not be deemed to terminate or merge with the awarding of the allocation.

Section 20. <u>Interpretation</u>. TCAC's interpretation of this Agreement shall be controlling for purposes of determining whether (i) the Compliance Period shall have commenced, (ii) this Agreement shall have been terminated in accordance with Section 2 hereof, and (iii) the Additional Use Restrictions elected at Appendix A hereto, if any, shall have been complied with.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE ynn Wehrli **Executive** Director

OREGON INVESTORS VIII LIMITED PARTNERSHIP, AN OREGON LIMITED PARTNERSHIP

(Owner)

Kelly R. Williams, Secretary-Treasurer, Cascade Housing Association, General Partner (Please type or print name)

The undersigned, owners of the property described on <u>Exhibit A</u> hereto, hereby consent to recordation of this Regulatory Agreement against such property, and agree that such property shall be bound by the provisions thereof.

OREGON INVESTORS VIII LIMITED PARTNERSHIP, AN OREGON LIMITED PARTNERSHIP

Kelly R/Williams, Secretary-Treasurer, Cascade Housing Association, General Partner

CALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

State of California		*** OPTIONAL SECTION *** CAPACITY CLAIMED BY SIGNER
County of Sacramento On this 13th day of December, 2004,	before me,	Through statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document
Jenny E. Willian	ns, Notary Public Name, Title of Officer	
personally appeared	Lynn Wehrli Name(s) of Signer(s)	CORPORATE OFFICER(S)
	name(s) or signed(s)	PARTNER(S) LIMITED
M porsonally known to me to be the	e person whose name is subscribed to	GENERAL
the within instrument and acknowled	ged to me that she executed the same	ATTORNEY-IN-FACT
in her authorized capacity, and that	by her signature on the instrument the which the person acted, executed the	
instrument.	minor the percent acted executed are	
	/ITNESS my hand and official seal.	Executive Director
i una		California Tax Credit Allocation
		Committee
JENNY E. WILLIAMS Commission # 1467886 Notary Public - Catifornia Sacramento County		SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES) California Tax Credit Allocation Committee
My Comm. Expires Feb 3, 200	08 (Commuee
*****	************ OPTIONAL SECTION*****	****
THIS CERTIFICATE MUST BE	ATTACHED TO THE DOCUMENT DE	SCRIBED BELOW:
TITLE OR TYPE OF DOCUMENT	Regulatory Agreement CA-2002-8	
NUMBER OF PAGES	DATE OF	DOCUMENT 5/26/04
SIGNER(S) OTHER THAN NAMED	ABOVE Kelly Williams	
	en and a state of the state of	

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

ACKNOWLEDGMENT

STATE OF	OREGON	
COUNTY O	F LANE	

On this	6th day of	December	in the year 2004		
before me,	Cindy L.	Halford	, personally appeared	ŝ:	
1	Kelly R.	Williams		*	
		10 1000 C			

)

)

, personally known to me (or 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.

Given under my hand and official seal this 6th day of December, 2004.

ma Notary Public

My Commission Expires:

September 12, 2007

[SEAL]

OFFICIAL SEAL CINDY L HALFORD OTARY PUBLIC - OREGON COMMISSION NO. 370677 MY COMMISSION EXPIRES SEPT. 12, 2007

Item # 6.

Description of the real property on which the Project is located

CA-2002-854 Location:

> 210 Sutton Way Grass Valley, CA 95945

Project Size Description:

14 Buildings 80 Low-Income Units; 1 Manager's Unit 0 SRO; 0 1-Bedroom; 37 2-Bedroom; 32 3-Bedroom; 12 4-Bedroom; 0 5-Bedroom

Legal Description:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GRASS VALLEY, COUNTY OF NEVADA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

The land herein referred to is situated in the County of Nevada, State of California, and is described as follows:

Parcel One:

Parcel 1, as shown on Parcel Map 01-01, Cedar Park, filed May 17, 2001, in Book 19 of Parcel Maps, at Page

EXCEPTING THEREFROM minerals, gas, oil and mineral deposits below a depth of 200 feet below the surface together with all necessary and convenient rights to explore for, develop, produce, extract and take the same, subject to the express limitation that the foregoing exception and reservation shall not include any right of entry upon the surface of said land without the consent of the owner of such of said land as set forth in the Deed dated August 28, 1961, recorded August 29, 1961, recorded August 29, 1961, in Book 302, Page 339, Official Records, executed by Sum-Gold Corporation, Inc., to John P. O'Brien et ux.

Parcel Two:

A non-exclusive right of way for purposes of ingress and egress over a portion of Parcel 2, Book 19 of Parcel Maps, at Page 60, Nevada County, located in Southwest quarter of the Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.M., said right of way being more particularly described as follows:

Commencing at the Southwest comer of the subject Parcel 2, a point from which the Southwest corner of said Section 24 bears the following two consecutive courses, to-wit: South 90° West 582.88 feet and South 01° 28' 00" East 258.40 feet and running thence from said point of beginning North 33° 55' 35" West 94.56 feet to the beginning of a non tangent curve concaved to the Northeasterly having a radial bearing of North 33° 55' 35" East and a radius of 79.12 feet; thence along said curve Southeasterly 23.94 feet, thence North 36° 10' 12" East 28.29 feet, thence South 49° 35' 32" East 42.81 feet; thence North 82° 23' 01" East 155.32 feet to a point on the Westerly line of Sutton Way, thence running along said Westerly line South 07° 13' 30" East 75.54 feet; thence leaving said Sutton Way South 89° 59' 14" East 288.25 feet to the point of beginning as disclosed by a Grant of Easement dated January 24, 2003, by Cascade Housing Association, an Oregon non-profit Corporation to Martin Harmon, recorded January 31, 2003, Document No. 2003-0005020, Official Records of Nevada County.

Parcel Three:

An exclusive right of way for purposes of constructing roadways, curb, gutter and utilities on Parcel C as recorded in Book 7 of Parcel Maps at Page 41, Nevada County, California. This right of way shall be terminated at the end of construction. Located in the Southwest quarter of the Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.M, a strip of land 60 feet wide, the center line which is described as follows:

Commencing at a point from which the Southwest corner of said Section 24 bears the following three courses, to-wit: North 90° 00' 00" West 145.00 feet, South 01° 28' 00" East 450.07, South 01° 28' 00" East 258.40 feet running thence from said point of beginning along the centerline of said right of way North 00° 00' 00" East a distance of 20.00 feet to the end thereof by an Easement and Maintenance Agreement dated January 24, 2003, by Oregon Investors V Limited Partnership, an Oregon limited partnership to Oregon Investors VIII Limited Partnership, an Oregon limited partnership, an Oregon Superior VIII Limited Partnership, and County.

Parcel Four:

A non-exclusive right of way for purposes of ingress and egress over a portion of Parcel 2, Book 19 of Parcel Maps at Page 60, Nevada County, located in Southwest quarter of Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.M., said right of way being more particularly described as follows:

Commencing at the Southwest corner of the subject Parcel 2, a point from which the Southwest corner of said Section 24 bears the following two consecutive courses, to-wit: South 90° West 582.88 feet and South 01° 28' 00" East 258.40 feet and running thence from said point of beginning: North 33° 55' 35" West 94.56 feet to the beginning of a non tangent curve concaved to the Northeasterly having a radial bearing of North 33° 55' 35" East and a radius of 79.12 feet; thence along said curve Southeasterly 23.94 feet, thence North 36° 10' 12" East 28.29 feet; thence South 49° 35' 32" East 42.81 feet; thence North 82° 23' 01" East 155.32 feet to a point on the Westerly line of Sutton Way; thence running along said Westerly line South 07° 13' 30" East 75.54 feet; thence leaving said Sutton Way South 89° 59' 14" East 288.25 feet to the point of beginning as disclosed by a Reciprocal Easement dated January 28, 2003, by Cascade Housing Association, an Oregon non-profit Corporation and Oregon Investors VIII Limited Partnership, an Oregon limited partnership, recorded February 5, 2003, Document No. 2003-0005781, Official Records of Nevada County.

APN: 35-412-04

Appendix A

Income Target

Throughout the Compliance Period, unless otherwise permitted by TCAC, Units must be occupied by Tenants such that the income of Tenants residing in <u>16</u> of the Units is at or below <u>50</u>% of Area Median Gross Income and in <u>64</u> of the Units is at or below <u>60</u>% of Area Median Gross Income, such Units shall be Rent-Restricted in accordance with such income level.

Service Amenities

Throughout the Compliance Period, unless otherwise permitted by TCAC and CDLAC, the Project Sponsor has agreed to provide the following service amenities for a minimum of 10 years:

• After school programs

Educational classes

Longer Compliance Period

 \underline{x} The Compliance Period shall be a period of <u>55</u> consecutive taxable years commencing with the first year of the Credit Period.

Designation of First Year of Credit Period by Building

Building Id. <u>CA-2002-854-01</u> First Year of Credit Period 200 <u>4</u>
Building Id. <u>CA-2002-854-02</u> First Year of Credit Period 2004
Building Id. CA-2002-854-03 First Year of Credit Period 2004
Building Id. <u>CA-2002-854-04</u> First Year of Credit Period 2004
Building Id. <u>CA-2002-854-05</u> First Year of Credit Period 2004
Building Id. CA-2002-854-06 First Year of Credit Period 2004
Building Id. CA-2002-854-07 First Year of Credit Period 2004
Building Id. <u>CA-2002-854-08</u> First Year of Credit Period 200 <u>4</u>
Building Id. CA-2002-854-09 First Year of Credit Period 2004
Building Id. <u>CA-2002-854-10</u> First Year of Credit Period 200 <u>4</u>
Building ID_CA-2002-854-11 First Year of Credit Period 2004
Building ID_CA-2002-854-12 First Year of Credit Period 2004
Building ID_CA-2002-854-13 First Year of Credit Period 2004
Building ID_CA-2002-854-14 First Year of Credit Period 2004 Page 204

Minimum Applicable Fraction by Building

Building Id.	Minimum Applicable Fraction%
Building Id.	Minimum Applicable Fraction%
Building Id.	
Building Id.	Minimum Applicable Fraction%
Building Id.	Minimum Applicable Fraction%
Building Id	Minimum Applicable Fraction%
Building Id	Minimum Applicable Fraction%

Agency Designated to Enforce

At any time during the Compliance Period, the California Tax Credit Allocation Committee may designate an agency of local government to enforce the terms of this Agreement. The Department designates the following agency of local government for such purpose: Recording requested by and when recorded mail to:

Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

Free Recording Requested In Accordance With Government Code 27383

Nevada, County Recorder Kathleen Smith DOC- 2005-0050416-00 Friday, DEC 16, 2005 09:19:00 NOC \$0.00:: Ttl Pd \$0.00

Nbr-0000416377 ENM/EM/1-14 Item # 6.

