

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Successor Agency to the Former Redevelopment Agency
of the City of Stockton
c/o City of Stockton Economic Development Department
425 North El Dorado Street, Third Floor
Stockton, CA 95202
Attn: Director

**This instrument exempt from Recording
Fees (Govt. Code §27383)**

(Space above for Recorder's Use)

AMENDED AND RESTATED REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
(GLEASON PARK HOUSING)

This Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of _____, 2016, by and among the Successor Agency to the Former Redevelopment Agency of the City of Stockton, a public body existing under the laws of the State of California (the "Agency"), the City of Stockton, a municipal corporation (the "City"), and Mercy Housing California XXXIX, a California limited partnership (the "Borrower").

RECITALS

A. The Agency, the City and Borrower entered into that certain Development Loan Agreement, dated as of March 26, 2010 (the "Loan Agreement"), pursuant to which the Agency and the City will provide loan funding to the Borrower for the development and construction of ninety-one (91) units of multifamily very low income housing, two manager's units and related improvements (the "Development") to be located on the real property more particularly described in the attached Exhibit A (the "Property").

B. Pursuant to the Loan Agreement, the Agency and the Borrower executed a Regulatory Agreement and Declaration of Restrictive Covenants ("Original Regulatory Agreement") dated as of March 26, 2010, and recorded against the Property in the Official Records of San Joaquin County on April 2, 2010, as Instrument No. 2010-045638. This Agreement restates in its entirety the Original Regulatory Agreement. The effective date of this Agreement is March 26, 2010.

C. Pursuant to the Loan Agreement, the Agency will provide Borrower a loan in the total amount of up to Four Million Ninety-One Thousand Dollars (\$4,091,000) (the "Agency Loan"). The Agency has agreed to make the Agency Loan to the Borrower on the condition that the Development be maintained and operated in accordance with Health and Safety Code sections 33334.2 *et seq.*, and in accordance with the

restrictions concerning affordability, operation, and maintenance of the Development, as specified in this Agreement.

D. The City has received Home Investment Partnership Act funds from the U.S. Department of Housing and Urban Development (HUD) pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds"). Pursuant to the Loan Agreement, the City has agreed to provide Borrower a loan of HOME Funds in the amount of One Million Nine Hundred Thousand Dollars (\$1,900,000) to assist in the construction of the Development (the "City HOME Loan") which will contain eleven (11) HOME-assisted units. The City agreed to make the City HOME Loan to the Borrower on the condition that the Development be maintained and operated in accordance with the HOME Regulations (defined below), and in accordance with the restrictions concerning affordability, operation, and maintenance of the Development, as specified in this Agreement.

E. Ninety-one (91) of the Units in the Development will be designated as assisted with the Agency housing funds, eleven (11) of which will be designated HOME-Assisted Units.

F. The City also intends to utilize the Development to obtain Housing Element credit toward meeting its fair share of regional housing needs pursuant to California Government Code Section 65583. This Agreement is also intended to implement this requirement. In accordance with Section 65402 of the Government Code, it has been determined that this action is in conformity with the City's General Plan 2003 Housing Element, adopted September 14, 2004.

G. The Development complies with Article XXXIV of the California Constitution as the voters of the City approved Measure W on March 7, 2000, which provides that five hundred (500) affordable housing units may be developed, constructed and acquired annually. The City Council has allocated ninety-two (92) units of such authority for the Development by Resolution No. 07-0269 dated June 26, 2007.

H. In consideration of receipt of the Agency Loan and the City HOME Loan at an interest rate significantly below the market rate, the Borrower has further agreed to observe all the terms and conditions set forth below.

NOW, THEREFORE, the Agency, the City, and the Borrower amend and restate the Original Regulatory Agreement to read in its entirety as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

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

(a) "Actual Household Size" shall mean the actual number of persons in the applicable household.

(b) "Adjusted Income" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with 24 CFR 92.203(b)(1) for HOME-Assisted Units, and 25 California Code of Regulations Section 6914 for Housing Fund-Assisted Units, or pursuant to a successor federal or State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, the Agency shall provide the Borrower with a reasonably similar method of calculation of adjusted income as provided in said Section 6914.

(c) "Agency" shall mean the Successor Agency to the Former Redevelopment Agency of the City of Stockton, and the City of Stockton in its capacity as the Successor Agency to the former Redevelopment Agency, existing under the laws of the State of California, and in the event the Agency ceases to exist, the City of Stockton or such successor entity as the Agency may designate.

(d) "Agency Loan" shall have the meaning set forth in Recital B.

(e) "Agreement" shall mean this Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants.

(f) "Assumed Household Size" shall mean for the purposes of calculating the allowable Rent for the Housing Fund-Assisted Units, the following (except that if any federal statutes or regulations require use of alternate household size assumptions in calculating rents, such federally-mandated household size assumptions shall be used instead of the assumptions provided below):

<u>Number of Bedrooms</u>	<u>Assumed Household Size</u>
One	2
Two	3
Three	4
Four	5

(g) "Borrower" shall mean Mercy Housing XXXIX, a California limited partnership, and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

(h) "City" shall mean the City of Stockton.

