

Free Recording Requested Pursuant to
Government Code Section 27383 and 27388.1

Recording requested by and
when recorded mail to:
City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Agnes Defiesta

-----Space Above This Line for Recorder's Use-----

270-272 Turk Street
San Francisco, CA 94108
Assessor's Lot 010, Block 0338

DECLARATION OF RESTRICTIONS
(270-272 Turk Street)

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made as of April ____, 2020, by **270 TURK GP**, a California limited liability company ("**Borrower**"), in favor of the **CITY AND COUNTY OF SAN FRANCISCO**, represented by the Mayor, acting through the Mayor's Office of Housing and Community Development (the "**City**").

RECITALS

A. The City is making loans (collectively, the "**Loan**") to Borrower of Downtown Neighborhoods Preservation Fund funds and general obligation bond funds to finance costs associated with the acquisition and rehabilitation of and to provide permanent financing for the real property described in **Exhibit A** attached hereto and incorporated herein by reference (the "**Property**") as low- to moderate-income housing (the "**Project**"). The Loan is evidenced by, among other documents, a Loan Agreement between the City and Borrower dated as of the date of this Declaration, as it may be amended from time to time (the "**Agreement**"). The Agreement is incorporated by reference in this Declaration as though fully set forth in this Declaration and is available through the Mayor's Office of Housing and Community Development ("**MOHCD**") at the address first specified in the recording request set forth above. Definitions and rules of interpretation set forth in the Agreement apply to this Declaration.

B. Pursuant to the Agreement, Borrower has agreed to comply with certain affordability and other use and occupancy restrictions (collectively, the "**Regulatory**

Obligations"), commencing on the Agreement Date, and continuing for as long all or any portion of the Project or any modification of the Project remains in existence, but in any event no less than seventy five (75) years from the date the Deed of Trust is recorded in the Official Records of San Francisco County (the "**Compliance Term**"), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed. Borrower's covenants and agreements described in this Declaration are a material part of the consideration for the City in making the Loan, and without Borrower's agreement to subject the Property to the Regulatory Obligations even after the Loan is satisfied, the City would be unwilling to make the Loan to Borrower.

AGREEMENT

Now, therefore, in consideration of the City's providing the Loan in accordance with the City Documents, Borrower agrees as follows:

1. Definitions. Any capitalized terms in this Declaration that are not defined herein shall have the meaning set forth in the Agreement. In the event of any conflict between the terms of this Declaration and the terms of the Agreement, the terms of the Agreement (including the following defined terms) shall control unless otherwise expressly stated. As used in this Declaration, the following words and phrases have the following meanings:

(a) "**Compliance Term**" has the meaning set forth in Recital B above.

(b) "**Median Income**" means median income as published annually by MOHCD, derived from the Income Limits determined by HUD for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as "Unadjusted Median Income".

(c) "**Qualified Tenant**" means a household occupying the Project that has certified and been approved as earning no more than the maximum permissible annual income level allowed by the Agreement and that has entered into a lease with Borrower in a form approved by City.

(d) "**Regulatory Obligations**" has the meaning set forth in Recital B above.

(e) "**Rent**" means the monthly sum charged to Qualified Tenants for rent in accordance with this Declaration.

(f) "**Severely Rent Burdened**" means a Qualified Tenant household paying monthly Rent that is fifty percent (50%) or more of its gross monthly income (as shown on the Qualified Tenant's income certification required by Section 5 and confirmed by MOHCD).

(g) "**Unit**" means any residential rental unit within the Project.

2. Regulatory Obligations. Borrower must comply with the Regulatory Obligations through the expiration of the Compliance Term, including without limitation those obligations described in this Declaration, regardless of any reconveyance of the Deed of Trust or satisfaction of the Loan.

3. Affordability and Restrictions.

(a) Restrictions. The Project may be occupied only by Qualified Tenants and their households. As provided in Section 7.2(b) of the Agreement, a Qualified Tenant may not be required to vacate the Unit due to subsequent rises in household income. In no event shall any Qualified Tenant be required to pay Rent in excess of 30% of 120% Median Income except as provided in Section 4(b).