Space above this line for Recorder's use

REGULATORY AGREEMENT

Federal Credits

Tax-Exempt Bond Financed Project

This Regulatory Agreement (this "Agreement") is made between the California Tax Credit Allocation Committee ("TCAC"), established under Section 50199.8 of the Health and Safety Code of the State of California, and Oregon Investors VII Limited Partnership ("Owner") and is dated as of May 23, 2005 (the "Effective Date"). The Owner has requested TCAC's determination and TCAC has determined that the Project (as herein defined) satisfies the requirements of the State of California's Qualified Allocation Plan relating to the low-income housing tax credit (the "Federal Tax Credit") under Section 42 of the Internal Revenue Code of 1986. The Tax Credit relates to a multifamily rental housing project known as Glenbrook Apartments, identified in the records of TCAC by TCAC# CA-2003-801 and IRS Building Identification Number CA-2003-80101 through CA-2003-80107, and located on the real property described in Exhibit A of this Agreement, attached hereto and incorporated herein (the "Project"). This Agreement is intended to constitute the extended low income housing commitment required by Section 42(h)(6) of the Internal Revenue Code. Accordingly, in consideration of the allocation relating to the Tax Credit by TCAC and the requirements of the Internal Revenue Code, the Owner and TCAC hereby agree as follows:

Section 1. Definitions.

Unless the context otherwise requires, capitalized terms used in this Agreement shall a. have the following meanings:

"Agreement" means this Regulatory Agreement between TCAC and the Owner.

"Applicable Fraction" means the smaller of the Unit Fraction or the Floor Space Fraction, all calculated in accordance with Section 42(c)(1) of the Code.

"Area Median Gross Income" means the median gross income of the area in which the Project is located as determined by the Secretary for purposes of Section 42 of the Code, including adjustments for family size.

"Assumption Agreement" shall have the meaning assigned in Section 14 hereof.

Page 2 TCAC # CA-2003-801

"Compliance Period" means the period of 30 consecutive taxable years beginning with the first taxable year of the Credit Period, or such longer period as is prescribed at Appendix A.

"Credit Period" means, with respect to the State Tax Credit, the period of four taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year, and with respect to the Federal Tax Credit, the period of ten taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year, as further provided pursuant to Section 2b hereof.

"Effective Date" means the date first set forth herein above.

"Federal Tax Credit" means the low-income housing tax credit under Section 42 of the Code.

"Floor Space Fraction" means the fraction, the numerator of which is the total floor space of the Low-Income Units in a building and the denominator of which is the total floor space of the Units in such building.

"Gross Rent" means all amounts paid by a Tenant for rent, determined in a manner consistent with Section 42(g)(2) of the Code. If the Tenant pays utilities directly, Gross Rent shall include any utility allowance prescribed by the Secretary.

"Income" means the income of a Tenant determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code.

"Low-Income" means, with respect to any Tenant, an income level not exceeding 50% or 60% of Area Median Gross Income, as provided in Section 4c hereof, or such alternative income level as may be set forth in Appendix A.

"Low-Income Tenant" means a Tenant who, when the Tenant originally occupied the Unit, had an Income qualifying as Low- Income. For so long as the Tenant occupies the particular Unit [or another unit in the same building], the Tenant will remain a Low-Income Tenant if the Tenant's Income, upon the most recent income certification, does not exceed 140% of Low-Income.

"Low-Income Unit" means a Unit in the Project that is occupied by a Low-Income Tenant, is Rent-Restricted and meets the other requirements of Section 42 of the Code, in particular, Section 42(i)(3).

"Minimum Amount" means the number of Units in the Project required to be Low-Income Units, which Minimum Amount for this Project is 20% or 40% of the Units, as provided in Section 4c hereof. Notwithstanding the Minimum Amount, the Applicable Fraction for this project shall be no less than that set forth at Section 4d hereof.

"Owner" means Oregon Investors VII Limited Partnership, or successors.

"Project" means the residential rental housing project known as Glenbrook Apartments, TCAC# CA-2003-801, and located on the real property described in Exhibit A.

"Qualified Low-Income Housing Project" means a residential rental project meeting the requirements of Section 4 hereof.

"Rent-Restricted" means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than 30% of the imputed income limitation applicable to such Unit pursuant to Section 42(g)(2)(C) of the Code, as modified by Appendix A, if applicable.

"Secretary" means the Secretary of the Treasury of the United States.

"Service" means the United States Internal Revenue Service and any successor thereto.

"State Tax Credit" means the low-income housing tax credit under the provisions of Sections 12206 17058 and 23610.5 of the Revenue and Taxation Code.

"Tax Credit" means the low-income housing tax credit under Section 42 of the Code.

"TCAC" means the Tax Credit Allocation Committee and its successor.

"TCAC Compliance Monitoring Procedures" means those procedures and requirements adopted or imposed by TCAC for the purpose of discharging its responsibilities pursuant to Section 42(m)(1)(B)(iii) of the Code to monitor compliance by the Owner and the Project with the provisions of Section 42 of the Code and notify the Service of instances of noncompliance.

"Tenant" means the individual or individuals entitled to occupy a Unit in the Project by lease or other legal relationship with the Owner.

"Unit" means any residential rental unit in the Project consisting of an accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation; provided, however, that single room occupancy units used on a nontransient basis may be treated as Units.

"Unit Fraction" means the fraction, the numerator of which is the number of Low-Income Units in a building and the denominator of which is the number of Units in such building.

b. Any term or phrase which is used in this Agreement and not defined herein shall have the meaning, if any, assigned thereto in Section 42 of the Code. Any term or phrase which is defined herein shall, unless the context shall clearly indicate otherwise, be interpreted in a manner consistent with the provisions and requirements of Section 42 of the Code.

Section 2. Term.

a. This Agreement shall commence as of the Effective Date and shall terminate on the last day of the Compliance Period (the "Term"), unless earlier terminated pursuant to Section 2c hereof.

b. The Credit Period commences with respect to each building in the Project (i) the taxable year in which the building is placed in service or (ii) the succeeding taxable year, at the irrevocable election of the Owner pursuant to Section 42(f) (1)(B) of the Code. In the case of the Project, the Credit Period begins in the calendar year 2005 or as set forth at Appendix A with respect to individual buildings.

c. Notwithstanding subsection 2.a., this Agreement shall terminate with respect to any building in the Project on the date such building is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary determines that such acquisition is part of an arrangement a purpose of which is to terminate such period; provided, however, that, except for eviction for good cause, the Tenant of any Low-Income Unit shall be entitled to occupy such Unit in accordance with the provisions of this Agreement for a period of three years following such termination.

Section 3. <u>Filing</u>. This Agreement, and all amendments hereto, shall be recorded as a restrictive covenant in the official records of the County of Nevada in which the Project is located. The Owner shall pay all fees and charges incurred in connection with such recording.

The Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Project during the Term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Project (i) shall be and are covenants running with the Project land, encumbering the Project land for the Term of this Agreement and binding upon the Owner's successors in title and all subsequent owners and operators of the Project land, and (ii) shall bind the Owner (and the benefits shall inure to TCAC and any past, present or prospective Tenant of the Project) and its respective successors and assigns during the Term of this Agreement. The Owner hereby agrees that any and all requirements of the laws of the State of California to be satisfied in order for the provisions of this Agreement to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the Project land. For the Term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Agreement; provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.

Section 4. Qualified Low-Income Housing Project.

a. The Owner shall maintain the Project as a Qualified Low-Income Housing Project within the meaning of Section 42 of the Code at all times, commencing with the last day of the first year of the Credit Period and continuing throughout the Term of this Agreement. To this end, and without limitation, the Owner shall --

(i) operate the Project such that at least the Minimum Amount of the Units in the Project are Low-Income Units, and

(ii) assure that Units in the Project are (A) available for use by the general public, (B) suitable for occupancy and (C) used on other than a transient basis.

Item # 6.

b. During the Term of this Agreement, the Owner shall not evict, terminate the tenancy, or refuse to renew the lease or rental agreement of any tenant of any Low-Income Unit without good cause.

c. For purposes of this Agreement and Section 42 of the Code, the Owner has elected to comply with [] the "20-50 test" pursuant to which "Low-Income" is defined as 50% of Area Median Gross Income and the Minimum Amount is 20% of the Units in the Project or [X] the "40-60 test" pursuant to which "Low-Income" is defined as 60% of Area Median Gross Income and the Minimum Amount is 40% of the Units in the Project.

d. The amount of Tax Credit allocated to the Project is based on the requirement that the Applicable Fraction for buildings in the Project will be at least 100% or as specified, buildingby-building, at Appendix A. The Owner's failure to ensure that each building in the Project complies with such requirement will cause TCAC to report such fact to the Service which may result in the reduction and recapture by the Service of Tax Credit, and (ii) to take other appropriate enforcement action, including, but not limited to, the remedies provided herein.

e. The Owner may not refuse to lease a Unit in the Project to a prospective Tenant who holds a voucher or certificate of eligibility for assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended, because of the status of such prospective Tenant as the holder of such voucher or certificate.

f. The Project and the Owner are subject to the additional and/or modified requirements, if any, set forth at Appendix A, which requirements are incorporated herein and made a part hereof.

Section 5. Annual Determinations; Low-Income Units. Upon initial occupancy and, unless otherwise allowed under Section 42 of the Code and specifically authorized by TCAC, at least annually thereafter, the Owner shall determine and certify the Income of each Low-Income Tenant. If, upon any such annual certification, the Tenant of a Low-Income Unit who was, at the last income certification, a Low-Income Tenant, is found no longer to be a Low-Income Tenant, such Unit will continue to be treated as a Low-Income Unit until the next available Unit of comparable or smaller size in the building (i) is rented to a person who is not a Low-Income Tenant or (ii) is rented without being Rent-Restricted. A Low-Income Unit that has been vacated will continue to be treated as a Low-Income Unit provided that (I) reasonable attempts are made to rent the Unit and (II) no other Units of comparable or smaller size in the building are rented to persons who are not Low-Income Tenants or are rented without being Rent-Restricted. In no case will a Unit be treated as a Low-Income Unit if all the Tenants of the Unit are students (as determined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint income tax return; provided, however, that such rule shall not apply to the types of students identified at Section 42(i)(3)(D) of the Code, or any successor to such provision, as applicable to the Project.