(i) "City HOME Loan" shall have the meaning set forth in Recital C.

(j) "Deed of Trust" shall mean the deed of trust to the Agency and the City on the Property which secures repayment of the Agency Loan and the City HOME Loan and the performance of the Loan Agreement and this Agreement.

- (k) "Development" shall mean the Property and the Improvements.
- (l) "HCD" shall mean the State of California Department of Housing and Community Development.
- (m) "HOME" shall mean the HOME Investment Partnerships Act program pursuant to the Cranston-Gonzalez National Housing Act of 1990, as amended.
- (n) "HOME-Assisted Units" shall mean the eleven (11) Units designated as assisted with HOME Funds pursuant to Section 2.1(c) below.
- (o) "HOME Regulations" shall mean the regulations governing the use of HOME Funds as set forth in 24 CFR 92 *et seq.*
- (p) "HOME Reporting Term" shall mean the period ending on December 31, 2017.
- (q) "High HOME Rent" shall mean a monthly Rent amount not exceeding the maximum rent published by HUD for a Low Income Household for the applicable bedroom size as set forth in 24 CFR 92.252(a).
- (r) "Housing Fund-Assisted Units" shall mean the ninety-two (92) Units designated as assisted with the Agency housing funds.
- (s) "Housing Fund Very Low Income Rent" shall mean a monthly Rent amount not exceeding one-twelfth ($1/12^{\text{th}}$) of thirty percent (30%) of fifty percent (50%) of Median Income, adjusted for Assumed Household Size.
- (t) "HUD" shall mean the United States Department of Housing and Urban Development.
- (u) "Improvements" shall mean the ninety-three (93) units of rental housing (which includes ninety- one (91) units of housing for rental to very low income households and two manager units) and attendant site improvements, located on the Property.
- (v) "Loan Agreement" shall have the meaning set forth in Recital A.
- (w) "Low HOME Rent" shall mean a monthly Rent amount not exceeding the maximum rent published by HUD for a Very Low Income Household for the applicable bedroom size as set forth in 24 CFR 92.252(b).
- (x) "Low Income Household" shall mean a household with an Adjusted Income that does not exceed the qualifying limit for a low-income family under the HOME Program as defined in 24 C.F.R. Section 92.2 for the HOME-Assisted Units, and does not exceed the qualifying limits for lower income households, as established and

amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by HCD for the Housing Fund-Assisted Units.

(y) "Median Income" shall mean the median gross yearly income, adjusted for Actual Household Size or Assumed Household Size as specified herein, in San Joaquin County, California, as published from time to time by HUD and HCD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the Agency shall provide the Borrower with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD and HCD.

(z) "Note" shall mean the promissory note from the Borrower to the Agency and the City evidencing all or any part of the Agency Loan and the City HOME Loan.

(aa) "Property" shall mean the real property described in Exhibit A attached hereto and incorporated herein.

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

(cc) "Tenant" shall mean a household legally occupying a Unit pursuant to a valid lease with Borrower.

(dd) "Term" shall mean the term of this Agreement, which shall commence on March 26, 2010, and shall continue until the later of (1) fifty-five years after the issuance of a final certificate of occupancy for the Development, (2) December 31, 2066, or (3) repayment in full of the Agency Loan and the City HOME Loan and all interest due thereon.

(ee) "Thirty Percent Income Household" shall mean a household with an Adjusted Income which does not exceed thirty percent (30%) of Area Median Income, adjusted for Actual Household Size.

(ff) "Thirty Percent Income Units" shall mean the Units which, pursuant to Section 2.1 below, are required to be occupied by Thirty Percent Income Households.

(gg) "Unit(s)" shall mean one or all of the ninety-three (93) rental units constructed on the Property.

(hh) "Utility Allowance" shall have the meaning set forth above in Section 1.1(bb).

(ii) "Very Low Income Household" shall mean a household with an Adjusted Income, that does not exceed the qualifying limit for a very low income family under the HOME program as defined in 24 CFR 92.2 for HOME-Assisted Units, and that does not exceed the qualifying limits for very low income households, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by HCD for the Housing Fund-Assisted Units.

(jj) "Very Low Income Units" shall mean the Units, which, pursuant to Section 2.1(b) below, are required to be occupied by Very Low Income Households.

ARTICLE 2 AFFORDABILITY AND OCCUPANCY COVENANTS

2.1 Occupancy Requirements. Not including the two manager's units, the Units shall be occupied by Tenants meeting the following income requirements:

(a) Thirty Percent Income Units. Eleven (11) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Thirty Percent Households.

(b) Very Low Income Units. Eighty (80) of the units ,, shall be rented to and occupied by or, if vacant, available for occupancy by Very Low Income Households.

(c) HOME-Assisted Units. Eleven (11) of the Units described in subsections () (b) have been designated by the City as HOME-Assisted Units. All of the HOME-Assisted Units shall be "floating" units, meaning that the specific dwelling units that are HOME-Assisted Units may change over time.

