

After recording please return to:

Thomas C. Huston
9200 Andermatt Drive
Lincoln, NE 68526

DECLARATION OF AFFORDABLE HOUSING USE RESTRICTION

This Declaration of Affordable Housing Use Restriction (the “Declaration”) is made this ____ day of _____, 2023 by APR Southington, LLC, a _____ limited liability company having a mailing address of 9200 Andermatt Drive, Lincoln, NE 68526 (“Owner”).

RECITALS

- A. Owner is the record owner of the real estate located in Southington, Hartford County, Connecticut, as legally described on Exhibit “A” attached and incorporated by this reference (the “Housing Property”);
- B. Owner has applied to the City of Southington, Connecticut (the “City”) for land use and site plan approval to construct a multifamily apartment project on the Housing Property containing 255 dwelling units (the “Housing Project”) located in the “Mixed Use Transition Zone” pursuant to Section 4.06.6(E) of the Southington Municipal Code;
- C. Owner has received site plan approval for the Housing Project conditioned upon compliance with Southington Mun. Code Section 4.06.6(E) which requires compliance with the Affordable Housing requirements of the MUT District, as defined therein, and mandates that the Housing Property be subjected to a deed restriction containing enforceable conditions on the Housing Project as embodied by the terms of this Declaration;
- D. The Housing Project shall is designed to be a market-rate housing opportunity for residents of the City of Southington. The City has conditioned its approval of the Housing Project on the Owner complying with an Affordability Plan applicable to the Housing Project, which plan shall restrict occupancy of the Project to be not less than ten percent (10%) of the dwelling units to be:
 - 1. Available to individuals and families earning not more than 80% of the Area Median Income for Southington CT as determined by

the United States Department of Housing and Urban Development (“HUD”) annually;

2. The rents for such 10% of the units be established at a rate not exceeding 30% of the monthly income of an individual or family earning 80% of the Area Median Income, less the utility allowance as determined by HUD, and adjusted for family size; and
3. That these restrictions on tenant-eligibility and rents shall remain in place for a 40-year duration as provided herein so long as the Housing Project remains principally a housing use.

E. Owner desires to embody and memorialize the restrictions on the use of the Housing Property to include the requirements of the Affordability Plan applicable to the Housing Project.

NOW, THEREFORE, in consideration of, and based on, the mutual promises and other consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Affordable Housing Restriction.** The Housing Project shall contain 255 dwelling units in total. The Affordability Plan and this Declaration shall require Owner to create and maintain procedures to ensure compliance with the restrictions which shall restrict the occupancy of the Housing Project as follows:
 - a. **Affordable Dwelling Units:** At least twenty-six (26) dwelling units, (each an “Affordable Dwelling Unit” and together the “Affordable Dwelling Units”) comprising 10% of the total dwelling units contained in the Housing Project shall be restricted to require Eligible Tenants and Affordable Rents (as defined below). Such Affordable Dwelling Units shall be located in each of the eight (8) structures which comprise the Housing Project, with 3 Affordable Dwelling Units in 6 of the 8 structures and 4 Affordable Dwelling Units in two of structures for a total of 26 Affordable Dwelling Units;
 - b. **Eligible Tenants:** The Affordable Dwelling Units shall be rented to individuals or families which qualify by demonstrating that the household income does not exceed eighty percent (80%) of the Area Median Income (“Eligible Tenants”) for Southington CT as determined and published by HUD;
 - c. **Affordable Rents:** The rents for the Affordable Dwelling Units shall be established to not exceed 30% of the monthly income of the 80% of Area Median Income level, less the applicable utility allowance as determined by HUD or the local public housing agency (“Affordable Rents”);
 - d. **Duration:** The Affordable Dwelling Units, Eligible Tenants and Affordable Rents restrictions as contained in this Declaration shall apply to the Housing Project for a term of forty (40) years commencing on the substantial completion of construction of the Housing Project, unless the Housing Project is no longer principally a housing use.
2. **Compliance.** In accordance with the requirements of the Affordability Plan

applicable to the Housing Project and the approval of the Housing Project by the City, Owner shall, within forty-five (45) days following the end of each calendar year during the duration of this Declaration, file an “Annual Affidavit” certifying the compliance with the Affordability Plan. The form of the Annual Affidavit is attached as Exhibit “B” and incorporated by this reference. Owner shall submit an Annual Affidavit for each of the Affordable Dwelling Units and shall certify that the tenants occupying the Affordable Dwelling Units qualify as Eligible Tenants as certified by each of the Eligible Tenants. Owner shall be obligated to verify and confirm that the Eligible Tenants so qualify only on initial leasing and annual certifications from Eligible Tenants thereafter shall comply with the requirements of the Affordability Plan.

3. Miscellaneous.

- a. Binding Effect; Benefits. This Declaration shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything contained in this Declaration to the contrary, nothing in this Declaration, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and permitted assigns any right, remedy, obligation, or liability under or by reason of this Declaration.
- b. Governing Law. The laws of the State of Connecticut, without reference to Connecticut’s conflict of law principals, shall govern this Declaration and all of the transactions contemplated by it, as well as all matters arising out of or relating to it, including without limitation claims as to its validity, interpretation, construction, performance, and all claims sounding in tort.
- c. Notices. All notices, requests, demands or other communications hereunder (including notices of all asserted actions, claims or demands) shall be given in writing and shall be deemed to have been duly delivered upon personal delivery to the other party, or twenty-four (24) hours after deposit with a reputable overnight courier service, or forty-eight (48) hours after deposit in the U. S. Mail, first class postage prepaid, to the addressee at the address herein designated or at such other address as may be designated in writing by notice given in the manner provided herein:

To APR Southington, LLC: Attention: Craig Reid, Manager
9200 Andermatt Drive
Lincoln, NE 68526
Attn: Mickey Anderson

To City of Southington: City of Southington.