Section 6. <u>Compliance Monitoring</u>. The Owner acknowledges that TCAC is required, pursuant to Section 42(m)(1)(B)(iii) of the Code, (i) to monitor the Owner's and the Project's compliance with the requirements of Section 42 of the Code and (ii) to notify the Service of any noncompliance which is found. The Owner agrees (I) to maintain records that substantiate and document such compliance, preserving such records for the period required by the Service and TCAC, (II) to take all actions required by TCAC pursuant to the TCAC Compliance Monitoring Procedures to assist or cooperate with TCAC in monitoring such compliance and (III) to pay the fee prescribed by TCAC with respect to such monitoring. The TCAC Compliance Monitoring Procedures require, among other things, that the Owner annually certify to TCAC (on such forms as are prescribed by TCAC) the number of Units in the Project which are Low-Income Units, the percentage of floor space in the Project which is allocable to Low-Income Units , that the Project continues to be a Qualified Low-Income Housing Project; provided, however, that in the first year of the Credit Period, the Owner shall certify individually with respect to each month of such year the number of Low-Income Units in the Project and the percentage of floor space devoted to such Units on the last day of the month. The Owner is responsible for full adherence to the TCAC Compliance Monitoring Procedures without regard to whether particular requirements of those procedures are enumerated in this Agreement. The Owner agrees TCAC may, at any time during the construction, rehabilitation, or operation of the Project, enter and inspect the Project to evaluate its physical and financial condition, construction, rehabilitation, operation, management and maintenance.

Section 7. <u>Notification of Noncompliance</u>. The Owner agrees to notify TCAC or its designee if there is a determination by the Service that the Project is not a "qualified low-income housing project" within the meaning of Section 42(g) of the Code. Notification to TCAC will be made within ten business days of receipt of any such determination.

Section 8. <u>Security for Performance</u>. The Owner hereby assigns its interest in the rents from the Project to TCAC as security for the performance of the Owner's obligations under this Agreement. However, until and unless the Owner defaults in its obligations under this Agreement, the Owner is entitled to collect, retain and apply such rents.

Section 9. <u>Remedies.</u> In the event the Owner defaults in its obligations under this Agreement and such default is not cured within a reasonable time period, the remedies of TCAC, the Tenants and any former or prospective Low-Income Tenants shall include, but are not limited to, the following:

a. collecting all rents with respect to the Project and applying them (i) to meet the ongoing costs of operating the Project, (ii) to pay debt service, (iii) to reimburse any Low-Income Tenants who may have been charged a Gross Rent above the applicable Rent-Restricted level or (iv) to assure the long-term, Low-Income use of the Project consistent with the requirements of Section 42 of the Code and this Agreement;

b. taking possession of the Project and operating the Project in accordance with the requirements of this Agreement, including the collection and application of rents in accordance with subsection a of this Section 9, until the Owner demonstrates that it will operate the Project in accordance with this Agreement;

c. applying to any court for specific performance of any of the obligations herein set forth;

d. securing the appointment of a receiver to operate the Project in a manner consistent with this Agreement, including subsections a and b of this Section 9;

e. suit against the Owner for damages or for the disgorgement of rents collected in excess of those which would have been received had the Owner complied with the requirements of this Agreement; and

f. requiring the replacement of the manager of the Project with a property manager approved by TCAC, in the event the Owner fails to maintain the Project in sound and habitable condition, such that each Low-Income Unit is suitable for occupancy in accordance with the requirements of Section 42 (I) (3) (B) (I) of the Code and Section 4a of this Agreement;

g. requiring the payment of an increased compliance monitoring fee by the owner for such period as TCAC determines appropriate; and

h. such other relief as may be appropriate.

Section 10. <u>Enforceability.</u> This Agreement may be enforced by TCAC or its designee, including any agency of State or local government identified at Appendix A hereto or otherwise in a written notice provided by TCAC to Owner. In addition, the Agreement shall be deemed a contract enforceable by, and shall inure to the benefit of, one or more Tenants or persons meeting the Low-Income restriction, whether past, present, or prospective Tenants, as third-party beneficiaries hereof. TCAC, its designee and/or any Tenant or other third-party beneficiary shall be entitled to reasonable attorneys' fees and other legal costs in any judicial or administrative action in which such party shall prevail.

Section 11. <u>No Conflicting Agreements.</u> The Owner warrants that it is not bound by and will not execute any other agreement with provisions that bind it to violate the provisions of this Agreement; provided, however, that with the approval of TCAC, this Agreement may be subordinated, if required, to any lien or encumbrance of any banks or other institutional lenders to the Project; provided, further, that the terms of any such subordination shall provide that (i) prior to any such lender's acquisition of the Project by foreclosure or instrument in lieu of foreclosure, the exercise of any remedy or authority by any such lender shall be subject to all of the requirements of the Agreement, and (ii) subsequent to any such lender's acquisition of the Project by foreclosure or instrument in lieu of foreclosure, the requirement of Section 2c hereof, with respect to the continuation of occupancy and rent restrictions for three years following certain terminations of this Agreement, shall remain in effect.

Section 12. <u>Successors Bound</u>. This Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns and all subsequent owners of the Project or any interest therein, and TCAC and its successors and assigns, for the Term of this Agreement, without regard to whether any such parties shall have executed an Assumption Agreement with respect hereto. Upon termination of this Agreement, the covenants and conditions contained herein shall expire, except that the requirement of Section 2c hereof, with respect to the continuation of occupancy and rent restrictions for three years following certain terminations of this Agreement, shall remain in effect.

Section 13. <u>Amendments; Waivers.</u> Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and acknowledged by each of the parties hereto or their successors and duly recorded in the official records of the county in which this Agreement is recorded. Any waiver of any provision of this Agreement shall not be deemed to be an amendment hereof. Upon request by TCAC, the Owner agrees that it will take all actions necessary to effect any amendment of this Agreement which may be necessary in TCAC's sole discretion to comply with the Code, and any and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Tax Credits.

Section 14. Assignment by Owner. The Owner may not sell or otherwise dispose of any portion of any building in the Project unless it disposes of the entire building to the same person. Upon sale or transfer of the Project, the Owner shall be relieved of all obligations under the Agreement and the transferee shall succeed to and be bound by all of the Owner's rights and obligations hereunder, without regard to whether the transferee has executed an Assumption Agreement as hereinafter provided. Prior to any transfer of the Project, the Owner shall notify TCAC in writing and provide the name(s) and address(es) and financial reports of the prospective successor owner and operator. The Owner shall require, as a condition precedent to any sale, transfer or exchange or any other disposition of the Project prior to termination of this Agreement, that the purchaser or successor assume, in writing, in an Assumption Agreement acceptable to TCAC, the Owner's obligations hereunder and under Section 42 of the Code and applicable regulations, which Assumption Agreement shall be delivered to TCAC in executed, recordable form prior to any such sale, transfer or exchange. This provision shall not act to waive any other restriction on sale, transfer or exchange of the Project or any building in the Project. The Owner agrees that any sale, transfer or exchange of the Project without execution of an Assumption Agreement or otherwise in contravention of the provisions of this Section 14 shall be voidable at the discretion of TCAC. Changes in the constituents of the Owner shall not constitute a default under this Agreement. Owner acknowledges that the sale, transfer or exchange of the Project, or any interest in the Project or the Owner, consistent with the requirements of this Agreement, does not relieve the Owner or any of its constituents from any obligations which it may have under Section 42 of the Code, including those with respect to recapture of Tax Credit or any alternative thereto.

Section 15. <u>Notices.</u> All notices, certificates or other communications shall be sufficiently given and shall be deemed received on the second day following the date on which the same have been mailed by certified mail, postage prepaid, or sent by other method which produces evidence of delivery thereof, addressed as follows:

To the TCAC:

California Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

To the Owner:

Oregon Investors VII Limited Partnership 87460 Cedar Flat Road Springfield, OR 97478

TCAC and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 16. <u>Indemnification</u>. The Owner agrees to indemnify and hold harmless the Chairperson, TCAC committee members, TCAC officers, directors and employees from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by TCAC as a result of any material inaccuracy in any of the representations and warranties contained in this Agreement, or as a result of any action by the Owner, including claims by third parties.

The Owner agrees that should any claims, demands, suits or other legal proceedings be made or instituted by any person against TCAC which arise out of any of the matters relating to this Agreement, the Owner will cooperate fully with TCAC in the defense or other disposition thereof.

Section 17. <u>Severability</u>. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

Section 18. <u>Governing Law.</u> This Agreement shall be governed by the laws of the State of California, excluding conflicts provisions, and, where applicable, the laws of the United States of America.

Section 19. <u>Survival of Obligations.</u> The obligations of the Owner as set forth herein and in the application shall survive the allocation of the Tax Credit and shall not be deemed to terminate or merge with the awarding of the allocation.

Section 20. <u>Interpretation</u>. TCAC's interpretation of this Agreement shall be controlling for purposes of determining whether (i) the Compliance Period shall have commenced, (ii) this Agreement shall have been terminated in accordance with Section 2 hereof, and (iii) the Additional Use Restrictions elected at Appendix A hereto, if any, shall have been complied with.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE By William J. Pavão **Executive Director** OREGON INVESTORS VII LIMITED PARTNERSHIP

By (Owner) Kelly R. Williams, Secretary-Treasurer,

Cascade Housing Association, General Partner (Please type or print name)

The undersigned, owners of the property described on <u>Exhibit A</u> hereto, hereby consent to recordation of this Regulatory Agreement against such property, and agree that such property shall be bound by the provisions thereof.

OREGON INVESTORS VII LIMITED PARTNERSHIP

By

Kelly R. Williams, Secretary-Treasurer, Cascade Housing Association, General Partner

CALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

11

State of California County of Sacramento		* * * OPTIONAL SECTION * * * CAPACITY CLAIMED BY SIGNER
On this 13th day of December, 2005, be		Through statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document
Jenny E. Williams	Name, Title of Officer	
personally appeared	William J. Pavão	CORPORATE OFFICER (S)
	Raine(s) or albiter(s)	PARTNER(S) LIMITED
personally known to me to be the p	erson whose name is subscribed to	
the within instrument and acknowledged		ATTORNEY-IN-FACT
his authorized capacity, and that by h person, or the entity upon behalf of wh		
instrument.		GUARDIAN/CONSERVATOR
		⊠ OTHER:
WIT	NESS my hand and official seal.	Executive Director
		California Tax Credit Allocation
JENNY E. WILLIAMS Commission # 1467886 Notary Public - California Sacramento County My Comm. Expires Feb 3, 2008	HULL SIGNATURE OF NOTARY	SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES) California Tax Credit Allocation Committee
************	********* OPTIONAL SECTION******	
THIS CERTIFICATE MUST BE ATT	ACHED TO THE DOCUMENT DES	
TITLE OR TYPE OF DOCUMENT	Regulatory Agreement CA-2003-80	1
NUMBER OF PAGES	DATE OF D	OCUMENT 5/23/05
SIGNER(S) OTHER THAN NAMED AB	OVE	

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

æ

ACKNOWLEDGMENT

STATE OF OR	REGON
COUNTY OF	LANE

On this 5th day of <u>December</u>	in the year 2005,
before me, Cindy L. Halford	, personally appeared
Kelly R. Williams	11 - 1- to ma (or

, personally known to me (or 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.