(d) Intermingling of Units. To the extent a Unit is considered both a Housing Fund-Assisted Unit and HOME-Assisted Unit, Borrower shall comply with the stricter of the requirements applicable to such Unit set forth in this Agreement. The Unit matrix is as follows:

Unit Type	Units	Manager's Unit	Totals
1 bdr	12 (1 HOME)	0	12
2 bdr	43 (6 HOME)	2	45
3 bdr	26 (3 HOME)	0	26
4 bdr	10 (1 HOME)	0	10
Total	91 (11 HOME)	2	93

(e) Disabled Persons Occupancy. The Development shall be operated at all times in compliance with the provisions of: (i) the Unruh Act; (ii) the California Fair

Employment and Housing Act, (iii) Section 504 of the Rehabilitation Act of 1973; (iv) the United States Fair Housing Act, as amended, and (v) any other applicable law or regulation (including the Americans With Disabilities Act, to the extent applicable to the Development). Borrower agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the Agency and City) the Agency, the City and their council members, board members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Borrower's failure to comply with applicable legal requirements related to housing for persons with disabilities. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

2.2 Allowable Rent

(a) Thirty Percent Income Rent. Subject to the provisions of Section 2.3 and 2.4 below as applicable, the Rent (including the Utility Allowance) paid by Thirty Percent Income Households shall not exceed one-twelfth (1/12th) of thirty percent (30%) of thirty percent (30%) of Area Median Income, adjusted for Assumed Household Size.

(b) Very Low Income Rent. Subject to the provisions of Section 2.3 and 2.4 below as applicable, the Rent (including the Utility Allowance) paid by Very Low Income Households residing in Housing Fund-Assisted Units shall not exceed the Housing Fund Very Low Income Rent, and the Rent (including the Utility Allowance) paid by Very Low Income Households residing in HOME-Assisted Units shall not exceed the Low HOME Rent.

(c) Approval of Initial and Subsequent Rents. Rents for all Units shall be approved by the Agency and City prior to occupancy by new Tenants. All rent increases shall also be subject to Agency and City approval. The Agency and City shall provide the Borrower with a schedule of maximum permissible rents for the Units annually, which shall be calculated as set forth in this Section 2.2 and shall not be more restrictive than the above provisions. The Borrower shall not charge any fee other than Rent to any Tenant of Units for any housing or other services provided by Borrower.

(d) Rent Increases. Rent may not be increased more often than once every twelve (12) months and by no more than ten percent (10%) per year. For HOME-Assisted Units, if the Rent required to be charged to Tenants by Section 2.4(b) results in a greater than ten percent (10%) annual increase, Borrower shall charge the Rent required by Section 2.4(b). Borrower will provide each Tenant with at least sixty (60) days written notice of any increase in Rent applicable to such Tenant.

2.3 Increase In Income of Tenants of Agency Housing Fund-Assisted Units.

(a) Increase to Very Low Income. If, upon recertification of the income of a Tenant of a Thirty Percent Income Unit, the Borrower determines that a former Thirty Percent Income Household's Adjusted Income has increased and exceeds the qualifying income for a Thirty Percent Income Household, but does not exceed the

qualifying limit for a Very Low Income Household, then, upon expiration of such Tenant's lease and upon sixty (60) days written notice to the Tenant:

(1) Such Tenant's Unit shall be considered a Very Low Income Unit;

(2) Such Tenant's Rent may be increased to an amount not to exceed the Very Low Income Rent, and the Rent (including the Utility Allowance) paid by Very Low Income Households residing in HOME-Assisted Units shall not exceed the Low HOME Rent.

(3) The Borrower shall rent the next available Unit to a Thirty Percent Household, at a Rent not exceeding the maximum Rent specified in Section 2.2 (a) to comply with the requirements of Section 2.1.

(b) Increase to Low Income. If, upon recertification of the income of a Tenant of a Housing Fund-Assisted Unit, the Borrower determines that a former Very Low Income Household's Adjusted Income has increased and exceeds the qualifying income for a Very Low Income Household, but does not exceed the qualifying limit for a Low Income Household, then, upon expiration of such Tenant's lease:

(1) Such Tenant's Unit shall continue to be considered a Very Low Income Unit;

(2) Such Tenant's Rent may be increased to Housing Fund Low Income Rent or HOME High Rent if the unit is a HOME-Assisted Unit, upon sixty (60) days written notice to the Tenant; and

(3) The Borrower shall rent the next available Unit to a Very Low Income Household, at a Rent not exceeding the maximum Rent specified in Section 2.2(b) to comply with the requirements of Section 2.1.