Southington, CT
Attn.: _____

- d. Severability. If for any reason whatsoever, any one or more of the

EXHIBIT "A"

LEGAL DESCRIPTION

As to 1177 West Street: All that certain piece or parcel of land, together with all buildings and improvements thereon and appurtenances thereto, situated in the Town of Southington, County of Hartford, and State of Connecticut designated as Parcel A on a certain map entitled "Map of Portion of Property of Marshall H. H. Tolles West Street & Curtiss Street Southington, Conn. Scale 1" = 40' January 15, 1981 Russell S. Andres, P.E. & L.S.", which map has been filed with the Southington Town Clerk's Office. Said premises are more particularly bounded and described as follows: NORTHERLY: by Parcel B, as shown on said map, three hundred fifty-five and ninety-seven hundredths (355.97') feet; EASTERLY: by other land of Tolles, as shown on said map, two hundred two and sixty-seven hundredths (202.67') feet; SOUTHERLY: by Curtiss Street, as shown on said map, three hundred sixty-six and fifty-three hundredths (366.53') feet; and WESTERLY: by West Street (Conn. Route 229), as shown on said map, one hundred eighty and eighteen hundredths (180.18') feet.

AND

As to 1193 West Street: All that certain piece or parcel of land, together with all buildings and improvements thereon and appurtenances thereto, situated in the Town of Southington, County of Hartford, and State of Connecticut designated as Parcel B on a certain map entitled "Map of portion of Property of Marshall H. H. Tolles, West Street & Curtiss Street Southington, Conn. Scale 1" = 40' January 15, 1981 Russell S. Andres, P.E. & L.S.", which map has been filed in the Southington Town Clerk's Office. Said premises are more particularly bounded and described as follows: NORTHERLY: by other land formerly of Marshall H. H. Tolles, as shown on said map, three hundred forty-two and sixty hundredths (342.60') feet; EASTERLY: by other land formerly of Marshall H. H. Tolles, as shown on said map, one hundred forty and sixty-eight hundredths (140.68) feet; SOUTHERLY: by Parcel A, as shown on said map, three hundred fifty-five and ninety-seven hundredths (355.97) feet; and WESTERLY: by West Street (Conn. Route 229), as shown on said map, one hundred eighty and ninety-four hundredths (180.94) feet.

AND

All that certain piece or parcel of land with all buildings and improvements thereon, situated in the Town of Southington, County of Hartford and State of Connecticut, bounded and described as follows: NORTHERLY: by land formerly owned by Philip Elfner, land formerly owned by Increase Parcel, land formerly owned by Ebenezer Baker, and land formerly owned by F.D. Churchill, partly by each; EASTERLY: by land formerly owned by Philip Elfner and land formerly owned by F.D. Churchill, partly by each; SOUTHERLY: by the highway, Curtis Street; and WESTERLY: by the highway, West Street. Excepting from the above described premises the following: 1. A parcel conveyed by a Certificate of Condemnation from Marshall H.H. Tones to State of Connecticut dated February 26, 1975 and recorded in Volume 266, page 665; 2. A parcel conveyed from Marshall H.H. Tolles to Roger C. Tolles by deed dated March 4, 1981 and recorded in Volume 315, page 1069; and 3. A parcel conveyed from Marshall H.H. Tones to Lily C. Tolles by deed dated March 4, 1981 and recorded in Volume 315, page 1077; all of the Southington Land Records

EXHIBIT "B"

Annual Affidavit for Deed-Restricted Rental Units

CGS 8-30g

(To be filed every year)

The undersigned, _____, (Print name(s)) do hereby swear or affirm under penalty of false statement that I (we) am (are) the current owner(s) of the dwelling located at _____, (Property address including unit number) Southington, Connecticut, and that the dwelling is currently leased/rented under: Affordable Housing Unit – CGS 8-30g 1.

We hereby certify:

1. I am (We are) the current owner(s) of the dwelling at this address.
2. The occupant(s) of the Affordable unit meets the income limit guidelines set forth under Section 8-30g, and subsequent amendments, of the Connecticut General Statutes.
3. The lease/rent charged for the Affordable unit is \$_____ per month excluding the utilities. (A copy of the signed lease/rental agreement must be attached)

I (WE) SWEAR OR AFFIRM UNDER PENALTY OF FALSE STATEMENT THAT ALL OF THE ABOVE STATEMENTS APPLICABLE TO THE LEASED OR RENTED AFFORDABLE OR MID UNIT ARE TRUE AND CORRECT. I (WE) UNDERSTAND THAT SHOULD I (WE) MAKE A FALSE STATEMENT, I (WE) AM (ARE) SUBJECT TO THE FINES AND IMPRISONMENT SET FORTH IN THE CONNECTICUT GENERAL STATUTES FOR A FALSE STATEMENT MADE TO A GOVERNMENT AGENCY.

“Owner”

APR Southington, LLC

By: _____
Craig Reid, Manager

“Eligible Tenant”

_____ hereby certifies that such resident qualifies as an Eligible Tenant.

Name and Address

Reminder: This affidavit form must be submitted together with the Annual ReCertification Form for Deed-Restricted Unit and all other applicable documents.

Note: Mail or deliver this completed and notarized affidavit to: _____ Southington, CT 068____