Given under my hand and official seal this 5th day of December, 2005.

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[SEAL]

Notary Public

My Commission Expires:

September 12, 2007

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EXHIBIT A to Regulatory Agreement

Description of the real property on which the Project is located

CA-2003-801 Location:

265 Sutton Way Grass Valley, CA 95945

Legal Description:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GRASS VALLEY, COUNTY OF NEVADA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

All that portion of the lands of Amaral as described in the Deeds as filed in Document No. 95-33674 and Document No. 2001-43532, Nevada County Records, situate within the Southwest quarter of Section 24, Township 16 North, Range 8 East, M.D.B.& M., and more particularly described as follows:

COMMENCING at the Southeast corner of the herein described area from which the Southeast corner of said Section 24 bears the following two courses, North 62° 29' 00" East 310.97 feet and South 75° 54' 58" East 4004.35 feet; thence from said point of commencement along the Southerly line South 62° 29' 00" West 375.32 feet to the Southwest corner and being situate on the Easterly line of Sutton Way; said Southwest corner being situate on a curve to the left, concave to the Southwest, having a radius of 580.00 feet and an initial radial bearing of South 74° 30' 03" West; thence along said curve through an arc of 18° 41' 42" for a distance of 189.25 feet to the end thereof, thence North 34° 11' 40" West 175.23 feet to the most Westerly corner of the herein described area and being the Southwest corner of the lands of PG&E as described in the Deed filed in Book 470, Official Records, at Page 458, thence along the lines common to said PG&E the following two successive courses, North 89° 54' 54" East 157.35 feet; thence North 15° 29' 10" West 305.00 feet to the Northwest corner of the herein described area; thence along the Northerly Line South 82° 30' 00" East 402.75 feet to the Northeast corner of the herein described area; thence along the Easterly line South 05° 15' 00' East 385.72 feet to the point of commencement.

The above described area being further delineated on the Record of Survey, filed in Book 12 of Surveys, at Page 475, Nevada County Records.

EXCEPTING THEREFROM as to an undivided 1/2 interest in and to the minerals below the depth of 75 feet beneath the surface as provided in the Deed recorded October 23, 1948, in Book 136 of Official Records, at Page 17, Nevada County Records, executed by Idaho Maryland Mines Corporation, a Corporation, to Errol MacBoyle.

ALSO EXCEPTING THEREFROM as to an undivided 1/2 interest in and to all oil, gas, other hydrocarbon and minerals, lying below a plane 200 feet beneath the surface as described in the Quitclaim Deed recorded May 21, 1974, executed to Marlan Ghidotti.

APN: 35-412-25

Project Size Description:

7 Buildings 51 Low-Income Units; 1 Manager's Unit 0 SRO; 0 1-Bedroom; 24 2-Bedroom; 28 3-Bedroom; 0 4-Bedroom; 0 5-Bedroom

Appendix A

Income Target

Throughout the Compliance Period, unless otherwise permitted by TCAC, Units must be occupied by Tenants such that the income of Tenants residing in <u>11</u> of the Units is at or below <u>50</u>% of Area Median Gross Income and in <u>40</u> of the Units is at or below <u>60</u>% of Area Median Gross Income, such Units shall be Rent-Restricted in accordance with such income level.

Longer Compliance Period

 \square The Compliance Period shall be a period of <u>55</u> consecutive taxable years commencing with the first year of the Credit Period.

Building Id.	First Year of Credit Period 200_
Building Id.	First Year of Credit Period 200_
Building Id.	First Year of Credit Period 200_
Building Id	First Year of Credit Period 200_
Building Id.	First Year of Credit Period 200_
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Building Id.	First Year of Credit Period 200_
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Building Id.	First Year of Credit Period 200_
Building Id.	First Year of Credit Period 200_

Designation of First Year of Credit Period by Building

Minimum Applicable Fraction ____% Building Id. Building Id. Minimum Applicable Fraction ____% Building Id. Minimum Applicable Fraction _____% Minimum Applicable Fraction % Building Id. _____ Minimum Applicable Fraction ____% Building Id. Minimum Applicable Fraction % Building Id. Minimum Applicable Fraction % Building Id. Minimum Applicable Fraction ____% Building Id. Minimum Applicable Fraction % Building Id. Minimum Applicable Fraction % Building Id.

Minimum Applicable Fraction by Building

Agency Designated to Enforce

At any time during the Compliance Period, the California Tax Credit Allocation Committee may designate an agency of local government to enforce the terms of this Agreement. The Department designates the following agency of local government for such purpose: Recording requested by and when recorded mail to:

Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

Free Recording Requested In Accordance With Government Code 6103

Nevada, County Recorder

Jewett-Burdick DOC- 1999-9941895-00

Monday, DEC 06, 1999 10:18:44 NOC \$0.00 Ttl Pd \$0.00 Nbr-0000

Nbr-0000012958 CN0/C0/1-15 Item # 6.

Space above this line for Recorder's use

REGULATORY AGREEMENT

Federal Credits

This Regulatory Agreement (this "Agreement") is made between the Tax Credit Allocation Committee ("TCAC"), established under Section 50199.8 of the Health and Safety Code of the State of California, and Oregon Investors V Limited Partnership, an Oregon Limited Partnership ("Owner") and is dated as of September 24, 1998 (the "Effective Date"). The Owner has requested and TCAC has authorized an allocation relating to the low-income housing tax credit (the "Federal Tax Credit") under Section 42 of the Internal Revenue Code of 1986 (collectively, the "Tax Credit"). The Tax Credit relates to a multifamily rental housing project known as Oak Ridge Apartments, identified in the records of TCAC by TCAC# CA-96-004 and IRS Building Identification Number CA-96-00401 through CA-96-00415, and located on the real property described in Exhibit A of this Agreement, attached hereto and incorporated herein (the "Project"). This Agreement is intended to constitute the extended low income housing commitment required by Section 42(h)(6) of the Internal Revenue Code. Accordingly, in consideration of the allocation relating to the Tax Credit by TCAC and the requirements of the Internal Revenue Code, the Owner and TCAC hereby agree as follows:

Section 1. Definitions.

a. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the following meanings:

"Agreement" means this Regulatory Agreement between TCAC and the Owner.

"Applicable Fraction" means the smaller of the Unit Fraction or the Floor Space Fraction, all calculated in accordance with Section 42(c)(1) of the Code.

"Area Median Gross Income" means the median gross income of the area in which the Project is located as determined by the Secretary for purposes of Section 42 of the Code, including adjustments for family size.

"Assumption Agreement" shall have the meaning assigned in Section 15 hereof.

"Code" means those provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

"Compliance Period" means the period of 30 consecutive taxable years beginning with the first taxable year of the Credit Period, or such longer period as is prescribed at Appendix A.

"Credit Period" means, with respect to the State Tax Credit, the period of four taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year, and with respect to the Federal Tax Credit, the period of ten taxable years beginning with the taxable year the Project is placed in service or (at the election of the Owner) the succeeding taxable year, as further provided pursuant to Section 2b hereof.

"Effective Date" means the date first set forth herein above.

"Federal Tax Credit" means the low-income housing tax credit under Section 42 of the Code.

"Floor Space Fraction" means the fraction, the numerator of which is the total floor space of the Low-Income Units in a building and the denominator of which is the total floor space of the Units in such building.

"Gross Rent" means all amounts paid by a Tenant for rent, determined in a manner consistent with Section 42(g)(2) of the Code. If the Tenant pays utilities directly, Gross Rent shall include any utility allowance prescribed by the Secretary.

"Income" means the income of a Tenant determined in a manner consistent with the requirements of Section 142(d)(2)(B) of the Code.

"Low-Income" means, with respect to any Tenant, an income level not exceeding 50% or 60% of Area Median Gross Income, as provided in Section 4b hereof, or such alternative income level as may be set forth in Appendix A.

"Low-Income Tenant" means a Tenant who, when the Tenant originally occupied the Unit, had an Income qualifying as Low-Income. For so long as the Tenant occupies the particular Unit [or another unit in the same building], the Tenant will remain a Low-Income Tenant if the Tenant's Income, upon the most recent income certification, does not exceed 140% of Low-Income.

"Low-Income Unit" means a Unit in the Project that is occupied by a Low-Income Tenant, is Rent-Restricted and meets the other requirements of Section 42 of the Code, in particular, Section 42(i)(3).

"Minimum Amount" means the number of Units in the Project required to be Low-Income Units, which Minimum Amount for this Project is 20% or 40% of the Units, as provided in Section 4b hereof. Notwithstanding the Minimum Amount, the Applicable Fraction for this project shall be no less than that set forth at Section 4c hereof.

"Owner" means Oregon Investors V Limited Partnership, an Oregon Limited Partnership or successors.

"Project" means the residential rental housing project known as Oak Ridge Apartments, TCAC# CA-96-004, and located on the real property described in Exhibit A.

"Qualified Low-Income Housing Project" means a residential rental project meeting the requirements of Section 4 hereof.

"Rent-Restricted" means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than 30% of the imputed income limitation applicable to such Unit pursuant to Section 42(g)(2)(C) of the Code, as modified by Appendix A, if applicable.

"Secretary" means the Secretary of the Treasury of the United States.

"Service" means the United States Internal Revenue Service and any successor thereto.

"Tax Credit" means the low-income housing tax credit under Section 42 of the Code.

"TCAC" means the Tax Credit Allocation Committee and its successor.

"TCAC Compliance Monitoring Procedures" means those procedures and requirements adopted or imposed by TCAC for the purpose of discharging its responsibilities pursuant to Section 42(m)(1)(B)(iii) of the Code to monitor compliance by the Owner and the Project with the provisions of Section 42 of the Code and notify the Service of instances of noncompliance.

"Tenant" means the individual or individuals entitled to occupy a Unit in the Project by lease or other legal relationship with the Owner.

"Unit" means any residential rental unit in the Project consisting of an accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation; provided, however, that single room occupancy units used on a nontransient basis may be treated as Units.