(c) Increase to One Hundred Twenty Percent (120%) of Median Income. If, upon recertification of the income of a Tenant of a Housing Fund-Assisted Unit, the Borrower determines that a former Very Low Income Household or Low Income Household's Adjusted Income has increased and exceeds the qualifying income for a Low Income Household, but does not exceed one hundred twenty percent (120%) of Median Income adjusted for Actual Household Size, then, upon expiration of such Tenant's lease:

(1) Such Tenant's Unit shall continue to be considered a Very Low Income Unit;

(2) Such Tenant's Rent may be increased to one-twelfth (1/12th) of thirty percent (30%) of one hundred ten percent (110%) of Median Income, adjusted for Assumed Household Size, upon ninety (60) days written notice to the Tenant; and

(3) The Borrower shall rent the next available Unit to a Very Low Income Household at a Rent not exceeding the maximum Rent specified in Section 2.2, to comply with the requirements of Sections 2.1.

(d) Non-Qualifying Household. If, upon recertification of the income of a Tenant of a Housing Fund-Assisted Unit, the Borrower determines that a former Very Low Income Household, or Low Income Household has an Adjusted Income exceeding one hundred twenty percent (120%) of Median Income, adjusted for Actual Household Size, such Tenant shall be permitted to continue to occupy the Unit and such Tenant's Rent may be increased to one-twelfth of thirty percent (30%) of the household's actual income, adjusted for Assumed Household Size, upon sixty (60) days written notice to the Tenant, and the Unit shall continue to be classified as a Very Low Income Unit until the Tenant vacates the Unit at which time the Unit shall be re-rented to a Very Low Income Household to meet the requirements of Section 2.1 above.

2.4 Increase In Income of Tenants of HOME-Assisted Units

(a) Increase to Low Income Limit. In the event that, upon recertification of the income of a Tenant of a HOME-Assisted Unit, the Borrower determines that a former Very Low Income Household's Adjusted Income has increased and exceeds the qualifying income for a Very Low Income Household but does not exceed the qualifying limit for a Low Income Household, the Tenant may continue to occupy the Unit, and, upon expiration of such Tenant's lease, and upon sixty (60) days written notice to the Tenant, the Borrower may increase the Tenant's Rent to the High HOME Rent. The Borrower shall then rent the next available Unit to a Very Low Income Household to comply with the requirements of Section 2.1(c) above.

(b) Non-Qualifying Household. If, upon recertification of the income of a Tenant of a HOME-Assisted Unit, the Borrower determines that a former Very Low Income Household's or Low Income Household's Adjusted Income has increased and exceeds the qualifying income for a Low Income Household, such tenant shall be permitted to continue to occupy the Unit, and, upon expiration of such Tenant's lease, and sixty (60) days' written notice to the Tenant, the Rent may be increased to the lesser of one-twelfth ($1/12^{\text{th}}$) of thirty percent (30%) of actual Adjusted Income of the Tenant, or fair market rent (subject to 24 CFR 92.252(i)(2) regarding low income housing tax credit requirements), and the Borrower shall rent the next available Unit to a Very Low Income Household to comply with the requirements of Section 2.1(c) above. Upon renting the next available Unit in accordance with Section 2.1(c), the Unit with the Non-Qualifying Household shall no longer be considered a HOME-Assisted Unit.

2.5 Termination of Occupancy. Upon termination of occupancy of a Unit by a Tenant, such Unit shall be deemed to be continuously occupied by a Very Low Income Household, until such Unit is reoccupied. Any new Tenant must meet the requirements for a Very Low Income Household. Except as otherwise provided in this Agreement, Borrower shall maintain the occupancy requirements set forth in Section 2.1 above.

ARTICLE 3 INCOME CERTIFICATION AND REPORTING

3.1 Tenant Selection Plan.

No later than ninety (90) days after commencement of the construction of the Improvements, the Borrower shall provide the Agency and City, for their review and approval, the Borrower's written tenant selection plan and affirmative marketing responsibilities. The plan must, at a minimum, meet the requirements for tenant selection set out in 24 CFR 92.253(d), including information on affirmative marketing efforts and compliance with fair housing laws, and indicate the availability of units accessible to disabled households.

3.2 Income Certification.

(a) The Borrower shall obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the Units. The Borrower shall make a good faith effort to verify that the income provided by an applicant or occupying household in an income certification is accurate by taking the following four steps as a part of the verification process: (i) obtaining an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from such agencies, obtaining another form of independent verification if the applicant is unemployed, or obtaining the three (3) most current pay stubs for adults age eighteen (18) or older; (ii) obtaining an income tax return for the most recent tax year for all adults age eighteen (18) or older; (iii) conducting a credit agency or similar search for all adults age eighteen (18) or older; and (iv) obtaining the three (3) most current savings and checking account bank statements for all adults age eighteen (18) or older.

(b) Optional income certification steps may include obtaining an income verification form from the applicant's current employer.

(c) Copies of all Tenant income certifications shall be available to the Agency and City upon request.

3.3 Annual Report to Agency and City.

The Borrower shall submit to the Agency and City (a) not later than the sixtieth (60th) day after the close of each calendar year, or such other date as may be requested by the Agency or City, a statistical report, including income, occupancy, and rent data for all Units, setting forth the information called for therein, and (b) within fifteen (15) days after receipt of a written request, any other information or completed forms requested by the Agency or City in order to comply with reporting requirements of HUD, or the State of California.

