

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: Director
APN: Block 0811, Lot 204
Address: 240 Van Ness Ave., San Francisco, CA

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

**DECLARATION OF RESTRICTIONS AND
AFFORDABLE HOUSING COVENANTS**
240 Van Ness Ave.

THIS DECLARATION OF RESTRICTIONS AND AFFORDABLE HOUSING COVENANTS (this “Declaration”) is made as of _____, 2023, by **THE KELSEY CIVIC CENTER, L.P.**, a California limited partnership (“Borrower”), in favor of the **CITY AND COUNTY OF SAN FRANCISCO**, represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (the “City”).

RECITALS

A. The City is making a loan (the “Loan”) to Borrower of Housing Trust Fund, AHF Inclusionary Fees and AHF Jobs Housing Linkage Fees to finance costs associated with the development of the leasehold interest in the real property described in **Exhibit A** attached hereto and incorporated herein by reference (the land and the leasehold interest, the “Property”) as low-income affordable housing (the “Project”). The Loan is evidenced by, among other documents, an Amended and Restated 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. 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 covenants and other use and occupancy restrictions set forth in the Agreement (collectively, the “Regulatory Obligations”), commencing on the date the Deed of Trust is recorded in the Official Records of San Francisco County, and continuing for the Life of the Project (the “Compliance Term”), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed.

AGREEMENT

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

1. Borrower will comply with the Regulatory Obligations and this Declaration through the expiration of the Compliance Term, regardless of any reconveyance of the Deed of Trust. Specifically, Borrower agrees as follows, subject to additional terms as set forth in the Agreement:

1.1 Units in the Project will at all times be rented only to tenants who qualify as Qualified Tenants at initial occupancy, specifically:

Unit Size	No. of Units	Maximum Income Level
0 BR	26	50% of Median Income
2 BR	4	50% of Median Income
0 BR	11	70% of Median Income
2 BR	13	70% of Median Income
0 BR	42	80% of Median Income
2 BR	14	80% of Median Income
0 BR	1	Manager's Unit
2 BR	1	Manager's Unit

Twenty-Eight (28) Units will be rented to people with disabilities who are eligible to receive home and community-based services, including the 14 Units set aside for GGRC referrals that will receive Section 811 PRA subsidy during the period in which the Section 811 PRA or an equivalent rental subsidy program is provided to the Project, as long as these subsidies are available.

1.2 The total amount for rent and utilities (with the maximum allowance for utilities determined by the San Francisco Housing Authority) charged to a Qualified Tenant may not exceed the greater of:

(i) thirty percent (30%) of the applicable maximum income level, adjusted for household size; or

(ii) the tenant paid portion of the contract rent as determined by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.

Rents may be increased as permitted pursuant to **Section 7.3** of the Agreement.

1.3 For the avoidance of any doubt, notwithstanding any repayment of the Loan or otherwise satisfied or if the Deed of Trust is reconveyed, Borrower will comply with the applicable terms of the Agreement as if fully set forth herein, including, without limitation, Article 6 (Marketing), Article 7 (Affordability and Other Leasing Restrictions), Article 8 (Maintenance and Management of the Project), Article 9 (Governmental Approvals and Requirements), Article 10 (Project Monitoring, Reports, Books and Records), Article 11 (Use of Income From Operations), Article 12 (Required Reserves), Article 16 (Transfers), Article 17 (Insurance and Bonds; Indemnity), Article 18 (Hazardous Substances), and Article 19 (Default).

2. Borrower hereby subjects the Property to the covenants, reservations and restrictions set forth in this Declaration and the Agreement. This Declaration and the Regulatory Obligations constitute covenants running with the land, including the leasehold interest and bind successors and assigns of Borrower and any non-borrower owner and lessee of the Property and will pass to and be binding upon Borrower's successors in title to the Property. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof will conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions in this Declaration, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

3. If Borrower fails to (i) comply with the Regulatory Obligations and this Declaration to the City's satisfaction, in its sole discretion, and (ii) cure such default as set forth in **Section 19.1(c)** of the Agreement, the City will have the right to pursue any available remedy at equity or in law, including as set forth in **Section 19.2** of the Agreement, to enforce this Declaration. 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. Borrower will pay the City's reasonable costs in connection with the City's enforcement of the terms of this Declaration and Regulatory Obligations, including, without limitation, the City's attorneys' fees and costs.

4. Notwithstanding the foregoing, and subject to the terms of the Section 811 Program, if the Section 811 PRA project-based rental assistance is terminated or substantially reduced, the occupancy restrictions set forth in this Declaration may be adjusted, but only to the minimum extent required for Project financial feasibility, as determined by MOHCD, in its reasonable discretion in accordance with substantially similar underwriting criteria used by MOHCD to evaluate the Project's financial feasibility prior to the Agreement Date, and in any event not to exceed sixty percent (60%) of area median income, as published by TCAC (the "TCAC Median Income" and

the monthly rent paid by the Qualified Households may not exceed (a) thirty percent (30%) of sixty percent (60%) of TCAC Median Income (b) less utility allowance. On an annual basis, Borrower will convert the TCAC Median Income and maximum rent to the corresponding published MOHCD maximum income level and maximum rent level, respectively, and provide MOHCD with supporting documentation. In such event, MOHCD shall use good faith efforts to meet with the Borrower, within fifteen (15) days after Borrower's written request, and determine any rent increase within sixty (60) days after Borrower's initial written request to meet. In the event of a conflict or inconsistency between the foregoing requirements and Section 811 Requirements (during such time that the Section 811 Requirements are in effect), the Section 811 Requirements shall be controlling.

[signature follows]

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

BORROWER:

The Kelsey Civic Center, L.P.,
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

[ALL SIGNATURES MUST BE NOTARIZED.]

EXHIBIT A

(Legal Description of the Property)

A LEASEHOLD INTEREST IN THE FOLLOWING LAND SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

Beginning at the point of intersection of the Northerly line of Dr. Tom Waddell Place (Formerly Lech Walesa Street and formerly Ivy Street) (35.00 feet wide), with the Easterly line of Van Ness Avenue (125.00 feet wide); thence Northerly along said Easterly line of Van Ness Avenue 49.05 feet to a point distant thereon 70.95 feet Southerly from the Southerly line of Grove Street (108.00 feet wide); thence at a right angle Easterly 105.00 feet; thence at a right angle Northerly 70.95 feet to said Southerly line of Grove Street; thence at a right angle Easterly along said Southerly line of Grove Street, 72.21 feet to a point distant thereon 206.79 feet Westerly from the Westerly line of Polk Street (68.75 feet wide); thence at a right angle Southerly 120.00 feet to said Northerly line of Dr. Tom Waddell Place; thence at a right angle Westerly, along said Northerly line of Dr. Tom Waddell Place, 177.21 feet to the point of beginning.

Being a portion of Western Addition Block 68

The above legal description is pursuant to Certificate of Compliance recorded September 12, 2022 of Official Records under Recorder's Serial Number 2022085640.

Assessor's Block 0811, Lot 204 (formerly known as Lots 016, 021, 018 and portion of 019)

Street Address:

240 Van Ness Ave., San Francisco, CA