"Unit Fraction" means the fraction, the numerator of which is the number of Low-Income Units in a building and the denominator of which is the number of Units in such building.

b. Any term or phrase which is used in this Agreement and not defined herein shall have the meaning, if any, assigned thereto in Section 42 of the Code. Any term or phrase which is defined herein shall, unless the context shall clearly indicate otherwise, be interpreted in a manner consistent with the provisions and requirements of Section 42 of the Code.

Section 2. Term.

a. This Agreement shall commence as of the Effective Date and shall terminate on the last day of the Compliance Period (the "Term"), unless earlier terminated pursuant to Section 2c hereof.

b. The Credit Period commences with respect to each building in the Project (i) the taxable year in which the building is placed in service or (ii) the succeeding taxable year, at the irrevocable election of the Owner pursuant to Section 42(f) (1)(B) of the Code. In the case of the Project, the Credit Period begins in the calendar year $19\underline{99}$ or set forth at Appendix A with respect to individual buildings.

c. Notwithstanding subsection a. of this Section 2, this Agreement shall terminate with respect to any building in the Project on the date such building is acquired by foreclosure or instrument in lieu of foreclosure unless the Secretary determines that such acquisition is part of an arrangement a purpose of which is to terminate such period; provided, however, that, except for eviction for good cause, the Tenant of any Low-Income Unit shall be entitled to occupy such Unit in accordance with the provisions of this Agreement for a period of three years following such termination.

Section 3. <u>Filing</u>. This Agreement, and all amendments hereto, shall be recorded as a restrictive covenant in the official records of the County of Nevada in which the Project is located. The Owner shall pay all fees and charges incurred in connection with such recording.

The Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Project during the Term of this Agreement, that this Agreement and the covenants and restrictions set forth in this Agreement regulating and restricting the use, occupancy and transfer of the Project (i) shall be and are covenants running with the Project land, encumbering the Project land for the Term of this Agreement and binding upon the Owner's successors in title and all subsequent owners and operators of the Project land, and (ii) shall bind the Owner (and the benefits shall inure to TCAC and any past, present or prospective Tenant of the Project) and its respective successors and assigns during the Term of this Agreement. The Owner hereby agrees that any and all requirements of the laws of the State of California to be satisfied in order for the provisions of this Agreement to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the Project land. For the Term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Agreement: provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.

Section 4. Qualified Low-Income Housing Project.

a. The Owner shall maintain the Project as a Qualified Low-Income Housing Project within the meaning of Section 42 of the Code at all times, commencing with the last day of the first year of the Credit Period and continuing throughout the Term of this Agreement. To this end, and without limitation, the Owner shall --

(i) operate the Project such that at least the Minimum Amount of the Units in the Project are Low-Income Units, and

(ii) assure that Units in the Project are (A) available for use by the general public, (B) suitable for occupancy and (C) used on other than a transient basis.

b. For purposes of this Agreement and Section 42 of the Code, the Owner has elected to comply with [] the "20-50 test" pursuant to which "Low-Income" is defined as 50% of Area Median Gross Income and the Minimum Amount is 20% of the Units in the Project or [X] the "40-60 test" pursuant to which "Low-Income" is defined as 60% of Area Median Gross Income and the Minimum Amount is 40% of the Units in the Project.

c. The amount of Tax Credit allocated to the Project is based on the requirement that the Applicable Fraction for buildings in the Project will be at least 100% or as specified, buildingby-building, at Appendix A. The Owner's failure to ensure that each building in the Project complies with such requirement will cause TCAC to report such fact to the Service which may result in the reduction and recapture by the Service of Tax Credit, and (ii) to take other appropriate enforcement action, including, but not limited to, the remedies provided herein.

d. The Owner may not refuse to lease a Unit in the Project to a prospective Tenant who holds a voucher or certificate of eligibility for assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended, because of the status of such prospective Tenant as the holder of such voucher or certificate.

e. The Project and the Owner are subject to the additional and/or modified requirements, if any, set forth at Appendix A, which requirements are incorporated herein and made a part hereof.

Section 5. Annual Determinations; Low-Income Units. Upon initial occupancy and, unless otherwise allowed under Section 42 of the Code and specifically authorized by TCAC, at least annually thereafter, the Owner shall determine and certify the Income of each Low-Income Tenant. If, upon any such annual certification, the Tenant of a Low-Income Unit who was, at the last income certification, a Low-Income Tenant, is found no longer to be a Low-Income Tenant, such Unit will continue to be treated as a Low-Income Unit until the next available Unit of comparable or smaller size in the building (i) is rented to a person who is not a Low-Income Tenant or (ii) is rented without being Rent-Restricted. A Low-Income Unit that has been vacated will continue to be treated as a Low-Income Unit provided that (I) reasonable attempts are made to rent the Unit and (II) no other Units of comparable or smaller size in the building are rented to persons who are not Low-Income Tenants or are rented without being Rent-Restricted. In no case will a Unit be treated as a Low-Income Unit if all the Tenants of the Unit are students (as determined under Section 151(c)(4) of the Code), no one of whom is entitled to file a joint income tax return; provided, however, that such rule shall not apply to the types of students identified at Section 42(i)(3)(D) of the Code, or any successor to such provision, as applicable to the Project.

Section 6. Compliance Monitoring. The Owner acknowledges that TCAC is required, pursuant to Section 42(m)(1)(B)(iii) of the Code, (i) to monitor the Owner's and the Project's compliance with the requirements of Section 42 of the Code and (ii) to notify the Service of any noncompliance which is found. The Owner agrees (I) to maintain records that substantiate and document such compliance, preserving such records for the period required by the Service and TCAC, (II) to take all actions required by TCAC pursuant to the TCAC Compliance Monitoring Procedures to assist or cooperate with TCAC in monitoring such compliance and (III) to pay the fee prescribed by TCAC with respect to such monitoring. The TCAC Compliance Monitoring Procedures require, among other things, that the Owner annually certify to TCAC (on such forms as are prescribed by TCAC) the number of Units in the Project which are Low-Income Units, the percentage of floor space in the Project which is allocable to Low-Income Units, that the Project continues to be a Qualified Low-Income Housing Project; provided, however, that in the first year of the Credit Period, the Owner shall certify individually with respect to each month of such year the number of Low-Income Units in the Project and the percentage of floor space devoted to such Units on the last day of the month. The Owner is responsible for full adherence to the TCAC Compliance Monitoring Procedures without regard to whether particular requirements of those procedures are enumerated in this Agreement. The Owner agrees TCAC may, at any time during the construction, rehabilitation, or operation of the Project, enter and inspect the Project to evaluate its physical and financial condition, construction, rehabilitation, operation, management and maintenance.

Section 7. Notification of Noncompliance. The Owner agrees to notify TCAC or its designee if there is a determination by the Service that the Project is not a "qualified low-income housing project" within the meaning of Section 42(g) of the Code. Notification to TCAC will be made within ten business days of receipt of any such determination.

Section 8. Security for Performance. The Owner hereby assigns its interest in the rents from the Project to TCAC as security for the performance of the Owner's obligations under this Agreement. However, until and unless the Owner defaults in its obligations under this Agreement, the Owner is entitled to collect, retain and apply such rents.

Section 9. Remedies. In the event the Owner defaults in its obligations under this Agreement and such default is not cured within a reasonable time period, the remedies of TCAC, the Tenants and any former or prospective Low-Income Tenants shall include, but are not limited to, the following:

a. collecting all rents with respect to the Project and applying them (i) to meet the ongoing costs of operating the Project, (ii) to pay debt service, (iii) to reimburse any Low-Income Tenants who may have been charged a Gross Rent above the applicable Rent-Restricted level or (iv) to assure the long-term, Low-Income use of the Project consistent with the requirements of Section 42 of the Code and this Agreement;

b. taking possession of the Project and operating the Project in accordance with the requirements of this Agreement, including the collection and application of rents in accordance with subsection a of this Section 9, until the Owner demonstrates that it will operate the Project in accordance with this Agreement;

c. applying to any court for specific performance of any of the obligations herein set forth;

d. securing the appointment of a receiver to operate the Project in a manner consistent with this Agreement, including subsections a and b of this Section 9;

e. suit against the Owner for damages or for the disgorgement of rents collected in excess of those which would have been received had the Owner complied with the requirements of this Agreement; and

f. requiring the replacement of the manager of the Project with a property manager approved by TCAC, in the event the Owner fails to maintain the Project in sound and habitable condition, such that each Low-Income Unit is suitable for occupancy in accordance with the requirements of Section 42 (I) (3) (B) (I) of the Code and Section 4a of this Agreement;

g. requiring the payment of an increased compliance monitoring fee by the owner for such period as TCAC determines appropriate; and

h. such other relief as may be appropriate.

Section 10. <u>Enforceability.</u> This Agreement may be enforced by TCAC or its designee, including any agency of State or local government identified at Appendix A hereto or otherwise in a written notice provided by TCAC to Owner. In addition, the Agreement shall be deemed a contract enforceable by, and shall inure to the benefit of, one or more Tenants or persons meeting the Low-Income restriction, whether past, present, or prospective Tenants, as third-party beneficiaries hereof. TCAC, its designee and/or any Tenant or other third-party beneficiary shall be entitled to reasonable attorneys' fees and other legal costs in any judicial or administrative action in which such party shall prevail.

Section 11. <u>No Conflicting Agreements</u>. The Owner warrants that it is not bound by and will not execute any other agreement with provisions that bind it to violate the provisions of this Agreement; provided, however, that with the approval of TCAC, this Agreement may be subordinated, if required, to any lien or encumbrance of any banks or other institutional lenders to the Project; provided, further, that the terms of any such subordination shall provide that (i) prior to any such lender's acquisition of the Project by foreclosure or instrument in lieu of foreclosure, the exercise of any remedy or authority by any such lender's acquisition of the Project by foreclosure or instrument in lieu of the requirements of the Agreement, and (ii) subsequent to any such lender's acquisition of the Project by foreclosure or instrument in lieu of such any such lender's acquisition of the requirement of the Agreement, and (ii) subsequent to any such lender's acquisition of the Project by foreclosure or instrument in lieu of the requirement of the Agreement, and (ii) subsequent to any such lender's acquisition of the Project by foreclosure or instrument in lieu of such any such lender's acquisition of the Project by foreclosure of the Agreement, shall remain in effect.

Section 12. Successors Bound. This Agreement and the covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and its successors and assigns and all subsequent owners of the Project or any interest therein, and TCAC and its successors and assigns, for the Term of this Agreement, without regard to whether any such parties shall have executed an Assumption Agreement with respect hereto. Upon termination of this Agreement, the covenants and conditions contained herein shall expire, except that the requirement of Section 2c hereof, with respect to the continuation of occupancy and rent restrictions for three years following certain terminations of this Agreement, shall remain in effect.