3.4 Additional Information.

The Borrower shall provide any additional information reasonably requested by the Agency and City. The Agency and City shall have the right to examine and make copies of all books, records or other documents of the Borrower which pertain to the Development.

3.5 Tenant Records.

(a) The Borrower shall keep and maintain on the Property, or elsewhere with the Agency's and City's written consent, in accordance with generally accepted accounting principles consistently applied, complete, accurate and current records pertaining to the Development, and shall permit any duly authorized representative of the Agency and the City to inspect records, including records pertaining to income and household size of Tenants, Rent charged Tenants, and affirmative marketing requirements. All Tenant lists, applications and waiting lists relating to the Development shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Agency and City, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Agency and City. The Borrower shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least ten (10) years after creation.

(b) The Agency and/or City shall notify Borrower of any records they deem insufficient. Borrower shall have twenty-one (21) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the Agency and/or City in such notice, or if a period longer than twenty-one (21) days is reasonably necessary to correct the deficiency, then Borrower shall begin to correct the deficiency within twenty-one (21) days and correct the deficiency as soon as reasonably possible.

3.6 HOME Record Requirements.

(a) For the period of the HOME Reporting Term all records maintained by Borrower pursuant to Section 3.5 above shall be (i) maintained in compliance with all applicable HUD records and accounting requirements, and (ii) open to and available for inspection and copying by HUD and its authorized representatives at reasonable intervals during normal business hours; provided however, records pertaining to Tenant income verifications, Rents, and Development inspections shall be subject to HUD

inspection for five (5) years after expiration of the HOME Reporting Term. Borrower is subject to the audit requirements set forth in 24 CFR 92.505 during the HOME Reporting Term.

(b) No later than October 31 of each year of the HOME Reporting Term, Borrower shall submit to the City a completed HOME Compliance Report in form attached to this Agreement as Exhibit B.

3.7 On-site Inspection.

The Agency and the City shall have the right to perform an on-site inspection of the Development at least two (2) times per year to verify compliance with the requirements of this Agreement and the Loan Agreement. The Borrower agrees to cooperate in such inspection. Such inspections may include a Housing Quality Standard Inspection as required by the HOME Regulations.

ARTICLE 4 OPERATION OF THE DEVELOPMENT

4.1 Residential Use.

The Development shall be operated only for residential use. No part of the Development shall be operated as transient housing in which the term of Tenant occupancy is less than thirty (30) days.

4.2 Taxes and Assessments.

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

4.3 HOME Requirements.

(a) Borrower shall comply with all applicable laws and regulations governing the use of the HOME loan funds as set forth in 24 C.F.R. Part 92. In the event of any conflict between this Agreement and applicable HOME laws and regulations, the applicable laws and regulations shall govern. During the HOME Reporting Term, these requirements shall be federal requirements, implemented by the City; thereafter, these requirements shall be deemed local City requirements.

(b) The HOME laws and regulations governing the operation of the Development include (but are not limited to) the following:

(i) Environmental and Historic Preservation. 24 C.F.R. 58 et seq., which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5.

(ii) Applicability of OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110, A-122, and A-133.

(iii) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24.

(iv) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. 100 et seq.; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.); the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. 107 et seq.; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; and Executive Order 12138 as amended by Executive Order 12608.

(v) Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. 35 et seq.

(vi) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and implementing regulations at 49 C.F.R. 24 et seq.; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; 24 C.F.R. 92.353; and California Government Code 7260 et seq. and implementing regulations at 25 California Code of Regulations 6000 et seq. If and to the extent that development of the Development results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then Borrower shall comply with all applicable local, state, and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. Borrower shall prepare and submit a relocation plan to the City for approval. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with such relocation laws. The Borrower shall indemnify, defend (with counsel reasonably chosen by the City), and hold harmless the City against all claims which arise out of relocation obligations to

residential tenants, homeowners, or businesses permanently or temporarily displaced by the Development.

(vii) Discrimination against the Disabled. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), and federal regulations issued pursuant thereto.

(viii) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. 1500 et seq., as amended from time to time.

(ix) Uniform Administrative Requirements. The provisions of 24 C.F.R. 92.505 regarding cost and auditing requirements.

(x) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968 ("Section 3"), as amended, 12 U.S.C. 1701(u) requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the project. The Borrower agrees to include the following language in all subcontracts executed under this Agreement:

(1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. Section 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(2) The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. 135 et seq., which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause; and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can

see the notice. The notice shall describe the Section 3 preference; shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. 135 et seq., and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. 135 et seq. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. 135 et seq.

(5) The contractor will certify that any vacant employment positions, including training positions, that are filled (i) after the contractor is selected but before the contract is executed, and (ii) with persons other than those to whom the regulations of 24 C.F.R. 135 et seq. require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. 135 et seq.

(6) Noncompliance with HUD's regulations in 24 C.F.R. 135 et seq. may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(e)) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

(xi) Labor Standards. The applicable labor requirements set forth in 24 C.F.R. 92.354. The applicable prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 U.S.C. 3141-3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1.5 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

(xii) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24.