(b) Rents on Agreement Date. Required Rents for the Units as of the Agreement Date shall be as follows:

[Insert Rent Chart with anticipated rents at closing for all units]

(c) [Alternative A] [Vacancies after the Agreement Date. After the Agreement Date, the Rent for the Units that become vacant shall be set to achieve the following mix of Units at the indicated Median Income levels:

# of Units	Median Income%
24	30%
26	50%
10	60%
10	72%
15	80%

In the event of a loss or reduction of Department of Homelessness and Supportive Housing subsidies for the 30% Median Income Units at the Project, the Rent for such Units may be increased to the extent necessary for the Project to be financially feasible as approved in advance by MOHCD, provided that such Rent may in no event exceed 30% of 120% of Median Income.]

(c) [Alternative B] [Vacancies after the Agreement Date. After the Agreement Date, the Rent for each Unit that becomes vacant shall be set at the amount necessary to bring the Project's combined average Rents for all Units as close as possible to the amount calculated as 30% of 80% Median Income, but no more than 30% of 120% Median Income.]

4. Rent Adjustments and Restrictions. Rent for all Units shall be increased annually on the anniversary of the Agreement Date by the greater of: (x) the percentage change in annual operating expenses, up to a maximum of 3.5%; or (y) 2%, except as follows:

(a) Reserved

(b) Severely Rent Burdened Qualified Tenants. If the Rent increase described in this Section 4 results in any Qualified Tenant household becoming Severely Rent Burdened, Borrower is not required to increase the Rent of the Severely Rent Burdened Qualified Tenant until such time as the Qualified Tenant is no longer Severely Rent Burdened, provided that: (i) Borrower first demonstrates to the satisfaction of MOHCD, in MOHCD's sole discretion, that the Project maintains short- and long-term financial sustainability in the form of positive cash flow, adequately funded reserves, and other indicators as MOHCD may reasonably request; (ii) at each annual income recertification, the ability of all households to pay required rent increases will be reassessed, as will the Borrower cash flow, to ensure short- and long-term financial sustainability if Borrower elects not to impose the required annual Rent increase for any Severely Rent Burdened Qualified Tenant; and (iii) all Regulatory Obligations continue to be met. Similarly, if the circumstances described in this subsection are met, a Unit becomes vacant and a Qualified Tenant demonstrates to Borrower that it is Severely Rent Burdened, Borrower may reduce such Qualified Tenant's Rent to a level no lower than 40% of that Qualified Tenant's gross monthly income, thus resulting in a higher Rent that will be required for the vacant Unit. If more than one Qualified Tenant is eligible for such a Rent reduction, the reduction shall be equally distributed among such eligible Qualified Tenants.

(d) Recovery of Project Expenses. With the City's prior written approval, Rent increases for Units exceeding the amounts permitted under the first sentence of Section 4 may be permitted once annually in order to recover increases in approved Project Expenses, provided that: (i) in no event may single or aggregate Rent increases exceed ten percent (10%) per year unless such an increase is contemplated in a City-approved temporary relocation plan or is necessary due to the expiration of Section 8 or other rental subsidies; and (ii) Rents for each Unit may in no event exceed 30% of 120% Median Income. The City's approval for such Rent increases under this subsection shall not be unreasonably withheld.

(e) Rent Subsidy Programs. For those households that hold rent subsidy vouchers, such as Section 8 and VASH, on an annual basis Borrower shall request and use best efforts to receive an increase in contract rent equivalent to the percentage change in Fair Market Rent or equivalent payment standard, whichever is greater. For any Qualified Tenant participating in a rent or operating subsidy program where the rent charged is calculated as a percentage of household income, adjustments to Rent charged may be made according to the rules of the relevant subsidy program, provided that the Qualified Tenant paid portion of Rent does not exceed 30% of 120% Median Income. For any Qualified Tenant that becomes ineligible to continue participating in a rent or operating subsidy program, there is no limit on the increase in Rent charged as long as it does not exceed 30% of 120% Median Income.