Section 13. <u>Amendments; Waivers</u>. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and acknowledged by each of the parties hereto or their successors and duly recorded in the official records of the county in which this Agreement is recorded. Any waiver of any provision of this Agreement shall not be deemed to be an amendment hereof. Upon request by TCAC, the Owner agrees that it will take all actions necessary to effect any amendment of this Agreement which may be necessary in TCAC's sole discretion to comply with the Code, and any and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Tax Credits.

Section 14. <u>Assignment by Owner</u>. The Owner may not sell or otherwise dispose of any portion of any building in the Project unless it disposes of the entire building to the same person. Upon sale or transfer of the Project, the Owner shall be relieved of all obligations under the Agreement and the transferee shall succeed to and be bound by all of the Owner's rights and obligations hereunder, without regard to whether the transferee has executed an Assumption Agreement as hereinafter provided. Prior to any transfer of the Project, the Owner shall notify TCAC in writing and provide the name(s) and address(es) and financial reports of the prospective successor owner and operator. The Owner shall require, as a condition precedent to any sale, transfer or exchange or any other disposition of the Project prior to termination of this Agreement, that the purchaser or successor assume, in writing, in an Assumption Agreement acceptable to TCAC, the Owner's obligations hereunder and under Section 42 of the Code and applicable regulations, which Assumption Agreement shall be delivered to TCAC in executed, recordable form prior to any such sale, transfer or exchange. This provision shall not act to waive any other restriction on sale, transfer or exchange of the Project or any building in the Project. The Owner agrees that any sale, transfer or exchange of the Project without execution of an Assumption Agreement or otherwise in contravention of the provisions of this Section 14 shall be voidable at the discretion of TCAC. Changes in the constituents of the Owner shall not constitute a default under this Agreement. Owner acknowledges that the sale, transfer or exchange of the Project, or any interest in the Project or the Owner, consistent with the requirements of this Agreement, does not relieve the Owner or any of its constituents from any obligations which it may have under Section 42 of the Code, including those with respect to recapture of Tax Credit or any alternative thereto.

Section 15. <u>Notices</u>. All notices, certificates or other communications shall be sufficiently given and shall be deemed received on the second day following the date on which the same have been mailed by certified mail, postage prepaid, or sent by other method which produces evidence of delivery thereof, addressed as follows:

To the TCAC:

Tax Credit Allocation Committee 915 Capitol Mall, Room 485 P.O. Box 942809 Sacramento, CA 94209-0001

To the Owner:

Oregon Investors V Limited Partnership, an Oregon Limited Partnership 87460 Cedar Flat Road Springfield, Oregon 97478

TCAC and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 16. Indemnification. The Owner agrees to indemnify and hold harmless the Chairperson, TCAC committee members, TCAC officers, directors and employees from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by TCAC as a result of any material inaccuracy in any of the representations and warranties contained in this Agreement, or as a result of any action by the Owner, including claims by third parties.

The Owner agrees that should any claims, demands, suits or other legal proceedings be made or instituted by any person against TCAC which arise out of any of the matters relating to this Agreement, the Owner will cooperate fully with TCAC in the defense or other disposition thereof.

Section 17. <u>Severability</u>. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

Section 18. <u>Governing Law.</u> This Agreement shall be governed by the laws of the State of California, excluding conflicts provisions, and, where applicable, the laws of the United States of America.

Section 19. <u>Survival of Obligations</u>. The obligations of the Owner as set forth herein and in the application shall survive the allocation of the Tax Credit and shall not be deemed to terminate or merge with the awarding of the allocation.

Section 20. <u>Interpretation</u>. TCAC's interpretation of this Agreement shall be controlling for purposes of determining whether (i) the Compliance Period shall have commenced, (ii) this Agreement shall have been terminated in accordance with Section 2 hereof, and (iii) the Additional Use Restrictions elected at Appendix A hereto, if any, shall have been complied with.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

By Jeanne L. Peterson **Executive Director**

OREGON INVESTORS V LIMITED PARTNERSHIP, AN OREGON LIMITED PARTNERSHIP

By <u>(Owner)</u> Kelly R. Williams, Secretary-Treasurer, <u>Cascade Housing Association</u>, General Partner (Please type or print name)

The undersigned, owners of the property described on <u>Exhibit A</u> hereto, hereby consent to recordation of this Regulatory Agreement against such property, and agree that such property shall be bound by the provisions thereof.

OREGON INVESTORS V LIMITED PARTNERSHIP, AN OREGON LIMITED PARTNERSHIP

By Kelly R. Williams, Secretary-Treasurer,

Cascade Housing Association, General Partner

CALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

State of California County of Sacramento		*** OPTIONAL SECTION *** CAPACITY CLAIMED BY SIGNER
On this 23rd day of November, 1999, b	8	Through statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document
personally known to me - OR satisfactory evidence to be the person(to the within instrument and acknowledge the same in his/her/their authorized ca signature(s) on the instrument the per- which the person(s) acted, executed the	Name, Title of Officer Jeanne L. Peterson Name(s) of Signer(s) Proved to me on the basis of s) whose name(s) is/are subscribed jed to me that he/she/they executed pacity(ies), and that by his/her/their son(s), or the entity upon behalf of	 INDIVIDUAL CORPORATE OFFICER(S) PARTNER(S) LIMITED GENERAL ATTORNEY-IN-FACT TRUSTEE(S) GUARDIAN/CONSERVATOR OTHER: Executive Director California Tax Credit Allocation Committee SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES) California Tax Credit Allocation
THIS CERTIFICATE MUST BE ATTA TITLE OR TYPE OF DOCUMENT NUMBER OF PAGES	Regulatory Agreement - CA - 96 - DATE OF DOG	-004
SIGNER(S) OTHER THAN NAMED ABC		

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

ACKNOWLEDGMENT

STATE OF CALIFORNIA OR (GON)

COUNTY OF Lane

On this 16th day of <u>November</u> in the year <u>1999</u>, ore me, <u>Cindy L. Halford</u>, personally appeared before me, Cioc Kelli lliam

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, personally known to me (or 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.

Given under my hand and official seal this 16th day of November, 1999.

[SEAL]

indy f.

My Commission Expires:

9-12-03



EXHIBIT A to Regulatory Agreement

Description of the real property on which the Project is located

Location:

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228 Sutton Way Grass Valley, ČA 95945

Legal Description:

SEE ATTACHED

Project Size Description: <u>15</u> Buildings <u>79</u> Low-Income Units; <u>1</u> Manager's Unit <u>0</u> Studio, <u>0</u> 1-Bedroom; <u>24</u> 2-Bedroom; <u>32</u> 3-Bedroom; <u>24</u> 4-Bedroom; <u>0</u> 5-Bedroom

ATTACHMENT TO EXHIBIT "A"

The land herein referred to as situated in the State of California, County of Nevada, and is described as follows:

PARCEL 1:

A portion of the Southwest quarter of Section 24, Township 16 North, Range 8 East, Mount Diablo Meridian, described as follows:

All that portion of Parcel C and Parcel D, as shown on the Parcel Map filed in the office of the Nevada County Recorder in Book 7 of Parcel Maps, at Page 41, as described in that certain instrument entitled Notice of Merger, recorded September 19, 1997, Document No. 97-025746, Official Records of Nevada County.

EXCEPTING THEREFROM all that portion conveyed by the Deed dated May 30, 1986, recorded September 5, 1986, Official Records, Document no. 86-22573, executed by Alvin L. Williams et ux to the County of Nevada.

ALSO EXCEPTING THEREFROM minerals, gas, oil and mineral deposits below a depth of 200 feet below such surface, together with all necessary and convenient rights to explore for, develop, produce, extract and take the same, subject to the express limitation that the foregoing excepting and reservation shall not include any right of entry upon the surface of said land, as set forth in the Deed dated August 28, 1961, recorded August 29, 1961, in Book 302 of Official Records at page 339, executed by Sum-Gold Corporation, Inc., to John P. O-Brien et ux.

PARCEL 2:

TOGETHER WITH easements for ingress, egress and utility purposes, pursuant to the Deeds recorded January 23, 2973, in book 631, Official Records, Pages 154 and 176, the South lines of which are contiguous to the North lines of Parcels C & D of Parcel 1, described above.

The North lines of said easement are to be prolonged or shortened so as to end in the Northerly prolongations of the East and West lines of Parcels C & D of Parcel 1 above.

APN: 35-411-90

APPENDIX A ADDITIONAL USE RESTRICTIONS

Housing Type

Large Family Senior SRO Special Needs At-Risk Non-targeted

Average Income Target

Throughout the Compliance Period, unless otherwise permitted by TCAC, Units must be occupied by Tenants such that the average income of Tenants is at or below 45% of Area Median Gross Income, and, such Units shall be Rent-Restricted in accordance with such income level.

Longer Compliance Period

 \boxtimes The Compliance Period shall be a period of <u>55</u>consecutive taxable years commencing with the first year of the Credit Period.

Designation of First Year of Credit Period by Building

Building Id.	First Year of Credit Period 199_
Building Id.	First Year of Credit Period 199_
Building Id.	First Year of Credit Period 199_
Building Id.	First Year of Credit Period 199_
Building Id.	First Year of Credit Period 199_
Building Id.	First Year of Credit Period 199_

Material Participation by Qualified Nonprofit Organization

Throughout the Compliance Period, a "qualified nonprofit organization" within the meaning of Section 42(h)(5)(C) of the Code shall own an interest in the Project and shall materially participate (within the meaning of Section 469(h)) in the development and operation of the Project.

Targeted Population and Physical Facility Features

Large Family Project

- At least thirty percent (30%) of the units in the project are three-bedroom or larger units, fifty percent (50%) if project received credits from the Small Development set-aside.
- Three-bedroom units include at least 1,000 square feet of living space and four-bedroom units include at least 1,200 square feet of living space, or TCAC has granted a waiver because these restrictions conflict with the requirements of another governmental agency to which the project was subject to approval.
- Four-bedroom and larger units have at least two full bathrooms.
- The project shall provide outdoor play/recreational facilities suitable for children of all ages, or TCAC waived this requirement because the project is a Small Developments.
- The project provides an appropriately-sized common area.
- Adequate laundry facilities are available on the project premises, with no fewer than one washer/dryer per 10 units, or if no centralized laundry facilities are provided, washers and dryers are provided in each unit.