(xiii) Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 U.S.C. 1352 et seq. and implementing regulations at 24 C.F.R. 87 et seq.

(xiv) Conflict of Interest. The conflict of interest provisions set forth in 24 C.F.R. Section 92.356.

(xv) Housing Quality Standards. The Housing Quality Standards set forth in 24 C.F.R. Section 92.251.

(xvi) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.) and the procedures set forth in 36 C.F.R. 800 et seq.

(xvii) Religious Organizations. If the Borrower is a religious organization, as defined by the HOME requirements, the Borrower shall comply with all conditions prescribed by HUD for the use of HOME funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. 92.257.

(xviii) HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to the Loan funds, including but not limited to HUD regulations as may be promulgated regarding subrecipients.

4.4 Anti-Lobbying Certification.

The Borrower certifies, to the best of Borrower's knowledge or belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(c) This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

4.5 Preference to Displacees. Owner shall give a preference in the rental of any Units to eligible households displaced by activity of the Agency or the City.

ARTICLE 5 PROPERTY MANAGEMENT AND MAINTENANCE

5.1 Management Responsibilities.

The Borrower is responsible for all management functions with respect to the Development, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. Neither the City nor the Agency shall have any responsibility over management of the Development. The Borrower shall retain a professional property management company approved by the Agency and City in their reasonable discretion to perform its management duties hereunder.

5.2 Management Agent.

The Development shall at all times be managed by an experienced management agent reasonably acceptable to the Agency and the City, with demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). A full-time employee of the Management Agent, experienced in the on-site management of residential facilities similar to the Development, shall work and reside at the Development at all times, responsible for the on-site management of the Development. The Borrower shall submit for the Agency's and City's approval, the identity of any proposed Management Agent. The Borrower shall also submit such additional information about the background, experience and financial condition of any proposed Management Agent as is reasonably necessary for the Agency and City to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, the Agency and City shall approve the proposed Management Agent by notifying the Borrower in writing. Unless the proposed Management Agent is disapproved by the Agency and/or City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved. The Agency and the City hereby approve Mercy Services Corporation as the initial Management Agent.

5.3 Performance Review.

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

5.4 Replacement of Management Agent.

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

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

Any contract for the operation or management of the Development entered into by Borrower shall provide that the contract can be terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute default under this Agreement, and the Agency and/or City may enforce this provision through legal proceedings as specified in Section 6.9 below.

5.5 Approval of Management Plan.

The Borrower shall submit its written management policies with respect to the Development to the Agency and City for their review, which shall include written guidelines or procedures for operation and management of the Development including maintenance and security processes and staffing levels, and implementation of the tenant selection, income certification, reporting, and leasing requirements of this Agreement. Borrower shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

5.6 Property Maintenance.

The Borrower agrees, for the entire Term of this Agreement, to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance

with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

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

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

- (1) broken or discarded furniture, appliances and other, household equipment stored in yard areas for a period exceeding one (1) week;
- (2) packing boxes, lumber trash, dirt and other debris in areas visible from public property or neighboring properties; and
- (3) vehicles parked or stored in other than approved parking areas.

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

- (1) violations of state law, uniform codes, or City ordinances;
- (2) conditions that constitute an unsightly appearance that detracts from the aesthetics or value of the Property or constitutes a private or public nuisance;
- (3) broken windows;
- (4) graffiti (must be removed within 72 hours); and
- (5) conditions constituting hazards and/or inviting trespassers, or malicious mischief.

(d) Sidewalks. The Borrower shall maintain, repair, and replace as necessary all public sidewalks adjacent to the Development.

The Agency and City place prime importance on quality maintenance to protect their investments and to ensure that all Agency-assisted and City-assisted affordable housing projects within the City are not allowed to deteriorate due to below-average maintenance. Normal wear and tear of the Development will be acceptable to the Agency and City assuming the Borrower agrees to provide all necessary improvements to assure the Development is maintained in good condition. The Borrower shall make

all repairs and replacements necessary to keep the improvements in good condition and repair.

In the event that the Borrower breaches any of the covenants contained in this Section and such default continues for a period of five (5) business days after written notice from the Agency or City with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the Agency with respect to landscaping and building improvements, then the Agency or City, in addition to whatever other remedy they may have at law or in equity, shall have the right to enter upon the Property and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, the Agency and City shall be permitted (but is not required) to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the Agency or City and/or costs of such cure, which amount shall be promptly paid by the Borrower to the Agency and/or City as applicable, upon demand.

5.7 Safety Conditions.

(a) The Borrower acknowledges that the Agency and City place a prime importance on the security of Agency-assisted and City-assisted projects and the safety of the residents and surrounding community. The Borrower agrees to implement and maintain throughout the Term the following security measures in the Development:

- (1) to the extent feasible employ defensible space design principles and crime prevention measures in the operation of the Development including but not limited to maintaining adequate lighting in parking areas and pathways;
- (2) use its best efforts to work with the City of Stockton Police Department to implement and operate an effective neighborhood watch program; and
- (3) provide added security including dead-bolt locks for every entry door, and where entry doors are damaged and replace them with solid-core doors.