(f) Recovery of Property Tax Increases. In addition to the Rent increases contemplated in this Section 4 and with the City's prior written approval, if a Qualified Tenant's household income exceeds eighty percent (80%) of California Median Income (as published by the California Department of Housing and Community Development) during occupancy of a Unit, Borrower may adjust the charges for Rent for such Qualified Tenant to absorb the amount of property taxes attributable to the Qualified Tenant's Unit as a result of the loss of the State of California's welfare exemption for low-income housing properties. The City may, in its sole discretion, require that Rent increases allowed under this subsection be implemented over a period of time in order to reduce the burden on an existing Qualified Tenant. Rents charged under this subsection may not exceed 30% of 120% Median Income. The City's approval for such Rent increases shall not be unreasonably withheld. If such Qualified Tenant's household income subsequently decreases and the Unit becomes eligible for the California welfare property tax exemption, Borrower may reduce such Qualified Tenant's Rent by the amount of property tax savings attributable to the Qualified Tenant's Unit, as provided in Section 4(b).

(g) Excess Rent. If Borrower increases Rents or offers a vacant Unit for rent at a rate that exceeds the rules described in this Declaration, the resulting excess cash flow will be paid by Borrower to the Qualified Tenants who were overcharged, and Borrower's actions will constitute an Event of Default pursuant to Section 19 of the Agreement.

5. Certification.

(a) As a condition to initial occupancy, each person who desires to be a Qualified Tenant in the Project must sign and deliver to Borrower a certification in the form attached to the Loan Agreement as Exhibit C, in which the prospective Qualified Tenant certifies that he/she or his/her household qualifies as a Qualified Tenant, which certification is reviewed and approved by Borrower and the City. In addition, each person must provide any other information, documents or certifications deemed necessary by the City to substantiate the prospective tenant's income. Certifications provided to and accepted by the San Francisco Housing Authority will satisfy this requirement.

(b) Each Qualified Tenant in the Project must recertify its household income to Borrower annually.

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year must be maintained on file at Borrower's principal office, and Borrower must file copies thereof with the City promptly upon request by the City.

6. Nondiscrimination. Borrower agrees not to discriminate against or permit discrimination against any person or group of persons because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, gender identity, height, weight, source of income or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC) in the operation and use of the Project except to the extent permitted by law or

required by any other funding source for the Project. Borrower agrees not to discriminate against or permit discrimination against Qualified Tenants using Section 8 certificates or vouchers or assistance through other rental subsidy programs.

7. Remedies. During the Compliance Term the City may rely on the Deed of Trust and/or this Declaration, in the City's discretion, to enforce any of the City's rights under the City Documents.

8. Covenants Run with the Land. This Declaration and the Regulatory Obligations constitute covenants running with the land and bind successors and assigns of Borrower and any non-borrower owner of the Property. In the event that Borrower fails to comply with the Regulatory Obligations to the City's satisfaction, in its sole discretion, within thirty (30) days of Borrower's receipt of notice from the City to so comply, the City at its option may exercise any rights available at equity or in law, including, without limitation, institute an action for specific performance. Borrower shall pay the City's costs in connection with the City's enforcement of the terms of this Declaration, including, without limitation, the City's attorneys' fees and costs.

Borrower has executed this Declaration as of the date first written above.

BORROWER

**270 Turk GP, LLC,
a California limited liability company**

By: O'Farrell Senior Housing, Inc.,
a California nonprofit public benefit corporation
Its: Sole Member

By: _____
Name: Donald Falk
Title: Chief Executive Officer

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT A

Legal Description of the Property

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Commencing at a point on the northerly line of Turk Street, distant thereon 87 feet, 6 inches easterly from the easterly line of Leavenworth Street; running thence easterly along said line of Turk Street 50 feet; thence at a right angle northerly 137 feet, 6 inches; thence at a right angle westerly 50 feet; thence at a right angle southerly 137 feet, 6 inches to the point of commencement.

Being a portion of 50 Vara Lot No. 1153 in Block 256.

Assessor's Lot 10; Block 338

Street Address:
270-272 Street
San Francisco, CA 94102