Senior project

- Unit occupancy shall be restricted to residents 55 years of age or older (at least one family member).1
- Access to basic services shall be available by other than resident-owned transportation.
- If the Project is over two stories it contains an elevator.
- No more than twenty percent (20%) of the low-income units in the project are twobedroom units.
- Emergency call systems shall be included in all units, with capability for 24-hour monitoring.
- Common area(s) are provided on site, or are within approximately one-half mile of the subject property.
- Adequate laundry facilities are available on the project premises, with no fewer than one washer/dryer per 15 units. If no centralized laundry facilities are provided, washers and dryers are provided in each of the units;

SRO project

- Project units are efficiency units which include a complete private bath and kitchen but do not have a separate bedroom. No more than five percent (5%) of the total units contain a separate bedroom.
- At least one bath is provided for every eight units.
- Adequate laundry facilities are available on the project premises, with no fewer than one washer/dryer per 15 units.

¹ Note: The Federal Fair Housing Act requires, generally, that projects which are limited to occupancy by older persons either (i) be restricted to households in which all members are 62 years or older or (ii) be "intended and operated" for persons 55 years or older and publish "practices and procedures" demonstrating such intent. All tax credit projects must comply with these requirements, as applicable under Federal law, in addition to the TCAC Regulatory Agreement.

Special Needs project

3.

- The units and building configurations (including community space) meet the specific needs of the population.
- Adequate laundry facilities are available on the project premises, with no fewer than one washer/dryer per 15 units.

Minimum Applicable Fraction by Building

Building Id.	Minimum Applicable Fraction%
Building Id.	Minimum Applicable Fraction%
Building Id.	Minimum Applicable Fraction%
Building Id.	Minimum Applicable Fraction%
Building Id	Minimum Applicable Fraction%
Building Id.	Minimum Applicable Fraction%

Agency Designated to Enforce

At any time during the Compliance Period, the California Tax Credit Allocation Committee may designate an agency of local government to enforce the terms of this Agreement. The California Tax Credit Allocation Committee designates the following agency of local government for such purpose:

Note: This Additional Use Restrictions Form is only to be used with 1996 to present year projects.



PLANNING COMMISSION June 18, 2024

Prepared by:	Lucy Rollins, Senior Planner
DATA SUMMARY	
Application Number: Subject:	24PLN-08, 24PLN-09, 24PLN-10 Use Permit applications for reductions in the covered parking
•	requirement for multifamily residential
Location/APNs:	210 Sutton Way / APN 035-412-004 228 Sutton Way / APN 035-412-003
Applicant:	265 Sutton Way / APN 035-412-025 Cascade Housing Association
Representatives:	Denni Ragsdale and Kristi Isham
Zoning/General Plan:	Multiple Family Residential (R-3) / Urban High Density (UHD) Use Permit
Entitlement: Environmental Status:	Common Sense Exemption (Section 15061(b)(3))

RECOMMENDATION:

- 1. That the Planning Commission approve the Use Permit applications for the exception to the covered parking standard for multifamily residential at 210, 228, and 265 Sutton Way as presented, or as modified by the review authority, which includes the following:
 - a. Determine the proposed project at 210 Sutton Way (24PLN-08) Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the May 21, 2024 staff report;
 - b. Determine the proposed project at 265 Sutton Way (24PLN-09) Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the May 21, 2024 staff report;
 - c. Determine the proposed project at 228 Sutton Way (24PLN-10) Exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the May 21, 2024staff report;
 - d. Adopt Findings of Fact for approval of the Use Permits as presented in the May 21, 2024 Staff Report; and
 - e. Approve the Use Permits for the reduction to the covered parking requirements subject to the Conditions of Approval, attached to the Staff Report.

BACKGROUND:

The Planning Commission heard the Use Permit proposals for 24PLN-08, -09, and -10 at their regular meeting held on May 21, 2024. The Commission continued the hearing to their regular meeting on June 18, 2024 and asked the applicant to research the feasibility of alternative carport styles, such as solar carports that may provide subsidies for energy production to reduce the installation cost.

PROJECT PROPOSAL:

The Use Permit applications are for an exception to the covered parking requirement for multifamily housing established in Section 17.36.040, Table 3-3 of the Grass Valley Municipal Code, seeking to allow all parking at 210, 228, and 265 Sutton Way apartment complexes to be uncovered. The full proposal description and analysis is available in the Staff Report for the May 21, 2024 Planning Commission hearing.

In response to the Planning Commission's request to research carport alternatives, the applicant has provided the following additional information:

- Updated operating cost details through April 2024 for each of the complexes (Attachment 2).
- Overview of meetings with Redwood Energy, GRID Alternatives, and Sierra Business Council / Sierra Nevada Energy Watch (SNEW), and Cal Solar. Feedback included the following:
 - Redwood Energy informed the applicant of the Solar on Multifamily Affordable Housing (SOMAH) program, which offers incentives for qualifying projects in PG&E territories
 - Redwood Energy also informed the applicant of Power Purchase Agreements (PPA's) that work with third party investors to help finance solar installations.
 - GRID Alternatives provided an overview of the SOMAH program including qualifying criteria, timelines, and requirements to pay prevailing wage. A cost analysis for installation is underway.
 - Sierra Business Council informed the applicant that residential projects are not eligible for SNEW assistance.
 - Cal Solar explained that PPA investors typically require additional solar infrastructure, beyond the carport installations, requirements for prevailing wage would apply, and the PPA requires an additional lien and easement on the properties.

A full description of the information received is included in Attachment 3. The applicant stated that, while formal estimates are still underway, the anticipated cost of solar carports, based on the information gathered, will exceed the quote received by Element 26 (Attachment 8) to replace the carports like-for-like, thus rendering solar carports infeasible as an option to provide covered parking.

Staff has requested that the applicant bring additional details to address the Commission's request to the hearing on June 18, 2024.

ATTACHMENTS:

- 1. Recommended Conditions of Approval
- 2. Description of Research Results

- 3. Updated Operating Cost Details
- 4. May 21, 2024 Staff Report
- 5. Universal Applications
- 6. Use Permit Applications
- 7. Carport Failures
- 8. Element 26 Construction Proposal (like-for-like)
- 9. Insurance Claims
- 10. Demolition Invoices
- 11. Site Plans
- 12. CalHFA Regulatory Agreement
- 13. CTCAC Regulatory Agreement

Solar Research for Multifamily Housing after May 21st City of Grass Valley Planning Committee Meeting

- May 27 Cascade Housing Association and Joshua Bryant with Element 26 met with Sean Armstrong, the Managing Principal of Redwood Energy. Sean has worked almost 30 years in assisting developers in building, designing and retrofitting affordable housing developments with energy modeling, solar array design, and all-electric design support, along with other services aimed at bringing energy efficiency to disadvantaged communities. In this meeting we learned about:
 - <u>Solar on Multifamily Affordable Housing (SOMAH)</u> a program funded through the State legislature through the end of 2032 and is uniquely structured to ensure long-term, direct economic benefits for low-income tenants. This program is administered by a team of nonprofit organizations and overseen by the California Public Utilities Commission (CPUC). SOMAH offers solar incentives to qualifying affordable housing projects within the service territories of Pacific Gas & Electric Company (PG&E), along with a handful of other investor-owned utility companies throughout California.
 - <u>Power Purchase Agreement's (PPAs)</u> there are companies throughout the state that work with third party investors whom assist in providing a way to finance solar installations, in which the energy generated by the solar system is then purchased by the property owner at prices equal to or less than what would typically be paid to the utility company, and would lock in the energy pricing for a set term of the agreement (typically 20 years).
- May 28 Cascade Housing Association and Joshua Bryant with Element 26 met with a team at GRID Alternatives, a SOMAH program administrator. The team gave us a broad overview of the program and answered many questions. With a solar system installed the project must offset the current tenant loads by at least 51% to qualify for the program. Moving forward to seek approval to receive solar incentives that are available through SOMAH is a lengthy process, starting with property analysis, a multi-bid process, application submission, application review to potential reservation, then meeting compliance milestones, inspections, etc. This process could take a minimum of 2 years to complete. We also learned that with the State legislature passing AB2143 in 2022, we will be required to pay prevailing wages for installation of solar systems on multifamily affordable housing developments with buildings that have more than 2 stories, which two of the three projects will be subject to this requirement.
 - <u>**Take-Away:</u>** We are currently underway with property analysis for Cedar Park Apartments, Oak Ridge Apartments, and Glenbrook Apartments to find out the costs involved with installing new carports with solar panels.</u>

Cascade Housing Association does not feel at this time the carports with solar panels will be financially feasible as not all costs will be covered and the bid will be more expensive than our current bid to replace the carports to the city code requirement as shown in our financial model for each project, due to the prevailing wage requirement that has been implemented by the State legislature.

- <u>May 30</u> Cascade Housing Association also reached out locally to David Jaeger, a Climate and Energy Technician for Sierra Business Council, to see if the Sierra Nevada Energy Watch (SNEW) program would work for our situation. SNEW is a program geared to work with local governments, school districts, public agencies, and small businesses, to assist them with a pathway to achieving energy efficiency and sustainability, by providing project management support, and finding funding solutions to assist in project upgrading.
 - <u>**Take-Away</u>**: Cascade Housing Association unfortunately cannot utilize this program as these are residential projects and not public sector projects. David was incredibly helpful and we truly appreciated him checking into this for us.</u>

<u>June 5</u> – Cascade Housing Association and Joshua Bryant with Element 26 met with a representative at Cal Solar (a solar company) to inquire about Power Purchase Agreements (PPA). As outlined above, Cal Solar would work with third party investors to finance the costs of purchasing and installing solar equipment for Cedar Park Apartments, Oak Ridge Apartments, and Glenbrook Apartments. The process is not as lengthy as the SOMAH program, however there is a process that each property would need to complete.

- To be remotely appealing to an investor, this option would require more coverage than just carports alone, and would be looking at covering the roofs as well. Because the roofs are approximately two-thirds of the way through their life cycle, this would only work if the properties were re-roofed, which is not practical at this time.
- With the passing of AB 2143, prevailing wages would apply to 2 of the 3 projects, which would nearly triple the labor costs. This hurdle alone makes it hard to make the project pencil out.
- When the property enters into a PPA, they will be encumbered by an additional lien and easement, as the solar panels belong to the solar company. The various shareholders of the properties would need to provide their approval, which has not been determined to be plausible at this time.
- <u>Take-Away</u>: Cascade Housing Association does not feel at this time a PPA will be financially feasible as not all costs will be covered and the bid will be more expensive than our current bid to replace the carports to the city code requirement as shown in our financial model for each project, due to the prevailing wage requirement that has been implemented by the State legislature.

