

WASHINGTON COUNTY, STATE OF NEBRASKA
Instrument Number 2022-03932

Carolyn M. Stodola
REGISTER OF DEEDS

FILED

2022 Nov-16 AM 11:57

Carolyn Stodola
WASHINGTON COUNTY
REGISTER OF DEEDS
BLAIR, NE

Recorded _____
General _____
Numerical _____
Photostat _____
Proofed _____
Scanned _____

When Recorded Return to: Legal Division
Nebraska Department of Economic Development
245 Fallbrook Blvd, Suite 002
PO Box 94666
Lincoln, NE 68509-4666

AKNOWLEDGMENT OF COVENANT RUNNING WITH LAND

THIS COVENANT is entered into between the Nebraska Department of Economic Development ("Department") and Transformation Hill Apartments, LLC., a Nebraska Limited Liability Company ("Owner"), whose address is 5060 Dodge Street, Suite 200 I, Omaha, Nebraska 68132, upon the date of signature by both parties.

WHEREAS, the Department has executed HOME Program Contract 20-OERH-I 0049 between the Department and Transformation Hill Apartments, LLC. ("Recipient/Owner").

WHEREAS, the Department and the Recipient have agreed the Department would provide HOME Program funds in an amount not to exceed Nine Hundred Thousand Dollars (\$900,000) and such funds would be used, loaned, or otherwise transferred by the Recipient to Owner in order to facilitate the new construction of sixty (60) rental housing units located, or to be located, in Blair, Nebraska (the "Project"), at the property legally described as:

Lots 83 and 84, Transformation Hill Addition, a Replat of Lot 6, Transformation Hill Addition, a subdivision platted, surveyed and recorded in the City of Blair, Washington County, Nebraska.

WHEREAS, eight (8) of the Project's sixty (60) units shall be HOME-assisted units. HOME-assisted units in a rental housing project or HOME-assisted non-owner-occupied units in single-family housing purchased with HOME Program funds must be occupied only by households that are eligible as low-income families and must maintain maximum rent limits and occupancy-eligibility limits as established by the United States Department of Housing and Urban Development ("HUD").

WHEREAS, as a condition to the receipt of HOME Program funds, the Owner must ensure that rent and occupancy-eligibility limitations required by the HOME Program regulations are met throughout the affordability period using deed restrictions, land use restriction agreements, or both.

NOW THEREFORE, the following is established as a Covenant running with the land:

1. **Restriction**. For the term of this Covenant, the HOME units under the Project shall be used primarily to provide housing for low-income tenants under the following rent limitations and other conditions. For the purposes of this Covenant, “low-income tenants” means, initially, tenants earning at or below 60% Area Median Income (AMI), and for subsequent occupants of the Home units, tenants earning at or below 80% AMI.
2. **Rent Limitation**. The maximum rent allowed for the HOME units of the Project shall be the lesser of:
 - a. the fair market rent for existing housing for comparable units in the area as established by HUD; or
 - b. a rent that does not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals sixty-five percent (65%) of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit.
3. **Additional Rent Limitations**. If the Project has five or more HOME–assisted rental units, twenty percent (20%) of the Project units must be occupied by very low-income families and meet one of the following rent requirements:
 - a. rent that does not exceed thirty percent (30%) of the annual income of a family whose income equals fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families; or
 - b. if the unit receives a Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than thirty percent (30%) of the family’s adjusted income, then the maximum rent is the rent allowable under the Federal or State project-based rental subsidy program.
4. **Nondiscrimination Against Rental Assistance Subsidy Holders**. The Owner may not refuse to lease the Project units to a certificate or voucher holder under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.
5. **Period of Affordability**. The HOME units must meet the affordability requirements for not less than the applicable twenty (20) year period, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership, but may terminate upon foreclosure or transfer in lieu of foreclosure. The Department may use purchase options, rights of first refusal, or other preemptive rights to

purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.


6. **Approval of Rents.** Throughout the Affordability Period, the Owner shall notify the Department of any changes it proposes to its rents on HOME-assisted units prior to the effective date of change. The proposed rents shall not take effect until the Department has given its approval.
7. **Tenant Income.** The income of each tenant of the HOME units must be initially determined in accordance with HUD regulations. Throughout the period of affordability, the Owner must re-examine each tenant's annual income in accordance with the Department's regulations.
8. **Property Condition Standards.** The Owner must maintain the Project as decent, safe, and sanitary housing in good repair. The Project shall meet all applicable State and local code requirements and ordinances, be free of all health and safety defects identified in HUD's Uniform Physical Condition Standards, and, if applicable, meet HUD's lead-based paint requirements.
9. **Change in Use.** The HOME units must be used as low-income housing at the above prescribed rents for the applicable affordability period. The Owner, its heirs, assigns, grantees, lessees, and successors may not change the use of the Project unless approval is given in writing by the Department.
10. **Covenant Term.** This Covenant shall encumber the Project, without regard to the term of any mortgage or transfer of ownership, for a period of twenty (20) years following the date of the completion of the construction. This period may be modified by proper amendment.
11. **Binding.** All of the conditions, restrictions, and agreements included in this Covenant shall be considered to run with the land. In any event, and without regard to technical classification or designation, legal or otherwise, they shall be binding to the fullest extent permitted by law and equity and shall be enforceable by the Department and its successors and assigns against the Owner and its successors and assigns to any part of the property, or any interest therein and to any part in the possession or occupancy of any part of said property, that is the subject of this Covenant.
12. **Enforcement.** The Department may require from the Owner, at any time during the period of affordability, documentation verifying the existence of and proper recordation of the necessary and appropriate deed restrictions and land use restriction agreements for enforcement of the affordability and eligibility requirements and restrictions. These deed restrictions and restrictive covenants must "touch and concern" the land, "burden and benefit" the respective

parties, and "run with the land" so as to be binding upon the Owner and any of its heirs, assigns, grantees, lessees, or successors in title to the Project real estate.

13. **Release.** Upon satisfaction of the terms of this Covenant, the Department will record a release of this Covenant against the Property, and the Owner, its heirs, assigns, grantees, lessees, and successors shall no longer be bound by the terms of this Covenant.

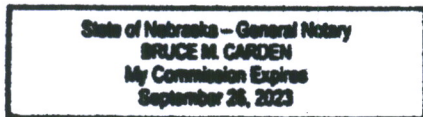
ACCEPTANCE PROVISIONS.

The parties acknowledge they have read and understand this Covenant, they agree to its provisions, and that it will be effective on the date when both parties have signed.

NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT	
By:  (Director or Designee)	<u>10-13-22</u> (Date)
<u>Joseph H. Lauber</u> (Typed or Printed Name)	<u>Deputy Director</u> (Title)

STATE OF NEBRASKA }
COUNTY OF Lancaster } ss.

The foregoing instrument was subscribed to and acknowledged before me this 13th day of October, 2022, by Joseph H. Lauber as a voluntary act and deed.




Notary Public

[EXECUTION BY OWNER FOLLOWS ON THE NEXT PAGE]

OWNER → TRANSFORMATION HILL APARTMENTS, LLC.

By: _____

(Authorized Official)

(Date)

10.19.22

(Typed or Printed Name)

(Title)

~~_____~~
Edward J Shada

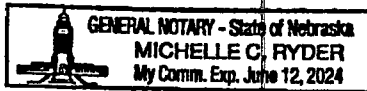
President

STATE OF NEBRASKA

COUNTY OF Douglas

} ss.

The foregoing instrument was subscribed to and acknowledged before me this 19th day of October, 2022, by Edward Shada as a voluntary act and deed.



Michelle C Ryder
Notary Public