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

ARTICLE 6
MISCELLANEOUS

6.1 Lease Provisions.

(a) In leasing the Units in the Development the Borrower shall use a form of Tenant lease agreement approved by the Agency and the City. The lease shall not contain any provision which is prohibited by 24 C.F.R. Section 92.253(b) and any amendments thereto. The form of Tenant lease shall also comply with all requirements of this Agreement and the Loan Agreement, and shall, among other matters:

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

(2) be for an initial term of not less than one (1) year. After the initial year of tenancy, the lease may be month to month by mutual agreement of the Borrower and the Tenant, however the Rent may not be raised more often than once every twelve (12) months.

(b) Any termination of a lease (other than default by Tenant) or refusal by the Borrower to renew the lease must be in conformance with 24 CFR 92.253(c) and must be preceded by no less than sixty (60) days' written notice to the Tenant by the Borrower specifying the grounds for the action. Termination of a lease for a default by Tenant shall be in accordance with applicable law.

6.2 Nondiscrimination.

All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. The Borrower shall not give preference to any particular class or group of persons in renting or selling the Units, except as otherwise set forth in this Agreement and other public agency regulatory agreements. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g. SSI), age (except for lawful senior housing), ancestry, pregnancy, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall the Borrower or any person claiming under or through the Borrower, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of any Unit.

6.3 Mandatory Language in All Subsequent Deeds, Leases and Contracts.

All deeds, leases or contracts made or entered into by the Borrower, its successors or assigns, as to any portion of the Development shall contain therein the following language:

In Deeds:

"(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or through the grantee, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

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

In Leases:

"(1) Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee or any person claiming under or through the lessee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older

persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

In Contracts:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

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

6.4 Section 8 Voucher and Certificate Holders.

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

6.5 Term.

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

the Agency Loan and the City makes the City HOME Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

6.6 Notice of Expiration of Term.

At least six (6) months prior to the expiration of the Term the Borrower shall provide by first-class mail, postage prepaid, a notice to all Tenants in Units containing (a) the anticipated date of the expiration of the Term, (b) any anticipated Rent increase upon the expiration of the Term, (c) a statement that a copy of such notice will be sent to the Agency and City, and (d) a statement that a public hearing may be held by the Agency and City on the issue and that the Tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Borrower shall also file a copy of the above-described notice with the Executive Director of the Agency and City Manager. In addition, Borrower shall comply with the requirements set forth in California Government Code Sections 65863.10 and 65863.11.

6.7 Compliance with Loan Agreement and Program Requirements.

The Borrower's actions with respect to the Development shall at all times be in full conformity with: (i) all requirements of the Loan Agreement; (ii) all requirements imposed on projects assisted with Redevelopment Low and Moderate Income Housing Fund monies under California Health and Safety Code Section 33334.2 et seq.; and (iii) all requirements imposed on projects assisted under the HOME Investment Partnership Program as contained in 42 USC 12701 et seq., 24 CFR 92 et seq., and other implementing rules and regulations.

6.8 Covenants to Run With the Land.

The Agency, City, and the Borrower hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the Agency and City expressly releases such conveyed portion of the Property from the requirements of this Agreement.

6.9 Enforcement by the Agency and City.

If the Borrower fails to perform any obligation under this Agreement, and fails to cure the default within thirty (30) days after the Agency or City has notified the Borrower in writing of the default or, if the default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within sixty (60) days, the Agency and the City shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(a) Calling the Agency Loan and the City HOME Loan. The Agency and the City may declare a default under the Note, accelerate the indebtedness evidenced by the Note, and proceed with foreclosure under the Deed of Trust.

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

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

6.10 Recording and Filing.

The Agency, the City, and the Borrower shall cause this Agreement, and all amendments and supplements to it, to be recorded in the Official Records of San Joaquin County.

6.11 Governing Law.

This Agreement shall be governed by the laws of the State of California.

6.12 Rights of Third Parties to Enforce Covenants.

Notwithstanding any other provisions of law, all covenants and restrictions contained herein which implement Health and Safety Code Sections 33334.3 and/or 33413(b)(4), or successor provisions, shall run with the land and shall be enforceable by the Agency, the City, and any of the parties listed in Health and Safety Code Section 33334.3(f)(7), so long as such provision or successor provision remains in effect.

6.13 Listing of Property in Database.

Borrower hereby acknowledges and agrees that Health and Safety Code Section 33418(c) requires that the Property be listed in a database that shall be made available to the public on the internet and which will include the street address, assessor's parcel number, and other information about the Property. The Borrower must disclose this requirement to all Tenants and prospective Tenants.

6.14 Waiver of Requirements.

No waiver of the requirements of this Agreement shall occur unless expressly waived by the Agency and City in writing. No waiver will be implied from any delay or

failure by the Agency or City to take action on any breach or default of Borrower or to pursue any remedy permitted under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Agency or City to any act or omission by Borrower shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the Agency's or City's written consent to future waivers.