Cedar Park Apartments

210 Sutton Way

Total Income	Feb-24 \$104,093	Mar-24 \$104,764	Apr-24 \$100,199
Total Expenses	\$46,835	\$108,295	\$50,136
Financial Obligations	\$21,814	\$21,770	\$21,726
Net Profit/(Loss)	\$35,444	(\$25,301)	\$28,337

Cost to install lighting without carport replacement

Insurance Claim Received	\$178,149.91
Demo Expense	(\$60,000.00) pd
Electrical Disconnects	(\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,012.00) pd
Future Light Permit	- (\$1,000.00) est.
Remaining Ins.	\$113,878.91
Parking Light Improvements	\$121,750.00 due
*Will be due from Owner	(\$7,871.09)

Cost to Replace Carports to City code requirement

Insurance Claim Received	\$178,149.91
Demo Expense	- (\$60,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,012.00) pd
Future Building Permit	- (\$1,000.00) est.
Remaining Ins.	\$113,878.91
Replace Carports & lighting	- \$436,000.00 due
*Will be due from owner	(\$322,121.09)

Estimated Costs to comply with State Bill 721

*Property will need to repair aproximately \$75,0

\$75,000-\$250,000

*In addition to approved path above

Glenbrook Apartments

265 Sutton Way

Total Income	Feb-24 \$62,087	Mar-24 \$61,541	Apr-24 \$58,653
Total Expenses	\$48,561	\$59,160	\$50,681
Financial Obligations	\$13,682	\$13,656	\$13,629
Net Profit/(Loss)	(\$156)	(\$11,275)	(\$5,656)

Cost to install lighting without carport replacement

Insurance Claim Received	\$128,103.06
Demo Expense	- (\$39,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,011.00) pd
Future Light Permit	- (\$1,000.00) est.
Remaining Ins.	\$84,833.06
Parking Light Improvements	- \$89,000.00 due
*Will be due from Owner	(\$4,166.94)

Cost to Replace Carports to City code requirement

Insurance Claim Received	\$128,103.06
Demo Expense	- (\$39,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$259.00) pd
Universal Application	- (\$1,011.00) pd
Future Building Permit	- (\$1,000.00) est.
Remaining Ins.	\$84,833.06
Replace Carports & lighting	- \$261,600.00 due
*Will be due from owner	(\$176,766.94)

Estimated Costs to comply with State Bill 721

*Property will need to repair aproximately \$75,000-\$250,000

*In addition to approved path above

Oak Ridge Apartments

228 Sutton Way

Total Income	Feb-24 \$99,131	Mar-24 \$91,775	Apr-24 \$93,041
Total Expenses	\$86,337	\$102,507	\$94,267
Financial Obligations	\$12,783	\$12,524	\$18,403
Net Profit/ <mark>(Loss)</mark>	\$11	(\$23,256)	(\$19,629)

Cost to install lighting without carport replacement

Insurance Claim Received	\$177,449.76
Demo Expense	- (\$48,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$260.00) pd
Universal Application	- (\$1,012.00) pd
Future Lighting Permit	- (\$1,000.00) est.
Remaining Ins.	\$125,177.76
Parking Light Improvements	- \$129,450.00 due
*Will be due from owner	(\$4,272.24)

Cost to Replace Carports to City code requirement

Insurance Claim Received	\$177,449.76
Demo Expense	- (\$48,000.00) pd
Electrical Disconnects	- (\$2,000.00) pd
Demo Permit	- (\$260.00) pd
Universal Application	- (\$1,012.00) pd
Future Building Permit	- (\$1,000.00) est.
Remaining Ins.	\$125,177.76
Replace Carports & lighting	- \$348,800.00 due
*Will be due from owner	(\$223,622.24)

Estimated Costs to comply with State Bill 721

*Property will need to repair aproximately \$75,000-\$250,000

*In addition to approved path above



City of Grass Valley City Council Agenda Action Sheet

Title: Main St Sealing And Striping - Authorize Bidding and Approve Design

CEQA: Categorically Exempt - Section 15301 "Existing Facilities"

<u>**Recommendation**</u>: That Council 1) approve the findings that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA); 2) provide direction to Staff on several design proposals; and 3) authorize the advertisement for bids.

Prepared by: Bjorn P. Jones, PE, City Engineer

Council Meeting Date: 08/13/2024

Date Prepared: 08/20/2024

Agenda: Administrative

<u>Background Information</u>: The Main Street Sealing and Striping Project primarily involves the pavement replacement, microsurfacing and restriping of Main Street between Bennett Street and Church St. Also included are associated roadway improvements such as utility cover adjustments, signage and curb painting.

The street improvements associated with this project are exempt from environmental review pursuant to Section 15301 "Existing Facilities" of the CEQA Guidelines.

Copies of the plans and specifications for the Main Street Sealing and Striping Project are available for review in the Engineering Division office at City Hall. The total project cost is estimated at \$300,000. The award of a construction contract is anticipated to occur in Fall 2024, with construction to follow shortly after, depending on weather.

A number of design concepts and Engineering proposals are incorporated into the project that Staff would like to bring to Council's attention and gain direction on how to proceed. These proposals are discussed individually in the sections to follow.

Mill @ Main Intersection: Since the Mill St Pedestrian Plaza was completed the number of pedestrians in the downtown area has increased significantly and it is apparent that additional safety measures for pedestrians crossing the stop controlled intersection of Mill and Main Streets would be advantageous. Engineering Staff worked with design consultant Coastland Engineering to evaluate different treatments for the intersection, including options of enhanced signage and striping, eliminating one of the crossings, or eliminating both crossings and creating a single centralized crossing.

At this point Engineering is proposing to keep the current crossing configurations with significant restriping and signing improvements to increase pedestrian visibility and enhanced awareness. An intersection exhibit is attached that shows the proposed enhancements. Painted crosswalk markings better identify the crossing zones in place of the faded stamped concrete areas. Added lane lines and loading zones both serve to neck down the travel lanes (traffic calming), shorten the crossing distances for

pedestrians and provide a convenient area for Mill St delivery vehicles. Median islands on the westerly crossing further restrict the travel lane widths and provide a small midblock refuge area and a location for in street pedestrian crossing signs. Pedestrian activated rectangular rapid flashing beacons are proposed on the easterly crossing to provide heightened awareness of pedestrians entering the crosswalk similar to the very effective assemblies at Church and School Streets. Otherwise, the dual crossing layout would remain unchanged and avoid the substantial design and construction costs involved in more significantly reconfiguring the entire intersection.

South Auburn @ Main Intersection Crosswalk: Coastland Engineering also evaluated the S Auburn and Main Street intersection due to safety concerns of the westerly crossing of Main Street. As the left/through lane coming from S Auburn St is signalized and does not have any oncoming traffic to contend with, motorists are not always acutely alert for pedestrians using the westerly crossing, leading to potential conflicts.

Coastland's recommendation was to eliminate this crosswalk in its entirety and Engineering Staff agrees that this is the preferred alternative. Pedestrians may have slightly increased crossing times/distances depending on their destination, but this is a small tradeoff for enhanced pedestrian safety, as well as increased efficiency for S Auburn St traffic turning onto Main St.

South Auburn @ Main Intersection Signal: Another concept that has been considered previously is converting the signal at S Auburn and Main Streets to an all-way stop-controlled intersection. In the past, this intersection has reverted to stop control (flashing red) after daytime hours and on the weekends. The signal functions effectively as such a majority of the time.

Converting to full-time stop control would lessen undesirable delays for motorists when signalized control is not necessary, likely more than 75% of the time. Traffic through the intersection would be more metered along the Main St corridor instead of letting a stream of vehicles through at one time. Stop control would also reduce maintenance costs of the traffic signal and could allow for future removal of some of the unsightly and obtrusive signal equipment.

Drawbacks could include slightly longer delays/queuing during peak periods, mainly school drop-off and pickup times. Somewhat less protection for pedestrian crossings would also be experienced as the dedicated crossing cycles would no longer be functional in an all-way stop control arrangement.

Staff proposes a trial period of placing the signal in flashing red, possibly through the month of September, to evaluate the functionality of the all-way stop control. The trial could always be cut short if issues arise.

Parking Space Adjustments: After pavement rehabilitation, the roadway will be restriped and parking marking "L's" and "T's" placed to define parking spaces, as well as painting curbs. Now is the time to make any parking area adjustments.

After an extensive evaluation of the parking space dimensions and layouts along the entire Main St corridor, Engineering Staff has developed a layout that would gain ten (10) additional defined parking spaces over what exists today. Several adjustments are proposed to accommodate this substantial increase in available parking, as follows:

• Shorten loading zone near Holbrooke Hotel approximately 10 feet. Over 32 feet would remain.

- Eliminate the loading zone near Kaido restaurant. A new loading zone through the Mill St intersection to act as a replacement.
- Shorten the loading zone near the Book Seller by approximately 10 feet. A new loading zone through the Mill St intersection to act as a replacement.
- Shorten the loading zone near Country Wood by approximately 10 feet. Over 32 feet would remain.
- Shorten the loading zone near Nevada Club by approximately 10 feet. Approximately 22 feet of loading zone. This loading zone is not ideal due to the alignment of travel lanes from E Main St and use by larger delivery trucks should be discouraged.
- Eliminate the motorcycle parking zone in front of Wolf Mountain Spa. Rarely used currently.
- Relocate the loading zone from in front of Enrique's Lounge, to the front of Wolf Mountain Spa, approximately 40 feet away. The new location would eliminate vehicles having to execute a parallel parking maneuver to enter the space and would free up more room (when loading is not in use) approaching the S Auburn St intersection for vehicle storage and maneuvering into the through/right turn travel lane.
- Eliminate green zones in front of the Chamber of Commerce and in front of PGE. With the PGE office closed, short-term parking zones are no longer warranted.
- In several locations change the standard parking space length to 20 feet. Currently, central spaces in a parallel aisle have a minimum 22-foot length. Reducing the standard to 20 feet makes it more difficult to accommodate larger vehicles executing a parallel parking maneuver. Other jurisdictions have allowed up to 75% of parallel parking to be "Intermediate" or "Compact" spaces with lengths down to 19' in their downtown areas. As proposed, 18 out of the 46 spaces along the Main St corridor would be 20' long central spaces, or less than 40% of the total, an appropriate sum for the urban environment.

Staff requests that the Council provide any direction on the described proposals at the Council meeting for the Main St Sealing And Striping Project. After consideration, Engineering will finalize the design and contract documents in order to release the project for bidding. The requested Council motion is to approve the findings that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) and authorize the advertisement for bids.

<u>Council Goals/Objectives</u>: The Main St Sealing And Striping executes portions of work tasks towards achieving/maintaining Strategic Plan Goal - City Infrastructure Investment

Fiscal Impact: The project is fully funded in the 2024/25 CIP Budget with Measure E funding.

Funds Available:YesAccount #: 300-406-63850Reviewed by:City ManagerAttachments:Main St @ Mill Exhibit