6.15 Amendments.

This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of San Joaquin.

6.16 Notices.

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

Agency:	Successor Agency of the City of Stockton 425 North El Dorado Street Stockton, CA 95202 Attention: Executive Director
City:	City of Stockton 425 North El Dorado Street Stockton, CA 95202 Attention: City Manager
With a copy to:	Office of the City Attorney City of Stockton 425 North El Dorado Street Stockton, CA 95202
Borrower:	Mercy Housing California XXXIX c/o Mercy Housing California 3120 Freeboard Drive, Suite 202 West Sacramento, CA 95691 Attention: Greg Sparks

Such addresses may be changed by notice to the other party given in the same manner as provided above.

6.17 Attorneys' Fees.

In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This

Section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

6.18 Severability.

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

6.19 Multiple Originals; Counterparts.

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

IN WITNESS WHEREOF, the Agency, the City and the Borrower have entered into this Agreement, as of the date first written above.

BORROWER:

MERCY HOUSING CALIFORNIA XXXIX,
a California limited partnership

By: Mercy Housing Calwest, a California
nonprofit public benefit corporation, its general
partner

By: _____

Name _____

Its: _____

CITY:

CITY OF STOCKTON, a charter city

ATTEST:

Bonnie Paige
City Clerk _____

By: _____

By: Kurt O. Wilson, City Manager

APPROVED AS TO FORM:

John M. Luebberke
City Attorney

By: _____

AGENCY:

SUCCESSOR AGENCY OF THE CITY OF
STOCKTON, a public body, corporate and
politic

ATTEST:

Bonnie Paige
Secretary

By: _____
Kurt O. Wilson,
Executive Director

By: _____

APPROVED AS TO FORM:

John M. Luebberke

COUNSEL FOR THE AGENCY

By: _____
Agency Counsel

ACKNOWLEDGMENT

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

State of California)
County of San Joaquin)

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

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary

Place Notary Seal Above

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

State of California)
County of San Joaquin)

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

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary

Place Notary Seal Above

ACKNOWLEDGMENT

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

State of California)
County of San Joaquin)

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

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary

Place Notary Seal Above

EXHIBIT A
LEGAL DESCRIPTION

All that certain real property located in the County of San Joaquin, State of California, described as follows:

Portions of American Street and Sonora Street, and a portion of Blocks 43 and 52, as shown on that certain Map entitled, East of Center, according to the Official Map of the City of Stockton, described as follows:

Commencing at the southeasterly corner of Block 42, East of Center, said corner bearing North 78°20'47" East from the southwesterly corner of said Block 42; thence northerly along the east line of said Block 42, North 11°40'42" West 151.66 feet to a point at the midpoint on said east line of Block 42, said midpoint being the POINT OF BEGINNING; thence leaving said east line and continuing easterly, North 78°21'00" East 80.80 feet to a point at the midpoint on the west line of said Block 43; thence continuing easterly, North 78°21'00" East 303.14 feet to a point at the midpoint on the east line of said Block 43, said point also being on the west line of said Stanislaus Street; thence southerly along said east line of Block 43 and said west line of Stanislaus Street and the extensions thereof running along the east line Block 52, South 11°42'33" East 515.86 feet, to the southeasterly corner of said Block 52, said corner also being at the intersection of said west line of Stanislaus Street and the north line of Church Street; thence westerly along the south line of said Block 52 and along the north line of said Church Street, South 78°23'03" West 303.42 feet, to the southwesterly corner of Block 52, said corner also being at the intersection of said north line of Church Street and the east line of said American Street; thence continuing westerly along the projected north line of said Church Street, South 78°23'03" West 40.40 feet to the intersection of said north line of Church Street with the centerline of said American Street; thence northerly along said centerline of American Street, North 11°40'40" West 296.84 feet to a point on the southerly boundary of that certain 0.61 acre parcel of land described in deed to Visionary Home Builders of California, recorded as Document Number 2008-022308, San Joaquin County Records; thence continuing in a counter-clockwise direction along said 0.61 acre parcel boundary, through the following four (4) courses:

(1) thence continuing in an easterly direction along a curve concave to the west, said curve having a beginning radial bearing of North 19°25'16" West, a radius of 35.50 feet, an arc length of 82.59 feet and a central angle of 133°17'50" to the beginning of a reverse curve;

(2) thence continuing along said reverse curve being concave to the northeast and having a radius of 19.50 feet, an arc length of 17.37 feet and a central angle of 51°02'24";

(3) thence North 11°40'42" West 90.31 feet;

(4) thence South 78°22'00" West 50.70 feet to a point on the east line of Block 42; thence leaving said 0.61 acre parcel boundary and northerly along said east line of Block 42, North 11°40'42" West 50.53 feet, more or less, to the POINT OF BEGINNING of the herein described parcel.

Being Parcel 2 Lot Merger (NLM 09-02) recorded April 21, 2009, Instrument No. 2009-59485, Official Records.

APN: 149-262-20, 149-262-21

EXHIBIT B

HOME COMPLIANCE REPORT

[illegible]